

# ICAO

## International Civil Aviation Organization

---

**COUNCIL — 226th SESSION**

**Montréal, 24 May – 23 June 2022,  
18 July, 24 & 25 August 2022**

**SUMMARY MINUTES  
WITH SUBJECT INDEX**



**2023**

**Doc 10192– C/1202 • C-Min. 226/1-17 • Council –226th Session, 24 May – 23 June 2022, 18 July, 24 & 25 August 2022 • Summary Minutes with Subject Index**

## CONTENTS

	<i>Page</i>
<b>SUMMARY MINUTES OF THE FIRST MEETING</b> .....	1
Condolences.....	3
Welcome to a new Representative.....	3
Missions by the President of the Council during the recess .....	3
Schedule for consideration of items during the 226th Session of the Council .....	3
Amendments to the Work Programme for the 226th Session .....	3
Update of work on the feasibility of a long-term aspirational goal for international aviation (LTAG).....	4
Draft Assembly working paper – Multilingualism at ICAO .....	6
Draft Assembly working paper – Status of the ICAO Workforce.....	7
Draft Assembly working paper – Assistance to Aircraft Accident Victims and their Families .....	8
Draft Assembly working paper – Outcome of the Ministerial Plenary of the High-level Conference on COVID-19 .....	9
Draft Assembly working paper – Developments Pertaining to Annex 9 – <i>Facilitation</i> .....	10
Progress achieved by the Committee on Relations with the Host Country (RHCC) .....	10
Any other business.....	11
Appointment of Members and Alternates on the Air Navigation Commission (ANC)....	11
Request from Observers to participate in closed meetings of the Council .....	11
Council working papers presented for information .....	12
 <b>SUMMARY MINUTES OF THE SECOND MEETING</b> .....	 13
Draft Assembly working paper – United Nations 2030 Agenda – Sustainable Development Goals (SDGs) .....	15
Amendments to the <i>ICAO Policy on Secondment</i> .....	16
Fundamental Rights of Passengers at International Airports.....	21
Recommendations of the Joint Support Committee related to items under the Danish and Icelandic Joint Financing Agreements reviewed during the 226th Session.....	23
Report of the Eleventh Session of the Statistics Division (STA/11) .....	23
Draft Assembly working paper – Report on the ICAO Year of Security Culture (YOSC) 2021 .....	23
Draft Assembly working paper – Report on the Comprehensive Regional Implementation Plan for Aviation Security and Facilitation in Africa (AFI SECFAL Plan) .....	24
 <b>SUMMARY MINUTES OF THE THIRD MEETING</b> .....	 27
Draft Assembly working paper – Consolidated Statement of Continuing ICAO Policies related to Aviation Security.....	29
Report on Technical Cooperation Programme Development for 2021 and update of Administrative and Operational Services Cost (AOSC) income and expenditures for 2022 .....	30
Draft Assembly working paper – ICAO’s Technical Assistance Programme.....	31
Draft Assembly working paper – ICAO’s Technical Cooperation Programme – Policy and Activities .....	32
Draft Assembly working paper – ICAO Civil Aviation Training and Capacity Building ....	32

	<i>Page</i>
Financial Year 2021 – Report on the Carry Over .....	33
Draft Assembly working paper – Disposition of cash surplus/deficit .....	34
Draft Assembly working paper – Level of the Working Capital Fund .....	34
Draft Assembly working paper – Financial aspects of the question of contributions in arrears and Incentive Scheme for the settlement of long-outstanding arrears .....	35
Report of the Joint Inspection Unit (JIU) for 2021 and Work Programme for 2022 .....	36
Report of the Joint Inspection Unit (JIU) entitled “Blockchain applications in the United Nations system: towards a state of readiness” .....	37
<b>SUMMARY MINUTES OF THE FOURTH MEETING</b> .....	<b>39</b>
Draft Assembly working paper – Human resources management .....	41
Draft Assembly working paper – Resource Mobilization and Voluntary Funds .....	42
Draft Assembly working paper – Work Programme of the Organization in the legal field .....	43
Draft Assembly working paper – Consolidated statement of continuing ICAO policies in the legal field .....	44
Draft State letter inviting nominations to the Air Navigation Commission (ANC) .....	45
Expectations for and qualities of the President of the Air Navigation Commission for the 2023-2025 ANC mandate .....	46
Any other business .....	47
Update by the Chairperson of the Air Transport Committee (ATC) – ICAO’s leadership in economic development of air transport .....	47
Approval by the Air Navigation Commission, acting under delegated authority, of Amendment 10 to the <i>Procedures for Air Navigation Services – Aircraft         Operations</i> , Volume I – <i>Flight Procedures</i> , and Amendment 2 to Volume III – <i>Aircraft Operating Procedures</i> (PANS-OPS, Doc 8168) .....	47
<b>SUMMARY MINUTES OF THE FIFTH MEETING</b> .....	<b>49</b>
Unannounced missile launches .....	51
Progress report on the negotiations regarding the Settlement of Differences: Brazil and the United States (2016) .....	56
Settlement of Differences: Australia and the Kingdom of the Netherlands and the Russian Federation (2022) .....	57
Draft Assembly working paper – The ICAO Ethics Framework and Establishment of Rules of Procedures regarding the Secretary General and the President of the Council .....	63
Secretary General’s sessional progress report .....	63
Any other business .....	63
ICAO High-level Meeting on a Long-term Global Aspirational Goal (HLM-LTAG) .....	63
<b>SUMMARY MINUTES OF THE SIXTH MEETING</b> .....	<b>65</b>
Condolences .....	67
Secretary General’s sessional progress report .....	67
Transfer of the Revenue and Product Management (RPM) Section to the Technical Cooperation Bureau (TCB) .....	69
Review of the Report of the Twelfth Meeting of the Committee on Aviation	

	<i>Page</i>
Environmental Protection (CAEP/12).....	73
Any other business.....	76
Her Majesty Queen Elizabeth II.....	76
Flight Safety Foundation Award.....	76
<b>SUMMARY MINUTES OF THE SEVENTH MEETING.....</b>	<b>77</b>
World Environment Day.....	79
Draft Assembly working paper – Civil Aviation and the Environment .....	79
Draft Assembly working paper – Consolidated statement of continuing ICAO policies and practices related to environmental protection – General provisions, noise and local air quality.....	80
Draft Assembly working paper – Climate Change.....	81
Draft Assembly working paper – Consolidated statement of continuing ICAO policies and practices related to environmental protection – Climate Change.....	84
Draft Assembly working paper - Cybersecurity .....	86
Draft Assembly working paper under Agenda Item 30 of the Technical Commission relating to a comprehensive strategy for air navigation: Endorsement of the updated Global Air Navigation Plan (GANP) .....	89
Draft Assembly working paper under Agenda Item 30 of the Technical Commission relating to a comprehensive strategy for aviation safety: Endorsement of the updated Global Aviation Safety Plan (GASP).....	90
Draft Assembly working paper – Report on the Evolution of the Universal Safety Oversight Audit Programme (USOAP) Continuous Monitoring Approach (CMA) and post implementation review .....	91
ANC Work Programme for the 221st Session .....	92
Any other business.....	92
Condolences .....	92
<b>SUMMARY MINUTES OF THE EIGHTH MEETING .....</b>	<b>93</b>
Report on the performance of revenue-generating activities in 2021 with audited financial figures of the Ancillary Revenue Generation Fund (ARGF) .....	95
Update on consultations regarding the EUR/NAT Regional office .....	96
Draft Assembly working paper – Report on the Implementation of Assembly Resolution A40-27 – Innovation in Aviation .....	97
Report of the Small Group on Innovation .....	98
Performance Audit on IT Governance and Strategic IT Management .....	99
ICT Strategy and Action Plan 2022-2025 .....	99
Update on information security and information, communications and technology management at ICAO .....	101
<b>SUMMARY MINUTES OF THE NINTH MEETING .....</b>	<b>107</b>
Financial Statements and Report of the External Auditor for the Financial Year 2021 .....	109
Performance Audit on Project Management “NAM19801” of the ICAO Technical Cooperation Programme .....	110
Draft Assembly working paper – Measures towards Gender Equality at ICAO and the	

	<i>Page</i>
Global Aviation Sector by 2030.....	113
Report of the Eleventh Meeting of the AFI SECFAL Plan Steering Committee (AFI SECFAL Plan SC/11) .....	116
Any other business.....	119
Schedule for the 226th Session .....	119
Informal Meetings – Mobilizing capital towards a green transition of the aviation sector .....	119
<b>SUMMARY MINUTES OF THE TENTH MEETING</b> .....	121
Report of the AFI Plan Steering Committee – Report of the twenty-fifth meeting of the AFI Plan Steering Committee (AFI Plan SC/25).....	123
Draft Assembly working paper – Consolidated statement of continuing ICAO policies related to Facilitation.....	125
Draft Assembly working paper – Outcome of the Facilitation Stream of the High-level Conference on COVID-19 .....	126
Report of the ANC and D/ANB – Consolidated report on Planning and Implementation Regional Groups (PIRGs) and Regional Aviation Safety Groups (RASGs) for 2021 ...	128
Report on the 38th Session of the Legal Committee .....	129
Any other business.....	129
ICAO leadership on economic matters .....	129
Oral report on the Council President Certificates .....	129
Oral report on international organizations that may be invited to attend suitable ICAO meetings .....	130
Appointment of Members and Alternate on the Air Navigation Commission (ANC) ...	130
<b>SUMMARY MINUTES OF THE ELEVENTH MEETING</b> .....	131
Draft ICAO Business Plan for 2023-2024-2025.....	133
Draft Assembly working paper – Proposed Draft Budget of the Organization for 2023, 2024 and 2025 .....	136
Any other business.....	140
Financial and in-kind contributions from Member States .....	140
Council President Certificates.....	140
Invitation to the Air and Space Academy to the 41st Session of the Assembly.....	140
<b>SUMMARY MINUTES OF THE TWELFTH MEETING</b> .....	143
Draft Assembly working paper – Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA).....	145
Draft Assembly working paper – Consolidated statement of continuing ICAO policies and practices related to environmental protection – Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA).....	148
Any other business.....	157
Update on the work of the Fact-Finding Investigation Team (FFIT) .....	157
Adoption of Amendment 48 to Annex 6, Part I.....	157

	<i>Page</i>
<b>SUMMARY MINUTES OF THE THIRTEENTH MEETING</b> .....	159
Draft Assembly working paper – Consolidated statement of continuing ICAO policies and practices related to environmental protection – Carbon Offsetting and Reduction Scheme for International Aviation (CORSA) .....	161
Report on the 38th Session of the Legal Committee .....	169
Draft Assembly working paper – The implementation of Resolutions A39-24 and A40-14 and the role of the ICAO CAPSCA Programme .....	171
Any other business .....	174
Monkey pox .....	174
Calendar of meetings .....	174
 <b>SUMMARY MINUTES OF THE FOURTEENTH MEETING</b> .....	 175
Welcome to a new Representative .....	177
Draft Assembly working paper – Fundamental Rights of Passengers at International Airports .....	177
Draft Assembly working paper – Increasing the efficiency and effectiveness of ICAO ....	180
Registration and Operation of Aircraft in the Russian Federation .....	181
 <b>SUMMARY MINUTES OF THE FIFTEENTH MEETING</b> .....	 193
Issues concerning the Convention on International Civil Aviation raised by the Russian Federation .....	195
Draft Assembly working paper – Unannounced Missile Launches .....	195
Work Programmes of the Council and its Committees for the 227th Session .....	199
Any other business .....	200
Financial contribution from Saudi Arabia .....	200
New Understanding between ICAO and the Government of Quebec .....	200
Farewell to a Representative .....	200
Calendar of meetings .....	200
Deadline for the submission of environment-related working papers to the Assembly .....	200
 <b>SUMMARY MINUTES OF THE SIXTEENTH MEETING</b> .....	 201
Adoption of Amendment 48 to Annex 6, Part I .....	203
Order of Business .....	205
Report into the incident involving Ryanair Flight FR4978 in Belarus airspace on on 23 May 2021 .....	205
Notes on Articles 54 j), 54 k), 54 n) and 84 of the Chicago Convention .....	218
Request of the Republic of Belarus to the ICAO Council for its consideration under Article 54 j) of the Chicago Convention .....	218
Draft Assembly working paper – Report on the Comprehensive Regional Implementation Plan for Aviation Safety in Africa (AFI Plan) .....	222
Any other business .....	223
Order of Business .....	223
Assembly working paper – Measures towards gender equality at ICAO and the global aviation sector by 2030 .....	224

	<i>Page</i>
Migration of e-mail accounts .....	224
Appointment of Observers to the Committee on Aviation Environmental Protection (CAEP).....	224
<b>SUMMARY MINUTES OF THE SEVENTEENTH MEETING</b> .....	225
Welcome to a new Representative.....	227
Draft Assembly working paper – Climate Change .....	227
Draft Assembly working paper – Consolidated statement of continuing ICAO policies and practices related to environmental protection – Climate change .....	229
Draft Assembly working paper – Consolidated statement of continuing ICAO policies and practices related to environmental protection – Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA).....	235
Information pursuant to Article 54 j) of the Chicago Convention on infractions of the Convention by a group of ICAO Member States.....	247
Draft Assembly working paper – Infractions of the Convention on International Civil Aviation by the Russian Federation .....	255
Draft Assembly working paper – Infractions of the Convention on International Civil Aviation by the Republic of Belarus.....	259
Any other business.....	261
Request from ICCAIA to be represented as an Observer at meetings of the 227th Session.....	261
Requests by international organizations to be invited to the 41st ICAO Assembly .....	263
Supplementary Agreement between ICAO and the Government of Canada regarding the Headquarters of ICAO .....	263
227th Session of the Council .....	263
Farewells to Council Representatives .....	264
Settlement of Differences: Australia and the Kingdom of the Netherlands and the Russian Federation (2022).....	264
<b>SUBJECT INDEX TO THE SUMMARY MINUTES OF THE 226TH SESSION</b> .....	265
<b>LIST OF WORKING PAPERS CONSIDERED</b> .....	267



**COUNCIL — 226TH SESSION**

**SUMMARY MINUTES OF THE FIRST MEETING**

**(HYBRID MEETING, TUESDAY, 24 MAY 2022, AT 1430 HOURS)**

President of the Council: Mr. Salvatore Sciacchitano

Secretary: Mr. Juan Carlos Salazar, Secretary General

**PRESENT:**

Argentina	— Mr. G.E. Bompadre	Malaysia	— Mrs. F. Chin
Australia	— Mr. R. Adams	Mexico	— Mr. D. Méndez Mayora
Brazil	— Mr. N. Moretti	Netherlands	— Mr. R. Ossendorp
Canada	— Mr. C. Hurley	Nigeria	— Mr. M.S.B. Tukur
China	— Mr. Shengjun Yang	Paraguay	— Mr. C.D. Urquhart Cáceres
Colombia	— Mr. M. Ramírez Koppel	Peru	— Mr. A. Freyre Layzequilla
Costa Rica	— Mr. G. Hoppe Pacheco	Republic of Korea	— Mr. S. Kim
Côte d'Ivoire	— Mr. C.A. Djibril	Russian Federation	— Mr. S. Gudkov
Dominican Republic	— Mr. J. Peña Guzmán	Saudi Arabia	— Mr. B. Al-Sagri
Egypt	— Mr. S. Elhefny	Singapore	— Ms. E. Poh
Equatorial Guinea	— Mr. E. Esono Anguesomo	South Africa	— Mr. L. Mabaso
Finland	— Mr. S. Vuokila	Spain	— Mr. V.M. Aguado
France	— Mr. L. Pic	United Arab Emirates	— Mr. O. M. Alraeesi (Alt.)
Germany	— Mr. U. Schwierczinski	United Kingdom	— Mr. A. O'Henley
Greece	— Ms. M. Saranti	United States	— Mr. C. Sullenberger
India	— Mrs. S. Juneja	Zambia	— Mr. V. Banda
Italy	— Ms. S. Costantini		
Japan	— Mr. I. Fukushima		

**ALSO PRESENT:**

Mr. P. Kelleher	— President, ANC
Mr. C. Fernández (Alt.)	— Argentina
Mr. S. Lucas (Alt.)	— Australia
Ms. C. Fitzgerald (Alt.)	— Australia
Ms. I. de Melo Maciel (Alt.)	— Brazil
Mr. M. Lima (Alt.)	— Brazil
Mr. A. Bertolino (Alt.)	— Brazil
Mr. D. L. Pereira (Alt.)	— Brazil
Mr. R. Arruda (Alt.)	— Brazil
Ms. A. Barbosa (Alt.)	— Brazil
Mr. J. Liang (Alt.)	— China
Ms. A. Jiménez (Alt.)	— Costa Rica
Ms. C. Moya (Alt.)	— Dominican Republic
Ms. V. Adalsteinsdottir (Alt.)	— Finland

**SECRETARIAT:**

Mr. M. Vreedenburgh	— SPO/OSG
Mr. S. Creamer	— D/ANB
Mr. J. Vargas	— D/TCB
Mr. M. Rahma	— D/ATB
Mr. A. Mishra	— D/ADB
Mr. M. Gill	— D/LEB
Ms. J. Hupe	— DD/ENV
Mr. S. Lefoyer	— DD/ASF
Mr. C. Ding	— DD/LEB
Ms. T. Agiri	— DD/HR
Ms. N. Abdennebi	— C/FAL
Mr. A. Larcos	— C/ACS
Ms. V. Muraca	— ACS
Ms. D. Cooper	— Précis-writer

**ALSO PRESENT: (Cont'd)**

Mr. N. Naoumi (Alt.)	— Germany
Ms. V. Betchava (Alt.)	— Greece
Mr. A. Kalognomis (Alt.)	— Greece
Ms. V. Lazari (Alt.)	— Greece
Mr. A. Joshi (TE)	— India
Mr. M. Silanos (Alt.)	— Italy
Mr. S. Oshima (Alt.)	— Japan
Mr. S. Sugiyama (Alt.)	— Japan
Mr. M. Loustaunau (Alt.)	— Mexico
Mr. C. Schleifer (Alt.)	— Netherlands
Mr. M. S. Nuhu (Alt.)	— Nigeria
Mr. W.R. Linares (Alt.)	— Peru
Mr. J.W. Kim (Alt.)	— Republic of Korea
Mr. H.H. Jin (Alt.)	— Republic of Korea
Mr. S. Ahn (Alt.)	— Republic of Korea
Mr. A. Batalov (Alt.)	— Russian Federation
Ms. O. Mozolina (Alt.)	— Russian Federation
Mr. M. Habib (Alt.)	— Saudi Arabia
Ms. D. AlKurdi (Alt.)	— Saudi Arabia
Mr. F.A.A. Alsuhabani (Alt.)	— Saudi Arabia
Ms. S. Toh (TE)	— Singapore
Mr. Y. K. Koh (TE)	— Singapore
Ms. T. Goodwin (Alt.)	— United Kingdom
Mr. A. Veprek (Alt.)	— United States
Mr. M. Waniwa (Alt.)	— Zambia

Representatives to ICAO

Cameroon  
 Chile  
 Congo  
 Cuba  
 Cyprus  
 Ethiopia  
 Indonesia  
 Iran (Islamic Republic of)  
 Kenya  
 Oman  
 Poland  
 Qatar  
 Turkey  
 Ukraine  
 Uruguay

Airports Council International (ACI)  
 Civil Air Navigation Services Organization (CANSO)  
 European Union (EU)  
 International Air Transport Association (IATA)  
 International Coordinating Council of Aerospace Industries Associations (ICCAIA)

## **Condolences**

1. The Council expressed its sincere condolences to the Government and peoples of the United Arab Emirates following the recent passing away of the country's President, His Excellency, Sheikh Khalifa bin Zayed Al Nahyan. The Representative (Alternate) of the United Arab Emirates, on behalf of his State, conveyed his gratitude to the Council for their sentiments as well as those of the Secretary-General of the United Nations.

## **Welcome to a new Representative**

2. The Council warmly welcomed Mr. Gerardo Ezequiel Bompadre, the newly appointed Representative of Argentina.

## **Missions by the President of the Council during the recess**

3. The President of the Council briefly highlighted the missions he had undertaken during the Council recess to Uruguay, the United Arab Emirates, Qatar, Bahrain, Saudi Arabia, the Vatican City, Singapore, Malaysia, as well as meetings held in Montréal; and that as a matter of transparency, information on these, and all future missions, would be systematically uploaded to the ICAO public website on the Council President's personal page.

## **Schedule for consideration of items during the 226th Session of the Council**

4. The Council noted the revisions to the calendar of meetings for the 226th Session presented in the President's memorandum PRES SS/3324 Revision No. 3 dated 20 May 2022, that had just been distributed.

5. The Council also noted the schedule for consideration of items during the 226th Session as set out in the President's memorandum PRES SS/3340 dated 16 May 2022.

## **Amendments to the Work Programme for the 226th Session**

6. On the basis of the e-mail message circulated by the President of the Council on 16 May 2022, the Council agreed to the following revisions to its Work Programme for the current session, as set forth in C-WP/15296, Revision No.1:

- a) C-WP/15368, *Report on the Evaluation of ICAO's Response to COVID-19*, listed as item 22 in Appendix A of C-WP/15296, Revision No.1 would be deferred to the 227th Session; and
- b) the item *Performance Audit on Project Management "NAM19801" of the ICAO Technical Cooperation Programme*, would be added as a supplementary item, with the understanding that this would be presented as a working paper to be reviewed by the Committee on Governance (COG) prior to its consideration by the Council.

7. Regarding the e-mail messages circulated by the President of the Council on 11 April and 21 April 2022, the Council agreed to add, as a supplementary item, a report by the Secretary General relating to the "Registration and operation of aircraft in the Russian Federation".

8. With respect to the e-mail message circulated by the President of the Council on 5 April 2022, which transmitted the letter received from Mr. Alexander Neradko, Head of the Russian Federal Air Transport Agency, the Council agreed to add as a supplementary item, a report on issues regarding the Convention on International Civil Aviation, as raised by the Russian Federation.

**Update of work on the feasibility of a long-term global aspirational goal for international aviation (LTAG)**

9. The Council considered this item on the basis of C-WP/15388, which presented an update of the work on the feasibility of a long-term global aspirational goal for international aviation (LTAG), including the results of the Global Aviation Dialogues (GLADs), and the preparatory work for the High-level Meeting on LTAG (HLM-LTAG). The Council also had for consideration an oral report thereon from the Climate and Environment Committee (CEC), presented by the Chairperson of the CEC (Representative of Colombia).

10. In presenting the paper, the Secretary General indicated that the draft meeting documentation had been provided to the Small Group on HLM-LTAG (SGHLM) for its consideration and subsequent review by the CEC at its fourth meeting on 30 May 2022; and given the very limited time frame to prepare for the meeting, underscored the importance of coordination and teamwork amongst the various bodies.

11. In his oral report, the Chairperson of the CEC (Representative of Colombia) proposed a modification to paragraph 5 b), second line, to amend “under the delegated authority of the Council” to read “as mandated by the Council”, so as to clarify the limits of responsibility between the bodies.

12. While strongly supporting the adoption of an ambitious LTAG, the Representative of the United States noted that a recent Intergovernmental Panel on Climate Change (IPCC) report indicated emission reduction aspirations in international aviation were lower than in many other sectors. It was ICAO’s responsibility to address this matter with speed and determination; and critical to acknowledge that LTAG was only one component of the Organization’s efforts to address climate change. An outcome that adopted an ambitious LTAG but retreated on other climate priorities would not be acceptable to the United States. The Representative of Germany fully supported these comments.

13. Observing paragraph 5 of the oral report did not reference the HLM-LTAG working papers listed in the Appendix to the oral report, the Representative of India sought clarification as to whether the Council was endorsing the contents of the papers or just the list of documents to be prepared for the meeting; and whether the Small Group could make additional changes to the documentation based on its discussions. The President of the Council explained that the Council was only endorsing the list of documents, that the draft papers would be considered by the SGHLM and subsequently reviewed by the CEC to ensure that the contents of the papers accurately reflected the Small Group discussions, including those items that had not been resolved. The Chairperson of the CEC agreed with this clarification.

14. To a query by the Representative of South Africa on the CEC Chairperson’s proposed modification to paragraph 5 b) of the oral report, the President of the Council responded that it more appropriately described the CEC task to review the papers whereas “delegated authority” implied that the Council would have to endorse the papers and delegate authority to the CEC.

15. In keeping with the intervention by the Representative of India, the Representative of China observed that full use should be made of the CEC to discuss all relevant issues; and regarding the items for discussion at the HLM-LTAG, proposed the addition of assistance to developing States as well as the principle of common but differentiated responsibilities and respective capabilities (CBDR). The Director

of the Air Transport Bureau (D/ATB) responded that draft HLM-LTAG-WP/7, *Means of implementation (Building Block 5)*, addressed these topics.

16. In support of the documentation approval procedures outlined in the oral report, and to the points raised by the Representative of India, the Representative of Brazil drew attention to paragraph 7 c) of the oral report whereby the Council endorsed the procedures for the preparation and approval of documentation as described in paragraph 5. As neither paragraph 5 or 7 referred to the Appendix or the substance of the SGHLM work, it was his understanding that Council endorsement of the procedures did not preclude any Delegation from having substantives views on any of the papers, including the list of meeting documentation presented in the Appendix. He also noted that paragraph 6 of the oral report indicated an extended deadline of 27 June 2022 for the submission of State papers whereas HLM-LTAG-WP/1 specified 22 June 2022. D/ATB clarified that the draft working paper, issued prior to consultations on the matter with the Language and Publications Branch (LP), would be amended accordingly.

17. The President of the Council reiterated the importance of clearly understanding that the decision of the Council concerned the procedural aspects for preparation of the meeting documentation; that there would be no Council endorsement on any positions; and that in late August, the Council would consider the proposal going forward to the Assembly that stemmed from the HLM-LTAG.

18. Given the substantial discussions to be undertaken, the Representative of France observed that, in keeping with the comments by the Representative of Brazil, it was important to understand the documentation procedures to be followed; and recalling his comments in the CEC discussions, highlighted the need to determine the deadline for submission of Assembly working papers on climate change, given the need to allow States adequate time to present their positions.

19. Noting that 2 August 2022 was the submission deadline for State Assembly working papers, the Deputy Director, Environment (DD/ENV) indicated that if the draft papers on climate change were presented to the Council on 24 August 2022, as previously discussed, the final version of the working papers could be distributed by 26 August, one month prior to the Assembly. Any further delay would incur translation issues for State papers; and the lack of awareness of State positions could lead to difficulties in reaching agreement on those issues in the Assembly.

20. The Representative of France observed the need for clarity as the 2 August deadline was unrealistic given HLM-LTAG concluded on 22 July 2022; and he noted that previously, in certain cases, the deadline had been extended. Even though the delay was warranted, DD/ENV thought that given the existing timeframe, it was unrealistic that the State papers could be translated in practical terms if they were not submitted in time. Regardless the timeframe for translation, the President of the Council underscored the importance of allowing sufficient time for States to react to the Assembly working papers presented by the Council. In this regard, D/ATB proposed to revert to the Council following consultations with LP on a proposed date that would best serve Member States, and this was noted by the President of the Council.

21. Thanking the Representative of France for raising this issue and supporting the efforts to determine a suitable timeframe for the submission of State papers, the Representative of Brazil observed that States could present their Assembly working papers in any of the official languages of the Organization.

22. In concluding its consideration of this item, the Council:

- a) noted the results of LTAG Global Aviation Dialogues (GLADs), which were convened from 28 March to 8 April 2022 as a series of five regional virtual events, including the

views expressed by States and stakeholders on various building blocks for consideration of an LTAG, as summarized in paragraph 1 of C-WP/15388;

- b) further noted the information related to the arrangements for the ICAO High-level Meeting on LTAG (HLM-LTAG), which would be convened from 20 to 22 July 2022 in Montréal, Canada, in a hybrid format, as summarized in paragraph 2 of C-WP/15388;
- c) agreed to proceed on the basis of the list of proposed documentation for HLM-LTAG as subsequently revised by the CEC and reflected in the Appendix to its oral report, on the understanding that the Small Group on HLM-LTAG (SGHLM) and CEC would have the opportunity to review and propose further revisions to the contents of the documentation as appropriate;
- d) approved the procedure for the preparation and approval of documentation for the HLM-LTAG and the subsequent process, as described in paragraph 5 of the CEC oral report, and in this connection, agreed to task the SGHLM and CEC to review documentation for the HLM-LTAG, with a view to finalizing and publishing this material by early June 2022; and
- e) took note that the Council would be convened on or around 24 August 2022 in order to finalize and approve the draft Assembly working paper on climate change, and in this connection, requested the Secretariat to further review the process and timelines pertaining to the submission of documentation on this agenda item, with the aim of maximising the timeframe in which Member States would be able to submit working papers for consideration at the Assembly.

### **Draft Assembly working paper – Multilingualism at ICAO**

23. The Council considered this item on the basis of C-WP/15397, which presented a draft Assembly working paper on the implementation of policies and decisions to enhance efficiency and effectiveness of language services and to promote multilingualism as a fundamental principle in the achievement of the Organization's objectives. The Council also had for consideration an oral report thereon from the Committee on Governance (COG), presented by the Chairperson of the COG (Representative of Spain).

24. The Chairperson of the COG (Representative of Spain) highlighted that further to the Committee's recommendations to amend the draft Assembly working paper, as presented in paragraph 5 of the oral report, it was also proposed that in the Executive Summary, action item b), the word "endorsed" be amended to read "approved", and to insert a hyperlink to the ICAO Multilingualism Strategy; in action item c) the word "Secretariat" be deleted; and on page 2, paragraph 2.1, to clarify the reference to the current language services budget.

25. Additionally, the President of the Council noted the concerns expressed in the oral report, paragraph 3 on the reduction of interpretation services.

26. There being no interventions on this item, the Council:

- a) recalled its recent endorsement of the ICAO Multilingualism Strategy (C-DEC 225/3, refers), and in doing so, noted with concern, the reduction in interpretation services capacity resulting from the use of virtual and hybrid meeting formats, as well as the projected reduction in translation capacity over the next triennium, and agreed that the

Assembly should be invited to request ICAO to implement the ICAO Multilingualism Strategy in full; and

- b) approved the draft Assembly working paper attached to C-WP/15397, subject to the amendments requested by the COG and its Chairperson being reflected, as well as the changes agreed on by the Council in the course of the consideration of this item, and delegated authority to the President to thereafter approve the revised working paper on its behalf, for subsequent submission to the 41st Session of the Assembly.

### **Draft Assembly working paper – Status of the ICAO Workforce**

27. The Council considered this item on the basis of C-WP/15396, which pursuant to Assembly Resolutions A24-20 and A39-30, presented a draft Assembly working paper on the status of the ICAO workforce for the years 2019, 2020 and 2021. The Council also had for consideration an oral report thereon from the Committee on Governance (COG), presented by the Chairperson of the COG (Representative of Spain).

28. During his introduction of the working paper, the Secretary General highlighted that this item would be presented to the Assembly in conjunction with the working paper on Human Resources (HR) Management and that one key priority for the next triennium would be the development of a Human Resources Strategy structured around the priority initiatives of: diversity, including equitable geographical representation and gender equality, succession planning and rejuvenation of the workforce; staff engagement, learning and development, a performance culture and talent focus; and HR simplification, and modernization.

29. Referring to paragraph 3 a) of his oral report, the Chairperson of the COG (Representative of Spain) proposed a further modification to action item c) so that it read: “encourage the Member States to promote female candidates for posts advertised by the Organization including secondee positions so long as they meet the requirements”.

30. Fully endorsing the COG Chairperson’s oral report the Representative of India referred to paragraph 3 b) on additional ways to increase gender balance and equitable geographical representation and suggested that quantifiable targets be introduced for female representation, and that further measures be considered in order to attract more female candidates given the percentage of women in professional and higher categories had not gone beyond 30-32 per cent, as indicated in Appendix E-1 of the draft Assembly working paper. In this regard, the President of the Council recalled the Council decision to identify targets to improve the situation (C-DEC 225/6 refers).

31. The Representative of Mexico thought some of the concerns expressed by the Representative of India could be met with the proposed modifications presented in paragraph 3 of the oral report and with the COG Chairperson’s additional proposal to amend action item c).

32. Supporting the comments by the Representative of India, the Representative of France observed that the Council had to clearly recognize the Organization’s poor performance in this area and that the Human Resources Strategy, along with State responsibility, would be central to improving the situation; that the intermediate objectives related to the Sustainable Development Goals, which would be discussed when the Small Group on Gender Equality presented its work; that there was the question of generational change; and as the topic concerned the concept of equality rather than the balance between men and women, the terminology used had to be consistent with what was being discussed. In this regard, the Representative of Brazil pointed out that in new action item d), presented in paragraph 3 b) of the oral report, “balance” should be amended to read “equality” to which the Representative of India suggested

“equality” be amended to read “equity”, however, the Representative of France disagreed as the topic clearly dealt with the concept of equality, the only prevailing concept within the United Nations.

33. In concluding its consideration of this item, the Council:

- a) encouraged the Secretariat to explore potential measures to address the age distribution amongst ICAO staff members with a view to rejuvenating the ICAO workforce, and to promote diversity when developing a human resources strategy, including with respect to geographic representation and gender equality; and
- b) approved the draft Assembly working paper attached to C-WP/15396, subject to the amendments requested by the COG and its Chairperson being reflected, as well as the changes agreed on by the Council in the course of the consideration of this item, including in relation to the text of the action paragraph of the Assembly working paper, and delegated authority to the President to thereafter approve the revised working paper on its behalf, for subsequent submission to the 41st Session of the Assembly.

#### **Draft Assembly working paper – Assistance to Aircraft Accident Victims and their Families**

34. The Council considered this item on the basis of C-WP/15415, which presented a draft Assembly working paper on developments pertaining to assistance to aircraft accident victims and their families since the last Assembly. The Council also had for consideration an oral report thereon from the Air Transport Committee (ATC), presented by the Chairperson of the ATC (Representative of Côte d’Ivoire).

35. Prior to opening the floor for discussion on this item, the President of the Council, having recently had the opportunity to meet Mrs. Vera Pilar, President of the Air Crash Victims’ Families Federation International (ACVFFI), conveyed her appreciation, on behalf of the Federation, for the attention paid by the Council and Secretariat to the importance of this issue and to the ACVFFI expectations vis-à-vis actions to be taken by the Council.

36. Referring to the ATC recommendations in paragraph 4 of the oral report, in addition to the suggested inclusion of an operative clause on the ratification of the Montréal Convention 1999, the Representative of Spain proposed that operative clause 6 of the draft Assembly resolution, on page B-3 of the draft Assembly working paper, be amended to read “*Welcomes* the recommendations of the Symposium and directs the Council to incorporate into the next triennium Business Plan those Symposium recommendations that require further consultation with expert groups;”; that proposed operative clause 7 be deleted; that deleted operative clause 5 be reinstated with modifications to read “*Directs* the Council, when considering the extent of the level of implementation of family assistance plans to give further consideration to the development of Standards and Recommended Practices to support the victims of civil aviation accidents and their family members;”; and to align the text of paragraph 3.1 on page 3 with the proposed modifications to the draft Assembly resolution so that it read “The Council requested that the AAASF 2021 recommendations be shared with the Assembly and incorporate into the next triennium Business Plan those Symposium recommendations that require further consultation with expert groups, taking into account eventual needs of additional resources, either under the regular budget or through voluntary contributions.”

37. Concurring with the proposals by the Representative of Spain, the Representative of Mexico was nonetheless concerned that if operative clause 7 was removed from the draft Assembly resolution, the concept of capacity-building for State implementation of the recommendations would be lost. Of the same view, the Representative of Canada supported the ATC Chairperson’s oral report; and



thought the proposed modifications to paragraph 3.1 better aligned with the intentions of the paper, which he considered to be very important.

38. Fully agreeing with the proposals by the Representative of Spain, the Representative of France pointed out that operative clause 7 could be read in such a way as to suggest that without resources, work on this issue would not be carried out by the Organization, and thus it needed to be redrafted with work on capacity-building included.

39. Of the same view as the Representatives of Mexico, Canada and France, the Representative of Australia underscored the need for appropriate wording to ensure that further consideration of all the recommendations by experts was not lost as the review was an important part of the process.

40. As to the proposed deletion of operative clause 7, the Representative of Spain noted the significance of the comment by the Representative of France, that the need for additional resources should not be included in an Assembly resolution; and to the comment by the Representative of Mexico, suggested the concept of capacity-building to implement the 30 recommendations be included in operative clause 6.

41. In concluding its consideration of this item, the Council:

- a) expressed its appreciation for the progress made with respect to assistance to aircraft accident victims and their families since the 40th Session of the ICAO Assembly, and in recognizing the importance of this subject, encouraged all Member States who had not already done so to establish regulations and policies to support the provision of assistance to aircraft accident victims and their families, as appropriate; and
- b) approved the draft Assembly working paper attached to C-WP/15415, subject to the amendments requested by the ATC being reflected, as well as the changes agreed on by the Council in the course of the consideration of this item, including to paragraph 3.1 of the text of the Assembly working paper and in relation to operative clauses 5, 6 and 7 of the draft Assembly resolution, and delegated authority to the President to thereafter approve the revised working paper on its behalf, for subsequent submission to the 41st Session of the Assembly.

#### **Draft Assembly working paper – Outcome of the Ministerial Plenary of the High-level Conference on COVID-19**

42. The Council considered this item on the basis of C-WP/15383, which presented a draft Assembly working paper on the outcomes of the three Ministerial Plenary Sessions held during the High-level Conference on COVID-19 (HLCC), as well as the follow-up actions being undertaken by ICAO to support greater uptake of the Declaration. The Council also had for consideration an oral report thereon from the Air Transport Committee (ATC), presented by the Chairperson of the ATC (Representative of Côte d'Ivoire).

43. In introducing the paper, the Secretary General highlighted examples of the Organization's continued efforts to raise awareness of the Ministerial Declaration with the recently concluded Future-Aviation Forum, hosted by the Kingdom of Saudi Arabia in Riyadh, and the AFI Aviation Week, hosted by the Government of Nigeria in Abuja.

44. In concurrence with ATC Chairperson's oral report, the Representative of Mexico observed that in the draft Assembly working paper, the wording on budgetary resources, as presented in the Executive Summary, Financial Implications and in paragraph 5.3 on page 4, needed to be aligned; and he

also suggested that any future reference to budgetary restrictions only be included in the Executive Summary.

45. In concluding its consideration of this item, the Council:
- a) acknowledged the importance of the Ministerial Declaration in generating firm political commitments to confronting the challenges posed by the ongoing COVID-19 pandemic and in supporting the recovery, resilience and sustainability of the aviation sector, and in this connection, agreed that the 41st Assembly should be invited to endorse the Declaration by way of emphasizing its relevance beyond the current crisis; and
  - b) approved the draft Assembly working paper attached to C-WP/15383, subject to the amendments requested by the ATC being reflected, as well as the changes agreed on by the Council in the course of the consideration of this item, and delegated authority to the President to thereafter approve the revised working paper on its behalf, for subsequent submission to the 41st Session of the Assembly.

#### **Draft Assembly working paper – Developments Pertaining to Annex 9 – *Facilitation***

46. The Council considered this item on the basis of C-WP/15377, which presented a draft Assembly working paper report on developments pertaining to Annex 9 – *Facilitation* since the last Assembly, as well as the intended priorities and outcomes for the next triennium. The Council also had for consideration an oral report thereon from the Air Transport Committee (ATC), presented by the Chairperson of the ATC (Representative of Côte d'Ivoire).

47. Concurring with the oral report by the ATC Chairperson, the Representative of Spain noted that the COVID pandemic had highlighted the importance of facilitation in overcoming the crisis; and that the four requests put forward to the Assembly in the draft working paper were very well structured and should be the general approach used, namely to: acknowledge the work; endorse the work to be done for the next three years; update the Assembly resolution; and request States' support in order to fulfil the Business Plan.

48. In concluding its consideration of this item, the Council noted the positive developments presented in the draft Assembly working paper, as well as the importance of the priorities and expected outcomes for the next triennium, and in so doing, approved the draft Assembly working paper attached to C-WP/15377 for submission to the 41st Session of the Assembly.

#### **Progress achieved by the Committee on Relations with the Host Country (RHCC)**

49. The Council considered this item on the basis of an oral report presented by the Chairperson of the Committee on Relations with the Host Country (RHCC) (Representative of Japan), as well as introductory remarks from the Representative of Canada.

50. The Representative of Canada indicated that progress had been made in simplifying the instructions regarding proposed online facilitation procedures that had been presented during the RHCC's twenty-fourth meeting, and that they would be provided to the Legal Affairs and External Relations Bureau.

51. Referring to paragraph 7 of the oral report, the Representative of Brazil thanked the Host State for the attention given to concerns raised in accessing family doctors; and requested that any further information be provided to the Council as it became available.

52. The Secretary General provided on update on the most recent developments: that the Government of Québec had lifted the facial mask mandate on 14 May 2022; that the ICAO Crisis Management Team had reviewed the latest provincial directives and made recommendations for implementation at Headquarters; and that the ICAO Medical Clinic had updated its Occupational Health and Safety Recommendations which had been circulated to ICAO Headquarters personnel on 20 May 2022.

53. In concluding its consideration of this item, the Council:

- a) took note of the information provided by the RHCC, including in relation to the status of issues under consideration by the Committee;
- b) also took note of the supplementary information from the Delegation of Canada on behalf of the Host State concerning the recent changes to the COVID-19 related local public health directives, including the announcement by the Government of Québec ending mandatory teleworking arrangements, and in this connection, further noted the guidelines that had been put in place to facilitate the gradual return to the office of ICAO staff, and the associated Occupational Health and Safety Recommendations which had been circulated to both the Secretariat and all Delegations; and
- c) reiterated its gratitude to the Host State authorities for their continued assurances to facilitate the issuance of Canadian entry visas to support the participation by all Member States to the 41st Session of the Assembly and other high-level meetings at Headquarters, and in this regard, noted the commitment of the Government of Canada to allow all duly-accredited delegates to enter the country, and that delegates' vaccination status would not be an impediment to their attendance at high-level ICAO meetings.

#### **Any other business**

#### **Appointment of Members and Alternates on the Air Navigation Commission (ANC)**

54. It was noted that in the absence of comments by 28 March 2022, to the President of the Council's email dated 21 March 2022, Mr. Adel H. Alaufi, from the Government of the Kingdom of Saudi Arabia, had been appointed to serve as Member on the ANC to succeed Mr. Alwaleed Abdulaziz Alenzi who will henceforth serve as his Alternate, with effect from 25 March 2022.

55. It was noted that in the absence of comments by 25 March 2022, to the President of the Council's email dated 18 March 2022, Mr. Frizo Vormer, from Australia, had been appointed to serve as Member on the ANC to succeed Mr. Andrew Tiede, with effect from 18 March 2022.

#### **Request from Observers to participate in closed meetings of the Council**

56. It was noted that pursuant to email notifications circulated by the President of the Council in March and April 2022, and in accordance with Rule 32 a) of the Rules of Procedure for the Council, Ms. Delphine Micheaux Naudet (European Union), Mr. Michael Rossell and, in his absence Ms. Nathalie Herbelles, (ACI), Mr. Nico Voorbach (CANSO), Mr. Michael Comber (IATA), Mr. Andreas Meyer (IBAC), and Mr. Daniel Carnelly and Ms. Nina Brooks (ICCAIA), had been invited to participate as Observers during the 226th Session of the Council's consideration in closed session, of items related to aviation safety and security, as appropriate.

**Council working papers presented for information**

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

- C-WP/15403 – *Financial Situation of the Organization*
- C-WP/15404 – *Report on publications for 2021*

58. The meeting adjourned at 1730 hours.

**COUNCIL — 226TH SESSION**

**SUMMARY MINUTES OF THE SECOND MEETING**

**(HYBRID MEETING, WEDNESDAY, 25 MAY 2022, AT 1000 HOURS)**

President of the Council: Mr. Salvatore Sciacchitano

Secretary: Mr. Juan Carlos Salazar, Secretary General

**PRESENT:**

Argentina	— Mr. G.E. Bompadre	Malaysia	— Mrs. F. Chin
Australia	— Mr. R. Adams	Mexico	— Mr. D. Méndez Mayora
Brazil	— Mr. N. Moretti	Netherlands	— Mr. R. Ossendorp
Canada	— Mr. C. Hurley	Nigeria	— Mr. M.S.B. Tukur
China	— Mr. Shengjun Yang	Paraguay	— Mr. C.D. Urquhart Cáceres
Colombia	— Mr. M. Ramírez Koppel	Peru	— Mr. A. Freyre Layzequilla
Costa Rica	— Mr. G. Hoppe Pacheco	Republic of Korea	— Mr. S. Kim
Côte d’Ivoire	— Mr. C.A. Djibril	Russian Federation	— Mr. S. Gudkov
Dominican Republic	— Mr. J. Peña Guzmán	Saudi Arabia	— Mr. B. Al-Sagri
Egypt	— Mr. S. Elhefny	Singapore	— Ms. E. Poh
Equatorial Guinea	— Mr. E. Esono Anguesomo	South Africa	— Mr. L. Mabaso
Finland	— Mr. S. Vuokila	Spain	— Mr. V.M. Aguado
France	— Mr. L. Pic	Sudan	— Mr. I.M. Elhag
Germany	— Mr. U. Schwierczinski	United Arab Emirates	— Mr. M. Salem (Alt.)
Greece	— Ms. M. Saranti	United Kingdom	— Mr. A. O’Henley
India	— Mrs. S. Juneja	United States	— Mr. C. Sullenberger
Italy	— Ms. S. Costantini	Zambia	— Mr. V. Banda
Japan	— Mr. I. Fukushima		

**ALSO PRESENT:**

Mr. C. Fernández (Alt.)	— Argentina
Mr. S. Lucas (Alt.)	— Australia
Ms. C. Fitzgerald (Alt.)	— Australia
Ms. I. de Melo Maciel (Alt.)	— Brazil
Mr. M. Lima (Alt.)	— Brazil
Mr. A. Bertolino (Alt.)	— Brazil
Mr. D. L. Pereira (Alt.)	— Brazil
Mr. R. Arruda (Alt.)	— Brazil
Ms. A. Barbosa (Alt.)	— Brazil
Ms. A. Jiménez (Alt.)	— Costa Rica
Ms. C. Moya (Alt.)	— Dominican Republic
Ms. V. Adalsteinsdottir (Alt.)	— Finland
Ms. V. Betchava (Alt.)	— Greece
Mr. A. Kalognomis (Alt.)	— Greece
Ms. V. Lazari (Alt.)	— Greece

**SECRETARIAT:**

Mr. M. Vreedenburgh	— SPO/OSG
Mr. S. Creamer	— D/ANB
Mr. M. Rahma	— D/ATB
Mr. A. Mishra	— D/ADB
Mr. M. Gill	— D/LEB
Mr. S. Lefoyer	— DD/ASF
Mr. T. Efendioglu	— C/OIO
Ms. T. de Bodt	— H/SPCP
Ms. T. Agiri	— DD/HR
Ms. N. Abdennebi	— C/FAL
Mr. F. Buonomo	— Ethics Officer
Mr. A. Larcos	— C/ACS
Ms. V. Muraca	— ACS
Ms. D. Lane	— Précis-writer

**ALSO PRESENT: (Cont'd)**

Mr. A. Joshi (TE)	— India
Mr. M. Silanos (Alt.)	— Italy
Mr. S. Oshima (Alt.)	— Japan
Mr. S. Sugiyama (Alt.)	— Japan
Mr. M. Loustauanau (Alt.)	— Mexico
Mr. C. Schleifer (Alt.)	— Netherlands
Mr. W.R. Linares (Alt.)	— Peru
Mr. J.W. Kim (Alt.)	— Republic of Korea
Mr. S. Ahn (Alt.)	— Republic of Korea
Ms. D. AlKurdi (Alt.)	— Saudi Arabia
Mr. M.S. Habib (Alt.)	— Saudi Arabia
Mr. F. A. A. AlSuhabani (Alt.)	— Saudi Arabia
Ms. S. Toh (TE)	— Singapore
Mr. Y. K. Koh (TE)	— Singapore
Ms. T. Goodwin (Alt.)	— United Kingdom
Mr. A. M. Veprek (Alt.)	— United States
Mr. M. Waniwa (Alt.)	— Zambia

Representatives to ICAO

Cameroon  
 Chile  
 Congo  
 Cyprus  
 Ethiopia  
 Indonesia  
 Iran (Islamic Republic of)  
 Niger  
 Oman  
 Turkey  
 Uganda  
 Ukraine  
 Uruguay

Airports Council International (ACI)  
 Civil Air Navigation Services Organization (CANSO)  
 European Union (EU)  
 International Air Transport Association (IATA)  
 International Coordinating Council of Aerospace Industries Associations (ICCAIA)

**Draft Assembly working paper — United Nations 2030 Agenda — Sustainable Development Goals (SDGs)**

1. The Council considered this item on the basis of C-WP/15357, which presented a draft Assembly working paper on activities undertaken by ICAO in support of the United Nations (UN) Sustainable Development Goals (SDGs), and on the cooperation and partnerships with Member States and other United Nations entities in order to achieve related targets. The Council also had for consideration an oral report thereon from the Committee on Governance (COG).

2. The Chairperson of the (COG) (Representative of Spain) outlined the main points of discussion during the Committee's review of C-WP/15357. With respect to the clarification sought from the Secretariat regarding the status of its participation in the United Nations Sustainable Development Group (UNSDG), the Committee had been informed that the Secretariat was in the process of a cost/benefit analysis on which it would base its membership in the UNSDG. Turning to the draft Assembly working paper attached to C-WP/15357, the Committee had suggested that paragraph 2.3.2 of the draft working paper, as well as the related proposed clauses of the draft Assembly resolution, be revised to include the notion that the Civil Aviation Master Plans (CAMPs) was but one of many possible means for advancing national aviation policy, strategy and development planning of civil aviation. The COG had specified that revised wording would afford Member States more flexibility during high-level long-term aviation planning at the national level. The Committee had further suggested that the draft Assembly resolution should include a reference to the global public health impact of the COVID-19 pandemic and its effect on the aviation workforce. Referring specifically to operative clause 8 of the draft Assembly resolution, the Committee had proposed that text be included which would suggest financial assistance be provided to support the development of civil aviation in vulnerable countries.

3. Following on the point raised regarding operative clause 8 of the draft Assembly resolution, the Representative of Brazil proposed that the widely used and understood term "development assistance" be included alongside "South-South and triangular cooperation" as a means for Member States to enhance efforts to support development of civil aviation. Indicating that, to his knowledge, there was no multilaterally agreed definition for the concept of "vulnerable countries", the Representative further proposed that in clause 8 the phrase "vulnerable countries including LDCs, LLDCs and SIDS" be amended to read "vulnerable countries, in particular LDCs, LLDCs and SIDS".

4. The Representative of the United States expressed strong support for the recommendation by the COG that the text in the draft Assembly working paper and associated draft Assembly resolution referring to CAMPs be amended to clarify that concept of a CAMP was neither an initiative particularly intended to be endorsed by the 41st Session of the Assembly, nor was it the exclusive means to be used by Member States to prioritize resources to aviation or to be used for long-term strategic planning for comprehensive and sustainable development of civil aviation systems.

5. The Chairperson of the COG confirmed that the relevant text in the draft Assembly working paper would be redrafted to reference CAMPs in a much broader sense, and that the amended wording to operative clause 8 of the draft Assembly resolution proposed by the Representative of Brazil would also be incorporated in the revised draft Assembly working paper.

6. In concluding its consideration of this item, the Council:

- a) welcomed the efforts made by ICAO to contribute to the achievement of the UN 2030 Agenda for Sustainable Development, and in advocating for the role of aviation as an enabler of the UN SDGs, in line with Assembly Resolution A40-21: *Aviation*

*contribution towards the United Nations 2030 Agenda for Sustainable Development;*  
and

- b) approved the draft Assembly working paper attached to C-WP/15357, subject to the amendments requested by the COG being reflected, as well as the changes agreed on by the Council in the course of the consideration of this item, including in relation to the text of the operative clauses of the proposed Assembly resolution, and delegated authority to the President to thereafter approve the revised working paper on its behalf, for subsequent submission to the 41st Session of the Assembly.

### **Amendments to the ICAO Policy on Secondment**

7. The Council considered this item on the basis of C-WP/15409, which pursuant to C-DEC 223/4, presented proposed amendments to the *ICAO Policy on Secondment*. The Council also had for consideration an oral report thereon from the Committee on Governance (COG).

8. In his introduction to the working paper, the Secretary General recalled that the Council (C-DEC 223/4) had requested the Secretariat to undertake a review of the *ICAO Policy on Secondment* (the Policy) with a view to facilitating the process for the seconding of personnel by Member States while taking into account applicable practices in the United Nations system. He stated that, with this in mind, the review had considered aspects such as alignment of the duration of the appointment of secondees with the practices in the UN system; adjustment to the processing of formal written agreements, including provisions for more expeditious processing of secondments; transparency in the processing of secondments; flexibility with respect to the selection of seconded personnel; flexibility in the determination of the appropriate grade and step, taking into account the relevant work experience of the respective secondee; alignment of the Policy with the applicable standards of conduct, and standards related to conflict of interest and accountability; and a novel development to provide secondees flexibility in working arrangements, including a remote working option. Indicating the key points that were drawn from the review by the Committee on Governance (COG) of the revised Policy as presented in C-WP/15409, the Secretary General conveyed that, after approval of the revised Policy, steps would be taken to ensure that it was consistent with the *ICAO Service Code* (Doc 7350); that the sponsoring entity of the appointed candidate be identified on the Council website; and that a review of existing arrangements related to the Junior Professional Officer (JPO) programme was carried out. He affirmed the importance of the Policy in facilitating the tremendous amount of activities requiring action by the Secretariat during the 2023–2025 triennium, and the value of secondments in the support of Member States, particularly with respect to addressing and implementing the Organization's strategic objectives.

9. The Chairperson of the COG (Representative of Spain) affirmed that the amendments to the Policy being considered were expected to provide greater flexibility in the use of secondees and enhance an essential tool for fulfilling the Business Plan for the upcoming triennium. In this regard, he highlighted that the revised Policy would provide equal opportunity for seconded personnel from all Member States, as well as to expand the available pool of qualified secondees, specifying that the amendment enabling remote working arrangements created further opportunities for secondment, particularly when a Member State willing to provide a secondee was without the means to finance their relocation. He pointed out that the revised Policy extended secondment opportunities to include the P-5 and D-1 levels, and that secondments to the latter level would be reviewed by the Human Resources Committee (HRC). With respect to the Committee's request for a Secretariat review of the JPO programme, in particular in light of best practices employed by other UN agencies, the Chairperson emphasized that the JPO programme may potentially play an important role in addressing gender equality. With regard to the possibility of providing greater flexibility to the Secretary General with respect to the six-month cooling-off period before accepting nominations for secondment of former Council Representatives or Alternates and Representatives of



Resident Delegations, the Chairperson indicated that agreement had not been reached during deliberations on this issue, and that, in the opinion of the Ethics Officer, the proposed six-month cooling-off period should be retained.

10. The Representative of Colombia submitted that the revised Policy conferred greater flexibility upon Member States to augment their in-kind support to the Organization at time when budget limitations might otherwise hamper the execution of the work programme.

11. Speaking to the importance of flexibility with respect to the appointment and funding of secondees, the Representative of the Russian Federation voiced support for the revised Policy and for the proposed amendments outlined in the oral report of the COG.

12. The Representative of Zambia voiced full support for the initiative to update and amend the Policy and endorsed the appeals for greater flexibility in its use. The Representatives of Costa Rica and Nigeria echoed these remarks.

13. Expressing the view that the proposed amendments to the Policy created a suitable balance between transparency and flexibility, the Representative of Japan supported the revised Policy, believing it would enable the Organization to strengthen its responsibilities in line with UN practices and to be more effective. He concurred that there was a need for a flexible approach to secondments and for simplifying the process for the onboarding of secondees, and welcomed the review of JPO arrangements, relating that his State regularly seconded JPOs to the Organization.

14. Fully supporting the proposal put forward by the COG that the Secretariat review the JPO programme, the Representative of France averred that this review was essential and should proceed expeditiously. With respect to the revised Policy, while he agreed that sound rules and guidelines were necessary, and that a degree of judgement would be used when applying the Policy, it risked being ineffective unless properly implemented. With this in mind, the Representative proposed that an evaluation of the implementation of the Policy be conducted by the Secretariat in one year's time and presented in a report to the Council.

15. The Representative of Saudi Arabia sought clarification of paragraph 5.1 of the revised Policy regarding whether secondments would be announced to the Council before the appointment was finalized by the Secretariat or afterwards. He also questioned whether the exception included in paragraph 5.1 could be applied, in cases of urgent specific needs of the Organization, to the cooling-off period mentioned in paragraph 6.4.

16. Expressing appreciation to the Secretariat for the efforts to enhance transparency in all areas of the Organization, particularly on matters of secondment, the Representative of Peru underlined that the revised Policy expanded the possibilities for Member States to provide qualified personnel to support the strategic objectives of the Organization, and agreed with the Representative of France that the Council should review the ongoing implementation of the Policy.

17. The Representative of Australia concurred that Council oversight of the Policy would help ensure that it continued to contribute the anticipated benefits to the Organization. With respect to the intervention by the Representative of Saudi Arabia and the potential to introduce an exceptional circumstances provision for the cooling-off period in paragraph 6.4, he felt it appropriate that a notification mechanism be introduced into that paragraph to enhance transparency of secondments in such cases.

18. The Secretary General conveyed that he had taken note of the comments with respect to enhancing transparency and flexibility, and confirmed that a list specifying secondment opportunities and

secondment appointments would be maintained up-to-date on the ICAO public-facing website, and that the name of the sponsoring entity would be included on the Council website.

19. While appreciating that greater transparency and flexibility with respect to secondments would be reached by means of the proposed amendments to the Policy, the Representative of Greece suggested that it would be helpful to Member States, and allow for a simpler and clearer application of the Policy, for a timeline of the secondment process, as well as information related to the relevant funding procedures, to be included in an appendix to the Policy.

20. The Director of the Administration and Services Bureau (D/ADB) indicated that, after approval by the Council of the revised Policy, a set of administrative instructions would be developed detailing the various procedures for secondment and the timeline for the process for engaging and onboarding secondees. With regard to the funding mechanism, he referred to paragraph 4.2 of the revised Policy which stated that the sponsoring entity may provide seconded personnel on a trust fund or gratis basis, and informed that both mechanisms were currently in place and in use. He explained that under the trust fund mechanism, the funding required for a post for secondment was the same as it would be for a staff member's post at the same level. Once the amount of funding was determined, it would be deposited to the trust fund account by the sponsoring entity and once appointed, the secondee would be remunerated by ICAO in the same manner as would a staff member in the same post. With respect to the gratis model, D/ADB explained that the sponsoring entity would be entirely responsible for remunerating the secondee. He confirmed that the planned administrative instructions would describe both the trust fund and gratis funding mechanisms.

21. In response to questions raised related to the possibility of introducing, in paragraph 6.4, flexibility for the cooling-off period, D/ADB stated that, notwithstanding decisions to be made in this regard, it was intended that appointments of all secondees would be reflected on the ICAO public website to ensure transparency. He advised that positions advertised for secondment would no longer be subject to a time limit, but would be closed only after appointment of the selected candidate which would be indicated on the ICAO public website.

22. The Representative of Brazil expressed support for the views recommending a review mechanism for the Policy be put in place and for introducing flexibility with respect to the cooling-off period outlined in paragraph 6.4, specifying that this flexibility should be coupled with transparency and granted only in very exceptional circumstances, bearing in mind that the secondee would have been recently associated with an aviation authority in a Member State. The Representative suggested that in addition to listing open secondment opportunities on the ICAO public website, information on the future secondment needs of the Organization be made available to sponsoring entities to permit them to plan their potential commitments.

23. The Representative of Singapore expressed support for the revised Policy, stating that it was an essential element in the Organization's approach to secondments. Emphasizing the value of introducing young professionals to the aviation sector, she advocated for improved arrangements for seconding JPOs to the Organization and favoured including the option for remote working. The Representative suggested that, with regard to comments that exceptions be considered with respect to the cooling-off period indicated in paragraph 6.4 of the Policy, the Ethics Officer be consulted in such cases to ensure that issues of conflict of interest do not arise. The Representative of Brazil associated himself with this intervention.

24. Lending support to the views expressed in previous interventions, the Representative of India agreed that while flexibility in the application of the Policy would be beneficial, the exercise of such flexibility should be based on clear reasoning and be well documented; that remote working, or virtual

secondment, was a realistic addition to the Policy; that procedures be developed to elucidate the processes surrounding the selection of secondees; and that the future secondment needs of the Organization be made public to enable young professionals to use this information in planning their careers and to allow sponsoring entities the necessary time to plan staff secondments to ICAO.

25. In response to questions related to paragraph 6.4 of the revised Policy, D/ADB revealed that it was based on, and aligned with, paragraph 4.4 of the *ICAO Service Code* (Doc 7350), Article IV — *Recruitment, Appointment, Promotion and Development of Staff*, with the exception that the reference to Air Navigation Commissioners was excluded from paragraph 6.4 of the revised Policy to allow for greater access to the technical competence of Commissioners as potential secondees.

26. While he had no objection, in principle, to the notion of Air Navigation Commissioners being seconded, the Representative of Finland had in mind that some, but not all Commissioners also served as Alternates to the Council, and that this may need to be considered in the wording of paragraph 6.4 of the revised Policy. The Representative of the Netherlands associated himself with this intervention.

27. The Representative of Saudi Arabia pointed out that secondment was subject to agreement by the sponsoring entity and that a cooling-off period was common practice when the secondee was engaged within the ranks of the sponsoring entity. In this regard, the Representative suggested seeking the opinion of the Secretariat, specifically of the Ethics Officer, on the text related to the cooling-off period in paragraph 6.4 of the revised Policy.

28. Referring specifically to paragraph 12.1 of the amended Policy, the Representative of the Netherlands questioned whether the six-month cooling-off period indicated for secondees therein would limit the ability of the Organization to appoint, in a timely manner, qualified secondees who had gained valuable ICAO experience during the course of their secondment, suggesting that this would engender less flexibility within the Policy.

29. Addressing the preceding intervention, D/ADB stated that the amendments introduced to paragraph 12.1 of the Policy were not directed at raising the number of seconded personnel in the Organization, but rather were intended to facilitate the intake of secondees and enhance their opportunities for permanent employment in the Organization.

30. While appreciating the objective of introducing greater flexibility for secondees with ICAO experience to transition into the ranks of the Organization, the Representative of the Netherlands maintained that the amended wording of paragraph 12.1 of the Policy imposed more stringent criteria than previously prescribed. He specified that in accordance with the previous version of paragraph 12.1, secondees were eligible to be employed by the Organization six months after they had ended their secondment, while in the amended version, it would be six months before a secondee would be permitted to submit an application against a vacancy notice. He further pointed out that the amended paragraph 12.1 was unclear as to whether the six-month waiting period was meant to be applied to posts which had been advertised and open for six months since the secondee ended their service, or to vacancies first posted six months or more after the secondee ended their service. The Representative expressed concern that the amended provisions in paragraph 12.1 had two possible interpretations and that both interpretations extended the period between the end of a secondment and the start of a secondee's potential employment with ICAO.

31. The Representative of France shared the concerns expressed regarding the amended wording of paragraph 12.1 of the Policy, underlining that the recruitment process, which takes place after the closing date of a vacancy notice, would further lengthen the elapsed time before a secondee might commence employment with the Organization. He recommended that the Secretariat, in collaboration with

the COG, revisit the proposed amendments to the Policy with a view to clarifying not only paragraph 12.1, but also paragraph 6.4, particularly in regard to the secondment of Air Navigation Commissioners.

32. The Chairperson of the COG agreed that while several issues had been clarified by the Secretariat during the review of C-WP/15409, questions remained regarding the exception to the cooling-off period indicated in paragraph 6.4 which would require further consideration by the COG during a subsequent Council session. He supported the proposal to evaluate the implementation of the Policy after a year in practice, and that the Secretariat provide a broad forecast of its future secondment needs. The Chairperson trusted that the Policy would be refined by the Secretariat in line with the oral report of the COG and with the points raised in the preceding interventions by Representatives, and be further clarified by the Secretariat administrative instructions expected to accompany the revised Policy.

33. Expressing confidence that the issues surrounding cooling-off periods, funding and JPOs would be resolved after further review, the Representative of Equatorial Guinea expressed support for the revised Policy.

34. The Representative of Brazil proposed that an additional review by the COG be conducted during the current session for the purpose of expeditiously clarifying issues in paragraph 6.4 related to possible exceptions to the cooling-off period and to the secondment of Air Navigation Commissioners acting in the roles of Alternate Representatives on the Council.

35. The President of the Council supported the proposal that the COG conduct an additional review of paragraph 6.4 with a view to finalizing the amendments to the Policy during the current session, and with this in mind, proposed that the amendments to *ICAO Policy on Secondment*, as presented in C-WP/15409 and as further revised by the COG and appended to its oral report, be approved. He indicated that the Secretariat would undertake the necessary consequential amendments to the *ICAO Service Code* (Doc 7350), and in line with suggestions put forward in preceding interventions, would include on the ICAO public website, where secondment opportunities are to be listed, a long view of the Organization's future secondment needs. With regard to the concerns raised regarding paragraph 12.1 of the Policy, the President proposed that the Secretariat be invited to review the text of this paragraph from a legal perspective to ensure flexibility was maintained in the application of this aspect of the Policy. Drawing the discussion to a close, the President recalled the support for the COG's recommendations that the Secretariat identify the name of the sponsoring entity of an appointed candidate on the Council website; that it review existing provisions relating to the administration of JPOs, including co-funding options, and present the outcome of its review to the COG in a future session of the Council; and that in a year's time, it present a report to Council on the ongoing implementation of the Policy.

36. In concluding its consideration of this item, the Council:

- a) approved the proposed amendments to the *ICAO Policy on Secondment*, as further revised by the COG and appended to its oral report, and requested that the Secretariat ensure that any consequential amendments arising from these changes to the *Policy on Secondment* also be reflected in the relevant provisions in the *ICAO Service Code*;
- b) agreed that all secondment opportunities should be published on the ICAO public website in order to maximize visibility and provide equal opportunity to all Member States, and in so doing, requested the Secretariat to publish the names of the entities sponsoring appointed candidates on the Council website, together with a longer range forecast of future secondment opportunities in order to facilitate the long-term planning in this regard by Member States;

- c) requested the Secretariat to review existing provisions relating to the administration of the Junior Professional Officer (JPO) programme, including potential co-funding options;
- d) further requested the Secretariat to review from a legal point of view the language used in the amendment of the text of paragraph 12.1 of the *ICAO Policy on Secondment*, in order to ascertain whether the revised language introduced any unintended rigidity or inconsistency vis-à-vis the potential eligibility of seconded personnel in the ICAO recruitment process, and in this connection, agreed that should additional amendments to the language of this text be necessary, these would be approved by the President of the Council acting under delegated authority;
- e) agreed that further consideration was needed on whether the cooling-off period described in paragraph 6.4 of the *ICAO Policy on Secondment* could be waived on an exceptional basis by the Secretary General, in line with the views raised by the COG in its oral report and by the Council over the course of its discussion, and how this policy would apply to ANC Commissioners who were serving as Alternate Representatives to the Council, and in this connection, invited the COG with the support of the Secretariat to undertake a further review of these issues with the aim of finalizing additional amendments thereon; and
- f) requested the Secretariat to provide a report to the Council during its 229th Session on the implementation of the revised *ICAO Policy on Secondment*, including any lessons learned.

### **Fundamental Rights of Passengers at International Airports**

37. The Council considered this item on the basis of C-WP/15420, presented by the Chairperson of the Council Small Working Group (SWG) on Rights of Travellers at Airports, which reported on the work undertaken by the Small Working Group (SWG) to define a problem statement on the issue of passenger rights at airports. The Council also had for consideration a joint oral report thereon from the Air Transport (ATC) and Aviation Security Committees (ASC).

38. In presenting a summary of C-WP/15420, the Chairperson of the Council Small Working Group (SWG) on the Rights of Travellers at Airports (Representative of Australia) recalled that the SWG was established to provide clear direction regarding the Organization's role in ensuring the rights of passengers at international airports were taken into account. He conveyed that the SWG had worked to define a non-exhaustive list of high-level rights which it considered fundamental, including the right to human dignity, the right to non-discrimination, the right to data protection and the right to effective remedy. In developing a problem statement on which to base further expert analysis and advice, he indicated that the SWG had agreed that the Organization should ensure that its policies, practices and guidelines were consistent with these fundamental rights and should support Member States in implementing ICAO Annexes in line with these rights, in particular Annex 9 — *Facilitation* and Annex 17 — *Security*. The Chairperson related that, to move this issue forward, the SWG had invited the Secretariat, in collaboration with its expert groups, to consider the list of rights presented in C-WP/15420, and to expand them if necessary; to review the relevant Annexes and guidance material to ensure consistency with these rights; and to imbed these rights within the Organization's culture when developing future policies and guidance, particularly with regard to aviation security and facilitation. Extending thanks for the efforts undertaken on this issue by the membership of the SWG, including the industry observers, as well as the Secretariat, and with the understanding that further work on the issue of the rights of travellers at international airports

would be assumed by the Secretariat and its expert groups, the Chairperson recommended that the SWG be disbanded.

39. The Chairperson of the Aviation Security Committees (ASC) (Representative of India) presented the oral report on C-WP/15420 as jointly reviewed by the ASC and the Air Transport Committee (ATC), and recommended that the Council address the proposals outlined therein. She congratulated the SWG on successfully defining the core work to be undertaken in the pursuit of ensuring respect for the fundamental rights of the travelling public as these rights related to passengers' interactions with the respective authorities at international airports.

40. Referring to the recommendations outlined in the ASC/ATC joint oral report, the Representative of Mexico favoured specifying a timetable for the Security (AVSEC) and Facilitation (FAL) Panels' consideration of the issue under discussion.

41. The Representative of Spain believed that the upcoming 41st Session of the Assembly was an opportune occasion for Member States to be informed of the efforts underway to address the important topic of fundamental rights of travellers at international airports.

42. Concerning the timing of the review by the AVSEC and FAL Panels of the relevant policies, practices and guidance related to aviation security and facilitation in light of the need to ensure consistency with the rights of passengers at airports, the President of the Council proposed that the Secretariat invite the Chairpersons of the AVSEC and FAL Panels to include this item on the agendas of their next panel meetings, making reference to C-WP/15420 and the oral report thereon, as well as the Council decision in this regard. With respect to the suggestion that this matter be brought to the attention of the 41st Session of the Assembly, the President proposed that the Secretariat prepare a draft Council Information Paper reporting on the progress on this issue and outlining future activities.

43. In concluding its consideration of this item, the Council:

- a) noted, with satisfaction, the work carried out by the SWG to review the fundamental rights of passengers traveling through international airports, and in reaffirming that the principles of human dignity, non-discrimination, data protection and right of effective remedy needed to be respected during passengers' various interactions with authorities at international airports;
- b) agreed on the need to ensure that ICAO policies, practices and guidelines with respect to aviation security and facilitation were consistent with these fundamental rights and principles, and in so doing, requested the Secretariat to inform the Chairpersons of the Aviation Security (AVSEC) and Facilitation (FAL) Panels of this decision and to consult with them in terms of next steps, including in particular in relation to the issues outlined in paragraph 4 of C-WP/15420, with a view to these Panels providing an update on this work as part of their future reports to the Council;
- c) requested the Secretariat to prepare an Information Paper on this item that would be presented to the 41st Session of the Assembly, with a view to raising levels of awareness among Member States of the importance of this issue; and
- d) expressed appreciation to the SWG for having concluded its tasks in an effective and timely manner, and in this connection, agreed to disband the SWG accordingly.

### **Recommendations of the Joint Support Committee related to items under the Danish and Icelandic Joint Financing Agreements reviewed during the 226th Session**

44. The Council considered this item on the basis of C-WP/15385, which presented the recommendations of the Joint Support Committee (JSC) on items under the Danish and Icelandic Joint Financing Agreements as well as the related oral report delivered by the Chairperson of the JSC (Representative of Nigeria).

45. There being no interventions on this item, the Council approved the actions recommended by the JSC, as outlined in the Executive Summary of JS-WP/2120.

### **Report of the Eleventh Session of the Statistics Division (STA/11)**

46. The Council considered this item on the basis of C-WP/15384, which reported on the results of the Eleventh Session of the Statistics Division (STA/11), held virtually from 4 to 8 April 2022. The Council also had for consideration an oral report thereon presented by the Chairperson of the Air Transport Committee (ATC) (Representative of Côte d'Ivoire).

47. A general question, not specifically related to the report of STA/11, was raised by the Representative of Saudi Arabia regarding the status of automation in the reporting by Member States of statistical information to ICAO. In response, the Chief of the Aviation Data and Analysis Section (C/ADA) of the Air Transport Bureau (ATB) indicated that while the varying levels of automation maturity in Member States presented challenges to the creation of a universal data collection system, efforts had long been underway within the Secretariat to work with Member States to automate their respective data submission processes in order to reduce the reporting burden. To illustrate this, C/ADA revealed that permission had been granted to the Secretariat to extract relevant official statistical data directly from several Member States' servers, relieving these Member States of the task of submitting statistical data to ICAO. He indicated that the Secretariat had been convening regional aviation data analysis seminars at which Member States were incentivized to adopt this process. He expressed confidence that more Member States would adopt this approach as the maturity of their respective data collection systems evolved. In the meantime, the Secretariat was incorporating the advancements in interactive data collection and data analysis acquired during the course of the Council Aviation Recovery Task Force (CART) and implemented by the COVID-19 Response and Recovery Implementation Centre (CRRIC).

48. In concluding its consideration of this item, the Council:

- a) endorsed the conclusions and recommendations of the Eleventh Session of the Statistics Division (STA/11), as presented in the Appendix to C-WP/15384; and
- b) requested the Secretariat to continue its work in the field of aviation and data analysis, in line with the STA/11 conclusions and recommendations.

### **Draft Assembly working paper — Report on the ICAO Year of Security Culture (YOSC) 2021**

49. The Council considered this item on the basis of C-WP/15381, which presented a draft Assembly working paper on the ICAO Year of Security Culture (YOSC) 2021 and highlighted the various ICAO security culture tools and resources that had been developed. The Council also had for consideration an oral report thereon presented by the Chairperson of the Aviation Security Committee (ASC) (Representative of India).

50. There being no interventions on this item, the Council:

- a) recognized the work undertaken by Member States, the aviation industry and other stakeholders in support of the YOSC, and in welcoming the achievements under this initiative, agreed that efforts to promote a positive security culture should continue, including as an integral part of ICAO's aviation security training and assistance programmes; and
- b) approved the draft Assembly working paper attached to C-WP/15381 for submission to the 41st Session of the Assembly.

**Draft Assembly working paper — Report on the Comprehensive Regional Implementation Plan for Aviation Security and Facilitation in Africa (AFI SECFAL Plan)**

51. The Council considered this item on the basis of C-WP/15378, which presented a draft Assembly working paper on developments relating to the implementation of the Comprehensive Regional Implementation Plan for Aviation Security and Facilitation in Africa (AFI SECFAL Plan). The Council also had for consideration a joint oral report thereon from the Air Transport (ATC) and Aviation Security Committees (ASC) presented by the Chairperson of the ATC (Representative of Côte d'Ivoire).

52. Offering a summary of the AFI SECFAL Plan-related activities which took place during the 2020–2022 triennium and reported on in C-WP/15378, the Secretary General recalled that throughout this reporting period, the AFI SECFAL Plan Steering Committee (SC) Chairperson had provided regular progress reports to the Council on the achievements, challenges and initiatives, including the activities to support Member States during the COVID-19 pandemic. Highlighting that the working paper outlined the progress made since the inception of the AFI SECFAL Plan in 2015, he pointed out that the medium-term-phase deliverables completed on 31 December 2020 were largely achieved with a positive impact on the effective implementation (EI) of Member States' aviation security oversight systems and compliance with the Standards and Recommended Practices (SARPs) in Annex 17 — *Security* and Annex 9 — *Facilitation*, notably, in spite of the setbacks posed by the COVID-19 pandemic. In this regard, he indicated that the Universal Security Audit Programme (USAP) overall average EI for the African region had increased from 56.01 per cent in 2015 to 61.9 per cent in December 2021, adding that during the COVID-19 pandemic, remote and virtual assistance activities had provided continuous support of efforts to sustain oversight and guide recovery processes. The Secretary General underscored that presently, Member States in the region were requesting USAP follow-up missions in order to reflect even more progress in EI and other results. He indicated that, during the reporting period, the Secretariat carried out facilitation courses in Arabic, English and French, attended by more than 500 participants from all African Member States, and which contributed to improving awareness of such initiatives as the ICAO Traveller Identification Programme (TRIP), Advance Passenger Information (API), Passenger Name Record (PNR) the ICAO Public Key Directory (PKD). He related that a pool of African technical experts had been established through the African Civil Aviation Commission (AFCAC) Collaborative Experts scheme to implement the assistance projects of the AFI SECFAL Plan.

53. Notwithstanding the many improvements realized during the reporting period, the Secretary General revealed that there remained significant challenges at national levels, including the need for sufficient qualified aviation security personnel, infrastructure and financial resources, as well as for more robust commitments. In this regard, he reiterated the assessment that the recovery process in Africa would require shared responsibilities to address inherent challenges and deficiencies and should be a primary influence in determining priorities for the 2023–2025 triennium. He underscored the conclusion in the working paper that adequate funding of the extension of the AFI SECFAL Plan from 2024 to 2030 was essential to safeguard the continued development and enhancement of aviation security and facilitation in Africa. In this regard, the Secretary General recognized the contributions by some Member States and encouraged all Member States to contribute financial or in-kind resources to the AFI SECFAL Plan to



strengthen and sustain its progress. He shared that he had been present at the Seventh Edition of AFI Aviation Week (16–20 May 2022), generously hosted in Abuja, Nigeria, and attended by nearly 200 participants, among which were donor Member States and partner organizations. Noting participants' keen interest in the evolution of the AFI SECFAL Plan, he relayed that the Regional Offices and the Technical Assistance Bureau, as well as the entire ICAO Secretariat, was committed, through the recently approved implementation support policy, to work with Member States and partner organizations to further support the AFI SECFAL Plan and its activities.

54. The Representatives of China and Malaysia expressed their approval of the draft Assembly working paper in C-WP/15378, and pledged continued support to the AFI SECFAL Plan, welcoming the progress achieved, particularly the improvement in EI.

55. Sharing the recognition that the AFI SECFAL Plan had contributed to improving EI levels in Africa, the Representative of Colombia expressed optimism that the valuable contributions by donor States would continue to sustain the AFI SECFAL through 2030.

56. The Representative of the United Kingdom acknowledged the call for donor support for the continued success of the AFI SECFAL Plan and supported the draft Assembly working paper.

57. The Representative of France echoed support for the draft Assembly working paper stating that it demonstrated the positive results of providing assistance to Member States, including in the area of aviation security, and advocated for the mobilization of funds to maintain the AFI SECFAL Plan going forward.

58. Echoing the support for the draft Assembly working paper, the Representative of Brazil conveyed that, given its obvious importance of the AFI SECFAL Plan to the African region and to the entire global aviation community, his State would actively investigate the possibility of in-kind contributions.

59. The Representatives of Equatorial Guinea, Nigeria and Zambia endorsed the draft Assembly working paper in C-WP/15378 and expressed appreciation for the collaboration of the Council, Secretariat, Member States and other partners in the progress achieved by the AFI SECFAL Plan and for the continued support for its implementation. The Representative of Côte d'Ivoire echoed these remarks, suggesting that the Regional Offices be relied upon to enhance alignment of the Plan with the needs of the recipient Member States.

60. Drawing the discussion to a close, the President of the Council noted the broad support for the approval of the draft Assembly working paper presented in C-WP/15378. He drew attention to the suggested amendments in the COG oral report thereon, and proposed that the Secretariat incorporate these amendments into the draft working paper, specifically, additional USAP statistics and key performance indicators to monitor the performance of the AFI SECFAL Plan, feedback from the recent AFI SECFAL week, and a description of what is meant by “in-kind contributions” in the context of the AFI SECFAL Plan.

61. In concluding its consideration of this item, the Council:

- a) reaffirmed its support for the AFI SECFAL Plan, and welcomed the positive results which continued to be achieved through the implementation of the Plan, despite the limited resources and the recent challenges posed by the COVID-19 pandemic; and
- b) approved the draft Assembly working paper attached to C-WP/15378 subject to the comments raised by the ATC and ASC being taken into account, including the proposed

amendments referred to in paragraph 3 of the oral report, and delegated authority to the President to thereafter approve the revised working paper on its behalf, for subsequent submission to the 41st Session of the ICAO Assembly.

62. The meeting adjourned at 13:00 hours.

**COUNCIL — 226TH SESSION**

**SUMMARY MINUTES OF THE THIRD MEETING**

**(HYBRID MEETING, FRIDAY, 27 MAY 2022, AT 1000 HOURS)**

President of the Council: Mr. Salvatore Sciacchitano

Secretary: Mr. Juan Carlos Salazar, Secretary General

**PRESENT:**

Argentina	— Mr. G.E. Bomparde	Malaysia	— Mrs. F. Chin
Australia	— Mr. R. Adams	Mexico	— Mr. D. Méndez Mayora
Brazil	— Mr. N. Moretti	Netherlands	— Mr. R. Ossendorp
Canada	— Mr. C. Hurley	Nigeria	— Mr. M.S.B. Tukur
China	— Mr. Shengjun Yang	Paraguay	— Mr. C.D. Urquhart Cáceres
Colombia	— Mr. M. Ramírez Koppel	Peru	— Mr. A. Freyre Layzequilla
Costa Rica	— Mr. G. Hoppe Pacheco	Republic of Korea	— Mr. S. Kim
Côte d’Ivoire	— Mr. C.A. Djibril	Russian Federation	— Mr. S. Gudkov
Dominican Republic	— Mr. J. Peña Guzmán	Saudi Arabia	— Mr. B. Al-Sagri
Egypt	— Mr. S. Elhefny	Singapore	— Ms. E. Poh
Equatorial Guinea	— Mr. E. Esono Anguesomo	South Africa	— Mr. L. Mabaso
Finland	— Mr. S. Vuokila	Spain	— Mr. V.M. Aguado
France	— Mr. L. Pic	Sudan	— Mr. I.M. Elhag
Germany	— Mr. U. Schwierczinski	United Arab Emirates	— Mr. M. Salem (Alt.)
Greece	— Ms. M. Saranti	United Kingdom	— Mr. A. O’Henley
India	— Mrs. S. Juneja	United States	— Mr. C. Sullenberger
Italy	— Ms. S. Costantini	Zambia	— Mr. V. Banda
Japan	— Mr. I. Fukushima		

**ALSO PRESENT:**

Mr. P. Kelleher	— President, ANC
Mr. C. Fernández (Alt.)	— Argentina
Mr. S. Lucas (Alt.)	— Australia
Ms. C. Fitzgerald (Alt.)	— Australia
Ms. I. de Melo Maciel (Alt.)	— Brazil
Mr. M. Lima (Alt.)	— Brazil
Mr. A. Bertolino (Alt.)	— Brazil
Mr. D. L. Pereira (Alt.)	— Brazil
Mr. R. Arruda (Alt.)	— Brazil
Ms. A. Barbosa (Alt.)	— Brazil
Mr. P. Langlais (Alt.)	— Canada
Mr. J. Liang (Alt.)	— China
Ms. A. Jiménez (Alt.)	— Costa Rica
Ms. C. Moya (Alt.)	— Dominican Republic
Ms. V. Adalsteinsdottir (Alt.)	— Finland

**SECRETARIAT:**

Mr. M. Vreedenburgh	— SPO/OSG
Mr. S. Creamer	— D/ANB
Mr. J. Vargas	— D/TCB
Mr. M. Rahma	— D/ATB
Mr. A. Mishra	— D/ADB
Mr. M. Gill	— D/LEB
Mr. S. Lefoyer	— DD/ASF
Mr. T. Efendioglu	— C/OIO
Ms. T. de Bodt	— H/SPCP
Ms. O. Nam	— C/FIN
Mr. F. Buonomo	— Ethics Officer
Mr. A. Larcos	— C/ACS
Ms. V. Muraca	— ACS
Ms. D. Cooper	— Précis-writer

**ALSO PRESENT: (Cont'd)**

Ms. V. Betchava (Alt.)	— Greece
Mr. A. Kalognomis (Alt.)	— Greece
Ms. V. Lazari (Alt.)	— Greece
Mr. A. Joshi (TE)	— India
Mr. M. Silanos (Alt.)	— Italy
Mr. S. Oshima (Alt.)	— Japan
Mr. S. Sugiyama (Alt.)	— Japan
Mr. M. Loustaunau (Alt.)	— Mexico
Mr. C. Schleifer (Alt.)	— Netherlands
Mr. W.R. Linares (Alt.)	— Peru
Mr. C. Zamora (Alt.)	— Peru
Mr. J.W. Kim (Alt.)	— Republic of Korea
Mr. S. Ahn (Alt.)	— Republic of Korea
Mr. M.S. Habib (Alt.)	— Saudi Arabia
Ms. D. AlKurdi (Alt.)	— Saudi Arabia
Mr. F.A.A. Alsuhabani (Alt.)	— Saudi Arabia
Ms. S. Toh (TE)	— Singapore
Mr. Y. K. Koh (TE)	— Singapore
Ms. T. Goodwin (Alt.)	— United Kingdom
Mr. A. Veprek (Alt.)	— United States
Mr. M. Waniwa (Alt.)	— Zambia

Representatives to ICAO

Chile  
Congo  
Cyprus  
Ethiopia  
Indonesia  
Iran (Islamic Republic of)  
Oman  
Qatar  
Turkey  
Ukraine  
Uruguay

Airports Council International (ACI)  
Civil Air Navigation Services Organization (CANSO)  
European Union (EU)  
International Air Transport Association (IATA)  
International Coordinating Council of Aerospace Industries Associations (ICCAIA)

## **Draft Assembly working paper – Consolidated Statement of Continuing ICAO Policies related to Aviation Security**

1. The Council considered this item on the basis of C-WP/15380, which presented a draft Assembly working paper containing proposed revisions to Assembly Resolution A40-11: *Consolidated statement of continuing ICAO policies related to aviation security* in light of developments since the last Assembly. The Council also had for consideration an oral report thereon from the Aviation Security Committee (ASC), presented by the Vice-Chairperson of the ASC (Representative of the United Kingdom).

2. Referring to paragraph 2 c) of the oral report, the Representative of Mexico suggested that the text “where evidence warrants” was ambiguous and should be deleted in the proposed amendment to Appendix C, operative clause 5 of the revised Resolution, on page A-9 of the draft Assembly working paper.

3. Supporting the preceding intervention, the Representative of Peru proposed that the first preambular clause of Appendix A be redrafted to include the concept of economic development and cooperation within the elements of civil aviation, and that it also be recognized as an instrument of peace. Additionally, he observed the need to reflect the evolving changes in aviation security from unlawful interference to a new multi-dimensional system that contributed to the fight against such acts as terrorism and drug trafficking.

4. While concurring with the Representative of Mexico’s proposal, the Representative of Spain thought the suggestion by the Representative of Peru needed further development given the complexity of aviation security in relation to terrorism and drug trafficking; and referring to paragraph 3 of the oral report on the need for consistency in the formulation of operative clauses, queried the Secretariat’s intentions going forward to the Assembly.

5. The Deputy Director, Aviation Security and Facilitation (DD/ASF) agreed with the proposal by the Representative of Mexico as the principle of risk analysis based on evidence was already contained in Annex 17 – *Aviation Security*; and in regard to the comments by the Representative of Peru, the scope of security in the protection of civil aviation and its relationship with economic development, and as a symbol of peace and cooperation, was a concept that could be developed for future consideration; and that Annex 17 provided the procedures and guidance to safeguard civil aviation irrespective of the intent behind an act of unlawful interference. Regarding the comments by the Representative of Spain, DD/ASF indicated that the Legal Affairs and External Relations Bureau (LEB) was presently reviewing the working papers for consistency in the formulation of operative clauses as to the entity or individual that would take action. The Representative of Spain underscored the need for clarification on this matter to which the President of the Council indicated that presently, only new or existing resolutions with proposed modifications would be reviewed while further consideration was needed for those resolutions that contained many detailed references to various entities; and to a suggestion by the Representative of France, he clarified that upon completion, LEB would present its analysis to the Council.

6. In summarizing the discussion, the President of the Council noted the suggestion by the Representative of Mexico, to delete “where evidence warrants” in paragraph 2 c); and DD/ASF’s response to the Representative of Peru, that consideration would be given in due course to the evolution of the concepts of unlawful interference and aviation security to more recent issues that included counter terrorism; and that beyond international cooperation and facilitation, the concept of civil aviation was also an instrument of peace.

7. In concluding its consideration of this item, the Council:

- a) approved the draft Assembly working paper attached to C-WP/15380, subject to the editorial amendments requested by the ASC being reflected, as well as the changes agreed on by the Council in the course of its consideration of this item, including in relation to the amended text of Appendices A, C, D, and E, and delegated authority to the President to thereafter approve the revised working paper on its behalf, for subsequent submission to the 41st Session of the ICAO Assembly;
- b) underlined the need for greater consistency in the terminology used within the operative clauses of ICAO Assembly Resolutions; and
- c) took note of the ongoing evolution of the concepts of “unlawful interference” and “aviation security”, and in this connection, agreed that more time in the future would be necessary to reflect on how this evolution has played a constructive role in the economic development of countries and specifically in how civil aviation contributes in a positive way to the universal principles of peace and international cooperation.

### **Report on Technical Cooperation Programme Development for 2021 and update of Administrative and Operational Services Cost (AOSC) income and expenditures for 2022**

8. The Council considered this item on the basis of C-WP/15352, which presented a report on the financial and operational performance results of the Technical Cooperation Programme for the year ending 31 December 2021, as well as an update of the Administrative and Operational Services Cost (AOSC) Fund budgetary estimates for 2022. The Council also had for consideration an oral report thereon from the Technical Cooperation and Implementation Support Committee (TCC), presented by the Vice-Chairperson of the TCC (Representative of Paraguay).

9. Noting the fundamental importance of the Technical Cooperation Programme (TCP), the Representative of Peru thanked the Secretariat at Headquarters and the South American Regional Office for their support to key projects in his State.

10. Agreeing with the oral report and referring to paragraph 5, the Representative of Costa Rica observed that for political reasons, direct control was not possible with some of the approaches mentioned and should be considered in future improvements to the Programme structure; and that presently, the focus should be on the continued efforts by the Regional Offices in promoting TCB’s services to States.

11. The Director, Technical Cooperation Bureau (D/TCB) indicated that huge efforts were underway to reverse the declining trend of the TCP, and that recent participation at fora in Saudi Arabia and Nigeria had resulted in establishing new contacts with up to six projects identified.

12. Referring to paragraph 3 of the oral report, the Representative of Brazil underscored the importance of strengthening TCB’s scope of implementation support activities to ensure the long-term financial sustainability of technical cooperation and assistance; and he requested that the Council be kept informed of these developments.

13. Highlighting the actions being taken to update the TCB business model, the Secretary General indicated that the new *ICAO Implementation Support provided to States Policy* was being aligned with ICAO’s resources at hand and coordinated across all Secretariat bureaus and offices not only to improve the financial sustainability of the TCP but to also focalize ICAO’s efforts to implement the Policy; that the forthcoming Global Implementation Support System Symposium would provide opportunities to strengthen the implementation support activities of the Organization; and that the Council would be apprised accordingly of progress made in this regard.

14. In concluding its consideration of this item, the Council:
- a) took note of the operational and financial performance results of the Technical Cooperation Programme for 2021, as well as the revised 2022 Technical Cooperation Programme forecast and Administrative and Operational Services Cost (AOSC) projected results;
  - b) reiterated its concerns over the declining trend of the Technical Cooperation Programme implementation volume and ongoing depletion of the financial balance of the AOSC Fund, and in this connection, requested the Secretariat to continue to explore options to strengthen and expand the scope of TCB, with a view to increasing its contribution across all ICAO Strategic Objectives in providing project management for implementation support activities, thereby reinforcing the Bureau as the implementing entity for the Organization, in line with the new *ICAO Implementation Support Provided to States Policy*; and
  - c) requested that projections for 2023 and 2024 to support the Technical Cooperation Bureau's sustainability be reported during the next session of the Council.

#### **Draft Assembly working paper – ICAO's Technical Assistance Programme**

15. The Council considered this item on the basis of C-WP/15354, which presented a draft Assembly working paper that provided a report on the ICAO Technical Assistance Programme. The Council also had for consideration an oral report thereon from the Technical Cooperation and Implementation Support Committee (TCC), presented by the Vice-Chairperson of the TCC (Representative of Paraguay).

16. Thanking the TCC Vice-Chairperson for his oral report, especially the suggestion for more action-oriented working papers, the Representative of Spain proposed that the title of the draft Assembly working paper be amended to read "Technical Assistance and Implementation Support" which would communicate the Council's intention to bring these two concepts together. The Representative of Colombia supported the proposal as did the Representative of Greece who also thanked the Secretariat for its efforts to promote technical assistance activities, while the Representative of Costa Rica further suggested that the Secretariat give consideration to providing brief presentations to complement the material in the Supplement to C-WP/15354 that would be posted as a reference document on the Assembly website (paragraph 5 of the oral report refers).

17. Responding to the Representatives' interventions, the Secretary General indicated that even though there was little opportunity to adjust the drafting of the Assembly working papers at this point, some improvements had been identified to make them more action-oriented and would be reflected accordingly; and he welcomed the proposed modification to the title of the paper as it was an excellent opportunity to highlight the recent decision by the Council and the Secretariat's focus on the new implementation support policy as one of the pillars of ICAO's work.

18. In concluding its consideration of this item, the Council approved the draft Assembly working paper attached to C-WP/15354, subject to the amendments requested by the TCC being reflected, as well as the changes agreed on by the Council in the course of its consideration of this item, including in relation to the title of this Assembly working paper, and delegated authority to the President to thereafter approve the revised working paper on its behalf, for subsequent submission to the 41st Session of the Assembly.

**Draft Assembly working paper – ICAO’s Technical Cooperation Programme – Policy and Activities**

19. The Council considered this item on the basis of C-WP/15355 and Corrigendum No.1, which presented a draft Assembly working paper that provided a general overview of the Technical Cooperation Programme activities undertaken during the current triennium. The Council also had for consideration an oral report thereon from the Technical Cooperation and Implementation Support Committee (TCC), presented by the Vice-Chairperson of the TCC (Representative of Paraguay).

20. There being no interventions on this item, the Council:

- a) acknowledged the work undertaken by the Technical Cooperation Bureau (TCB) throughout the current triennium to improve its performance, including through the implementation of its revenue diversification strategy, and noted that despite ongoing challenges, progress continued to be made toward achieving better financial results and ensuring the long-term sustainability of TCB;
- b) recalled its preceding decision on the Technical Cooperation Programme Development (C-WP/15352 refers), and in this connection, reiterated the importance of reinforcing internal coordination and collaboration between TCB and the other Bureaux, with a view to supporting TCB as ICAO’s main implementing entity; and
- c) approved the draft Assembly working paper attached to C-WP/15355, as revised by the TCC and appended to its oral report, for submission to the 41st Session of the Assembly.

**Draft Assembly working paper – ICAO Civil Aviation Training and Capacity Building**

21. The Council considered this item on the basis of C-WP/15356, which presented a draft Assembly working paper that provided a summary of Global Aviation Training (GAT) activities undertaken since the 40th Session of the Assembly, as well as its priorities and projects to support Member States during the next triennium. The Council also had for consideration an oral report thereon from the Technical Cooperation and Implementation Support Committee (TCC), presented by the Vice-Chairperson of the TCC (Representative of Paraguay).

22. Congratulating the Secretary General on his approach to implementation support and to the Secretariat for the excellent training and assistance delivered under the GAT programme, the Representative of Singapore proposed that paragraph 3.6 of the draft Assembly working paper be updated to include the recent agreement between ICAO and the Civil Aviation Authority of Singapore (CAAS) to jointly develop and deliver a global training programme on aviation recovery and resilience for Directors General of Civil Aviation. Supporting the proposal, the Representative of Colombia also thanked the TCC Vice-Chairperson for his excellent work and the Secretariat for GAT’s positive results.

23. In concluding its consideration of this item, the Council:

- a) commended the efforts of the Global Aviation Training (GAT) Section to overcome the challenges caused by the COVID-19 pandemic in order to continue to achieve positive results and support Member States, and recognized the innovative initiatives and financial incentives implemented by GAT during the current triennium to improve access to training and ensure greater inclusivity, including with respect to gender and geographical balance; and



- b) approved the draft Assembly working paper attached to C-WP/15356, subject to the amendments requested by the TCC being reflected, as well as the changes agreed on by the Council in the course of its consideration of this item, including in relation to updating the information contained in paragraph 3.6 of the draft Assembly working paper related to the Programmes provided by the Civil Aviation Authority of Singapore, and delegated authority to the President to thereafter approve the revised working paper on its behalf, for subsequent submission to the 41st Session of the Assembly.

### **Financial Year 2021 – Report on the Carry Over**

24. The Council considered this item on the basis of C-WP/15361, which provided the status of authorized appropriation of the Regular Budget for the financial year 2021, and a summary report on the use of the Operational Reserve as at December 2021. The Council also had for consideration an oral report thereon from the Finance Committee (FIC), presented by the Chairperson of the FIC (Representative of the Netherlands).

25. Prior to opening the floor for discussion on this item, the President of the Council welcomed the students participating in the “Model ICAO” initiative promoted by La Société Québécoise de droit international (SQDI) who were attending the Council meeting as observers.

26. In introducing the paper, the Secretary General highlighted that following FIC discussions, it was proposed to reprioritize the use of CAD 0.9 million from approved projects towards the funding gap in the budget and this would be included in the draft Assembly working paper on the proposed budget for the next triennium; and referring to paragraph 1.8 of the working paper, initially CAD 3.8 million had been earmarked for anticipated costs for the Assembly, digital transformation, and training, however, due to the anticipated funding gap in the next triennium as a result of substantial inflation growth, it was proposed that CAD 2.5 million be reprioritized towards the next triennium budget although additional other means needed to be found to address the serious funding gap.

27. In his oral report, the Chairperson of the FIC (Representative of the Netherlands) indicated that when reviewing the budget for the next triennium, FIC would explore the extent to which additional funds could be put towards the Operational Reserve for use in the 2023-2024-2025 triennium; that in the normal operation of the Organization, a high percentage carry-over, such as 10.4% of the 2021 appropriation, should be avoided; and that in the context of the budget discussions, the present status of the implementation of the Operational Reserve should be noted.

28. Concurring with the FIC Chairperson’s oral report, and referring to paragraph 5, the Representative of Spain highlighted the importance of linking the Business Plan to the allocation of the available carry-over as it would provide the appropriate transparency in the decisions taken on that funding source; and he also thought the carry-over of CAD 0.5 million to the Operational Reserve was reasonable.

29. In concluding its consideration of this item, the Council:

- a) approved the carry-over of CAD 0.5 million of unspent appropriation for the financial year 2021, to be allocated to the Operational Reserve as one of the funding sources for the 2023-2024-2025 triennium, and in this connection, reaffirmed the importance of linking the Business Plan to the overall implementation and allocation of the available carry-over; and

- b) took note of the status of implementation of the Operational Reserve as at 31 December 2021.

#### **Draft Assembly working paper – Disposition of cash surplus/deficit**

30. The Council considered this item on the basis of C-WP/15364, which presented a draft Assembly working paper that provided a report on the status of cash surplus/deficit, as at 31 December 2021. The Council also had for consideration an oral report thereon from the Finance Committee (FIC), presented by the Chairperson of the FIC (Representative of the Netherlands).

31. There being no interventions on this item, the Council:

- a) approved the draft Assembly working paper attached to C-WP/15364 for submission to the 41st Session of the Assembly; and
- b) took note that the cash deficit position of CAD 11.0 million as at 31 December 2021, was temporary pending the payment of assessments in arrears by Member States.

#### **Draft Assembly working paper – Level of the Working Capital Fund**

32. The Council considered this item on the basis of C-WP/15365, which presented a draft Assembly working paper that provided a report on the adequacy of the current level of the Working Capital Fund (WCF), and on the appropriation of the level of the borrowing authority as requested by the Assembly in Resolving Clause 2 of Resolution A40-31. The Council also had for consideration an oral report thereon from the Finance Committee (FIC), presented by the Chairperson of the FIC (Representative of the Netherlands).

33. Referring to paragraph 3 of his oral report, the Chairperson of the FIC (Representative of the Netherlands) observed the importance of the Secretariat proposal to retain the levels of the WCF and the borrowing authority for the next triennium as the Organization had been able to withstand cash flow difficulties without seeking additional funding from the WCF in 2020; and in regard to the Secretariat request to launch a legal assessment of the borrowing authority to consider any possible alternative solutions and possible impacts on States, as mentioned in paragraph 5, it was important to note that the borrowing authority was a measure of last resort and that the solution within other UN agencies was to have a higher Working Capital Fund.

34. The Representative of Peru commended the FIC on its work.

35. In concluding its consideration of this item, the Council:

- a) approved the draft Assembly working paper attached to C-WP/15365, as well as the associated draft Resolution, subject to the amendments requested by the FIC being reflected, and delegated authority to the President to thereafter approve the revised working paper on its behalf, for subsequent submission to the 41st Session of the Assembly; and
- b) requested the Secretariat to perform a legal assessment with respect to the borrowing authority, taking into consideration alternative solutions and possible impacts on States.

**Draft Assembly working paper – Financial aspects of the question of contributions in arrears and Incentive Scheme for the settlement of long-outstanding arrears**

36. The Council considered this item on the basis of C-WP/15366, which presented a draft Assembly working paper that provided a report on the status of contributions in arrears as of 31 March 2022 and its impact on Member States` voting powers at the Assembly, as well as information on the impact of delays in the receipt of contributions, collection efforts, and the incentive scheme for the settlement of arrears. The Council also had for consideration an oral report thereon from the Finance Committee (FIC), presented by the Chairperson of the FIC (Representative of the Netherlands).

37. In his oral report, the Chairperson of the FIC (Representative of the Netherlands) highlighted the importance of updating the list of States in arrears, as presented in Appendix C of the working paper, with the most up-to-date status of voting rights closer to the Assembly; that the Incentive Scheme Fund for the Settlement of Long-outstanding Arrears had not been replenished since 2010 due to the cash deficit, thus it was proposed to credit the residual balance of CAD 0.2 million to the Regular Budget; and while the level of arrears as at 31 December 2021 was substantially higher than in previous years, he believed it was as a consequence of a CAD 10.8 million payment in January, however, as the arrears were slowly creeping up, the importance of payments in accordance with the provisions of the Convention and the Financial Regulations should be emphasized.

38. The Chief, Finance Branch (C/FIN) added that the Incentive Scheme Fund had been introduced when there was a cash surplus and that some of the funds had been transferred to a special account to be used in subsequent years for special projects and activities approved by the Council, however, as the cash surplus had not been replenished since 2010, it was decided that the residual balance of CAD 200 000 would be moved to the next triennium Regular Budget for use in its activities.

39. Echoing the FIC Chairperson, the Representative of Sudan underscored the importance of updating the status of voting rights closer to the Assembly and in this regard, pointed out that his State had settled all outstanding arrears.

40. The Representative of South Africa indicated that the issue of States in arrears was taken very seriously by the African Civil Aviation Commission (AFCAC) and AFI Group with the priority being to encourage and assist those States in making arrangements to settle their outstanding assessments; that updated information on this issue would be presented at the forthcoming AFCAC Plenary; and that in the interest of assisting States in resolving their financial obligations, further clarification might be sought from the Secretariat in this regard. In terms of the financial year, the Representative queried when a State might be added to the list of States whose voting rights had been deemed suspended.

41. C/FIN responded that the list presented in Appendix C of the draft Assembly working paper provided the status of States in arrears as at a certain date and would be updated periodically; that individual letters would be sent to States whose voting rights were currently suspended to draw attention to their financial obligations with repayment options that might be helpful; and that the Secretariat was willing to work bilaterally with States to resolve their financial obligations to the Organization prior to the Assembly.

42. Thanking the FIC Chairperson and C/FIN for their excellent work, the Representative of Costa Rica requested the Secretariat to provide updates on the list of States in arrears, especially in regard to the Central American States which his Delegation represented.

43. The President of the Council believed that the actions to be undertaken by the Secretariat in response to the interventions by the Representatives of South Africa and Costa Rica should be supported by the Council to which there was no objection.

44. In concluding its consideration of this item, the Council:
- a) reiterated that the timely payment of assessments remained a priority in order to ensure that ICAO could continue to sustain its operations effectively;
  - b) agreed to retain the existing measures stipulated in Resolution A39-31, and in this connection, urged Member States, particularly those with instalment agreements in place, to settle their arrears;
  - c) took note of the information contained in Appendix C to C-WP/15366 pertaining to the list of Member States that are currently in financial arrears, and in this connection, requested the Secretariat to explore the option of directly engaging with these Member States with a view to achieving an improvement in the overall financial situation in advance of the 41st Session of the Assembly; and
  - d) approved the draft Assembly working paper attached to C-WP/15366 for submission to the 41st Session of the Assembly, it being understood that the information contained in Appendix C thereof would be updated in advance of the 41st Session of the Assembly.

#### **Report of the Joint Inspection Unit (JIU) for 2021 and Work Programme for 2022**

45. The Council considered this item on the basis of C-WP/15405, which reported on the activities of the Joint Inspection Unit (JIU) in 2021 and outlined the topics to be reviewed by the JIU in 2022. The Council also had for consideration an oral report thereon from the Committee on Governance (COG), presented by the Chairperson of the COG (Representative of Spain).

46. Referring to paragraph 3 of the oral report, the Representative of Brazil requested that the Council be kept apprised of the progress being made in the development of a policy on flexible working arrangements that he believed would facilitate gender equality; and in this regard, the President of the Council recalled that the item would be a matter for consideration by the COG.

47. Thanking the COG Chairperson for his oral report, the Representative of France observed the usefulness of the JIU reports and recommendations, especially in regard to the development of ICAO's Multilingualism Strategy, and that other policy areas would benefit from this kind of input.

48. In concluding its consideration of this item, the Council:
- a) took note of the information presented in C-WP/15405, as well as the associated COG oral report thereon;
  - b) requested the Secretariat to continue to keep both the COG and the Council informed of developments in relation to changes in approaches to working methods within the United Nations system and how these might facilitate an improvement in the overall gender balance ratio within the Secretariat; and
  - c) agreed that in line with the current practice, reports of the JIU should in the first instance continue to be referred to the COG for review and subsequent recommendation to the Council, as appropriate.

**Report of the Joint Inspection Unit (JIU) entitled “Blockchain applications in the United Nations system: towards a state of readiness”**

49. The Council considered this item on the basis of C-WP/15406, which outlined the recommendations and key findings from the Joint Inspection Unit (JIU) report entitled “Blockchain applications in the United Nations system: towards a state of readiness” and provided the comments of the United Nations Chief Executive Board (CEB) and response of the ICAO Secretariat. The Council also had for consideration an oral report thereon from the Committee on Governance (COG), presented by the Chairperson of the COG (Representative of Spain).

50. There being no interventions on this item, the Council:

- a) took note of the information presented in C-WP/15406, as well as the associated COG oral report thereon, including in particular the ICAO responses to the recommendations 2, 3, 4 and 8, as reflected in the Appendix to the working paper;
- b) agreed that the column in the Appendix that was currently reflected as “ICAO Secretariat Response to Recommendations”, should henceforth be changed to be reflected as “ICAO response to recommendations”;
- c) agreed that recommendations 1 and 6, as contained in the Appendix to C-WP/15406 were to be reflected as “accepted”; and
- d) requested the Secretariat to consider potential future opportunities for integrating Blockchain technologies, within the context of the work to be undertaken on Digital Transformation, under the newly established Transformational Objective.

51. The meeting adjourned at 12:55 hours.



**COUNCIL — 226TH SESSION**

**SUMMARY MINUTES OF THE FOURTH MEETING**

**(HYBRID MEETING, MONDAY, 30 MAY 2022, AT 1430 HOURS)**

President of the Council: Mr. Salvatore Sciacchitano

Secretary: Mr. Juan Carlos Salazar, Secretary General

**PRESENT:**

Argentina	— Mr. G.E. Bompadre	Malaysia	— Mrs. F. Chin
Australia	— Mr. R. Adams	Mexico	— Mr. D. Méndez Mayora
Brazil	— Mr. N. Moretti	Netherlands	— Mr. R. Ossendorp
Canada	— Mr. C. Hurley	Nigeria	— Mr. M.S.B. Tukur
China	— Mr. Shengjun Yang	Paraguay	— Mr. C.D. Urquhart Cáceres
Colombia	— Mr. M. Ramírez Koppel	Peru	— Mr. A. Freyre Layzequilla
Costa Rica	— Mr. G. Hoppe Pacheco	Republic of Korea	— Mr. S. Kim
Côte d’Ivoire	— Mr. C.A. Djibril	Russian Federation	— Mr. S. Gudkov
Dominican Republic	— Mr. J. Peña Guzmán	Saudi Arabia	— Mr. B. Al-Sagri
Egypt	— Mr. S. Elhefny	Singapore	— Ms. E. Poh
Equatorial Guinea	— Mr. E. Esono Anguesomo	South Africa	— Mr. L. Mabaso
Finland	— Mr. S. Vuokila	Spain	— Mr. V.M. Aguado
France	— Mr. L. Pic	Sudan	— Mr. I.M. Elhag
Germany	— Mr. U. Schwierczinski	United Arab Emirates	— Mr. M. Salem (Alt.)
Greece	— Ms. M. Saranti	United Kingdom	— Mr. A. O’Henley
India	— Mrs. S. Juneja	United States	— Mr. C. Sullenberger
Italy	— Ms. S. Costantini	Zambia	— Mr. V. Banda
Japan	— Mr. I. Fukushima		

**ALSO PRESENT:**

Mr. P. Kelleher	— President, ANC
Mr. C. Fernández (Alt.)	— Argentina
Mr. S. Lucas (Alt.)	— Australia
Ms. C. Fitzgerald (Alt.)	— Australia
Ms. I. de Melo Maciel (Alt.)	— Brazil
Mr. M. Lima (Alt.)	— Brazil
Mr. A. Bertolino (Alt.)	— Brazil
Mr. D. L. Pereira (Alt.)	— Brazil
Mr. R. Arruda (Alt.)	— Brazil
Ms. A. Barbosa (Alt.)	— Brazil
Ms. A. Jiménez (Alt.)	— Costa Rica
Ms. V. Adalsteinsdottir (Alt.)	— Finland
Ms. V. Betchava (Alt.)	— Greece
Mr. A. Kalognomis (Alt.)	— Greece
Ms. V. Lazari (Alt.)	— Greece

**SECRETARIAT:**

Mr. M. Vreedenburgh	— SPO/OSG
Mr. S. Creamer	— D/ANB
Mr. J. Vargas	— D/TCB
Mr. M. Rahma	— D/ATB
Mr. A. Mishra	— D/ADB
Mr. M. Gill	— D/LEB
Mr. C. Ding	— DD/LEB
Ms. T. de Bodt	— H/SPCP
Ms. O. Nam	— C/FIN
Ms. T. Agiri	— DD/HR
Mr. A. Larcos	— C/ACS
Ms. V. Muraca	— ACS
Ms. D. Cooper	— Précis-writer

**ALSO PRESENT: (Cont'd)**

Mr. N. Naoumi (Alt.)	— Germany
Mr. A. Joshi (TE)	— India
Mr. M. Silanos (Alt.)	— Italy
Mr. S. Oshima (Alt.)	— Japan
Mr. S. Sugiyama (Alt.)	— Japan
Mr. M. Loustaunau (Alt.)	— Mexico
Mr. C. Schleifer (Alt.)	— Netherlands
Mr. W.R. Linares (Alt.)	— Peru
Mr. S. Ahn (Alt.)	— Republic of Korea
Mr. J.W. Kim (Alt.)	— Republic of Korea
Ms. O. Mozolina (Alt.)	— Russian Federation
Mr. M.S. Habib (Alt.)	— Saudi Arabia
Ms. D. AlKurdi (Alt.)	— Saudi Arabia
Mr. F. A. A. AlSuhabani (Alt.)	— Saudi Arabia
Ms. S. Toh (TE)	— Singapore
Mr. Y. K. Koh (TE)	— Singapore
Ms. T. Goodwin (Alt.)	— United Kingdom
Mr. A. Veprek (Alt.)	— United States
Mr. M. Waniwa (Alt.)	— Zambia

Representatives to ICAO

Cameroon  
 Chile  
 Congo  
 Cyprus  
 Ethiopia  
 Indonesia  
 Iran (Islamic Republic of)  
 Kenya  
 Niger  
 Oman  
 Turkey  
 Ukraine

Airports Council International (ACI)  
 Civil Air Navigation Services Organization (CANSO)  
 European Union (EU)  
 International Air Transport Association (IATA)  
 International Business Aviation Council (IBAC)  
 International Coordinating Council of Aerospace Industries Associations (ICCAIA)



## **Draft Assembly working paper – Human resources management**

1. The Council considered this item on the basis of C-WP/15414, which presented a draft Assembly working paper outlining the ongoing initiatives to improve human resources management and to promote ethics, efficiency and transparency throughout the Organization. The Council also had for consideration an oral report thereon from the Committee on Governance (COG), presented by the Chairperson of the COG (Representative of Spain).

2. In introducing the working paper, the Secretary General drew attention to the key points presented, particularly the development of a new Human Resources Strategy; and that the Secretariat supported the proposed COG modifications to the draft Assembly working paper to highlight certain priority areas such as diversity, succession planning and rejuvenation of the workforce as well as the need for consistency with the transformational objective as proposed in the Business Plan for the next triennium. He also indicated that this item would be presented to the Assembly concurrently with the working paper on the status of the ICAO workforce.

3. The Chairperson of the COG (Representative of Spain) stressed the importance of the priority initiatives for a healthy organization and reiterated the need for their consistency with the transformational objectives presented in the 2023-2025 Business Plan. He also highlighted the importance of promoting diversity in gender equality as well as equitable geographical representation; and referring to the COG proposed amendments in paragraph 10.1 of the draft paper appended to the oral report, explained that they pertained to diversity and succession planning to ensure rejuvenation of the Organization's staff, especially given the significant number due to retire, and that they be included as objectives in the Human Resources Strategy exercise. Since no action was required by the Assembly, COG proposed that the revised draft working paper be presented as an information paper.

4. Thanking the Secretariat and the COG Chairperson for their work, the Representative of Saudi Arabia suggested a further modification to paragraph 4 on page 4 of the draft paper to highlight the challenges faced by staff during the pandemic with the extended office hours in a globally virtual workplace.

5. Thanking the Secretariat for having taken into consideration all the COG comments during its discussion; and referring to the priority initiatives and future actions listed in paragraph 10.1 on page 6 of the draft paper, the Representative of France observed that the reference to the ICAO Multilingualism Strategy in the item *Learning and development* was quite limited in its scope and should be more broadly linked to talent, skills and linguistic capacities.

6. In response to the proposal by the Representative of Saudi Arabia, the Secretary General noted the importance of recognizing the challenges faced by the Organization during the pandemic and that appropriate text would be included in the paper to clearly inform States accordingly.

7. Expressing thanks to the COG Chairperson for his oral report and the Secretariat for agreeing to the Committee's proposed modifications, the Representative of Brazil stressed the importance of moving forward with gender equality; and referring to paragraph 2.2 of the draft paper, requested the Secretariat to comprehensively address the issue of equitable geographical representation when developing the new Human Resources Strategy.

8. In concluding its consideration of this item, the Council:

- a) reaffirmed that the priorities and future actions outlined in the Assembly working paper should be consistent with the transformational objectives relating to human resources,

as proposed in the draft ICAO Business Plan for the next triennium, while also underlining the importance of promoting greater diversity in the ICAO workforce, including through the implementation of clear actions aimed at improving gender equality, equitable geographical representation, and reinforcing the principle of multilingualism;

- b) approved the draft paper attached to C-WP/15414, as revised by the COG and appended to its oral report, as well as the changes agreed on by the Council in the course of its consideration of this item being reflected, on the understanding that this would now be submitted to the Assembly as an information paper, and delegated authority to the President to thereafter approve the revised paper on its behalf, for subsequent submission to the 41st Session of the Assembly.

### **Draft Assembly working paper – Resource Mobilization and Voluntary Funds**

9. The Council considered this item on the basis of C-WP/15358, which presented a draft Assembly working paper on the activities undertaken in relation to resource mobilization (RM) during the 2019-2021 triennium, as well as financial, project and administrative information on all the ICAO voluntary funds. The Council also had for consideration an oral report thereon from the Committee on Governance (COG), presented by the Chairperson of the COG (Representative of Spain).

10. During his introduction, the Secretary General highlighted ICAO's appreciation to its resource partners, however, an analysis of the last six years revealed a downward trend in voluntary contributions being received to supplement the Regular Programme Budget and facilitate implementation of the Business Plan. To reverse this trend, the Secretariat action plan was in line with the recommendations resulting from the 2020 Office of Internal Oversight (OIO) audit and was focussed on developing an ICAO Resource Mobilization Strategy; and, as requested by COG, the Secretariat intended to improve the accountability, efficiency, and transparency in use of the voluntary funds so as to increase the level of trust and long-term partnerships with potential donors.

11. The Chairperson of the COG (Representative of Spain) underscored the Committee's concerns with the sharp drop in voluntary fund contributions; that the Secretariat was requested to determine the root cause of the issue and provide an update on the OIO recommendations; and as stated by the Secretary General, to increase accountability and transparency in use of the funds with business cases provided for those programmes and activities not funded under the Regular Budget, and to build long-term partnerships with donors which would facilitate States' support to the voluntary funds.

12. Expressing appreciation to the Secretariat and the COG for their excellent work, the Representative of Peru thought the drop in contributions was due to problems in marketing ICAO's products; and referring to paragraph 1.1 of the draft working paper, suggested that the importance of civil aviation to the social and economic development of States be emphasized when presenting the paper in order to better promote the activities of the Organization; and as highlighted by the Representative of Spain, to give States a clear understanding of what was needed through transparency, accountability, and identification of business cases.

13. Thanking the Secretary General for the report and forward-looking approach to the issue of resource mobilization and voluntary funds, the Representative of Greece observed that although the downward trend was affected by COVID, it had started earlier, and that a deeper analysis could contribute to a more targeted strategy; and she also emphasized the need to advance this information to States and that with clarity, transparency and accountability, especially for in-kind contributions, States would better respond to this issue.

14. Referring to paragraph 1.5.1 of the paper, the Representative of Saudi Arabia queried whether the text pertaining to contributions of voluntary funds in the 2016-2018 triennium was entirely accurate as it currently appeared, since it suggested that the increase in voluntary contributions in the 2016-2018 triennium was an isolated one-off occurrence. Based on the voluntary contributions received during the triennium 2013-2015 and then the triennium 2016-2018 and then the triennium 2019-2021, the Representative observed that the trend was quite positive from one triennium to the next and that contrary to the impression conveyed by the text in the working paper, the increase from one triennium to the next reflected a sustained upward trend.

15. Thanking the Representatives for their comments, the Secretary General explained that currently, resource mobilization efforts were seriously under-resourced within the Secretariat and while there existed clarity on a strategy, much work was required on a way forward; and that secondees from Member States with expertise in this area, could strengthen the team developing the Resource Mobilization Strategy, which would be most appreciated.

16. Echoing the need for further analysis of the issue, the Head, Strategic Planning, Coordination and Partnerships Office (H/SPCP) remarked on the necessity to review the rationale as to why some of the trends within each of the funds shifted upward or downward as shown in the graph on page 3 of the draft working paper; and she pointed out that during the COVID-19 pandemic, ICAO had really focussed its efforts on raising voluntary contributions which might explain the difference between the trienniums, although the six-year analysis provided a more comprehensive trend and it was indeed alarming.

17. In concluding its consideration of this item, the Council:

- a) noted with concern the downward trend in contributions to the ICAO voluntary funds, and in underlining that strengthening accountability, efficiency and transparency in the use of voluntary funds would build trust with donors which in turn could help to reverse this trend, requested the Secretariat to undertake an analysis of the potential root causes for the decline in such contributions; and
- b) approved the draft Assembly working paper attached to C-WP/15358 for subsequent submission to the 41st Session of the Assembly.

#### **Draft Assembly working paper – Work Programme of the Organization in the legal field**

18. The Council considered this item on the basis of C-WP/15400, which presented a draft Assembly working paper on the ongoing work of the Organization in the legal field, as well as developments and relevant decisions taken since the last Assembly with respect to items on the Work Programme of the Legal Committee, including the prioritization of items.

19. Concurring with the draft Assembly working paper as it aptly covered all the Secretariat work in the legal field, the Representative of Spain pointed out the usefulness in knowing when the Council could expect to review certain work programme items identified in the paper. Referring to paragraph 6 of Appendix A on page A-3 of the draft paper, he thought it appropriate to send a strong message to the Assembly on the ratification of international air law instruments, in particular Articles 50 (a) and 56 to the Chicago Convention; and that the Secretariat should identify the status of ratification of each ICAO Contracting State; and referring to paragraph 6.2, suggested an international air law course be given in Montreal which would be of benefit to Council Members.

20. The Director, Legal Affairs and External Relations Bureau (D/LEB) explained that the Legal Committee, at its most recent meeting, had reviewed and adjusted the order of priority of its work

programme to advance items considered to be of greater importance, namely: the ICAO Rules for the settlement of differences; international legal aspects of unmanned (pilotless) aircraft operations and integration into civil aviation; processes and procedures for States to fulfil their obligations under Article 12 of the Chicago Convention; and that the timeframe for the next meeting of the full Legal Committee would be in late 2023 given the number of pending issues for these three items. As to the status of ratification of the Protocols, it currently stood at 70 States with a further 58 required in order for the Protocols to come into force; and he agreed that a better job could be done in promoting such action by States, although it was one of the LEB priorities and was part of the outreach by the Secretary General and the President when on mission. Lastly, he recalled that at the previous ICAO Assembly, LEB had organized an event to promote ratification of international air law instruments and a similar event would be held on the first two days of the forthcoming Assembly.

21. The President of the Council expressed concern at the lateness of the proposed date for the next Legal Committee meeting in late 2023, given the anticipated submission of items for Council review in early 2024 and that consideration would have to be given to this matter in order to accelerate the progress of certain items. On the issue of ratification of international air law instruments, although he addressed the matter in bilateral meetings with those States who had not yet done so, the ratification process was going very slowly. In this regard, he invited all Council Representatives whose State was not progressing such action to pursue the matter as it would be an achievement if the ratification process could be completed by the 42nd Session of the Assembly in 2025.

22. Echoing the concerns of the President and referring to the work programme listed in paragraph 4.3 on page 5 of the draft paper, the Representative of Brazil pointed to the many important issues that needed to be prioritized and that any means by which the Committee could advance its proceedings on these items would be beneficial. As to the slow pace of ratifications, especially the amendments to Articles 50 (a) and 56, he disclosed that Brazil unfortunately had not yet completed the process, and even though it was proceeding, his Delegation would continue its efforts to achieve that end.

23. The Representative of South Africa suggested that to relieve some of the unnecessary pressure on the Secretariat, it should only focus on the very critical issues to be considered by the Council; and he indicated that the ratification of legal instruments was being promoted in his region and in this regard, it was expected that ratification by his State would be achieved by time of the Assembly.

24. In concluding its consideration of this item, the Council took note of the information presented in the draft Assembly working paper attached to C-WP/15400, and in doing so, approved the said draft Assembly working paper for subsequent submission to the 41st Session of the Assembly.

#### **Draft Assembly working paper – Consolidated statement of continuing ICAO policies in the legal field**

25. The Council considered this item on the basis of C-WP/15401, which presented a draft Assembly working paper containing proposed revisions to Assembly Resolution A40-28: *Consolidated statement of continuing ICAO policies in the legal field*.

26. Observing the need for a standard formulation to instruct the Assembly, the Representative of Spain drew attention to the first operative clause in Appendix D, on page A-3 of the draft Assembly working paper which referenced the Council and Secretary General. On page A-6, Appendix F, he pointed out that “global navigation satellite systems” which preceded the deleted acronym “GNSS” should be replaced by “global communication, navigation, and surveillance (CNS) satellite systems” as the international legal issues pertained to other systems as well as navigation.

27. The President of the Council suggested that the Organization be directed to take the action in the first operative clause of Appendix D, in keeping with other examples.

28. The Representative of Brazil pointed out that the proposed amendment to the first operative clause of Appendix F should be consistent with the description of the Legal Committee work programme item 6) listed on page 5 of the draft Assembly working paper attached to C-WP/15400, which read “Study of international legal issues relating to global satellite systems and services supporting international air navigation services” to which the Representative of Spain confirmed that global satellite systems denoted communication, navigation, and surveillance and thus withdrew his proposal; and clarified that “navigation” should be deleted so that the text read “global satellite systems”.

29. In concluding its consideration of this item, the Council took note of the information presented in the draft Assembly working paper attached to C-WP/15401, and in doing so, approved the said draft Assembly working paper, subject to the amendments agreed by the Council in the course of its consideration of this item being reflected, including in relation to the text of the Appendices attached to the draft Assembly resolution, and delegated authority to the President to thereafter approve the revised working paper on its behalf, for subsequent submission to the 41st Session of the Assembly.

#### **Draft State letter inviting nominations to the Air Navigation Commission (ANC)**

30. The Council considered this item on the basis of C-WP/15411, which presented a draft State letter inviting Member States to submit nominations for membership on the Air Navigation Commission (ANC) for its three-year mandate from 2023 to 2025.

31. In opening the discussion on this item, the President of the Council drew attention to the second paragraph of the Executive Summary which referenced paragraph 2 of the revised *Constitution and Terms of Reference of the Air Navigation Commission*, that nominations for candidates for membership on the Commission shall be made following the adjournment of the session of the Assembly. Since the 41st Session of the Assembly was envisaged to adjourn on 7 October 2022, the proposed deadline for the submission of nominations to the ANC for 2023-2025 was 1 November 2022 to enable the Council to proceed with the appointment of ANC members during its next 227th Session.

32. Referring to the appended draft State letter, the Representative of Spain suggested that the importance of the Air Navigation Commission within the Organization’s structure and its status as an independent technical body that provided advice to the Council should be highlighted; and that the importance of the Commission in the daily work and strategic functioning of the Organization be emphasized in order that States submitted proposals for nominations with the required qualifications for the ANC. The Representative of Finland supported these proposals.

33. In concluding its consideration of this item, the Council:

- a) agreed to set 1 November 2022 as the deadline for the submission by Member States of nominations for membership on the ANC for its new three-year mandate (2023-2025);
- b) approved the proposed amendments to the *Constitution and Terms of Reference of the Air Navigation Commission* to ensure gender neutrality, as indicated in Attachment A of the Appendix to C-WP/15411; and
- c) approved the issuance of the draft State letter and its attachments, as contained in the Appendix to C-WP/15411, taking into account the decisions in a) and b), above, and

subject to the amendments agreed by the Council in the course of its consideration of this item being reflected, including for additional text to be incorporated in the draft State letter highlighting the important role played by the ANC within the Organization, as an independent professional body that provides expert technical advice to the Council.

### **Expectations for and qualities of the President of the Air Navigation Commission for the 2023-2025 ANC mandate**

34. The Council considered this item on the basis of C-WP/15371, which, in accordance with the Guidelines set out in paragraph 4 of Appendix D to the *Rules of Procedure for the Council* (Doc 7559), presented the Air Navigation Commission's views on what is expected of its future President during the ANC's new three-year mandate (2023-2025), the major tasks to be performed and the main qualities needed by its future President in that context.

35. In line with the intervention by the Representative of Spain on the previous item, the Representative of Canada observed the importance of this paper for the future of the Organization; and that the timelines for the appointment of the ANC President, as presented in paragraph 1.2 on page 2 of the paper, were ambitious given the currently anticipated last day of the Council session was 2 December 2022.

36. Referring to paragraph 3.1 c) of the paper regarding the personal, managerial and administrative qualities and skills of the President of the Commission, the Representative of Spain suggested that beyond a forward-looking view as mentioned in item 3), future ANC Presidents also needed to be strategic thinkers in order to build consensus and engage in team-building; and he queried the correctness of the statement in item 9) that the President of the Commission, when requested by the Council or its President, represent the Organization.

37. In response to the preceding interventions, the Secretary General indicated that he would have to review the timelines and revert back to the Council; and the President of the Council observed that one of the main issues was the two-week Council session and that there was limited possibilities of improving that particular scenario; that given the deadline date of 1 November for the submission of nominations to the ANC, there would be a one-month timeframe for appointment of the ANC Members and subsequent election of the President of the Commission.

38. In regard to the intervention by the Representative of Spain, the President of the Air Navigation Commission (P/ANC) thought the proposed additional qualities corresponded very well with the Commission's views of what was expected of its future President; and as to the text in 3.1 c) 9), thought it similar to that previously approved, however, would seek clarification on the accuracy of the language used.

39. Concurring with comments by the Representative of Spain, the Representative of France further suggested that integrity and professional ethics be included in the personal qualities as they were highly relevant for the President of the Commission.

40. In concluding its consideration of this item, the Council:

- a) accepted the Commission's conclusions as indicated in paragraph 3.1 of C-WP/15371, which it would consider when appointing the President of the ANC (P/ANC) during the 2023-2025 mandate, subject to:

- i. the following text: “9) the ability to represent the Commission and, when requested by the Council or its President, the Organization”, being further refined in order to ensure the accuracy of its applicability;
  - ii. for additional text to be incorporated emphasising the need for P/ANC to demonstrate a forward- thinking and team-building approach in the performance of the role; and
  - iii. for additional text to be incorporated reflecting the importance of ethics, transparency, accountability and integrity as core values of the Organization, which were to be equally upheld in undertaking the role of P/ANC; and
- b) requested the Secretariat to review the proposed timelines for the appointment of P/ANC as outlined in paragraph 1.2 of the working paper, with a view to ascertaining whether the timeframe for the nomination and selection process could be conceivably expanded to provide more time for potential candidates, as well as for the Council in the consideration of those candidatures.

41. The Council further agreed to delegate authority to the President, in consultation with the Secretariat, to finalize the text of the documentation taking into account the points outlined in the preceding paragraph.

#### **Any other business**

#### **Update by the Chairperson of the Air Transport Committee (ATC) – ICAO’s leadership in economic development of air transport**

42. The Council noted the oral update delivered by the Chairperson of the Air Transport Committee (ATC) (Representative of Côte d’Ivoire) on the work undertaken by the ATC in reviewing the effectiveness of ICAO leadership in the implementation of the Strategic Objective, *Economic Development of Air Transport*. In this connection, the Council agreed in principle with the proposal of the ATC to establish a Small Working Group (SWG) to progress the work in this area. It was understood that the Summary of Discussions from the ATC consideration of this matter would be circulated to all Council Representatives in due course, with a view to formalizing the Council’s decision on the proposal of the ATC at a subsequent meeting.

#### **Approval by the Air Navigation Commission, acting under delegated authority, of Amendment 10 to the *Procedures for Air Navigation Services — Aircraft Operations, Volume I — Flight Procedures*, and Amendment 2 to Volume III — *Aircraft Operating Procedures* (PANS-OPS, Doc 8168)**

43. It was noted that pursuant to the President of the Council’s Memorandum PRES SS/3303 dated 19 May 2022, that Amendments 10 and 2 to the PANS-OPS, Volumes I and III, respectively, had been approved by the President on behalf of the Council.

44. The meeting adjourned at 16:15 hours.





**COUNCIL — 226TH SESSION**

**SUMMARY MINUTES OF THE FIFTH MEETING**

**(HYBRID MEETING, WEDNESDAY, 1 JUNE 2022, AT 1000 HOURS)**

President of the Council: Mr. Salvatore Sciacchitano

Secretary: Mr. Juan Carlos Salazar, Secretary General

**PRESENT:**

Argentina	— Mr. G.E. Bompadre	Malaysia	— Mrs. F. Chin
Australia	— Mr. R. Adams	Mexico	— Mr. D. Méndez Mayora
Brazil	— Mr. N. Moretti	Netherlands	— Mr. R. Ossendorp
Canada	— Mr. C. Hurley	Nigeria	— Mr. M.S.B. Tukur
China	— Mr. Shengjun Yang	Paraguay	— Mr. C.D. Urquhart Cáceres
Colombia	— Mr. M. Ramírez Koppel	Peru	— Mr. A. Freyre Layzequilla
Costa Rica	— Mr. G. Hoppe Pacheco	Republic of Korea	— Mr. S. Kim
Côte d’Ivoire	— Mr. C.A. Djibril	Russian Federation	— Mr. S. Gudkov
Dominican Republic	— Mr. J. Peña Guzmán	Saudi Arabia	— Mr. B. Al-Sagri
Egypt	— Mr. S. Elhefny	Singapore	— Ms. E. Poh
Equatorial Guinea	— Mr. E. Esono Anguesomo	South Africa	— Mr. L. Mabaso
Finland	— Mr. S. Vuokila	Spain	— Mr. V.M. Aguado
France	— Mr. L. Pic	Sudan	— Mr. I.M. Elhag
Germany	— Mr. U. Schwierczinski	United Arab Emirates	— Mr. M. Salem (Alt.)
Greece	— Ms. M. Saranti	United Kingdom	— Mr. A. O’Henley
India	— Mrs. S. Juneja	United States	— Mr. C. Sullenberger
Italy	— Ms. S. Costantini	Zambia	— Mr. V. Banda
Japan	— Mr. I. Fukushima		

**ALSO PRESENT:**

Mr. P. Kelleher	— President, ANC
Mr. C. Fernández (Alt.)	— Argentina
Mr. S. Lucas (Alt.)	— Australia
Ms. C. Fitzgerald (Alt.)	— Australia
Ms. I. de Melo Maciel (Alt.)	— Brazil
Mr. M. Lima (Alt.)	— Brazil
Mr. A. Bertolino (Alt.)	— Brazil
Mr. D. L. Pereira (Alt.)	— Brazil
Mr. R. Arruda (Alt.)	— Brazil
Ms. A. Barbosa (Alt.)	— Brazil
Mr. M. Porto (Alt.)	— Brazil
Ms. M. B. Anselmi (Alt.)	— Brazil
Mr. D. Calcado (Alt.)	— Brazil
Mr. R. Castro (Alt.)	— Brazil
Mr. J. Liang (Alt.)	— China

**SECRETARIAT:**

Mr. M. Vreedenburgh	— SPO/OSG
Mr. S. Creamer	— D/ANB
Mr. J. Vargas	— D/TCB
Mr. M. Rahma	— D/ATB
Mr. A. Mishra	— D/ADB
Mr. M. Gill	— D/LEB
Mr. S. Lefoyer	— DD/ASF
Mr. C. Ding	— DD/LEB
Ms. T. de Bodt	— H/SPCP
Mr. F. Buonomo	— Ethics Officer
Mr. A. Larcos	— C/ACS
Ms. V. Muraca	— ACS

*Mr. Ri Yong Son, Deputy Director General, National Aviation Administration (NAA), Democratic People’s Republic of Korea*  
*Mr. An Song Su, Director, International Organization Dept., NAA, Democratic People’s Republic of Korea*  
*Mr. O Yong Su, Adviser, NAA, Democratic People’s Republic of Korea*  
*Mr. Kim Thae Ryong, Deputy Director, External Relations Department, Air Koryo*

**ALSO PRESENT: (Cont'd)**

Ms. A. Jiménez (Alt.)	— Costa Rica
Ms. C. Moya (Alt.)	— Dominican Republic
Ms. V. Adalsteinsdottir (Alt.)	— Finland
Mr. N. Naoumi (Alt.)	— Germany
Ms. V. Betchava (Alt.)	— Greece
Mr. A. Kalognomis (Alt.)	— Greece
Ms. V. Lazari (Alt.)	— Greece
Mr. A. Joshi (TE)	— India
Mr. S. Oshima (Alt.)	— Japan
Mr. S. Sugiyama (Alt.)	— Japan
Mr. M. Loustaunau (Alt.)	— Mexico
Mr. C. Schleifer (Alt.)	— Netherlands
Mr. J. van Manen (Alt.)	— Netherlands
Mr. W.R. Linares (Alt.)	— Peru
Mr. C. Zamora (Alt.)	— Peru
Mr. J.W. Kim (Alt.)	— Republic of Korea
Mr. S. Ahn (Alt.)	— Republic of Korea
Mr. A. Batalov (Alt.)	— Russian Federation
Ms. O. Mozolina (Alt.)	— Russian Federation
Mr. M. Habib (Alt.)	— Saudi Arabia
Ms. D. AlKurdi (Alt.)	— Saudi Arabia
Mr. F.A.A. Alsuhabani (Alt.)	— Saudi Arabia
Ms. S. Toh (TE)	— Singapore
Mr. Y. K. Koh (TE)	— Singapore
Ms. T. Goodwin (Alt.)	— United Kingdom
Mr. A. Veprek (Alt.)	— United States

Representatives to ICAO

Cameroon  
 Chile  
 Congo  
 Cuba  
 Cyprus  
 Ethiopia  
 Indonesia  
 Iran (Islamic Republic of)  
 Niger  
 Oman  
 Turkey  
 Ukraine  
 Uruguay

Airports Council International (ACI)  
 Civil Air Navigation Services Organization (CANSO)  
 European Union (EU)  
 International Business Aviation Council (IBAC)

## **Unannounced missile launches**

1. The Council considered this item on the basis of C-WP/15410, which presented an update of the information previously circulated to the Council on risks posed by unannounced missile launches by the Democratic People's Republic of Korea (DPRK). In its previous consideration of this item during the 225th Session, the Council had requested the Secretariat to provide a historical compendium of these incidents, actions taken by ICAO in response, and an outlined of potential options that might be available to the Council to address this matter (C-DEC 225/2 refers).

2. Introducing the item, the Secretary General recalled that during the 225th Session, the Council had requested the Secretariat to prepare an information paper that presented an update on developments pertaining to unannounced missile launches by the DPRK. He noted that over the years the Council had expressed concern about these unannounced missile launches, which posed serious risks to international civil aviation and occurred in defiance of relevant United Nations Security Council resolutions. The Council had also continually urged the DPRK to act in accordance with the Chicago Convention and the applicable ICAO standards and recommended practices (SARPs).

3. The Secretary General also recalled that the Secretariat had previously proposed an action plan that included a civil and military cooperation workshop with the DPRK, but the Council had indicated that it was not in favour of seeking an exemption from the UN Security Council Sanctions Committee 1718 for any such purpose. Indeed, the Council had requested that the Secretariat avoid all technical cooperation and assistance activities with the DPRK.

4. The paper that was being presented for consideration included a historical compendium of the launches carried out by the DPRK, which was alleged to have used ballistic missile technology in the period from January 2019 to April 2022. Following the publication of the information paper, the Secretary General informed the Council that there had been an additional five occurrences throughout May 2022. In the paper, the Secretariat had outlined some potential technical support activities that could be undertaken as well as the options available under Articles 54 j) or 54 k) of the *Convention on International Civil Aviation* (Chicago Convention).

5. Emphasising that the continued launch of these ballistic missiles displayed a complete disregard for UN Security Council resolutions, the Representative of the United States remarked that in doing so, the DPRK was deliberately and repeatedly putting international civil aviation at undue risk. The United States remained deeply concerned by these actions and strongly condemned the escalation. The risk to civil aviation was especially profound in the immediate region, but also beyond the boundaries of the DPRK Pyongyang FIR. With no prior notification of such launches to international maritime or aviation authorities, and given the failure by the DPRK to issue a Notice to Air Missions (NOTAM) consistent with Annex 15, the DPRK created a safety hazard to aircraft and vessels transiting the region.

6. In the circumstances, the United States supported the option for ICAO to continue to share relevant information with the United Nations regarding the DPRK violations of UN Security Council resolutions. There was no justification for ICAO to engage in any technical cooperation activities with the DPRK as long as the DPRK continued to put international civil aviation at risk and threaten its neighbours and the international community. In closing, the Representative indicated his support for this matter to be reported to the forthcoming session of the Assembly so that the international aviation community was alerted to what he described as a pattern of contempt by the DPRK for the safety of civil aviation.

7. Sharing the concerns of the preceding intervention, the Representative of the United Kingdom unequivocally condemned the continued ballistic missile launches by the DPRK. According to the information that had been presented by the Secretariat, there had been 19 such ballistic missile launches

since the beginning of 2022. All these missile launches represented a clear violation of UN Security Council resolutions and affected regional peace and security as well as representing a threat to civil aviation. It was imperative that the DPRK refrained from further provocations and respected its international obligations. The Representative indicated his support for the proposal that these serious violations be reported to the Assembly under Article 54 of the Chicago Convention and that in the circumstances, there should be no ICAO technical cooperation engagement with the DPRK.

8. Associating himself with the preceding interventions, the Representative of Japan strongly condemned the repeated ballistic missile launches by the DPRK including the launch of intercontinental ballistic missiles. These actions posed a serious threat to the safety of international civil aviation and threatened the peace and security not only of the region, but also of the international community. In particular, the actions by the DPRK constituted an ongoing violation of relevant resolutions of the UN Security Council. Unless the DPRK complied with the relevant UN Security Council resolutions and fulfilled its obligations to ensure the safety of international civil aviation in accordance with the Chicago Convention, Japan was of the view that the ICAO Secretariat should avoid all technical cooperation activities with the DPRK of a direct or indirect nature in accordance with previous decisions of the Council. In the circumstances, Japan remained strongly opposed to any suggestion that the ICAO Secretariat should seek an exemption from the UN 1718 Committee in order to organize a civil and military coordination workshop for the DPRK, and to engage in COSCAP – North Asia technical assistance activities. The Representative stated that for the Secretariat to undertake such activities with the DPRK at a time when that country was increasingly launching missiles and threatening civil aviation, would send completely the wrong message from ICAO to the international community.

9. The Representative of France highlighted the increase in the number of unannounced missile launches by the DPRK since the beginning of the year, which represented a serious violation of the UN Security Council resolutions as well as a risk to peace and international security. Such actions by the DPRK also adversely affected the security of international civil aviation and thus it was important for ICAO to condemn these actions in the strictest terms. The Representative recalled that in June 2017, an Air France flight from Tokyo to Paris with over 300 passengers on board almost suffered the consequences of being hit by one of the DPRK missiles, which passed by the aircraft extremely closely. In the circumstances, the Representative stressed that there could be no resumption of ICAO technical cooperation activities with the DPRK. Otherwise, ICAO would be conveying the wrong message. In closing, the Representative indicated his support for the proposed action to report this matter to the forthcoming session of the Assembly.

10. Condemning what he perceived as a flagrant violation of United Nations Security Council resolutions, the Representative of the Republic of Korea urged that this matter should be referred to the Assembly for consideration. His country remained gravely concerned at the repeated unannounced launches of ballistic missiles by the DPRK and the threat that these actions posed to the safety of international civil aviation. The Representative urged the DPRK to heed calls by the international community to cease these activities and to comply with the Chicago Convention and ICAO SARPs in order to ensure the safety of civil aviation. The Representative also joined previous speakers in stating that there could be no resumption of cooperation activities between the ICAO Secretariat and the DPRK, either in the form of arranging a civil-military workshop or within the context of COSCAP. The Representative also supported the proposal that this matter should be referred for consideration to the upcoming session of the Assembly.

11. Likewise associating himself with the preceding interventions, the Representative of Canada condemned in the strongest terms the recent launches by the DPRK of ballistic missiles. These actions constituted an ongoing violation of relevant UN Security Council resolutions, undermined international peace and security, and posed a danger and unpredictable risk to international civil aviation in the region.

12. Associating himself with the preceding interventions, the Representative of Colombia expressed concern at the ongoing and intensified nature of the unannounced missile launches by the DPRK.

13. Condemning the unannounced missile launches by the DPRK, the Representative of Peru stated that these represented a serious threat to international civil aviation. He stressed that civil aviation was an instrument of peace and that this belief had in part inspired the Chicago Convention as well as the United Nations. In this context, it was necessary for the Council to agree on clear definitions for what constituted a risk or a threat. He observed that these concepts had evolved over the years in ways that had not been foreseen when the Chicago Convention had been drafted. Indeed, it was possible that in certain circumstances, a threat such as the unannounced missile launches could also be seen as an attack rather than a threat. If so, such actions should be considered and dealt with in an international criminal court. The Representative hoped that these philosophical considerations would be taken into account in the lead up to the forthcoming session of the Assembly.

14. The Representative of Spain underscored the need for all Member States of ICAO to comply with the provisions of the Chicago Convention. He welcomed the paper that had been presented by the Secretariat, although he was of the view that it was incomplete since it referred only to the period 2019, 2020 and 2021, whereas he was aware that the Council had taken certain actions in years prior to the timeframe that had been covered. In that connection, he hoped that the paper could be further updated to present a more comprehensive summary of ICAO initiatives.

15. As for the recent spate of missile launches, the Representative was concerned at both the recent intensity as well as the range of those launches. Taking the recent history of this issue into account, it was clear that the DPRK was not inclined to comply with the provisions of the Chicago Convention. Given this history, it was necessary to consider Article 54 of the Convention, which required the Council to report to the Assembly any infraction of the Convention when a Contracting State had failed to take appropriate action within a reasonable timeframe after notice of the infraction had been conveyed. Therefore, the Representative was in agreement with the proposal that the Council should act in accordance with Article 54 j) and Article 54 k) of the Convention.

16. The Representative of Greece stated that her country strongly condemned the continued launching of unannounced ballistic missiles that posed a threat to the safety of international civil aviation. The recent escalation represented a violation of relevant UN Security Council resolutions and until there was compliance with those resolutions, she supported taking the actions outlined in the paper in accordance with the applicable provisions of the Chicago Convention.

17. Likewise condemning the launches of unannounced missiles by the DPRK, the Representative of Costa Rica was convinced that the international community should unite and reject the threat that this posed to civil aviation and safety. Therefore, the Representative supported the proposed actions outlined in the paper and for the matter to be reported to the forthcoming session of the Assembly.

18. Citing the destabilizing effect that the unannounced missile launches were having, the Representative of Australia stressed that in doing so, the DPRK was in violation of the relevant UN Security Council resolutions. The missile launches not only represented a serious threat to the safety and security of international civil aviation, but through these actions the DPRK was continuing to fail to act in accordance with the Chicago Convention and to comply with the applicable ICAO Standards and Recommended Practices (SARPs). The Representative agreed with previous interventions in that there did not appear to be any rationale for ICAO to re-engage in technical cooperation activities with the DPRK while that country continued on its current path of non-compliance. Therefore, he supported the proposal outlined in the paper and for this matter to be reported to the Assembly in accordance with Article 54 of the Chicago Convention.

19. The Representative of Mexico recalled the recent words of the United Nations Secretary-General, who described the unannounced missile launches by the DPRK as provocations and clear violations of the relevant UN Security Council resolutions. For ICAO, the launches posed a serious threat to aviation and air navigation in the region. In that context, the Council had a responsibility to uphold the Chicago Convention and its provisions and to convey a clear and immediate message on this issue. The missile launches represented an ongoing threat to civil aviation and accordingly, ICAO should suspend any technical cooperation activities with the DPRK. The Representative supported the proposal outlined in the paper for this matter to be reported to the upcoming session of the Assembly.

20. Associating herself with the preceding interventions, the Representative of India recalled that the Council had been discussing this issue over the course of a number of sessions. She emphasised that the unannounced missile launches continued to represent a matter of concern in particular in the Asia-Pacific region and accordingly, she supporting the proposal outlined in the paper for this issue to be reported to the forthcoming session of the Assembly.

21. Also associating himself with the preceding interventions, the Representative of the Dominican Republic stated that he supported the proposal to report the matter to the Assembly under Article 54 of the Chicago Convention. His delegation condemned these actions due to risk to civil aviation posed by the unannounced missile launches and the Representative stressed the need for compliance with the provisions of the Chicago Convention and its Annexes.

22. The Representative of Argentina also associated himself with the preceding interventions and in expressing support for the proposal outlined in the paper for this matter to be reported to the forthcoming session of the Assembly.

23. Affirming the importance of maintaining the safety of civil aviation, the Representative of China highlighted the value of the communication that had been undertaken between ICAO and the relevant parties. He encouraged that efforts be directed to upholding the provisions of the Chicago Convention and to promote safety and the orderly development of international civil aviation.

24. The Representative of Nigeria stated that unannounced missile launches was one of the greatest threats posed to civil flight operation. He held serious concerns on this matter, the danger it posed to civil aviation, and the ongoing violation of the relevant UN Security Council resolutions. He was well aware that there had been some dialogue with the DPRK, but despite all efforts, there appeared to have been an increase in the number of missile launches. The Representative supported the proposal outlined in the paper for this matter to be reported to the forthcoming session of the Assembly.

25. Expressing her concern at the DPRK missile launches, the Representative of Malaysia joined with preceding interventions in emphasising the risk these actions had posed to international civil aviation. Accordingly, she supported the proposal outlined in the paper for this matter to be reported to the forthcoming session of the Assembly.

26. The Representative of Singapore condemned the DPRK missile launches, which had raised tensions in the Korean peninsula, had violated UN Security Council resolutions and had carried serious safety implications for international civil aviation flights in the region. The Representative joined with previous interventions in expressing support for the proposal outlined in the paper for this matter to be reported to the forthcoming session of the Assembly.

27. The Representative of Brazil condemned the unannounced missile launches by the DPRK, and expressed concern at the ongoing threat and risk these posed to international civil aviation in the area.

28. Associating himself with the preceding interventions, the Representative of Côte d'Ivoire joined in expressing his support for the proposal outlined in the paper for this matter to be reported to the forthcoming session of the Assembly.

29. Likewise associating himself with the preceding interventions, the Representative of Sudan stressed that the safety of global air navigation was a commitment in accordance with the articles of the Chicago Convention. He supported the proposal outlined in the paper for this matter to be reported to the forthcoming session of the Assembly.

30. The Representative of Italy also associated herself with the preceding interventions and in condemning in the strongest possible terms, the launching by the DPRK of intercontinental ballistic missiles. She stated that these actions undermined international peace and security as well as the global non-proliferation regime. Her country remained concerned by the unprecedented series of ballistic missile tests with increasingly versatile systems across all ranges building on ballistic missile tests conducted in recent years. Moreover, these actions constituted a blatant violation by the DPRK of relevant UN Security Council resolutions. The threat posed by this unpredictable risk to international civil aviation and maritime activity, could not be underestimated and therefore, the Representative urgently called on the DPRK to abandon its weapons of mass destruction and ballistic missile programme in a complete, verifiable, and irreversible manner and to fully comply with all its global obligations. The Representative was in agreement with the proposal for this matter to be reported to the forthcoming session of the Assembly.

31. The Representative of the United Arab Emirates (Alternate) joined with the preceding interventions and highlighted the importance of aviation safety.

32. The Representatives of Finland, Germany, Netherlands, and Paraguay all expressed their support and associated themselves with the preceding interventions.

33. The President of the Council observed that based on the preceding interventions, there was a clear convergence on the concerns expressed in relation to aviation safety. He also recalled that there had been a number of serious aviation accidents in recent years involving military actions affecting civil aviation, including Ukraine International Airlines flight PS 752 over Iran in January 2020 and Malaysia Airlines flight MH 17 in July 2014. The President then indicated that in accordance with Article 53 of the Chicago Convention and rule 31 of the *Rules of Procedure for the Council*, he would now call upon the Representative of the DPRK to comment on the item under consideration.

34. The Representative of the Democratic People's Republic of Korea (Observer) explained that the missile tests being conducted were for the purpose of safeguarding the security and the safety of the DPRK. These were necessary to respond to the nuclear war threat imposed by the United States and other forces that were hostile to his country. He stated that the missile tests were conducted in full prior consideration of the safety of international civil aviation in advance, which was why there had not been a fatal accident or any serious incident. The Representative also cited the absence of any technical cooperation activities between ICAO and the DPRK. The suspension of this cooperation by ICAO had negatively affected the level of safety in the DPRK, including the maintenance of aviation safety systems critical for commercial flight operations. He was fully aware that safe air travel was important and that there was a need to improve aviation safety, but the management of safety systems was not a simple endeavour. It required inputs, commitment, resources, and cooperation among all Member States. For that reason, he hoped that all Member States could work together for the benefit of international civil aviation and in the interests of maintaining aviation safety.

35. In concluding its consideration of this item, the Council:

- a) took note of the information presented in C-WP/15410;
- b) recalled its previous decisions on this matter (C-DEC 225/2 and C-DEC 223/4, refer) and reiterated its concern at the recent episodes involving unannounced missiles being launched by the Democratic People's Republic of Korea (DPRK), which continue to pose a serious risk to international civil aviation, and which occurred in defiance of the relevant United Nations Security Council Resolutions (1718, 2270 and 2321);
- c) condemned the continuation of unannounced missile launches and urged the DPRK to act in accordance with and respect for the *Convention on International Civil Aviation*, and to comply with applicable ICAO Standards and Recommended Practices (SARPs);
- d) reiterated that the ICAO Secretariat should avoid all technical activities with the DPRK of a direct or indirect nature, and in this connection, requested the Secretariat to continue to actively monitor the situation and to report any developments to the Council, as necessary; and
- e) decided to submit this matter to the 41st Session of the ICAO Assembly (September-October 2022) for its consideration, in accordance with Article 54 k) of the *Convention on International Civil Aviation*.

**Progress report on the negotiations regarding the Settlement of Differences:  
Brazil and the United States (2016)**

36. The Council considered this item on the basis of an oral update presented by the President of the Council regarding the status of negotiations in relation to this dispute.

37. Updating the Council on the most recent developments, the President of the Council recalled that preliminary work on this matter had commenced with the establishment of the Article 12 Task Force, which met in November 2021, with the objective of enhancing flight safety. He indicated that the Parties had welcomed the establishment of the Task Force as a positive development and had shown a desire to accelerate the work of the Task Force. It was hoped and anticipated that ultimately the results from this process would contribute to the resolution of the dispute between Brazil and the United States. In closing, the President also recalled that the Article 12 Task Force would meet on the margins of the forthcoming session of the Assembly.

38. The Representative of Brazil highlighted the importance that his country attached to the timely work of the Task Force. In that connection, he welcomed the proposal of the Secretariat that the Task Force would meet on the margins of the forthcoming session of the Assembly and he remained hopeful that the Task Force would be able complete its work in a timely manner and settle this issue.

39. In concluding its consideration of this item, the Council agreed that a further update on the status of the negotiations between the Parties would be provided at a future session of the Council, as appropriate, should there be any new developments arising, and reiterated its hope that the matter would be resolved as soon as possible.



## **Settlement of Differences: Australia and the Kingdom of the Netherlands and the Russian Federation (2022)**

40. The Council considered this item on the basis of C-WP/15421, which set out the procedures followed to date in the application for the settlement of differences between Australia and the Kingdom of the Netherlands (the Applicants), and the Russian Federation (the Respondent).

41. Introducing the item, the Secretary General explained that on 14 March 2022, Australia and the Netherlands had submitted an Application and Memorial to the Organization for the settlement of a disagreement with the Russian Federation regarding the downing of Malaysia Airlines flight MH 17 on 17 July 2014. He recalled that the *Rules for the Settlement of Differences* set out the relevant procedures applicable in such cases. On receipt of the Application and the Memorial, the Secretary General, in accordance with these rules had transmitted the documents to the Russian Federation and notified all ICAO Member States. A time limit of 12 weeks for the filing of any Counter-memorial by the Russian Federation had been set, which was in line with recent precedents. The Secretary General further explained that on 10 May 2022, the Russian Federation was provided with a copy of the Application and Memorial in the Russian language. Subsequently, all language versions of the Application and Memorial were then made available to the Council on 17 May 2022.

42. The Secretary General informed the Council that the Representative of the Russian Federation had written to ICAO on 5 May 2022 with three related requests. Firstly, to request a translation of the Annexes to the Memorial. Secondly, to request that the time limit for filing the Counter-memorial should start only after the Application, Memorial and Annexes were provided in the Russian language, and thirdly that the length of the time period for the Russian Federation to file its Counter-memorial should be reconsidered and extended to at least 24 weeks.

43. In relation to the requests from the Russian Federation, the Secretary General indicated that there was no specific provision or requirement in the Rules as to whether the Annexes to the Memorial should be translated. In this connection, he noted that should the Annexes to the Memorial be translated, the cost to the Organization would be approximately between \$115,000 and \$120,000 per language. Therefore, extending that requirement and preparing the documentation in all languages would represent a very substantial cost implication to the Organization.

44. Finally, the Secretary General noted that the Rules required the time limit to be fixed upon receipt of the Application and did not contain any provision that would tie fixing the time limit to the receipt of the submissions in a specific language. Although the Rules provided for an extension of the time limit, there was no provision for reviewing an already set time limit.

45. Before opening the item for discussion, the President of the Council recalled that the consideration by the Council of this item would proceed in accordance with the *Rules of Procedures for the Settlement of Differences*. At this preliminary stage, the specific aspects under focus were related to the decision on the timelines. This being the case, his intention was to first to invite the interested parties to state their positions and then to seek the views of other Representatives on the Council. In the event that a vote might be required on this item, the President explained that in accordance with the *Rules of Procedures for the Settlement of Differences*, the Parties to the dispute would not vote.

46. The Representative of the Russian Federation explained that there were a number of important circumstances that should be taken into account by the Council in its consideration of this matter. Firstly, the principles of fair legal proceedings provided that the parties to a dispute should have equal rights and equal opportunities for exercising these rights. The receipt and study of procedural documents in a language which was understood and which was an official language of the relevant State, was one of the

most important guarantees of the principle of equal opportunity. Since Russian was not only the official language of the Russian Federation, but also one of the official languages of ICAO, the Russian Federation was fully justified in expecting that any documents related to the dispute initiated by Australia and the Netherlands would have been provided by way of official translation into the Russian language.

47. The Representative noted that in this case, the requirement to provide the official translation into Russian was applied only to the Application and Memorial, which contained the Applicants' legal position and the rationale for their claims. In their Memorial, Australia and the Netherlands indicated directly that the Annexes were an integral part of the Memorial, and indeed, the Annexes clearly set out the most important elements of the Applicants' legal position and the facts related to the case. Without being provided with an official translation of the Annexes into the Russian language, the Russian Federation was unable to study and take into account the information set out therein. Indeed, nor would the Russian Federation have the opportunity to prepare and present a qualified and complete written response to the Application by Australia and the Netherlands, either in the form of a Counter-memorial, or as a preliminary objection. Consequently, equal rights could not be ensured among all parties to the dispute, and nor could fair legal proceedings in this dispute be ensured.

48. Secondly, the Representative observed that any timeline set by the Council for the submission of a Counter-memorial was directly related to the time provided for the study and analysis of the Applicants' Application and Memorial, and for the preparation of a Counter-memorial or a preliminary objection. However, in this case, the Russian Federation would not have the opportunity to study and analyse the Application and Memorial, because they were submitted in a language that was not used or understood in his country. This meant that the setting of any time limits for a response to the Application and Memorial would violate the principles of justice and equality between the parties to the dispute. Therefore, he was of the view that the timeline for the Russian Federation to submit its Counter-memorial should start only from the moment it received an official Russian language translation of the full text of the Application, the Memorial, and all Annexes.

49. Thirdly, the Representative noted that the Application and Memorial of Australia and the Netherlands, including all of its Annexes, represented a very voluminous document at 1876 pages in total. It was clear that the preparation of such a document by these Applicants required not 12 weeks, but significantly more time. Therefore, the establishment of a time limit of only 12 weeks for the Russian Federation to study and analyse such a lengthy Application and Memorial, and then prepare a written Counter-memorial, unjustifiably restricted the rights of the Russian Federation and put it in an unequal position vis-à-vis Australia and the Netherlands. Given the preceding, the Representative requested that the Council consider these points when making a determination on the timeline for the submission of the Counter-memorial by the Russian Federation.

50. The Representative then highlighted additional factors that should be taken into account in this matter and which would have a direct impact on the ability of the Russian Federation to prepare its Counter-memorial. Chief among these was the sanctions imposed on the Russian Federation by a number of States. As a result of these sanctions, there was an effective air blockade on his country, which meant that there was no air mail service between Canada and the Russian Federation. This also meant that his Delegation was unable to exchange documents with his capital. Likewise, the existing possibilities for transmitting documentation via diplomatic channels were also extremely limited. Moreover, the inability to access the SWIFT financial system meant that his Delegation was unable to transfer funds, which in turn meant that it could not involve third parties in the preparation of its Counter-memorial or preliminary objection.

51. Taking all the preceding into consideration, the Representative urged the Council to agree that in order for the Russian Federation to be able to prepare a Counter-memorial or preliminary objection,

his country would require a translation into the Russian language of not just the Application and the Memorial, but also all of the Annexes, and that 24 weeks should be allotted to the Russian Federation to study all of the documentation and to prepare and submit either a Counter-memorial or preliminary objection.

52. Speaking on behalf of both his own delegation as well as on behalf of the Netherlands, the Representative of Australia indicated that Australia and the Netherlands had maintained since May 2018 that under international law, the Russian Federation was responsible for the downing of Malaysia Airlines flight MH17. Regrettably, the Russian Federation had unilaterally withdrawn from negotiations and had refused to return to negotiations despite repeated requests.

53. The Representative stated that the request by the Russian Federation for a lengthy and open-ended extension could only be seen as another attempt to obstruct the pursuit of justice for the families of the 298 victims from flight MH17. Although Australia and the Netherlands would have preferred that the Council's consideration of the dispute not be delayed, the two countries were nonetheless prepared to be constructive and reasonable to assist the Council in progressing the dispute and delivering justice for the families of the victims. He recalled that the past practices of the Council in such matters was that the Annexes to the Memorials were not translated and that a 12-week response period was usually set. However, in the spirit of multilingualism, Australia and the Netherlands proposed that the start date of the standard 12-week response period be adjusted and based instead on the date on which the Application and Memorial were provided to the Russian Federation in the Russian language.

54. In response to the proposal outlined by the Representative of Australia, the President of the Council explained that if the Council were in agreement, this would mean that the twelve week time limit for the submission of the Counter-Memorial by the Russian Federation would start from the date when the Application and Memorial were received in the Russian language, which in this case would be 10 May 2022. The President also recalled that based on past practice, the Annexes were not translated in such cases.

55. The Representative of Mexico stressed the necessity for the Council to follow past practice, which in this case provided for a twelve-week timeline for the submission of a Counter-memorial. Nonetheless, he was disposed to support the proposal from Australia and provide some additional time to the Russian Federation as had been outlined.

56. Recalling that it had been eight years since Malaysia Airlines flight MH17 had been shot down over Eastern Ukraine by Russian backed militants, the Representative of the United States emphasised the need to honour the memory of the 298 victims. He could not support the request by the Russian Federation for an unprecedented 24-week delay for the filing a Counter-memorial. Nor could he support their request for translation of the Annexes into Russian. In his view, these requests went far beyond any precedent and would impose substantial, unwarranted costs on ICAO. He observed that translating the Annexes into Russian would also entail translating the documentation into all ICAO languages, which by his estimate would result in an additional cost of well over half a million dollars, which was definitely not budgeted for. Moreover, he observed that much of the material cited in the Annexes was already publicly available, which would have meant that the Russian Federation was already aware of this reference documentation. The Representative had taken note of the proposal outlined by Australia, and in this connection, he indicated that he thought this was not unreasonable and not inconsistent with past practice. Accordingly, he would not oppose a short extension of a few weeks for the filing of the Counter-memorial by the Russian Federation.

57. Expressing his solidarity with the families of the victims of the downing of Malaysia Airlines flight MH17, the Representative of Costa Rica stated that he was not prepared to countenance the costs involved in translating the Annexes to the Memorial. Rather, he indicated his support for the proposal

outlined by Australia. As he understood it, this would mean that the twelve-week timeline for the Russian Federation to submit its Counter-memorial would start as from 10 May 2022.

58. Likewise expressing his solidarity with the families of the victims of the downing of Malaysia Airlines flight MH17, the Representative of Colombia stated that in his view it was somewhat excessive that in almost eight years since that tragic incident, there still was no closure for the families of the victims. He did not agree with translating the Appendices to the Memorial due to what he considered to be an intolerable cost for the Organization. Instead, he indicated his support for the proposal outlined by Australia that the twelve-week timeline for the submission of the Counter-memorial should start as from the day on which the translated Application and Memorial were provided.

59. The Representative of Canada expressed his condolences to the families of the victims of those who had perished in the tragic downing of Malaysia Airlines flight MH17. His delegation also stood in solidarity with Australia and the Netherlands in bringing this dispute to the Council so that clarity and closure could be facilitated. In relation to the submission of the Counter-memorial by the Russian Federation, the Representative indicated his support for the compromise proposal outlined by Australia that the twelve-week timeline should commence as from the date on which the translated Application and Memorial were made available.

60. Associating himself with the preceding interventions, the Representative of the United Kingdom emphasized that ICAO had an important responsibility to help the families of the 298 victims from the 17 countries who had lost their lives when Malaysia Airlines flight MH17 was downed, and this included the need to deliver justice and accountability. To ensure due process, impartiality, and certainty for all parties to this dispute, it was necessary to follow the established *Rules for the Settlement of Differences* as well as other recent precedents. This was important to ensure a fair and legally defensible process and outcome. In addition, the international standing of ICAO depended on this. This meant that all the parties to the dispute should comply with the same processes that were expected in other such cases. On that basis, the Representative saw no valid reason for treating the Russian Federation as a special case in this instance. However, in order to show maximum flexibility, he was prepared to support the proposal outlined by Australia for a short extension of the twelve-week timeline, which should allow the Russian Federation the time it needed to fully review the case.

61. The Representative of Côte d'Ivoire expressed his support for any initiatives that would help to establish stability and ensure safety of air navigation. He acknowledged that it was also important for the Organization to give opportunities to all parties to present their point of view and to follow the procedures established by the Council through the *Rules for the Settlement of Differences*, which should be adhered to so that the Council could take the most appropriate decision in such matters.

62. Expressing regret that the parties had felt that it was no longer possible to continue discussions at the bilateral level, the Representative of Spain remarked that as a result, this matter had now been brought to the Council for consideration and in that connection, it might be necessary at some point to consider Article 84 of the Chicago Convention. At the same time, he lamented the unnecessary loss of human lives, which in this case was caused by a missile. It was therefore important to know the technical causes and to uphold the principle of accountability, which was important for the families. For his part, the Representative would have preferred to maintain established precedents in such matters, but nonetheless, in the interests of flexibility, he could support the proposal outlined by the Representative of Australia as long as this did not create a new precedent that might prove unsustainable in the future.

63. Recalling that the Russian Federation had stressed the need for equality for the parties in such matters, the Representative of France observed that equity for the families of the victims who had already been waiting many years for justice should also be borne in mind. It was important that the same

rules and the established precedents should apply, or else the very procedures that the Council followed could be challenged. He shared the sentiments expressed by the United States in noting that much of the material in the Appendices was already publicly available so it was not as though the Russian Federation was unaware of this material. In the circumstances, he considered that the Russian Federation already had more than enough time to understand all the details. In closing, the Representative indicated his support for the proposal outlined by Australia to commence the twelve-week timeline for the submission of the Counter-memorial as from the date upon which the translated Application and Memorial was made available.

64. Indicating that he could not support the translation of the Appendices, the Representative of the Dominican Republic remarked that the prohibitive cost involved in doing so could not be justified. At the same time, the Representative supported the proposal outlined by Australia in response to the request for an extension by the Russian Federation.

65. The Representative of Peru stressed the necessity of ensuring that established practices and precedents were adhered to in such matters. Otherwise, it would create difficulties for ICAO longer term and undermine the ability of the Council to fulfil its responsibilities, a situation that would be wholly unacceptable. In relation to the request for the Organization to bear the cost of the translation of the Appendices into Russian, the Representative had found this to be an odd request. He stated that he was unaware of any other entity that would have to bear the costs of translation in such circumstances. Indeed, as he had understood it, the International Criminal Court operated in English and French only. Too much time had already elapsed in this case and the families of the victims were still waiting for justice. In closing, the Representative indicated that he was prepared to support the constructive proposal by Australia and the Netherlands to extend the timeline for the Russian Federation to submit its Counter-memorial.

66. The Representative of Malaysia highlighted the need for a judicial process that would be conducted transparently under international law against the parties responsible for the horrific downing of Malaysia Airlines flight MH17. Her delegation was committed to seeking justice for the families of the victims, including 43 Malaysian nationals who were on board the aircraft. In closing, the Representative expressed her support for the proposal outlined by Australia on this matter.

67. Supporting the approach outlined by the President of the Council during his opening remarks, the Representative of Greece stated that while she fully respected the principle of multilingualism and the fair treatment of all parties in such cases, it was equally important that established practices and precedents were adhered to. At the same time, she acknowledged that some flexibility could be exercised in relation to the timeline and in that regard, she would support the approach to be taken by the President.

68. The Representative of Singapore stated that in such cases of dispute resolution, it was important to abide by the established practices and precedents to ensure fair treatment for all the parties as well as to avoid additional delays. She welcomed the proposal from Australia, which offered some additional flexibility in terms of commencing the twelve-week timeline as from the date upon which the translated copies of the Application and Memorial were made available. The Representative indicated that she would also be prepared to consider an additional extension in the timeline, but an extension that was of a shorter duration than that which had been requested by the Russian Federation. In that regard, she opined that an additional extension of four to six weeks could be considered.

69. The Representative of Equatorial Guinea highlighted what he considered an important principle in law, which was that a delay in law was the equivalent of denying justice. Proportionality and flexibility should operate in tandem. Therefore, he supported the Council taking a decision that adhered to established practices and precedents.

70. Underscoring the importance of the Chicago Convention, the Representative of China stated that the resolution of disputes by all parties should be encouraged through dialogue and consultation.

71. The Representative of Paraguay expressed his solidarity with the families of the victims, who he noted still had not gained closure or justice in this matter. He indicated that he could not support the request for the translation of the Appendices due to the high cost involved. At the same time however, he was prepared to support the proposal by Australia and the Netherlands, which he considered offered a fair extension to the Russian Federation to file its Counter-memorial.

72. In response to the preceding interventions, the Representative of the Russian Federation rejected what he deemed to be accusations made against the Russian Federation that it had been responsible for the downing of Malaysia Airlines flight MH17. He stated that at this point of time, it was not possible to know who was responsible and that this question could only be determined as a result of judicial proceedings. The fact that the supporting documentation in the Annexes was unavailable in the Russian language adversely affected the ability and rights of the Russian Federation, which would mean that his country was in an unequal position and that the Council was not in accordance with the provisions of the *Rules for the Settlement of Differences*. In closing, the Representative again requested that the Council agree for the Annexes to the Memorial to be translated since this was considered to be an integral part of the Application and Memorial.

73. Speaking on behalf of the Netherlands as well as his own delegation, the Representative of Australia reiterated that both countries would prefer that the Council's consideration of this matter not be delayed. However, they were both prepared to be constructive and reasonable to assist the Council in progressing the dispute and in this connection, he had taken note in the preceding interventions that there was clear support for the proposal that had been presented. In closing, the Representative underscored the need for the Council to deliver justice for the families of the victims.

74. In concluding its consideration of this item, the Council:

- a) notwithstanding the procedural aspects associated with this item, took the opportunity to express its deepest condolences to the families of the victims of Malaysia Airlines Flight MH17, which was downed over eastern Ukraine on 17 July 2014, resulting in the tragic loss of 298 innocent lives;
- b) took note of the information presented in C-WP/15421;
- c) recalled that the standard practice of the Organization in such cases has been to translate immediately into all ICAO working languages the Application and Memorial, although not the Annexes to the Memorial, and accordingly affirmed that this practice should continue to apply in these circumstances, notwithstanding the request of the Russian Federation to receive a translation into the Russian language of the Annexes, as well as the Application and Memorial submitted by Australia and the Kingdom of the Netherlands; and
- d) in reaffirming the importance of multilingualism as a core principle of the Organization and in accordance with Article 28 of the *Rules for the Settlement of Differences*, agreed to grant the Respondent twelve weeks from 10 May 2022, for the filing of its Counter-memorial, it being understood that this was the date on which the Russian language versions of the Application and Memorial were submitted to the Russian Federation, and it being further understood therefore that the date for the submission of the Counter-memorial would be 2 August 2022.

**Draft Assembly working paper – The ICAO Ethics Framework and Establishment of Rules of Procedures regarding the Secretary General and the President of the Council**

75. The Council considered this item on the basis of C-WP/15399, which presented a draft Assembly working paper on the status of the implementation of the revised ICAO Framework on Ethics (Annex I to the ICAO *Service Code*) and the new Appendices G, H, and I to the *Rules of Procedure for the Council* (Doc 7559). The Council also had for consideration an oral report thereon from the Chairperson of the Committee on Governance (Representative of Spain).

76. There being no interventions on this item, the Council:

- a) took note of the information presented in C-WP/15399, as well as the associated oral report by the COG thereon; and
- b) approved the draft Assembly working paper attached to C-WP/15399 for subsequent submission to the 41st Session of the Assembly on the understanding that this working paper would be submitted to the Assembly as an information paper.

**Secretary General’s sessional progress report**

77. The Council commenced consideration of this item on the basis of a PowerPoint presentation delivered by the Secretary General. Due to time constraints, the Council was unable to complete consideration of the information presented and it was agreed to resume consideration at the next meeting of the current session (C-MIN 226/6).

**Any other business**

**ICAO High-level Meeting on a Long-term Global Aspirational Goal (HLM-LTAG)**

78. The Council recalled its previous decision on the convening of the ICAO HLM-LTAG (C-DEC 225/11, refers). In light of the deliberations of the Climate and Environment Committee (CEC) during its recent meeting on 30 May 2022 regarding the administrative arrangements for the HLM-LTAG, the Council agreed, on the joint proposal of the President and the Secretary General, to extend the duration of the ICAO HLM-LTAG to now take place from 19 to 22 July 2022. In doing so, it was understood that the first day would be dedicated to the opening of the event, including high-level ministerial statements. It was further noted that a communication would be issued to Member States in due course to advise of the Council’s present decision, and to provide an update on the logistical arrangements in this regard.

79. The meeting adjourned at 12:55 hours.





**COUNCIL — 226TH SESSION**

**SUMMARY MINUTES OF THE SIXTH MEETING**

**(HYBRID MEETING, FRIDAY, 3 JUNE 2022, AT 1000 HOURS)**

President of the Council: Mr. Salvatore Sciacchitano

Secretary: Mr. Juan Carlos Salazar, Secretary General

**PRESENT:**

Argentina	— Mr. G.E. Bompadre	Malaysia	— Mrs. F. Chin
Australia	— Mr. R. Adams	Mexico	— Mr. D. Méndez Mayora
Brazil	— Mr. N. Moretti	Netherlands	— Mr. R. Ossendorp
Canada	— Mr. C. Hurley	Nigeria	— Mr. M.S.B. Tukur
China	— Mr. Shengjun Yang	Paraguay	— Mr. C.D. Urquhart Cáceres
Colombia	— Mr. M. Ramírez Koppel	Peru	— Mr. A. Freyre Layzequilla
Costa Rica	— Mr. G. Hoppe Pacheco	Republic of Korea	— Mr. S. Kim
Côte d’Ivoire	— Mr. C.A. Djibril	Russian Federation	— Mr. S. Gudkov
Dominican Republic	— Mr. J. Peña Guzmán	Saudi Arabia	— Mr. B. Al-Sagri
Egypt	— Mr. S. Elhefny	Singapore	— Ms. E. Poh
Equatorial Guinea	— Mr. E. Esono Anguesomo	South Africa	— Mr. L. Mabaso
Finland	— Mr. S. Vuokila	Spain	— Mr. V.M. Aguado
France	— Mr. L. Pic	Sudan	— Mr. I.M. Elhag
Germany	— Mr. U. Schwierczinski	United Arab Emirates	— Mr. M. Salem (Alt.)
Greece	— Ms. M. Saranti	United Kingdom	— Mr. A. O’Henley
India	— Mrs. S. Juneja	United States	— Mr. C. Sullenberger
Italy	— Ms. S. Costantini	Zambia	— Mr. V. Banda
Japan	— Mr. I. Fukushima		

**ALSO PRESENT:**

Mr. P. Kelleher	— President, ANC
Mr. C. Fernández (Alt.)	— Argentina
Ms. C. Fitzgerald (Alt.)	— Australia
Ms. I. de Melo Maciel (Alt.)	— Brazil
Mr. M. Lima (Alt.)	— Brazil
Mr. A. Bertolino (Alt.)	— Brazil
Mr. D. L. Pereira (Alt.)	— Brazil
Mr. R. Arruda (Alt.)	— Brazil
Ms. A. Barbosa (Alt.)	— Brazil
Mr. D. Calçado (Alt.)	— Brazil
Mr. R. Alves (Alt.)	— Brazil
Mr. D. Santos (Alt.)	— Brazil
Mr. F. Fachinan (Alt.)	— Canada
Mr. J. Liang (Alt.)	— China
Ms. A. Jiménez (Alt.)	— Costa Rica
Ms. C. Moya (Alt.)	— Dominican Republic
Ms. V. Adalsteinsdottir (Alt.)	— Finland

**SECRETARIAT:**

Mr. M. Vreedenburgh	— SPO/OSG
Mr. S. Creamer	— D/ANB
Mr. J. Vargas	— D/TCB
Mr. M. Rahma	— D/ATB
Mr. A. Mishra	— D/ADB
Mr. M. Gill	— D/LEB
Ms. J. Hupe	— DD/ENV
Mr. T. Tanaka	— C/CC
Dr. N. Dickson	— C/ES
Ms. S. Brand	— C/RPM
Mr. A. Larcos	— C/ACS
Ms. V. Muraca	— ACS
Ms. D. Lane	— Précis-writer

*Mr. Urs Ziegler, Chairperson, Committee on Aviation Environmental Protection (CAEP)*

**ALSO PRESENT: (Cont'd)**

Mr. E. Risse (Alt.)	— France
Mr. N. Naoumi (Alt.)	— Germany
Ms. V. Betchava (Alt.)	— Greece
Mr. A. Kalognomis (Alt.)	— Greece
Ms. V. Lazari (Alt.)	— Greece
Mr. A. Joshi (TE)	— India
Mr. M. Silanos (Alt.)	— Italy
Mr. S. Oshima (Alt.)	— Japan
Mr. S. Sugiyama (Alt.)	— Japan
Mr. T. Oka (Alt.)	— Japan
Mr. H. Katsuma (Alt.)	— Japan
Mr. S. Togami (Alt.)	— Japan
Mr. M. Loustaunau (Alt.)	— Mexico
Mr. C. Schleifer (Alt.)	— Netherlands
Mr. J. van Manen (Alt.)	— Netherlands
Mr. S. Ahn (Alt.)	— Republic of Korea
Mr. M.S. Habib (Alt.)	— Saudi Arabia
Ms. D. AlKurdi (Alt.)	— Saudi Arabia
Ms. E. Ang (TE)	— Singapore
Ms. S. Toh (TE)	— Singapore
Mr. Y. K. Koh (TE)	— Singapore
Ms. T. Goodwin (Alt.)	— United Kingdom
Mr. A. Veprek (Alt.)	— United States
Mr. D. Williams (Alt.)	— United States
Mr. A. Mitchell (Alt.)	— United States
Mr. M. Waniwa (Alt.)	— Zambia

**Representatives to ICAO**

Cameroon  
 Chile  
 Congo  
 Cyprus  
 Ethiopia  
 Indonesia  
 Iran (Islamic Republic of)  
 Kenya  
 Niger  
 Oman  
 Qatar  
 Turkey  
 Uruguay

Airports Council International (ACI)  
 Civil Air Navigation Services Organization (CANSO)  
 European Union (EU)  
 International Air Transport Association (IATA)  
 International Business Aviation Council (IBAC)  
 International Coordinating Council of Aerospace Industries Associations (ICCAIA)

## Condolences

1. The Council expressed its sincere condolences to the Government of Colombia and to the family of the former Representative of Colombia, Mr. Alberto Muñoz Gomez, following his recent passing away. The Council also expressed its sincere condolences to the family of Mr. Mohamed Habib, the Alternate Representative of the Delegation of Saudi Arabia, following the recent passing away of his father.

## Secretary General's sessional progress report

2. The Council resumed consideration of this item on the basis of a PowerPoint presentation delivered by the Secretary General.

3. Remarking that the presentation of the sessional report was objective, concise and easy to understand, the Representative of Mexico stated that it provided a clear picture of how the Organization was being managed and had revealed a major improvement in accountability. The Representatives of Nigeria and Zambia echoed these comments, stating that, notwithstanding the challenges posed by limited resources, the Organization was being led in the right direction.

4. The Representative of Spain agreed with the preceding intervention, conveying particular appreciation for the inclusion in the sessional report of information related to the Secretary General's missions and official visits. He suggested that future sessional reports also include an update on the status of the ratification of protocols and multilateral treaties, as Member States' timelines for this process may vary. Recalling that the Joint Inspection Unit (JIU) was in the process of evaluating the accountability frameworks of the various United Nations agencies, the Representative trusted that the work underway within the Secretariat in this regard would result in a consolidation of the Organization's accountability framework by the end of 2022. The Representative of Colombia associated himself with this intervention.

5. The Representative of Canada commented that he was encouraged by the sessional report presented by the Secretary General, and expressed his thanks, particularly for the excellent work carried out by the Secretariat in close cooperation with the host State with respect to pandemic risk mitigation, the upcoming High-level Meeting on the Feasibility of a Long-term Aspirational Goal for International Aviation CO<sub>2</sub> Emissions Reductions (HLM-LTAG) (19-22 July 2022) and preparations for the 41st Session of the Assembly.

6. Voicing appreciation for the comprehensive overview of activities presented in the sessional report, the Representative of China congratulated the Secretariat on the work accomplished and the Secretary General for his leadership. The Representatives of the Dominican Republic, Egypt, Paraguay and the Russian Federation echoed this view.

7. Subscribing to the view that the sessional report indicated that leadership at senior levels of the Organization was having a positive impact, the Representative of the United Arab Emirates urged the Council to support the Secretariat's continued progress with an enabling budget.

8. The Representative of Brazil underscored that the transparency exercised by the Secretary General inspired confidence and enabled the Council to progress matters related to governance, and he commended the Secretary General and the Secretariat for the hard work accomplished during the reporting period of the sessional report. The Representatives of the Netherlands and Peru reiterated this comment.

9. Sharing appreciation for the transparency with which the Organization was being managed, the Representative of France posited that transparency served to create a climate of trust and confidence for the Council and the Secretariat, particularly important at a time when the Organization was facing

significant challenges. Specifying that one of these challenges was the decarbonization of aviation, the Representative thanked the Secretary General and the President for reaching out to civil aviation authorities on this important subject, emphasizing the need to continue such engagement and to promote aviation's contributions to society.

10. The Representative of Côte d'Ivoire asserted that the Secretariat had been successful in carrying out initiatives in furtherance of the strategic objectives and had earned the support of the Council. He encouraged the Secretariat to continue its efforts in support of economic development and environmental protection as these interrelated activities were increasingly becoming challenging aspects of the core business of the aviation industry.

11. The Representative of Singapore remarked that the sessional report provided further clarity with respect to the work required to implement the Business Plan for the 2023–2025 triennium and highlighted that the Implementation Support Policy and One-ICAO were critical initiatives.

12. Echoing appreciation for the presentation of the sessional report, the Representative of Costa Rica suggested that the Secretariat consider using a similar or other illustrative format to complement working papers to the Council, as such presentations would enhance context and clarity, thereby reducing the need for lengthy or complex working papers. He congratulated the Secretariat on the establishment of hybrid meetings, underscoring that this innovative achievement had maximized the scope of meetings and permitted the Organization to better address both challenges and opportunities.

13. The Representative of Greece welcomed the sessional report's focus on human resources, and commended the Secretariat on the intensive preparations for the upcoming HLM-LTAG and the 41st Session of the Assembly as hybrid events.

14. The Representative of Equatorial Guinea averred that the results and actions outlined in the sessional report spoke to the successful leadership of the Secretary General, and the collaboration of senior management and Regional Offices in the face of many difficulties, including the COVID-19 pandemic.

15. Recalling the difficulties posed by the COVID-19 pandemic, the Representative of Saudi Arabia congratulated the Secretariat on the progress outlined in the sessional report, and while deeming the establishment of the hybrid format for meetings a success, looked forward to the day when Council would convene once again in-person in the Council chamber.

16. The Representative of the United Kingdom conveyed that the sessional report had indicated continued progress in the delivery of the mandate of the Secretary General and the efforts of the Secretariat to deliver results during a period of heavy workload, including the lead-up to the 41st Session of the Assembly. He welcomed the improved transparency demonstrated during discussions on the triennial budget and favoured the new presentation style used to communicate complex issues.

17. Reiterating the support for the sessional report, the Representative of India recalled that during her engagement with the Small Group on Gender and the Small Group on Innovation, she had found the Secretariat to be approachable and receptive, and expressed appreciation for this and for the transparency brought to the work of the Organization.

18. The Representatives of Australia, Italy, Malaysia and Sudan relayed their appreciation for the comprehensive sessional report, and for the leadership of the Secretary General and efforts of the Secretariat towards creating a more inclusive, modern and transparent Organization directed at achieving the strategic objectives in support of global aviation.

19. The Representative of South Africa commented that the support voiced for the Secretary General was validation of his appointment by the Council.

20. The Secretary General thanked the Representatives and the President of the Council for their overwhelming support, for the confidence expressed in the work of the Secretariat and for the guidance on how to improve the Organization, and relayed his gratitude for the assistance of the Chairpersons of the Council Committees. He accepted the Representatives' praise on behalf of his Secretariat colleagues, averring that any progress or success achieved was due to the commitment of staff and senior management to remain true to their mission of supporting Member States and the aviation industry, even in difficult times, and to work hand-in-hand with the Council to expedite the recovery process. He pledged that, aided by the trust of the Council and the appropriate resources, the Secretariat would continue to work towards greater fairness, inclusivity, transparency and modernization, and expressed the hope that everyone connected to the Organization would exert leadership in this endeavour.

21. With respect to the suggestion put forward by the Representative of Spain that there be regular updates on the status of ratification by Member States of protocols and multilateral treaties, the Secretary General indicated that this would be followed up by the Secretariat. He revealed that a treaty signature event was planned to take place during the 41st Session of the Assembly to encourage and motivate Member States in this regard, and to increase the number of Member States that would be signatories and ratify the approved protocols.

22. The President of the Council elaborated that it was important that the ratification process of the identified protocols be completed in time for the 42nd Session of the Assembly and the election of the Council in 2025. In this regard, he considered that, in addition to the activities outlined by the Secretary General in his preceding remarks, a more targeted intervention may also be needed to underscore the necessity of timely ratification by Member States of treaties and protocols. With respect to references in Representatives' interventions to the confidence and mutual trust which was developing between the Council and the Secretariat, the President believed that the Accountability Framework would enhance this relationship with its formal adoption planned for a subsequent session.

23. In concluding its consideration of this item, the Council:

- a) expressed appreciation for the comprehensive information presented on a wide range of initiatives that had been carried out by the Secretary General and the Secretariat in the reporting period, and acknowledged their extensive efforts and the encouraging results achieved, during what had been acknowledged to be an unprecedentedly challenging period, and in this connection, also applauded the Secretary General for his positive leadership and for the progress made in delivering on his mandate; and
- b) welcomed especially the priority focus of the Secretary General on the modernisation of the Secretariat and strengthening the core values of transparency and accountability, which had helped to inspire confidence in the future of ICAO among Member States, stakeholders and the Organization's partners.

#### **Transfer of the Revenue and Product Management (RPM) Section to the Technical Cooperation Bureau (TCB)**

24. The Council considered this item on the basis of a PowerPoint presentation delivered by the Secretary General.

25. In providing background for the presentation, the Secretary General recalled that the transfer of RPM to TCB had been anticipated in the Operating Plan for the Technical Cooperation Bureau for the period 2022-2024 in the context of first moving the Global Aviation Training Section (GAT) to TCB and transferring the Procurement Section from TCB to the Administration and Services Bureau (ADB) (C-DEC 224/3). He also recalled that the Council (C-DEC 225/6) had approved the *Policy on ICAO Implementation Support Provided to States*. He indicated that the Secretariat's commitment to this policy as one of the pillars of the Organization would be better supported by finding synergies within the existing resources of the Organization, specifically by streamlining the cooperation and collaboration between RPM and TCB in their common activities. With a view to facilitating efforts in this direction, the Secretary General intended to complete the transfer of RPM to TCB on 15 June 2022. In this regard, he emphasized the following five points: first, that there would be no impact on staff positions, specifically, that the approved Human Resource Plan for RPM would not change for 2022; second, that the Ancillary Revenue Generation Fund (ARGF) operating plan and budget would remain the same for 2022 and that the Secretariat would continue with ongoing activities, especially finding further opportunities for revenue generation; third, that the *Policy on Revenue-Generating Activities* would not be affected apart from an editorial amendment that would change the reporting line from ADB to TCB; fourth, that the ARGF and the Administrative and Operational Services Cost (AOSC) Fund would remain separate from one another and continue to report individually, and that there would be a firewall to ensure that the streams of resources of these two funds would be managed independently; and fifth, that the digital platforms that were currently operated by RPM, such as the eLibrary, the online store and ICAO TV, would continue to be operated by RPM.

26. The Secretary General revealed that the transfer of RPM to TCB would result in synergies that were expected to bring benefits to Member States and especially to ICAO programmes. As an example, the ARGF self-financing model would support implementation activities, particularly through training, publications, videos and conferences, while these same activities would support Standards development, audit and other key activities, including, potentially, unfunded projects and activities. He explained that the ARGF also offered important opportunities to expand resource mobilization efforts, such as leveraging the existing ARGF capacities, applying RPM revenue targets to resource mobilization objectives and using marketing platforms and ICAO TV to promote resource mobilization. Pointing out that RPM was not funded through the Regular Programme budget, the Secretary General conveyed that, at the operational level, it was practical to align RPM within TCB, as both entities were self-financing. He furthermore stated that this would allow the integration of business processes, communication products and tools having a central cost centre, which in turn would support business development and common skills on different platforms. With respect to other synergies, he indicated that RPM's two full-time positions and part-time support to the Regional Offices could be used by TCB to further explore local opportunities and business development opportunities, while RPM would benefit from the TCB's extensive project network and the opportunity to diversify revenue by upselling ARGF products and services on TCB projects. He cited examples of cross-cutting synergies, such as the expansion of printing services for new training packages and the addition of new training courses on the online store, as well as new integrated events, and underscored that additional marketing and sales support for GAT, Field Operations, Personnel Services and the Technical Support Unit would be facilitated by the transfer of RPM to TCB. In concluding his presentation, the Secretary General informed that integration and realization of these synergies would take place with the transfer of RPM to TCB in June 2022, which would be followed by the logistical elements of the integration to be completed by the end of 2022 in anticipation of meeting the implementation activities and resource mobilization challenges of the 2023–2025 triennium.

27. The Representative of Mexico cautioned that it was important to maintain a clear distinction between RPM's involvement in revenue generation and commercial operations on the one hand, and on the other hand, TCB's mission to assist Member States with capacity-building and infrastructure work on a cost-recovery basis. In this regard, he underscored the need for complete transparency and

accountability, not just for TCB, but also for RPM and GAT, and for the integration to be supported by solid management. While he acknowledged the benefits of synergies and shared resources, he advocated for a clear identification of the cost centres of each of the programmes and activities and for assurances that the IT and accounting infrastructure would be capable of identifying which cost is attributed to each activity. The Representative also believed that well-defined and quantifiable efficiency and effectiveness targets, and a clear vision of TCB's priorities, were fundamental for the success of both RPM and TCB.

28. While characterizing the transfer of RPM to TCB as a useful and necessary change to address the priorities of the Organization, the Representative of Spain underscored that the overarching goal was to facilitate implementation of ICAO's Standards and Recommended Practices (SARPs) as well as the necessary infrastructure for the development of safe, effective and efficient international civil aviation. He asserted that transparent management was essential to safeguard this objective, and reiterated the caution voiced by the Representative of Mexico.

29. The Representative of Brazil commented that the initiatives undertaken to rationalize activities and generate synergies would strengthen TCB and technical assistance activities, concurring that this was the ultimate objective of the transfer of RPM to TCB. While he agreed with the caution expressed in previous interventions, as well as the need for transparency in every regard, he was encouraged that the Secretariat was systematically strengthening implementation support to Member States which he deemed a critical pillar of the Organization.

30. Voicing support for the transfer of RPM to TCB, the Representative of Colombia acknowledged the work carried out by the Secretariat, confirmed by audit reports presented to the COG, to respond to the need to better align activities to enhance efficiency. He expressed optimism that further alignment of activities, such as marketing and events, would ease the budgetary deficit that had persisted in TCB despite best efforts.

31. Concurring with the views expressed in the preceding interventions, the Representative of the Dominican Republic commended the Secretariat on the work accomplished and underway to realize the transfer of RPM to TCB and for the synergies which would follow, averring that this initiative would greatly benefit Member States.

32. The Representative of Costa Rica shared the view that the ultimate objective of the pursuit of synergies and efficiencies within the Organization was improved implementation of SARPs and support to Member States in their respective goals of enhancing the effectiveness and efficiency of aviation systems and administrations. Tendering his support for the transfer of RPM to TCB, the Representative considered that it may be useful to review, in a year's time, any data available related to synergies and efficiencies achieved, while bearing in mind that the transfer of RPM to TCB would result in a heavy workload for the Secretariat.

33. The Representative of Saudi Arabia supported the initiative as well as the suggestions that the outcome of the transfer of RPM be reviewed in one year and for a cautionary stance with respect to the risks involved and raised in previous interventions. As an additional caution, the Representative counselled that revenue generation should not supplant Member State contributions and that a balance between the two should be maintained. The Representative of Malaysia associated herself with this intervention.

34. Fully supporting the strategy to transfer RPM to TCB, the Representative of Zambia shared the views expressed which had articulated that the fundamental goals of the Organization and the priorities of TCB should be taken into account.

35. Referring to past uncertainty regarding the long-term viability of TCB, the Representative of the United Kingdom concurred that there was clear logic for the transfer of RPM to TCB, and that, going forward, it was important to address and manage the risks related to implementation which were mentioned during preceding interventions.

36. The Representative of Equatorial Guinea considered the realignment resulting from the transfer of RPM to TCB was necessary, appropriate and justified as it would benefit the Organization and clarify, in a holistic way, the lines of responsibility.

37. Welcoming the modernization of TCB's business model which would accompany the alignment of the Organization's activities, the Representative of Singapore underlined the importance of ensuring that ICAO's products and services were consistently accessible not only to Member States, but also to the wider aviation community. While she believed this would be better achieved by situating RPM within TCB, she shared the perspective that revenue generation should be subordinate to the needs of Member States and was encouraged that the *Policy on Revenue-Generating Activities* would remain unchanged.

38. Recalling that the presentation by the Secretary General had highlighted that there would be no impact on human resources related to the transfer of RPM, the Representative of China trusted that the valuable work done to progress the transition would continue smoothly, particularly with respect to the changes which would inevitably affect the personnel involved. He associated himself with the interventions of the Representatives of Mexico and Spain with respect to the need for transparency and a clear distinction between revenue generation and support to Member States.

39. The Representative of Australia considered the transfer of RPM to TCB a good example of the strategy to modernize, streamline and improve the efficiency and effectiveness of the Organization and was confident that the transfer of the RPM function could be managed in a manner that would heed the points outlined in previous interventions. The Representative of Canada echoed this comment.

40. The Secretary General assured the Representatives that he had noted their concerns and that a cautious, transparent and controlled approach was being taken to integrate the various streams of RPM activities into TCB, concurrently with the assessment of the synergies and capacity available within the Organization from an administrative perspective. He underscored his intention to see that the Secretariat avoided falling into a silo mentality, and viewed the transfer of RPM to TCB as an opportunity to harmonize the work of the Organization so as to function as one ICAO, recalling that this overarching objective had been raised during other Council discussions. He reiterated that the mission of TCB was to continue to assist Member States and that implementation support was one of the pillars of the Organization and the core focus of the Secretariat. Thanking the Representatives for their confidence in the important steps being taken, and having noted their request for a review of the transfer of RPM to TCB, he conveyed his intention to report to the Council on the outcomes of this initiative in one year's time.

41. In concluding its consideration of this item, the Council:

- a) encouraged the Secretary General to continue with the implementation of the planned transfer of the Revenue and Product Management (RPM) Section to the Technical Cooperation Bureau (TCB) in accordance with the timelines outlined in the Secretariat presentation;
- b) took note of the foreshadowed synergies to be achieved as a result of the transfer, and in this connection, urged the exercise of caution in progressing the transfer in order to ensure that the core nature of TCB, as a non-commercial entity oriented towards



capacity-building efforts in Member States, would not be compromised in any way; and

- c) requested the Secretary General to report on progress on this item during the 229th Session, including an evaluation of the new arrangement and the lessons learned.

### **Review of the Report of the Twelfth Meeting of the Committee on Aviation Environmental Protection (CAEP/12)**

42. The Council considered this item on the basis of C-WP/15386 which presented the results of the twelfth meeting of the Committee on Aviation Environmental Protection (CAEP/12) that took place virtually from 7 to 17 February 2022. The Council also had for consideration oral reports thereon from the Air Navigation Commission (ANC) and the Climate and Environment Committee (CEC), respectively.

43. Presenting the oral report of the ANC, the President of the Air Navigation Commission (P/ANC) indicated that the ANC had completed a preliminary review of the CAEP/12 recommendations related to Annex 16 — *Environmental Protection* as listed under paragraph 2 of the Appendix to C-WP/15386, and agreed that they should be referred to Member States and international organizations. He stated that the proposed amendments not only updated the technical provisions for engine emissions, but also significantly improved the structure of the Annex. He conveyed the Commission's satisfaction with the CAEP's efforts to coordinate technical matters with the ANC, and with its expert panels and groups, as well as the CAEP's progressive alignment of its initiatives with those of the Global Air Navigation Plan (GANP). Having noted the CAEP's intention to develop Standards and Recommended Practices (SARPs) related to landing and take-off noise, P/ANC gave assurances that the Commission would continue to monitor this as well as any other developments within its purview.

44. The Chairperson of the CEC (Representative of Colombia) indicated that, during its review of C-WP/15386, the Committee had expressed appreciation for the significant amount of technical work that had been undertaken by the CAEP during the triennium, and had proposed that the 31 recommendations outlined in the CAEP/12 report be approved. Highlighting the main points of discussion during the CEC review, the Chairperson recalled that the CEC had underscored the importance of assessing the impact on Member States of the long-term aspirational goal (LTAG) for international aviation CO<sub>2</sub> emissions reductions, and in this regard had supported CAEP/12 Recommendation 3/3 that the LTAG-related data collected by CAEP be freely available to all Member States for their own analysis of the LTAG impact. The Chairperson also drew attention to the CEC's suggestion that a methodology study on the future CORSIA periodic review be included as a potential new item on the work programme of CAEP/13. With regard to CAEP/12 Recommendation 9/2 related to the amendments to the document titled *CORSIA sustainability criteria for CORSIA eligible fuels*, associated with CORSIA lower carbon aviation fuels (LCAF) produced after the CORSIA pilot phase, the Chairperson conveyed that it had been clarified that Member States would be consulted prior to the Council's further consideration and approval.

45. Following-up on the reference to the review by Council of the consultation with Member States on the amendments to the *CORSIA sustainability criteria for CORSIA eligible fuels* document, the Representative of Mexico proposed that this review occur no later than the 228th Session of the Council. He invited the Representatives to become familiar with the assessment e-tools provided by the CAEP, believing that this would inform the Council's discussions and facilitate the clarification of issues.

46. A clarification was requested by the Representative of Spain regarding the means for addressing the suggestion put forward in the CEC that a methodology study on the future CORSIA periodic review be considered by the Council as a potential new item for the CAEP/13 work programme. The Representative of France echoed this request. The President of the Council clarified that this matter would

be considered further in the context of the upcoming Council discussions on the CORSIA periodic review.

47. The Representative of the United States expressed appreciation for the oral reports by the ANC and the CEC, and having noted the positive reviews therein of the CAEP/12 report, supported the actions proposed in the oral reports on C-WP/15386.

48. While he was grateful for the hard work carried out by numerous experts under the leadership of the Chairperson of the CAEP in respect of the LTAG feasibility study, the Representative of China disagreed with the statement in C-WP/15386 (paragraph 3.1 refers) that “the CAEP/12 meeting unanimously approved the technical report on the feasibility of a series of LTAG scenarios”. He believed that the CAEP’s implementation of Assembly Resolution 40-18 — *Consolidated statement of continuing ICAO policies and practices related to environmental protection — Climate change* with regard to the LTAG feasibility study, and the mandate given by the Council, were still inadequate. He asserted that the impact and cost analysis in the CAEP/12 report did not touch on the State-level analysis, especially the possible impacts of goals at different aspiration levels in developing States. Having taken note of the Secretariat’s response to this concern, the Representative stressed that without a full grasp of important information, such as the availability and cost acceptability in Member States, especially in developing States, to implement and promote decarbonization and emission reduction technologies, the *Report on the feasibility of a long term global aspirational goal for international civil aviation CO<sub>2</sub> emissions reductions* (LTAG Report) was only a feasibility analysis of a global aspirational status. He further emphasized that within the LTAG Report, there were certain gaps in scientificity, rationality and completeness for Member States, particularly for developing States, without sufficient information to support impact assessments; and this being the case, it would be very difficult for Member States to arrive at decisions on civil aviation emission reductions in line with their respective circumstances.

49. The Representative of France offered the perspective that while the CAEP analysis of the feasibility of LTAG had been limited by a lack of national data, enabling Member States to pursue this analysis further, by providing them with the CAEP tools and methodology developed for this purpose, was a reasonable way forward, and was a matter which should remain distinct from discussions surrounding the feasibility of an LTAG in principle. Turning to a statement in paragraph 3.6 of C-WP/15386 related to the individual obligations of Member States in the context of LTAG, the Representative underscored that the reference therein to paragraphs 5 and 6 of Assembly Resolution A40-18 was completely erroneous, explaining that these paragraphs of the resolution were linked to other aspirational goals, such as energy efficiency and carbon neutral aviation growth. In this regard, he recalled that improved wording for this statement had been discussed at the CEC, and he requested the Secretariat to correct the wording in future statements related to the nature of LTAG.

50. The Deputy Director, Environment (DD/ENV) recounted that the improved wording referred to by the Representative of France was formulated during the CEC review of C-WP/15388, under discussions related to the preparatory work for the HLM-LTAG, and which had taken place after C-WP15386 had been published. While she acknowledged that it would have been helpful for this to have been reflected in the oral report, she confirmed that the corrected text would be included in the context of LTAG going forward.

51. The Represented of Spain acknowledged the concerns expressed by the Representative of China, and while accepting that there was more work to be done and further issues to clarify, contended that it was essential for international civil aviation to decarbonize. He welcomed the assistance of the CAEP in this endeavour, stating that having access to the most eminent experts in the field of aviation environmental protection was a great asset to the Organization and an example of ICAO’s ability to draw together global expertise to work towards a common goal.

52. Commending the impartial technical nature of the CAEP's contribution to the Organization's work on environmental protection, the Representatives of Greece and the United Kingdom echoed the views expressed by the Representative of Spain, and supported the intervention by the Representative of France.

53. The Representative of Brazil praised the extensive and competent work that had led to the CAEP/12 report, notwithstanding that the lack of data for the regional impact analysis precluded the CAEP from conducting an analysis on the cost and impacts for all Member States.

54. The Chairperson of the CAEP thanked the Representatives for the recognition of the work of the CAEP. Referring to the intervention by the Representative of China commenting that the CAEP/12 meeting had not unanimously approved the LTAG Report, the Chairperson clarified that the CAEP had, by consensus, approved the Yellow Cover Report of CAEP/12.

55. In concluding its consideration of this item, the Council:

- a) expressed its appreciation to the CAEP for the significant technical work undertaken over the last triennium, and recognized the invaluable contributions of CAEP in supporting the work of the Council, in a consistent and effective manner;
- b) approved the proposed actions by the Council, ANC and the CEC to implement the recommendations of the CAEP/12 Meeting, as indicated in the Appendix to C-WP/15386;
- c) noted that the ANC had conducted a preliminary review of Recommendations 5/1, 11/1, 11/3 and 12/1 relating to proposals for the amendment of Annex 16— *Environmental Protection*, Volume IV – *Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA)*, Volume II – *Aircraft Engine Emissions*, Volume III – *Aeroplane CO<sub>2</sub> Emissions* and Volume I – *Aircraft Noise*, respectively, and had agreed that they should be referred to ICAO Member States and international organizations for comment;
- d) approved the amendments as recommended by CAEP to the following ICAO documents related to CORSIA eligible fuels, for publication:
  - i. ICAO document *Default life cycle emission values for CORSIA eligible fuels* (CAEP/12 Report, Recommendation 8/1 refers);
  - ii. ICAO document *CORSIA eligibility framework and requirements for sustainability certification schemes (SCS)* (CAEP/12 Report, Recommendation 8/3 refers); and
  - iii. ICAO document *CORSIA methodologies for calculating actual life cycle emissions values* (CAEP/12 Report, Recommendation 9/1 refers);
- e) agreed that Member States should be consulted by means of a State letter on the CAEP recommendation regarding the amendments to the ICAO document *CORSIA sustainability criteria for CORSIA eligible fuels* (CAEP/12 Report, Recommendation 9/2 refers), for the Council's further consideration and approval of said recommendations by no later than the 228th Session;
- f) noted that it would be necessary for the language contained in paragraph 3.6 of C-WP/15386, relating to Assembly Resolution A40-18 and the ICAO global

aspirational goals, to be adjusted in the context of the preparation and finalization of documentation in advance of the ICAO High-level Meeting on a Long-term Aspirational Goal (HLM-LTAG);

- g) approved the CAEP recommendation that CAEP's data (in the form of a spreadsheet) should be made freely available to all ICAO Member States, along with the explanatory cover paper, in order to enable States that may wish to conduct their own specific analysis of the LTAG impact to do so accordingly (CAEP/12 Report, Recommendation 3/3 refers);
- h) approved the CAEP/13 work programme as contained in the CAEP/12 Report on Agenda Item 16, Appendix B (CAEP/12 Report, Recommendation 16/1 refers), with the understanding that the ANC would continue to monitor the impact of these activities from a safety and operational perspective; and
- i) agreed that the CAEP/12 Report be published as a saleable ICAO document.

#### **Any other business**

#### **Her Majesty Queen Elizabeth II**

56. The Council joined in expressing congratulations to Her Majesty, Queen Elizabeth II of the United Kingdom on the achievement of her platinum jubilee and for her life of service, fidelity, integrity, and humanity on behalf of the global community.

#### **Flight Safety Foundation Award**

57. The Council was informed that ICAO was to be awarded the Richard Teller Crane Award by the Flight Safety Foundation (FSF) in recognition of its leadership and efforts in coordinating the recovery of the aviation sector, including via the Council Aviation Recovery Taskforce (CART). It was noted that the Award was to be presented in-person to the President of the Council at the FSF Networking and Awards Dinner in Washington D.C. scheduled on 21 June 2022.

58. The meeting adjourned at 12:55 hours.

**COUNCIL — 226TH SESSION**

**SUMMARY MINUTES OF THE SEVENTH MEETING**

**(HYBRID MEETING, MONDAY, 6 JUNE 2022, AT 1430 HOURS)**

President of the Council: Mr. Salvatore Sciacchitano

Secretary: Mr. Juan Carlos Salazar, Secretary General

**PRESENT:**

- |                    |                          |                      |                             |
|--------------------|--------------------------|----------------------|-----------------------------|
| Argentina          | — Mr. G.E. Bompadre      | Malaysia             | — Mrs. F. Chin              |
| Australia          | — Mr. R. Adams           | Mexico               | — Mr. D. Méndez Mayora      |
| Brazil             | — Mr. N. Moretti         | Netherlands          | — Mr. R. Ossendorp          |
| Canada             | — Mr. C. Hurley          | Nigeria              | — Mr. M.S.B. Tukur          |
| China              | — Mr. Shengjun Yang      | Paraguay             | — Mr. C.D. Urquhart Cáceres |
| Colombia           | — Mr. M. Ramírez Koppel  | Peru                 | — Mr. A. Freyre Layzequilla |
| Costa Rica         | — Mr. G. Hoppe Pacheco   | Republic of Korea    | — Mr. S. Kim                |
| Côte d’Ivoire      | — Mr. C.A. Djibril       | Russian Federation   | — Mr. S. Gudkov             |
| Dominican Republic | — Mr. J. Peña Guzmán     | Saudi Arabia         | — Mr. B. Al-Sagri           |
| Egypt              | — Mr. S. Elhefny         | Singapore            | — Ms. E. Poh                |
| Equatorial Guinea  | — Mr. E. Esono Anguesomo | South Africa         | — Mr. L. Mabaso             |
| Finland            | — Mr. S. Vuokila         | Spain                | — Mr. V.M. Aguado           |
| France             | — Mr. L. Pic             | Sudan                | — Mr. I.M. Elhag            |
| Germany            | — Mr. U. Schwierczinski  | United Arab Emirates | — Mr. M. Salem (Alt.)       |
| Greece             | — Ms. M. Saranti         | United Kingdom       | — Mr. A. O’Henley           |
| India              | — Mrs. S. Juneja         | United States        | — Mr. C. Sullenberger       |
| Italy              | — Ms. S. Costantini      | Zambia               | — Mr. V. Banda              |
| Japan              | — Mr. I. Fukushima       |                      |                             |

**ALSO PRESENT:**

- |                              |                      |
|------------------------------|----------------------|
| Mr. P. Kelleher              | — President, ANC     |
| Mr. C. Fernández (Alt.)      | — Argentina          |
| Mr. S. Lucas (Alt.)          | — Australia          |
| Ms. C. Fitzgerald (Alt.)     | — Australia          |
| Ms. I. de Melo Maciel (Alt.) | — Brazil             |
| Mr. M. Lima (Alt.)           | — Brazil             |
| Mr. D. L. Pereira (Alt.)     | — Brazil             |
| Mr. R. Arruda (Alt.)         | — Brazil             |
| Ms. A. Barbosa (Alt.)        | — Brazil             |
| Mr. M. Porto (Alt.)          | — Brazil             |
| Ms. M. B. Anselmi (Alt.)     | — Brazil             |
| Mr. D. Calçado (Alt.)        | — Brazil             |
| Mr. R. Alves (Alt.)          | — Brazil             |
| Mr. D. Santos (Alt.)         | — Brazil             |
| Mr. J. Liang (Alt.)          | — China              |
| Ms. A. Jiménez (Alt.)        | — Costa Rica         |
| Mr. C. Kanga (Alt.)          | — Côte d’Ivoire      |
| Ms. C. Moya (Alt.)           | — Dominican Republic |

**SECRETARIAT:**

- |                     |                 |
|---------------------|-----------------|
| Mr. M. Vreedenburgh | — SPO/OSG       |
| Mr. S. Creamer      | — D/ANB         |
| Mr. M. Rahma        | — D/ATB         |
| Mr. A. Mishra       | — D/ADB         |
| Mr. M. Gill         | — D/LEB         |
| Ms. J. Hupe         | — DD/ENV        |
| Mr. S. Lefoyer      | — DD/ASF        |
| Mr. D. Guindon      | — DD/MO         |
| Mr. M. Marin        | — A/DD/SAF      |
| Mr. A. Larcos       | — C/ACS         |
| Ms. V. Muraca       | — ACS           |
| Ms. Y. Que          | — Précis-writer |

**ALSO PRESENT: (Cont'd)**

Ms. V. Adalsteinsdottir (Alt.)	— Finland
Mr. E. Risse (Alt.)	— France
Mr. N. Naoumi (Alt.)	— Germany
Ms. V. Betchava (Alt.)	— Greece
Mr. A. Kalognomis (Alt.)	— Greece
Ms. V. Lazari (Alt.)	— Greece
Mr. A. Joshi (TE)	— India
Mr. S. Oshima (Alt.)	— Japan
Mr. S. Sugiyama (Alt.)	— Japan
Mr. M. Loustaunau (Alt.)	— Mexico
Mr. C. Schleifer (Alt.)	— Netherlands
Mr. J. van Manen (Alt.)	— Netherlands
Mr. W.R. Linares (Alt.)	— Peru
Mr. J.W. Kim (Alt.)	— Republic of Korea
Mr. S. Ahn (Alt.)	— Republic of Korea
Ms. O. Mozolina (Alt.)	— Russian Federation
Mr. M. Habib (Alt.)	— Saudi Arabia
Ms. D. AlKurdi (Alt.)	— Saudi Arabia
Mr. F.A.A. Alsuhabani (Alt.)	— Saudi Arabia
Ms. S. Toh (TE)	— Singapore
Mr. Y. K. Koh (TE)	— Singapore
Ms. T. Goodwin (Alt.)	— United Kingdom
Mr. A. Veprek (Alt.)	— United States
Mr. M. Brown (Alt.)	— United States
Mr. D. Williams (Alt.)	— United States
Mr. M. Waniwa (Alt.)	— Zambia

**Representatives to ICAO**

Cameroon  
 Chile  
 Congo  
 Cyprus  
 Ethiopia  
 Indonesia  
 Iran (Islamic Republic of)  
 Oman  
 Poland  
 Qatar  
 Senegal  
 Turkey  
 Uganda

Airports Council International (ACI)  
 Civil Air Navigation Services Organization (CANSO)  
 European Union (EU)  
 International Air Transport Association (IATA)  
 International Business Aviation Council (IBAC)  
 International Coordinating Council of Aerospace Industries Associations (ICCAIA)  
 International Federation of Air Line Pilots' Associations (IFALPA)

## **World Environment Day**

1. The President of the Council delivered the following statement on the occasion of the World Environment Day, which was celebrated worldwide on 5 June 2022:
2. “2022 is an important milestone for this celebration. It falls 50 years after the 1972 United Nations Conference on the Human Environment held in Stockholm, the first international meeting that made environmental protection a pressing global issue. This historical event led to the birth of environmental law and the diplomacy when, even amid Cold War tensions, it became evident that global environmental issues could be addressed only through multilateral dialogue and cooperation.
3. At the Stockholm Conference, the idea of World Environment Day was also formalized with the first one being celebrated on 5 June 1973 following a Resolution adopted by the UN General Assembly. Last week, at the Stockholm+50 international meeting, ICAO organized a side event officially associated with the Stockholm+50 to showcase ICAO’s achievements and the further efforts for decarbonising aviation.
4. On this occasion, the ICAO Assistance, Capacity-building and Training for Sustainable Aviation Fuels (ACT-SAF) Programme was officially launched. I was extremely pleased to see the level of participation and enthusiasm for this event. The celebration of the World Environment Day calls upon all of us to make ACT-SAF a true success through the establishment of a partnership and cooperation agreements among States and the relevant stakeholders for the increasing use of sustainable aviation fuels and the clean energy sources. It is my hope that the achievements can be announced as early and in conjunction with the upcoming High-level meeting (HLM) on the Feasibility of a Long-term Aspirational Goal (LTAG) or during the 41st Session of the Assembly.
5. We must act now on the sustainable aviation for people and for our beautiful planet. With this vision and the priority in mind, let us then celebrate World Environment Day today, hopefully making a good progress in our works towards the 41st Session of the ICAO Assembly and, indeed, I hope that this celebration will be today a positive welcoming of our works today.”
6. The Council took note of the statement delivered by the President.

## **Draft Assembly Working Paper — Civil Aviation and the Environment**

7. The Council considered this item on the basis of C-WP/15389, which presented a draft Assembly working paper on the progress made by ICAO since the 40th Session of the Assembly in the field of civil aviation and the environment, including present and future aviation trends in the areas of aircraft noise and emissions, progress on the development of Standards and Recommended Practices (SARPs) and guidance on environment, and relevant developments in other United Nations bodies and international organizations. The Council also had for consideration an oral report thereon from the Climate and Environment Committee (CEC).
8. In his oral report, the Chairperson of the CEC (Representative of Colombia) drew attention to the amendments, as recommended in the oral report of the CEC, on paragraphs 3 a) and 3 b). The amendments were summarized by the President of the Council as follows: One was to consistently replace the term “clean energy” with “cleaner energy” throughout all Assembly working papers to provide a wider coverage of measures, and two was to revise Action item b) of the draft Assembly working paper attached to C-WP/15389 to read: “request ICAO to closely follow up innovative technologies and cleaner energy sources for aviation, and to prepare for the timely update and development of relevant ICAO environmental Standards and Recommended Practices (SARPs) and guidance, as appropriate.”

9. There being no further interventions, the Council:
- a) took note of the information presented in C-WP/15389, as well as the associated oral report by the CEC thereon; and
  - b) approved the draft Assembly working paper attached to C-WP/15389, subject to the amendments requested by the CEC being reflected, and delegated authority to the President to thereafter approve the revised working paper on its behalf for subsequent submission to the 41st Session of the Assembly.

**Draft Assembly working paper — Consolidated statement of continuing ICAO policies and practices related to environmental protection — General provisions, noise and local air quality**

10. The Council considered this item on the basis of C-WP/15390, which presented a draft Assembly working paper containing proposed revisions to Assembly Resolution A40-17: *Consolidated statement of continuing ICAO policies and practices related to environmental protection – General provisions, noise and local air quality* in light of developments since the last Assembly. The Council also had for consideration an oral report thereon from the Climate and Environment Committee (CEC).

11. In his oral report, the Chairperson of CEC (Representative of Colombia) underlined that the proposed revisions to Assembly Resolution A40-17 and its Appendices, as contained in the Appendix to the draft Assembly working paper, came mainly from the work carried out by ICAO in cooperation with other organizations and from the outcome of the activities of the Committee on Aviation Environmental Protection (CAEP). In particular, he pointed out the recommendation to revise the 12th preambular paragraph in Appendix B on page A-5 of the draft Assembly working paper as described in paragraph 3 of the oral report.

12. The President of the Council clarified that the suggested amendments by the CEC were related to consistency with the amendment introduced in C-WP/15389 and consequently, the 12th preambular paragraph in Appendix B would read as follows: “Acknowledging the need for the timely update and development of certification procedures for new advanced aircraft technologies, including the certification basis, as appropriate.”

13. Concurring with the proposed amendment of the CEC, the Representative of France commented that the amendment would align the wording with the text of C-WP/15389 as well as avoid having to rule on one technology over another for ongoing developments. He then pointed out that the wording of the following 13th or last preambular paragraph did not allow for inclusive technology and accordingly, he presented two suggestions: Either delete the words “including hybrid and electric aircraft” to align this paragraph with the preceding 12th preambular paragraph or reword the text so as to read “including hybrid, electric and hydrogen aircraft”.

14. The Chairperson of the CEC agreed with the rationale presented by the Representative of France and asked the Council to approve a revision of his oral report by omitting the words “including hybrid and electric aircraft” from the last preambular paragraph in Appendix B.

15. In his comments, the Director of the Air Transport Bureau (D/ATB) pointed out the need to list the new technologies in the working papers due to the possible need to add more in the future. He suggested adding “hydrogen” to the text, as put forth by the Representative of France. The Council agreed to this amendment.



16. There being no further interventions, the Council:
- a) took note of the information presented in C-WP/15390, as well as the associated oral report by the CEC thereon; and
  - b) approved the draft Assembly working paper attached to C-WP/15390, subject to the amendments requested by the CEC, as well as the changes agreed on by the Council in the course of its consideration of this item, including in relation to the text of the preambular clauses of the draft Assembly Resolution being reflected, and delegated authority to the President to thereafter approve the revised working paper on its behalf for subsequent submission to the 41st Session of the Assembly.

### **Draft Assembly working paper — Climate Change**

17. The Council considered this item on the basis of C-WP/15391, which presented a draft Assembly working paper on the progress made by ICAO since the 40th Session of the Assembly relating to international aviation and climate change, including on the feasibility of a long-term global aspirational goal (LTAG) for international aviation, and on the ICAO State Action Plans initiative for aviation CO<sub>2</sub> emissions reduction, and related assistance and capacity-building projects. The Council also had for consideration an oral report thereon from the Climate and Environment Committee (CEC).

18. In his oral report, the Chairperson of the CEC stated that, as noted by the CEC, substantial contents of the draft Assembly working paper might have to be adjusted to reflect the outcomes of the ICAO High-level meeting on LTAG. Turning to paragraph 3.1 of the draft Assembly working paper, on page 5, regarding the recent developments under the United Nations Framework Convention on Climate Change (UNFCCC) process, he pointed to the CEC's recommendation to include references not only to paragraph 16, but also to paragraph 15 of the Glasgow Climate Pact. He further stressed that after discussions and clarifications, the CEC agreed to recommend to the Council to amend the draft Assembly working paper attached to C-WP/15391, as recommended in the CEC oral report, and to further update the working paper to reflect the outcomes of the ICAO High-level meeting on LTAG for further consideration by the Council prior to the 41st Session of the Assembly.

19. The Representative of the United States expressed full support for two specific paragraphs in the CEC oral report, namely, paragraph 3, which provided the explanation associated with the ACT-SAF programme and paragraph 4 which highlighted the Glasgow Climate Pact and ensured that ICAO had a full picture of the outcomes of the Pact. In his view, the ACT-SAF programme and other additional or complementary capacity-building programmes were key in ensuring that ICAO reached its environmental goals. He then reiterated support for these efforts and looked forward to working with all pillar States to help address the aviation and climate impacts.

20. While welcoming the work done, the Representative of Peru cautioned against losing sight of two principles when addressing LTAG, one of which was the fundamental principle of "No Country Left Behind". He also voiced concern about the discriminatory nature of paragraph 1.3.2 on page 3 of the draft Assembly working paper, where choices appeared to be restricted to either one or the other. He stressed that Glasgow, Rio, the environment and others were about shared and common, but differentiated responsibilities. He therefore proposed that with respect to paragraph 1.3.2 on the three integrated scenarios for LTAG, it should be added that these scenarios should offer a flexible architecture, because not all countries would be in the same conditions whether it be 2019 or 2022 and onward to 2050. Finally, while reiterating support for the paper, he asked for the aforementioned revision to be taken into account.

21. The Representative of France agreed that the concern raised by the Representative of Peru was a legitimate one and noted that it would be part of the discussions and the future negotiation on the LTAG. He also brought up the need to correct the date of the ICAO High-level meeting on LTAG, as written in the second paragraph, last line of the Executive Summary of C-WP/15391, from “20 to 22 July 2022” to “19 to 22 July 2022”. His comments were concurred by the President.

22. In his comments, the Representative of China reiterated China’s position that international civil aviation emissions reduction should be moved forward under the guidance of the relevant principles of the UNFCCC and its Paris agreement, in particular, the principles of equity, Common But Differentiated Responsibilities (CBDR), respective capabilities with nationally determined contribution, and each country’s best capability, in order to achieve a win-win outcome.

23. Addressing C-WP/15391, the Representative of China proposed to add a paragraph specifically describing the work done by ICAO for the establishment of an assistance mechanism for international civil aviation emissions reduction and detailed work plan for the next triennium. He stressed that this work should be the focus and the priority item for the climate change topic in the upcoming Assembly session, adding that since 2010, all the Assembly sessions or the Resolutions of the Assembly sessions had been requesting the Council to establish an assistance mechanism, so as to provide financial, technical, capacity building assistance to States and developing countries, in particular, for the green and low carbon development of international civil aviation. He went on to state that up to now, assistance work in the financial and technological transfer aspects had not seen substantive progress and cautioned that if such assistance was not deployed in real terms, it would significantly affect the confidence of States, particularly that of the developing countries, in their participation in ICAO activities and thereby remove a key foundation for the establishment of the ICAO emissions reduction mechanism.

24. While complimenting the several stock-taking events related to civil aviation emissions reduction and decarbonisation that had been organized by ICAO, the Representative of China maintained that stock-taking of technical measures should be balanced. In addition to emphasizing the ambitious emissions reduction technical measures, he underlined that attention should also be given to investment required for their implementation, operational cost, associated resource input and infrastructure as well as obstacles and difficulties encountered in the course of implementation that must be resolved. Noting that previous rounds of stock-taking events seldom covered these issues that affected the effectiveness of implementation and their solutions, he pointed out that ICAO should therefore optimize the stock-taking exercise and continue to conduct a deep exploration of investment, the cost needed for emissions reduction technologies whether these technologies can achieve tangible results, and the causes for not achieving the expected results.

25. On the LTAG report of CAEP/12, the Representative of China indicated that China had formally expressed its position on previous occasions and that position remained unchanged.

26. The Representative of China recalled the feedback of experts who noted that during the LTAG Global Aviation Dialogues (GLADs) events, participants not only conducted discussions about the potential of various emissions reduction measures, but also expressed the concerns of the significant challenges during implementation, with the delegates of developing countries, in particular, expressing their concerns over the necessity and importance of the establishment by ICAO of an assistance mechanism and the provision of aviation decarbonisation funding and technical assistance to developing countries. Stressing that GLADs was intended to collect information so as to provide a platform for exchanges, he commented that the draft Assembly working paper should comprehensively reflect this information.

27. Turning to paragraph 3.1 on page 5 of the draft Assembly working paper, the Representative of China proposed to delete the opening clause of the second sentence, to wit: “while

emissions from international aviation and the maritime sectors are not included as part of a nationally determined contributions under the UNFCCC Paris agreement”. He explained that the UNFCCC, in its Decision to adopt the Paris agreement, had specified in paragraph 31c) of the Decision that “Parties strive to include all categories of anthropogenic emissions or removals in their nationally determined contributions parties...”; therefore, international aviation emissions should be regarded as part of such emissions. He then proposed to replace the deleted text with the following: “The Kyoto Protocol stipulates that Parties included in Annex 1 shall pursue limitation or reduction of emissions of greenhouse gases, not controlled by the Montreal Protocol from aviation and the marine bunker fuels, working through the International Civil Aviation Organization and the International Maritime Organization, respectively.”

28. In addition, the Representative of China was of the view that paragraph 3.1. on page 5 of the draft Assembly working paper should give a comprehensive and objective account of UNFCCC and its Paris agreement and the Glasgow Climate Pact, stressing that these instruments indicated that a comprehensive and a balanced agreement striving to achieve global sustainable development should be a package including mitigation, adaptation, financing and technological aspects, rather than just a temperature control target. It was further proposed to add after the last sentence in paragraph 3.1 referring to 1.5 degrees the following sentence: “At the same time, it should also be further recognized that the provision of adequate and predictable financial technical and capacity-building assistance by developed countries to the developing countries is an important foundation to achieve the goals of Paris agreement.”

29. Finally, the Representative of China remarked that with regard to C-WP/15391, his country’s experts had developed specific amendments, which would be provided in written form later in due course.

30. In his response, the President of the Council noted that the comments and suggested amendments of China were related to discussions that would be held in preparation and during the High-level meeting, so he proposed to take note of them for the time being and to bring them up for consideration during the subsequent negotiations. This was concurred by the Council.

31. Addressing the suggestions for amendment to paragraph 3.1 related to assistance activities, the Deputy Director for Environment (DD/ENV) replied that the entire paragraph 2 of the draft Assembly working paper dealt with the existing assistance activities in ICAO, with wider coverage provided in the pertinent website. She also reiterated that suggestions about specific implementation support and ICAO’s capacity-building measures would depend on the outcomes of the High-level meeting (HLM), which would then be included in the working paper. Citing the ACT-SAF programme as a recent update, she stressed that more would be added to the paper following the HLM, although she also noted that due to the limitation on the number of pages of a working paper, more extensive information for each subject would be found on the ICAO website rather than being incorporated into the working paper.

32. The President of the Council then proposed, and the Council agreed, to abide by the recommendations of the CEC to approve in principle the draft Assembly working paper, with the amendment in paragraph 3.1, as well as to record in the minutes the comments of the Representatives of Peru and China. He added that these comments would form the basis of discussions during the High-level meeting, whose outcomes would then lead to the amendment of the working paper.

33. There being no further interventions, the Council:

- a) took note of the information presented in C-WP/15391, as well as the associated oral report by the CEC thereon; and

- b) on the understanding that substantial contents of the draft Assembly working paper may need to be adjusted to reflect the outcomes of the ICAO High-level Meeting on LTAG (HLM-LTAG), approved in-principle, the draft Assembly working paper attached to C-WP/15391, subject to the amendments requested by the CEC, and in this connection, requested that the draft Assembly working paper appended to C-WP/15391 be updated following HLM-LTAG as may be required, for further consideration by the Council prior to the 41st Session of the Assembly.

**Draft Assembly working paper — Consolidated statement of continuing ICAO policies and practices related to environmental protection — Climate Change**

34. The Council considered this item on the basis of C-WP/15392, which presented a draft Assembly working paper containing proposed revisions to Assembly Resolution A40-18: *Consolidated statement of continuing ICAO policies and practices related to environmental protection – Climate change*, in light of developments since the last Assembly. The Council also had for consideration an oral report thereon from the Climate and Environment Committee (CEC).

35. In his oral report, the Chairperson of CEC (Representative of Colombia) pointed out that the CEC had agreed to the preliminary views contained in the draft Assembly working paper, with the understanding that the draft would be further adjusted to reflect the outcomes of the ICAO High-level meeting on LTAG. This was affirmed by the President.

36. In his intervention, the Representative of France made the following suggestions to the draft Assembly working paper attached to C-WP/15392:

- a) referring to the second preambular paragraph on page A-3, to revise the text to read: "...a comprehensive approach consisting of a basket of measures including technology, sustainable aviation fuels, operational improvements, market-based measures to reduce emissions and possible evolution of standards is necessary";
- b) referring to the fifth preambular paragraph on page A-3 and to Article 21 b) on page A-9, to delete "for electric aircraft as a priority" at the end of the paragraph and reword to align with the revision made in the 12th preambular paragraph in Appendix B of the draft Assembly working paper attached to C-WP/15389 (paragraph 14 of C-MIN 226/7 refers); and
- c) referring to Article 9 on page A-7, to revise the wording as discussed and agreed with the Secretariat at the sixth meeting of this 226th Session of the Council held on 6 June 2022.

37. Turning to the deleted clause 14 on page A-7, the Representative of France asked if this paragraph should not be retained as it touched on something important to implement in order to attain the aspirational goals.

38. The Representative of France also drew attention to paragraph 3 f) in the CEC oral report, which concerned the first preambular paragraph, second line on page A-4 of the draft Assembly working paper and suggested a revision to read: "...the largest impact of fuels on aviation CO2 emissions reduction by 2050 and beyond,...". First of all, he raised the question of what were the components of the basket of measures that would make emissions reductions possible for aviation would be beyond 2050. Noting that his understanding of the CAEP report was that up until 2050, Sustainable Aviation Fuels (SAF) would clearly be the most important element, but that after 2050, there would be more reliance on new

technologies, particularly progressively on hydrogen and electric aircraft, and decreasing share of SAF, he asked how this question would be solved. He also suggested replacing “largest impact on aviation CO<sub>2</sub> emissions reduction” with “large impact on aviation CO<sub>2</sub> emissions reduction by 2050 and beyond”, explaining that this would be more appropriate because over time, proportions changed and the largest could become large.

39. The Representative of Brazil remarked that the draft Assembly working paper attached to C-WP/15392 would have to be heavily reviewed in light of the outcomes of the High-level meeting on LTAG. He then made the following suggestions to the draft Assembly working paper attached to C-WP/15392:

- a) referring to the fourth preambular paragraph on page A-5, to delete the word “more” in the first line to read: “Recognizing the need for enabling conditions for the implementation of long-term climate change adaptation measures...”; and
- b) referring to the operative paragraph 2 b) on page A-5, to add the words “as needed” in the third line to read: “continue to study policy options to limit or reduce the environmental impact of aircraft engine emissions and to develop concrete proposals encompassing technical solutions and market-based measures, as needed, and taking into account potential implications of such measures for developing as well as developed countries”.

40. The Representative of Saudi Arabia agreed with the proposed amendments of the Representative of Brazil. Turning to the last line of the second preambular paragraph on page A-4, he recalled the agreement reached at the CEC meeting to delete the word “green” before “hydrogen” for reasons already cited at the meeting as well as to keep consistency throughout the text and reflect the agreement on having cleaner source energy, instead of clean source energy.

41. The Representatives of the Russian Federation, India, Nigeria and South Africa voiced support for the interventions of the Representatives of Brazil and Saudi Arabia.

42. In his remarks, D/ATB recognized the need to streamline the terminology in the working papers and pointed out that this had been completed with the working papers of the High-level meeting, with the same to be done with the current batch of working papers. He agreed with the suggestions of the Representatives of Brazil and Saudi Arabia to delete the word “more” on page A-5 and the word “green” on page A-4, respectively.

43. Addressing the comments of the Representative of France regarding the first preambular paragraph on page A-4, DD/ENV underlined the difficulty of ascertaining what the biggest portion of contribution would be after 2050, but suggested retaining the reference to 2050 and adding “after 2050”. She also accepted replacing “largest” with “large”. The Representative of France agreed with the proposed wording “after 2050”.

44. On the deleted Article 14 on page A-7, DD/ENV explained that it was deleted because of the need to streamline the document and in any case, the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) and MRG standards and procedures that had been developed, already covered this concept. However, she indicated that Article 14 could be kept because it would measure progress in a different context after the High-level meeting and the Assembly.

45. DD/ENV expressed apprehension about the suggestion of the Representative of Brazil to add “as needed” in paragraph 2 b) on page A-5 for the following reasons: Everything that ICAO did was

necessary. Adding “as needed” might imply that there was no longer any need for policy options in some cases or misjudge some issues as secondary when they were of primary importance. She instead proposed to insert “as needed” after “concrete proposals” without losing the scope and impact.

46. On the consistency of terminology, DD/ENV affirmed that one of the roles of the Secretariat was to go through all documents, including all Assembly Resolutions, following amendments in order to ensure consistency of the final text.

47. The Representative of Spain pointed out that when referring to the certification of aircraft, the Secretariat should find the right terminology by consulting with ANB because of the lack of consistency in the terminology of some Assembly Resolutions.

48. To a query of the Representative of Saudi Arabia, the President of the Council replied that these papers would be considered again at the meeting of the Council to be scheduled in August because the discussion during the High-level meeting would lead to further discussions and amendments of the working papers.

49. The President summed up the proposed amendments brought up in the meeting, noting that a certain number of them could be agreed in principle, with the exception of the recommendation to add “as needed” to Article 2 b) on page A-5. On this, he suggested that the proposals of both the Representative of Brazil and DD/ENV would remain open, subject to further consideration and eventual finalization. Acknowledging the need to enhance further the paper, he remarked nonetheless about positive progress made with the identification of substantial amendments, pending finalization of the paper at the High-level meeting.

50. While not entirely convinced by the intervention of DD/ENV, the Representative of Brazil indicated that he would not insist on his suggestion. He also observed that there would be time to come back to the documents later in the process for further discussion of the amendments.

51. Following consideration, the Council:

- a) took note of the information presented in C-WP/15392, as well as the associated oral report by the CEC thereon; and
- b) consistent with its decision on the preceding item, approved in-principle, the draft Assembly working paper attached to C-WP/15392, subject to the amendments requested by the CEC as well as the changes agreed on by the Council in the course of its consideration of this item, including in relation to the text of the preambular and operative clauses of the draft Assembly Resolution being reflected, and in this connection, requested that the draft Assembly working paper appended to C-WP/15392 be updated to reflect the outcomes of the HLM-LTAG as may be required, for further consideration by the Council prior to the 41st Session of the Assembly.

### **Draft Assembly working paper — Cybersecurity**

52. The Council considered this item on the basis of C-WP/15379, which presented a draft Assembly working paper on activities undertaken in relation to aviation cybersecurity, and proposed an update to Resolution A40-10: Addressing Cybersecurity in Civil Aviation, with a view emphasizing the importance of improving the cybersecurity and cyber resilience of the civil aviation sector. The Council also had for consideration oral reports thereon from the Air Navigation Commission (ANC) and Aviation Security Committee (ASC), respectively.

53. In his presentation, the Secretary General highlighted the major activities undertaken by ICAO over the last triennium related to aviation cybersecurity, including the development of two editions of the Cybersecurity Action Plan, the work on the new mechanism to address cybersecurity in ICAO, the work on legal aspects, the development of guidance material, the development of capacity building initiatives and activities related to outreach and raising awareness. He underlined the proposal to update Assembly Resolution A40-10 on *Addressing Cybersecurity in Civil Aviation* to emphasize the importance of improving the cybersecurity and cyber resilience of the civil aviation sector.

54. Additionally, the Secretary General drew attention to the joint proposal of the Air Navigation Commission (ANC) and the Aviation Security Committee (ASC) to revise Action item b) of the draft Assembly working paper attached to C-WP/15379 to read: “b) adopt the revised Assembly Resolution on *Addressing Cybersecurity in Civil Aviation* in the Appendix to supersede A40-10.”

55. In his oral report, the President of the ANC (P/ANC) commended the continued good work of the Secretariat on ICAO’s Aviation Cybersecurity Strategy and Cybersecurity Action Plan and expressed satisfaction that the draft Assembly working paper had emphasized the role of the action plan as a tool for implementing the strategy. Voicing support for the draft Assembly working paper, he indicated that the proposed amendments, as contained in the Appendix to the oral report, aimed to ensure that information in the paper supported the text of the proposed resolution and that each operative clause in the resolution was supported by a perambulatory clause.

56. Furthermore, P/ANC, in his oral report, provided an update on the governance of the International Aviation Trust Framework (IATF) (C-WP/15307 and C-DEC 225/8 refer), which, following an IATF joint stock-take exercise with the Secretariat, would henceforth be taken forward by a new ANC panel that would replace the Trust Framework Study Group.

57. In his oral report, the Vice Chairperson of the ASC (Representative of the United Kingdom) agreed in general with the content of C-WP/15379 and the attached draft Assembly working paper, but drew attention to proposed amendments for consideration, including a factual cross-reference to the work on the IATF.

58. Turning to the second perambulatory paragraph of the draft Assembly Resolution, as contained in the Appendix to the draft Assembly working paper attached to C-WP/15379, the Representative of Spain asked why the phrase “confidentiality of information” was used instead of “protection of information”.

59. In response, the Deputy Director, Aviation Safety and Facilitation (DD/ASF) explained that the phrase “confidentiality, integrity and availability of information” was the usual terminology used in this type of topic and that the notion of “confidentiality” did not exclude “protection”, which is integrated into the phrase “integrity and availability”. While accepting the explanation, the Representative of Spain nonetheless expressed his disagreement.

60. In his intervention, the Representative of France pointed out that while the upcoming Assembly should be informed of the work done by ICAO on the governance of cybersecurity issues, the reality was unfortunately different because of the distinct lack of progress in implementing certain recommendations, including in particular the establishment of the Ad Hoc Cybersecurity Committee. He recalled that the Council’s exhortations to the Secretariat to find the means necessary for implementation of this recommendation, but regretted that this had not yielded the desired outcome, the consequence of which was to compromise the work already done and the work that needed to be done. He expressed the shared frustration of the members of the group that worked on the governance related to cyber issues at

ICAO because the lack of action might mean having to restart the discussion again, which he described as a shame for everyone including the Secretariat.

61. In his response, the Secretary General acknowledged the concerns raised by the Representative of France and reiterated the internal efforts being undertaken in order to identify available resources of the Organization, including a key discussion on how to move forward with cybersecurity to align the needs and resources needed to respond properly to this priority.

62. Also addressing the intervention of the Representative of France, DD/ASF drew attention to the very limited resources available in the Air Transport Bureau for engaging in the work in cybersecurity. He indicated that a first call for secondments a few months ago had not yielded any results, so a second request would be launched shortly. He also added that the Secretary General had allocated carryover funds for the recruitment of consultants or for the start of launch studies, but this not occur before the Assembly. While the adoption of temporary provisions, such as hiring consultants or using secondees, might help alleviate the problem, he stressed that this would not ensure consistent in-depth work over the long term. Finally, he stressed that at the current juncture, there simply were no resources available to recruit another technical officer to serve as cybersecurity technical officer and support the work that was required.

63. The Representative of France expressed dissatisfaction with the explanation of the Secretariat. He reiterated that the Council had twice asked for resources to be made available in this area and deemed the lack of progress to be unacceptable. Pointing to the numerous posts that were planned in the budget but which remained open, he asked why they were not being redeployed to the areas in need. Finally, he reminded the Council to look very carefully when reviewing the report of the Cybersecurity Panel in order to give them the necessary instructions and prevent them from reopening this discussion, which was not within their purview.

64. Following consideration, the Council:

- a) took note of the information presented in C-WP/15379, as well as the associated oral reports of the ANC and ASC thereon, including in particular, the update on the work undertaken by the ANC through the joint stock-take exercise with the Secretariat on the governance of the International Aviation Trust Framework (IATF);
- b) approved the draft Assembly working paper attached to C-WP/15379, as revised by the ANC and appended to its oral report and subject to the additional amendments requested by the ASC being incorporated therein, as well as the changes agreed on by the Council in the course of its consideration of this item, including in relation to the text of the action paragraph b) of the Assembly working paper, being reflected, and delegated authority to the President to thereafter approve the revised working paper on its behalf for subsequent submission to the 41st Session of the Assembly; and
- c) recalling its previous decisions on the new governance arrangements for cybersecurity (C-DEC 225/5 and C-DEC 224/4 refer), expressed its concern that notwithstanding these decisions, it had not yet been possible for the necessary resources to be allocated or prioritized in order to progress the work in this key area, including in particular the convening of the Ad hoc Cybersecurity Committee, and in this connection, urged the Secretariat to continue to explore options to secure the necessary resources to support this work.



**Draft Assembly working paper under Agenda Item 30 of the Technical Commission relating to a comprehensive strategy for air navigation: Endorsement of the updated Global Air Navigation Plan (GANP)**

65. The Council considered this item on the basis of C-WP/15374, which presented a proposal for the seventh edition of the Global Air Navigation Plan (Doc 9750), and a related draft Assembly working paper which included proposed revisions to Assembly Resolution A40-1: *ICAO global planning for safety and air navigation, specifically relating to the GANP*.

66. In his presentation, P/ANC remarked that the seventh edition of the GANP, as proposed in C-WP/15374, was a minor update in keeping with the agreement reached at the 39th Session of the Assembly and was supported by the Commission. He described the proposals of the seventh edition as improving the consistency and coherence of the GANP and the Global Aviation Safety Plan (GASP) by updating GANP's safety performance network and outlined some of the features as follows: A new maintenance process to help keep the GANP's performance framework up-to-date. The mapping of essential air navigation services to the Universal Safety Oversight Audit Programme (USOAP) Protocol Questions created an important link between the provision of air navigation services and the regulatory oversight of those services.

67. Furthermore, P/ANC pointed out that looking beyond the 41st Assembly, the paper also set out the challenges to be addressed in the eighth edition of the GANP, a major update to be considered at the 42nd Assembly in 2025. Finally, he thanked the GANP Study Group, the Aviation System Block Upgrades (ASBU) Panel project team and the GANP Performance Expert Group for their work in developing this update.

68. Concurring with the P/ANC's description of the GANP as an important document, the Representative of Spain underscored its importance by recalling the recent presentation made by the Civil Air Navigation Services Organization (CANSO), which set out its vision for the year 2045 on the use of airspace by various agents through the integration of all the different users into a safe and effective system. He suggested that both the Council and the ANC undertake a retrospective exercise on the actual use of this paper, on how it was being used in the various regions and States, and how this document should be the backbone for the overall vision of air navigation in the next 20 or 30 years. He asked P/ANC to convey to the members of the ANC how important it was for this document to become the backbone of the overall vision of what air navigation should be globally in the coming years. Finally, he suggested that the Council should carry out a review and take stock at some point.

69. P/ANC welcomed the comments of the Representative of Spain and noted that the presentation referred to had been the subject of an "ANC Talk" event preceding its presentation to the Council. He stressed that on that occasion, there had been recognition of the linkage between the GANP, as a very forward-looking structured approach helping to bring coherence as air navigation services moved forward globally, and the work being proposed by the Global Council. He further informed that the Global Council planned to conduct later this year, a gap analysis between their proposed milestones and goals and those set out in the GANP. P/ANC was of the view that the result of this analysis would generate momentum along the lines suggested by the Representative of Spain.

70. Referring to the gap analysis to be conducted by the ANC, the President of the Council proposed to hold an informal briefing for the Council in the future to reflect on the structure or the backbone of the future of the air navigation plan.

71. Following consideration, the Council:

- a) took note of the information presented in C-WP/15374, and in doing so, approved the:
  - i. proposed update to the GANP performance framework in the safety key performance area;
  - ii. proposed GANP performance framework maintenance process;
  - iii. addition of the mapping of essential services, outlined in the Basic Building Blocks (BBB) framework, to the Protocol Questions (PQs) of the USOAP; and
  - iv. proposed update to the BBB and the ASBU frameworks;
- b) recognized the importance of resilience, environment and digital information management in a fully connected system, for the eighth edition of the GANP; and
- c) approved the draft Assembly working paper attached to C-WP/15374 for subsequent submission to the 41st Session of the Assembly.

**Draft Assembly working paper under Agenda Item 30 of the Technical Commission relating to a comprehensive strategy for aviation safety: Endorsement of the updated Global Aviation Safety Plan (GASP)**

72. The Council considered this item on the basis of C-WP/15373, which presented a proposal for the 2023-2025 edition (fourth edition) of the *Global Aviation Safety Plan* (Doc 10004), and a related draft Assembly working paper which included proposed revisions to Assembly Resolution A40-1: *ICAO global planning for safety and air navigation*.

73. In his presentation, P/ANC highlighted the inclusion in the proposed fourth edition of the GASP the recommendations from the High-level Conference on COVID-19 (HLCC) as well as the clear strategic focus brought about by transferring material from the GASP to the supporting roadmap and guideline documents, resulting in a much more concise version of the 2023-2025 edition of the GASP that nonetheless presented the strategy much more clearly. In his view, this would really help those who develop and implement national and regional aviation plans.

74. Voicing support for what he described as yet another critical document, the Representative of Brazil commended the amendment related to Section 3.6 on Disruption Events in the draft GASP as contained in the Appendix attached to C-WP/15373. Citing the pandemic as an example of a disruption event which, while beyond the realm of the ANC or the ANB, still had and continued to have important impacts on aviation. He considered the Section 3.6 to send a signal to all, including the States, about the need to be prepared for any other events that could adversely affect aviation safety.

75. Also referring to Section 3.6 on Disruption Events, the Representative of Peru queried why other disruption events like unannounced missile launches, attacks and threats, cyber threats and others, which also impacted aviation safety, were not included in the section. He wondered if this was due to the notion of constructive ambiguity.

76. Maintaining that the gist of the GASP to be essentially about reducing fatalities from accidents, the Representative of Costa Rica stressed the need to continue the work to harmonize and develop all the plans at the global level, including for States to keep up and strengthen their commitments to keep the work going in achieving the goals.

77. In his response to the Representative of Peru, P/ANC agreed that the notion of “constructive ambiguity” captured the issue adeptly. Referring to paragraphs 3.6.1 to 3.6.5 of the draft GASP, he clarified that the interest of ICAO was mainly in those disruption events that had significant

impact on aviation operations. He further stressed that the entire thrust of the GASP in this context was not to provide a solution covering every possible disruption and detailed instructions that States could follow, but instead, to create an environment where States recognize that while disruption events were not predictable, neither in their nature nor their extent, the way forward was for the States themselves to develop their own plans at national and regional levels and to work with ICAO, as had been the case with the COVID-19 pandemic.

78. Thanking the clarification of P/ANC, the Representative of Peru reiterated that geographical events like an earthquake might not necessarily impact aviation, but they could still have an impact on cooperation. He also pointed out that the failure of certain entities to comply with ICAO's SARPs, such as with respect to Notices to Airmen (NOTAMs) and others, could also cause disruptions impacting aviation and aviation safety.

79. Following consideration, the Council:

- a) took note of the information presented in C-WP/15373, and in doing so, approved the 2023-2025 edition of Global Aviation Safety Plan (Doc 10004), as provided in Appendix A to C-WP/15373; and
- b) approved the draft Assembly working paper contained in Appendix B to C-WP/15373 for subsequent submission to the 41st Session of the Assembly.

**Draft Assembly working paper — Report on the Evolution of the Universal Safety Oversight Audit Programme (USOAP) Continuous Monitoring Approach (CMA) and post implementation review**

80. The Council considered this item on the basis of C-WP/15372, which presented a draft Assembly working paper on the evolution of the ICAO Universal Safety Oversight Audit Programme (USOAP) Continuous Monitoring Approach (CMA). The Council also had for consideration an oral report thereon from the Air Navigation Commission (ANC).

81. In his presentation, the Secretary General indicated that the draft Assembly working paper attached to C-WP/15372 was prepared for submission to the Executive Committee of the upcoming Assembly. He outlined the main gist of the draft Assembly working paper, including the planned evolution of USOAP for the next triennium, information on the expected timelines for completion of the recommendations, and the call for voluntary financial and in-kind contributions from donors for the evolution and operation of the programme as mandated and contained in the Business Plan for the next triennium.

82. In his oral report, P/ANC pointed out that paragraph 6 of the report was included in error and should be deleted. He then pointed to the amendments to the draft Assembly working paper as attached to the oral report, including two additional footnotes to improve clarity and understanding.

83. There being no further interventions, the Council:

- a) took note of the information presented in C-WP/15372, as well as the associated oral report by the ANC thereon; and
- b) approved the draft Assembly working paper attached to C-WP/15372, as revised by the ANC and appended to its oral report, for subsequent submission to the 41st Session of the Assembly.

**ANC Work Programme for the 221st Session**

84. The Council considered this item on the basis of C-WP/15375, which presented the proposed work programme for the 221st Session of the Air Navigation Commission (ANC).

85. In his presentation, P/ANC informed the Council of a number of problems related to the proposed work programme, specifically, that the volume of work proposed for the 221st Session of the ANC could not be delivered in the time available, with the situation further aggravated by the deferral of papers that had originally been cleared for the present 220th Session. As an example, he brought up the Time-based Separation item (number 22109 in Appendix A to C-WP/15375 refers), which was a pilot project on which the introduction of a new direct submission process depended and a key initiative cited in the draft Assembly working paper on innovation. He explained that the ANC had expected the relevant paper at its 221st Session in order to conclude this pilot project and formally launch a new process; however, the Secretariat resources could no longer support this plan. While reiterating that the ANC was working with the Secretariat on options to address the situation, he asked the Council to bear in mind that a further update to the work programme for the 221st Session of the ANC might be required in due course.

86. Addressing the direct submission process, the Representative of Spain reiterated the importance of this process, not only from the point of view of air navigation, but also for innovation and standards for ICAO. He urged the Secretariat to make an effort to ensure that it became a reality. The Representative of France concurred with his comments.

87. In his intervention, D/ANB endorsed the comments of the Representatives of Spain and France, and supported the remarks of P/ANC. He stressed that the Secretariat was fully cognizant of the importance of the direct submission process and was working closely with the ANC and doing its best on the issue.

88. There being no further interventions, the Council:

- a) provisionally approved the proposed work programme of the Air Navigation Commission for its 221st Session, as outlined in Appendix A of C-WP/15375, on the understanding that an update to the ANC work programme for the 221st Session would be required in due course; and
- b) took note of the planned items for the 222nd and 223rd Sessions, as outlined in Appendices B and C, respectively, of C-WP/15375.

**Any other business****Condolences**

89. The Council expressed its sincere condolences to the Government of the Dominican Republic and to the family of the Minister of Environment and Natural Resources, Mr. Orlando Jorge Mera, following his recent passing away.

90. Among those expressing condolences were the Representatives of Peru, Colombia, Brazil, Russian Federation, Saudi Arabia, Canada, Malaysia and China. The Representatives of South Africa and France conveyed their condolences on behalf of the Africa-Indian Ocean (AFI) group and the European States, respectively.

91. The meeting adjourned at 1720 hours.

**COUNCIL — 226TH SESSION**

**SUMMARY MINUTES OF THE EIGHTH MEETING**

**(HYBRID MEETING, WEDNESDAY, 8 JUNE 2022, AT 1000 HOURS)**

President of the Council: Mr. Salvatore Sciacchitano

Secretary: Mr. Juan Carlos Salazar, Secretary General

**PRESENT:**

- |                    |                          |                      |                             |
|--------------------|--------------------------|----------------------|-----------------------------|
| Argentina          | — Mr. G.E. Bompadre      | Malaysia             | — Mrs. F. Chin              |
| Australia          | — Mr. R. Adams           | Mexico               | — Mr. D. Méndez Mayora      |
| Brazil             | — Mr. N. Moretti         | Netherlands          | — Mr. R. Ossendorp          |
| Canada             | — Mr. C. Hurley          | Nigeria              | — Mr. M.S.B. Tukur          |
| China              | — Mr. Shengjun Yang      | Paraguay             | — Mr. C.D. Urquhart Cáceres |
| Colombia           | — Mr. M. Ramírez Koppel  | Peru                 | — Mr. A. Freyre Layzequilla |
| Costa Rica         | — Mr. G. Hoppe Pacheco   | Republic of Korea    | — Mr. S. Kim                |
| Côte d'Ivoire      | — Mr. C.A. Djibril       | Russian Federation   | — Mr. S. Gudkov             |
| Dominican Republic | — Mr. J. Peña Guzmán     | Saudi Arabia         | — Mr. B. Al-Sagri           |
| Egypt              | — Mr. S. Elhefny         | Singapore            | — Ms. E. Poh                |
| Equatorial Guinea  | — Mr. E. Esono Anguesomo | South Africa         | — Mr. L. Mabaso             |
| Finland            | — Mr. S. Vuokila         | Spain                | — Mr. V.M. Aguado           |
| France             | — Mr. L. Pic             | Sudan                | — Mr. I.M. Elhag            |
| Germany            | — Mr. U. Schwierczinski  | United Arab Emirates | — Mr. M. Salem (Alt.)       |
| Greece             | — Ms. M. Saranti         | United Kingdom       | — Mr. A. O'Henley           |
| India              | — Mrs. S. Juneja         | United States        | — Mr. C. Sullenberger       |
| Italy              | — Ms. S. Costantini      | Zambia               | — Mr. V. Banda              |
| Japan              | — Mr. I. Fukushima       |                      |                             |

**ALSO PRESENT:**

- |                                |                  |
|--------------------------------|------------------|
| Mr. P. Kelleher                | — President, ANC |
| Mr. C. Fernández (Alt.)        | — Argentina      |
| Mr. S. Lucas (Alt.)            | — Australia      |
| Ms. C. Fitzgerald (Alt.)       | — Australia      |
| Ms. I. de Melo Maciel (Alt.)   | — Brazil         |
| Mr. M. Lima (Alt.)             | — Brazil         |
| Mr. A. Bertolino (Alt.)        | — Brazil         |
| Mr. D. L. Pereira (Alt.)       | — Brazil         |
| Mr. R. Arruda (Alt.)           | — Brazil         |
| Ms. A. Barbosa (Alt.)          | — Brazil         |
| Mr. J. Liang (Alt.)            | — China          |
| Ms. A. Jiménez (Alt.)          | — Costa Rica     |
| Ms. V. Adalsteinsdottir (Alt.) | — Finland        |
| Mr. N. Naoumi (Alt.)           | — Germany        |

**SECRETARIAT:**

- |                     |               |
|---------------------|---------------|
| Mr. M. Vreedenburgh | — SPO/OSG     |
| Mr. S. Creamer      | — D/ANB       |
| Mr. J. Vargas       | — D/TCB       |
| Mr. M. Rahma        | — D/ATB       |
| Mr. A. Mishra       | — D/ADB       |
| Mr. M. Gill         | — D/LEB       |
| Mr. N. Rallo        | — RD, EUR/NAT |
| Mr. T. Efendioglu   | — C/OIO       |
| Ms. T. de Bodt      | — H/SPCP      |
| Ms. O. Nam          | — C/FIN       |
| Mr. S. Dehinde      | — C/ICT       |
| Ms. S. Brand        | — C/RPM       |
| Mr. A. Larcos       | — C/ACS       |
| Ms. V. Muraca       | — ACS         |

*Mr. Eric Jeannot, Vice-President, Swiss Federal Audit Office (SFAO)*

*Mr. Martin Kohli, Director Manager, SFAO*

*Mr. Didier Monnot, Head of Mandate and Coordinator, SFAO*

*Mr. Bernhard Hamberger, Head of Competence Center for IT audits and IT Audit Leader, SFAO*

**ALSO PRESENT: (Cont'd)**

Ms. V. Betchava (Alt.)	— Greece
Mr. A. Kalognomis (Alt.)	— Greece
Ms. V. Lazari (Alt.)	— Greece
Mr. A. Joshi (TE)	— India
Mr. M. Silanos (Alt.)	— Italy
Mr. S. Oshima (Alt.)	— Japan
Mr. S. Sugiyama (Alt.)	— Japan
Mr. M. Loustaunau (Alt.)	— Mexico
Mr. C. Schleifer (Alt.)	— Netherlands
Mr. W.R. Linares (Alt.)	— Peru
Mr. C. Zamora (Alt.)	— Peru
Mr. S. Ahn (Alt.)	— Republic of Korea
Ms. O. Mozolina (Alt.)	— Russian Federation
Ms. D. AlKurdi (Alt.)	— Saudi Arabia
Mr. M.S. Habib (Alt.)	— Saudi Arabia
Ms. S. Toh (TE)	— Singapore
Mr. Y. K. Koh (TE)	— Singapore
Ms. T. Goodwin (Alt.)	— United Kingdom
Mr. A. Veprek (Alt.)	— United States

**Representatives to ICAO**

Cameroon  
 Chile  
 Congo  
 Ethiopia  
 Indonesia  
 Iran (Islamic Republic of)  
 Kenya  
 Turkey  
 Uruguay

Airports Council International (ACI)  
 Civil Air Navigation Services Organization (CANSO)  
 European Union (EU)  
 International Business Aviation Council (IBAC)  
 International Coordinating Council of Aerospace Industries Associations (ICCAIA)  
 International Federation of Air Line Pilots' Associations (IFALPA)

**Report on the performance of revenue-generating activities in 2021 with audited financial figures of the Ancillary Revenue Generation Fund (ARGF)**

1. The Council considered this item on the basis of a PowerPoint presentation delivered by the Secretary General on the financial and operational performance results of the Ancillary Revenue Generation Fund (ARGF) for 2021. The Council also had for consideration an oral report thereon from the Chairperson of the Finance Committee (Representative of the Netherlands).

2. In summarizing the performance of the ARGF for 2021, the Secretary General highlighted that the ARGF had achieved a net surplus of CAD 7,883,000, and noted that although the ARGF had suffered a shortfall of CAD 1,558,000 in 2021, the ARGF had nonetheless fulfilled its required contributions of CAD 8,083,000 to the Regular Programme budget and CAD 1,359,000 to *Further Contributions to ICAO Work Programmes*, using the funds from the ARGF Reserve which had been set aside for that purpose. The Secretary General further reported that in order to address the comments raised by the Finance Committee concerning the importance of linking the ARGF reserve projects to the ICAO Business Plan, a revised PowerPoint presentation containing this additional information would be made available on the Council Secure Portal, in due course.

3. Turning to the FIC oral report, the Chairperson of the Finance Committee (Representative of the Netherlands) pointed out that notwithstanding the shortfall for the ARGF in 2021, the ARGF had achieved impressive results over the reporting period, particularly considering that the actual shortfall of CAD 1,558,000 for 2021 had been very close to the amount initially forecast in the budget prior to the pandemic. The Chairperson also highlighted that despite the impacts of the COVID-19 pandemic on the Organization's revenue-generating activities, it was clear that the Secretariat remained committed to ensuring the ARGF's annual financial obligations to the Regular Programme would be continued into the next triennium as well. In noting that the budget and operating plan for the ARGF for 2023-2024-2025 would be presented during the 227th Session, the Chairperson suggested that it would be useful to consider streamlining the timelines for the FIC and Council's deliberations on this subject.

4. The Representative of Mexico noted with satisfaction that the ARGF had met its financial obligations to the Regular Programme Budget, and that the shortfall had been within the expected margins. However, while seeking clarification regarding the changes in personnel between 2020 and 2022, and the number of staff positions funded through the ARGF over this period, the Representative suggested that such personnel-related information should be reported on a triennial basis, in order to allow the Council to better track the performance of the fund. In then referring to paragraph 3 of the FIC oral report, the Representative questioned limiting the use of the ARGF Reserve Fund to protect against future shortfalls caused by the pandemic specifically, and instead suggested referring to "future crises, such as the pandemic, or similar circumstances", more generally.

5. Drawing on the preceding comments concerning the use of the ARGF Reserve Fund, the Representative of Spain emphasized the importance of linking the ARGF Reserve Projects to the priorities identified in the ICAO Business Plan, as aside from having such funding available in the case of a crisis or shortfall, the ARGF Reserve could be used for unfunded projects in the Business Plan.

6. Addressing the question raised by the Representative of Mexico regarding personnel, the Director, Bureau of Administration and Services (D/ADB) informed that the ARGF had been used to support 104 and 100 staff positions in 2020 and 2021 respectively. Of the latter, 85 were involved in revenue-generating activities, 10.5 were under the Regular Programme and non-revenue generating, and 5 provided direct support to the administration of the ARGF.

7. Following consideration, the Council:

- a) took note that the 2021 ARGF financial results had a net surplus of CAD 7,883,000, and that, although the ARGF had suffered a shortfall of CAD 1,558,000 in 2021, the Fund was nonetheless able to contribute CAD 8,083,000 to the Regular Programme budget and another CAD 1,359,000 to *Further Contributions to ICAO Work Programmes* from the ARGF reserve set aside for this purpose;
- b) further noted as a result of accumulated residual funds having been returned to the ARGF reserve, and that two projects had been implemented more slowly due to the pandemic, a total of CAD 1,167,400 was returned to the ARGF reserve, and had been set aside to protect against potential future shortfalls caused by the pandemic or other similar circumstances, and in this connection, underlined the need to link reserve project funding to ICAO Business Plan priorities;
- c) acknowledged the success of the ARGF in reaching its targets and welcomed the efficiencies achieved, which would yield benefits in the next triennium; and
- d) requested the Secretariat to provide a more detailed breakdown of the staff positions funded through the ARGF, in the next iteration of this report.

#### **Update on consultations regarding the EUR/NAT Regional office**

8. The Council considered this item on the basis of an oral report presented by the Secretary General, which provided an update on the status of consultations regarding the ICAO European and North Atlantic (EUR/NAT) Regional Office. The Council also had for consideration an oral report thereon from the Chairperson of the Committee on Governance (Representative of Spain).

9. Echoing the sentiments expressed by the Secretary General in his introductory remarks, the Representative of Colombia expressed his sincere gratitude to the Government of France, and in particular, the Representative of France on the Council, for the ongoing cooperation with ICAO, and the significant voluntary contribution that had been pledged to the Organization to support the renovation and maintenance of the premises of the ICAO EUR/NAT Regional Office in Paris.

10. The Representative of France highlighted that his Government's sizable voluntary contribution to the Organization was commensurate to the importance with which France viewed the work of ICAO, while adding that the planned voluntary contribution of 8 million euros represented almost two-thirds of France's assessed contribution for the next triennium. At the same time, the Representative remarked that his Government appeared to be the only Host State providing regular updates to the Council on the status of Regional Office premises and in this regard, he wondered whether other countries hosting an ICAO Regional Office might also wish to do so, especially as other Regional Offices might require refurbishment or renovations to their facilities. He therefore suggested that a status report on the facilities across all the Regional Offices should be presented during a future session of the Council, in order to provide an overview of the circumstances in each Regional Office.

11. The Secretary General reported that while the largest-scale renovation project remained the EUR/NAT premises, similar projects were also under consideration for other Regional Offices, including as part of the wider United Nations initiative to construct new offices in Cairo, Egypt and Dakar, Senegal. The Secretary General assured that the Secretariat would be prepared to provide further clarification on the status of all the ICAO facilities in the regions, as may be required, and in this regard, expressed appreciation to those Member States hosting the Regional Offices for their invaluable contributions to the Organization's work. In particular, the Secretary General recognized the leadership of the Government of France in the ongoing negotiations concerning the EUR/NAT Regional Office facilities, and agreed with the



Representative of France that the level of engagement and investment by the Government of France was a clear demonstration of its commitment to ICAO.

12. Following consideration, the Council:
- a) took note of the information presented in the oral report, as well as the COG oral report thereon, and in this regard, welcomed the ongoing constructive dialogue with the Government of France, as the host State, concerning the future of the ICAO EUR/NAT premises;
  - b) expressed appreciation to the Government of France for its commitment to support the renovation of the facilities of the ICAO EUR/NAT Regional Office through a substantial voluntary financial contribution, of approximately 6 to 8 million Euro; and
  - c) encouraged the Parties to continue their consultations, with a view to the Secretariat presenting a progress report to the Council during its 229th Session, with the understanding that the Secretariat would at the same time also provide the Council with a general overview of the status of the other Regional Offices' premises and facilities.

**Draft Assembly working paper – Report on the Implementation of Assembly Resolution A40-27 – Innovation in Aviation**

13. The Council considered this item on the basis of C-WP/15359, which presented a draft Assembly working paper which provided an overview of the implementation of Resolution A40-27: *Innovation in Aviation* and which highlighted new initiatives to be undertaken during the 2023-2025 triennium. The Council also had for consideration oral reports thereon from the President of the Air Navigation Commission (P/ANC) and the Chairperson of the Committee on Governance (Representative of Spain), respectively.

14. As a Member of the COG, the Representative of Mexico agreed with the COG oral report, and fully supported the amendments to the draft Assembly working paper as proposed by the ANC, which in his view, clarified and better highlighted the key aspects of the Organization's work on innovation.

15. Referring to the ANC oral report, the Representative of Spain, speaking in his capacity as the Representative and not as the COG Chairperson, highlighted the importance of gaining greater clarity on ICAO's role in relation to innovation in aviation, and expected that such clarity could be achieved through the work to be performed by United Nations System Staff College (UNSSC) in the context of the independent assessment to be undertaken in the coming months. In this connection, the Representative stressed that it was essential that the Terms of Reference (TORs) for the UNSSC project ensure that there would be a clear focus on the work of the Organization on innovation, and recommended that the Small Group on Innovation (SGI) have an opportunity to review the TORs accordingly. The Representative also welcomed the intention of the ANC to establish a specific ad hoc working group, in order to further support the ongoing work of ICAO on innovation.

16. Following consideration, the Council:
- a) took note of the information presented in C-WP/15359, as well as the associated oral reports by the ANC and COG thereon, including the update provided by the Small Group on Innovation (SGI), as attached to the COG oral report; and

- b) approved the draft Assembly working paper attached to C-WP/15359, as revised by the ANC and appended to its oral report, and subject to the changes agreed thereon by the COG as proposed by the SGI in the attachment to its oral report, and delegated authority to the President to thereafter approve the revised working paper on its behalf for subsequent submission to the 41st Session of the Assembly.

### **Report of the Small Group on Innovation**

17. The Council considered this item on the basis of an oral report presented by the Chairperson of the Small Group on Innovation (Representative of India), which provided an update on the progress made pursuant to the Council's previous decisions on this subject (C-DEC 225/12 and C-DEC 224/9, refer).

18. Commending the commitment of the Chairperson of the SGI in her efforts to bring direction and clarity to the Small Group's work on such a complex topic, the Representative of France recalled that Assembly Resolution A40-27 had provided a framework for the Organization to move forward with its work on innovation, including to request the Council to assess the need, as well as the resources required to evolve ICAO processes, in order to keep pace with relevant innovations in the aviation sector. As such, he agreed with the Representative of Spain's earlier comments on the need for the SGI to review the TORs for the independent assessment to be carried out by the UNSSC, in order to ensure that the deliverables would be consistent with ICAO's work on innovation, and tailored to address the specific needs and realities of innovation in the aviation context. He also pointed out that the establishment of a regulatory roadmap on innovation by the SGI and its potential integration with other such ICAO technical plans and roadmaps would be an important step in developing the Organization's capacity to keep up with technological innovation, and thus was one area that would require more in-depth consideration.

19. On the ICAO Industry Consultative Forum (ICF), the Representative of France underlined the value of this initiative in demonstrating ICAO's commitment to working together with industry stakeholders toward the sustainable future of the sector. It was therefore essential in his opinion that the Council and Secretariat endeavour to advance this initiative, with a view to fostering a constructive dialogue with the industry, under the right conditions. In this connection, he expressed concern that the report from the last ICF meeting, which had been held on 21 March 2022, had not yet been made available to the Council, and sought an explanation for this delay. He stated that it would be necessary in the future to ensure that the ICF initiative was given the importance that it warranted, considering its value to the work of both the industry and ICAO.

20. In acknowledging the points raised with regard to the TORs, the Chairperson of the SGI (Representative of India) agreed that the TORs would need to be examined in greater detail by the Small Group, and in this regard, advised that the SGI had already held a preliminary discussion with the UNSSC, during which the UNSSC had outlined the proposed methodology for their assessment. She assured that the SGI intended to remain actively engaged in this exercise, and would provide any necessary guidance to the UNSSC to ensure the work progressed as expected, while also noting that the SGI would continue to keep the Council abreast of developments in this area.

21. With regard to the availability of the report from the ICF meeting held on 21 March, the Head, Strategic Planning, Coordination and Partnerships (H/SPCP) informed that said report was currently being finalized, following its review by the SGI, and would be circulated to the Council shortly.

22. Adding to his preceding intervention, the Representative of France suggested that it would also be necessary to pursue the ICF initiative and prepare for subsequent such fora, in order to advance the dialogue with the industry on innovation. At the same time, he highlighted the invaluable contributions of

SPCP to the SGI and the Organization's efforts in this area, and clarified that it had been his understanding that the delays in the issuance of the ICF report had not originated in SPCP.

23. Following consideration, the Council:

- a) agreed that the decentralized evaluation on innovation to be carried out by the United Nations System Staff College (UNSSC) would also aim to address the request of the Council for the Secretariat to develop a survey aimed at collecting the views of external stakeholders on ICAO and innovation (C-DEC 224/9, refers), and in this connection, requested that the draft Terms of Reference (TORs) for the work to be undertaken by the UNSSC in this regard would be reviewed by the SGI, in order to ensure that the needs of ICAO and the aviation sector were properly addressed;
- b) welcomed the ICAO Secretariat Strategy on Innovation as an important stepping stone in clarifying the Secretariat's objectives on innovation and providing more structured and coordinated deliverables, and in this regard, also noted that the independent assessment to be conducted by UNSSC could serve as a key vehicle to help clarify ICAO's role in innovation, and to ensure that any potential gaps identified in this regard would be resolved;
- c) invited the SGI to pursue its work in relation to the establishment of a regulatory roadmap, and within this context, to consider how such a roadmap might be integrated with other ICAO technical plans and roadmaps addressing similar issues, including the ICAO Global Plans;
- d) acknowledged, with satisfaction, the progress made in the implementation of Assembly Resolution A40-27: *Innovation in Aviation*, and in this connection, while affirming that the actions requested in Resolution A40-27 continued to be relevant, underscored the need for ICAO to continue to focus its efforts on the further implementation of the Resolution, in accordance with the activities outlined in C-WP/15359, *Draft Assembly Working Paper – Innovation in Aviation*; and
- e) consistent with Assembly Resolution A40-27, invited the Steering Group on the ICAO-Industry Consultative Forum (SGICF) to continue to pursue its efforts to engage in broad consultations with external stakeholders and partners on key strategic issues affecting the aviation sector, and accordingly requested the SGICF to report to the Council during the next Session on the preparations for the next meeting of the ICF.

### **Performance Audit on IT Governance and Strategic IT Management ICT Strategy and Action Plan 2022-2025**

24. The Council agreed to consider these two items concurrently.

25. The first item was considered on the basis of C-WP/15398, which presented a report of the External Auditor (Swiss Federal Audit Office (SFAO)) on the subject of IT Governance and Strategic IT Management. The Council also had for consideration an oral report thereon from the Chairperson of the Committee on Governance (Representative of Spain).

26. The second item was considered on the basis of an oral report delivered by the Secretary General on the Information and Communications Technology (ICT) Strategy and Action Plan 2022-2025,

which took into account the various audit reports and recommendations made by the External Auditor (Swiss Federal Audit Office), the Evaluation and Audit Advisory Committee (EAAC) and the United Nations International Computing Centre (UNICC), as well as the ICAO corporate risks identified in that regard. The Council also had for consideration an oral report thereon from the Chairperson of the Committee on Governance (Representative of Spain).

27. Introducing both items, the Secretary General confirmed that with respect to the audit recommendations presented in C-WP/15398, one recommendation was already being implemented, while seven recommendations had been accepted, including Recommendation 5 subject to the availability of adequate funding, and that Recommendation 4 had been partially accepted, pending the development of a broader organizational Human Resources policy and a more detailed staff time-keeping process. At the same time, the Secretary General highlighted that the implementation of the ICT Strategy and Action Plan 2022-2025 would be critical in addressing several of the audit recommendations, and in this connection, stressed that the ICT Strategy and Action Plan was a living document that would continue to be updated to reflect the comments and recommendations of the External Auditor and EAAC, with a view to building a more robust IT governance and management structure. In turn, while assuring that the Secretariat remained committed to addressing the audit recommendations, the Secretary General emphasised that the support of the Council in this exercise would be essential in ensuring that the necessary resources would be available to allow the Secretariat to realize the various elements of the ICT Strategy.

28. Stressing the importance of the ICT Strategy and Action Plan, the level of resources that will be made available to the Secretariat for its implementation, and the reputational aspects associated with this issue, the Representative of Brazil highlighted that an in-depth examination by the External Auditors in the future would be beneficial in ensuring that the approach being undertaken in this regard was the right one.

29. The Representative of France concurred that the Council would need to carefully monitor the implementation of the ICT strategy, in such a manner as to limit costs and promote financial efficiencies. In this respect, he recalled that in the context of its deliberations on the forthcoming budget, the Council had already highlighted the importance of avoiding unnecessary costs from the implementation of the ICT strategy, and had accordingly recommended the use of a tendering process as a means to limit costs. Similarly, the Representative underscored that the involvement of the External Auditor would be especially important in this process, and in this connection, pointed out that the External Auditor had as yet not been in a position to provide an assessment regarding the level of resources that should be allocated to this undertaking.

30. The Representative of Canada was of the view that the ICT Strategy and Action Plan represented important cornerstones in promoting the good governance of ICAO. As such, he strongly supported the efforts being made in this regard, and encouraged the Secretariat to ensure that the appropriate resources, including human resources, were in place to deliver on the successful implementation of such an important project.

31. In having conducted a preliminary review of the ICAO ICT Strategy, the External Auditor (Mr. D. Monnot, Swiss Federal Audit Office (SFAO)) averred that from his perspective, it appeared the strategy would address all the recommendations indicated in the performance audit report. However, with respect to the request of the COG for the External Auditor to conduct a thorough assessment of the ICT Strategy in time for the 227th Session, while the External Auditor recognized the concerns raised in this regard, he could not confirm the feasibility of performing such an audit, in light of the time constraints. He further underlined that the independence of the External Auditor would need to be carefully considered in undertaking such an audit, as any work carried out that could be perceived as “strategic consulting” was strictly prohibited. Thus, he noted that in order to provide ICAO with relevant input, the External Auditor

would need to analyse the associated risks and compare these against the Organization's plan to operationalize the strategy. To this end, the External Auditor affirmed that his team would continue to coordinate closely with the Secretariat, as well as the pertinent Council Committees, in order to progress this work in a manner that would be meaningful and helpful for the Council.

32. Taking into account the remarks of the External Auditor, the Chairperson of the COG (Representative of Spain) suggested that, in coordination with the Secretary General and the Council, an appropriate timeline for the requested audit could be identified, including to defer the subject, if needed, to the 228th Session. Nonetheless, he maintained that the External Auditor's comments on the ICT Strategy and Action Plan would be very important for the Council, and proposed that in the absence of a full audit, even a preliminary impression from the External Auditor of the strategy would be useful during the Council's deliberations during the 227th Session.

33. Following consideration, the Council:

- a) took note of the information presented in C-WP/15398, as well as the Secretary General's oral report, together with the respective COG oral reports thereon;
- b) further noted that the Secretariat was intending to present the new ICT Strategy and Action Plan to the Council during the 227th session, and in this connection, invited the External Auditor (SFAO) and the Evaluation and Audit Advisory Committee (EAAC) to each undertake an assessment of this new strategy, with a view to presenting the preliminary results of their review potentially during the 227th session, or thereafter, it being understood that the Secretariat would liaise closely with the External Auditor and EAAC in relation to the timeline; and
- c) in line with the suggestion of the External Auditor that organizations should regularly review/audit the implementation of their ICT strategies every two to three years, requested the Secretariat to plan to undertake the next ICT audit accordingly, and for this review to be undertaken prior to the 42nd Session of the ICAO Assembly (2025).

#### **Update on information security and information, communications and technology management at ICAO**

34. The Council commenced consideration of this item on the basis of an oral report delivered by the Secretary General, which presented an update on the progress made in the areas of information security and Information and Communications Technology (ICT) management at ICAO. The Council also had for consideration an oral report thereon from the Chairperson of the Committee on Governance (Representative of Spain).

35. In noting the COG Chairperson's intention to coordinate with the Director of the External Relations and Legal Affairs Bureau (D/LEB) and the Director of the Bureau of Administrative and Services (D/ADB) regarding possible solutions with respect to the ongoing investigation into anonymous e-mails, the Representative of Mexico inquired as to how the investigation would proceed once the Delegations' e-mail accounts had been migrated, and consequently segregated from the Secretariat e-mail system. In particular, he asked whether the data from the Delegations' e-mail accounts would still be available following the migration, and if in the negative, suggested that the scope of the investigation would likely need to be reviewed.

36. While acknowledging the efforts of the COG Chairperson to resolve the pending issues regarding the investigation into anonymous e-mails, the Representative of South Africa expressed concern

that the crux of the matter, namely, the perceived violation of diplomatic communications, had not yet been addressed appropriately, in his opinion. He reiterated his position that notwithstanding the possibility that the e-mail data which had been downloaded in the context of the investigation could yield pertinent evidence, the act of having downloaded this data, without the express authorization of all national Delegations to do so, constituted, in his view, a violation of the confidentiality of diplomatic communications. The basis of ICAO's consultations with the United Nations Office of Legal Affairs in this regard therefore remained unclear to him, since he considered that a violation had occurred, and contended that the UN legal experts would also affirm that there was no sufficient justification for the Organization to continue to possess this intercepted data. As such, he urged the Council to take a final decision on this matter, immediately.

37. Addressing the query of the Representative of Mexico, the President of the Council remarked that the investigation would need to proceed on the basis of the data that had been downloaded, and had understood that it would not be impacted by the upcoming migration of the Secretariat and Delegations' e-mail accounts. At the same time, he recalled that the Council had decided to undertake an investigation into the anonymous messages, and had subsequently considered the legal implications of the Secretariat having downloaded the e-mail data from the ICAO server, including whether the e-mails from the Secretariat and national Delegations could be segregated without infringing the privileges and immunities of the latter. With that in mind, the President of the Council indicated that the legal analysis would therefore need be pursued in a manner consistent with the standing decision of the Council in this regard, unless otherwise modified by the Council.

38. The Representative of South Africa responded in pondering the possibility that the Council had taken its earlier decision on the basis of a misunderstanding of the issue, as it appeared that the legal question under analysis had continued to change over the course of the Council's discussion on this subject. He maintained that the legal assessment as requested by the Council had been completed, having clearly reinforced the principle of the inviolability of diplomatic communications, and as a result, he did not consider there to be any need for further legal analysis. However, consistent with his previous interventions on the topic, the Representative suggested that as not all Delegations had been equally affected by the unauthorized downloading of e-mail data from the ICAO server, priority should be afforded to the views of those Delegations that had been most impacted. The Representative reiterated that the status quo could no longer be allowed to continue, and urged the Council to take the appropriate action to remedy the situation, including to modify any previous decisions, if necessary.

39. Noting that this had been a long-standing discussion in the Council, the Representative of Saudi Arabia agreed that at the time the Council had decided to launch an investigation into the anonymous e-mail messages, the implications of such an investigation for the Delegations' e-mail correspondence may not have been fully understood. He further agreed on the need for a swift and urgent resolution to the matter, including potentially, to destroy the downloaded data.

40. The Representative of Zambia also acknowledged that while the Council had taken a decision to investigate the anonymous e-mails, it had not provided specific instructions on how the investigation would be conducted, and in this respect, supported the comments of the Representative of South Africa on the need for any irregularities in this process to be rectified. The Representative further agreed that this issue was not a collective one per se, but instead, concerned the rights and privileges of individual Delegations, and thus, insofar as one Delegation objected to the method of investigation, these sentiments should be respected, and no Delegation should be compelled otherwise.

41. The Representative of France welcomed the initiative of the COG Chairperson to work together with D/LEB and D/ADB to bring clarity to such a complex issue. He recalled that following the circulation of a series of anonymous e-mail messages, the Council had agreed that such actions should not

be tolerated with impunity, and that the Organization had subsequently referred the incident to the competent Canadian authorities for investigation. As such, the Representative underlined that evidence relevant to the investigation could not be allowed to be destroyed, while in the same vein, pointed out that to his knowledge, there had never been any intention to use the e-mails from national Delegations for this purpose, given their privileged and confidential nature. On this basis, while he fully understood the concerns raised by the Representative of South Africa and others, the Representative did not consider the downloading and retention of the Delegations' e-mail data to constitute an "interception" of diplomatic correspondence, as to date, these e-mails had never been opened or viewed. He also noted that it was important to keep in mind that insofar as e-mails were kept on a server, there could be no traceability in that data, to which only the server Administrator had access, as had been explained by the Secretariat. This information was especially relevant in his opinion, as he had understood that the Secretariat had contacted the UN Office of Legal Affairs in order to determine more precisely how diplomatic immunities would be apply in this case, as confidentiality of the e-mail data could not be fully ensured.

42. Joining the Representative of France, the Representative of the United Kingdom noted with appreciation the efforts of the COG Chairperson to work toward finding a solution to this long-standing and complicated issue, and with a view to addressing the many concerns that had been raised in this regard. The Representative reminded that the impetus for the Organization's filing of a legal complaint with the Canadian authorities had been a spate of malicious and damaging e-mail messages that had been sent to ICAO staff, national Delegations, and other recipients, including an especially damaging incident in which one such message had been sent from an ICAO e-mail address to a family association of aircraft accident victims. Given the potentially criminal wrong doing which may have been committed by individuals from within the Organization in sending such messages, he understood that a decision had been taken to capture an image of the server in place at the time the incidents occurred, and that since then, this data had been kept securely, under a clear chain of custody, and had never been accessed. In terms of the legal aspects associated with the issue, it was his view that no legal position was entirely absolute, and as such averred that an independent legal perspective was required, including from the UN Office of Legal Affairs if necessary, in order to ensure that all the concerns and views raised on this matter were taken into account.

43. Regarding the security of the downloaded data, D/ADB assured that the data was fully secured, whereby the data was currently locked away in a double-lock safe, to which only he and the Chief, Office of Internal Oversight (C/OIO) had the keys. He further noted that while the safe required both keys to be opened, it was also kept in a limited-access server room, for which neither he nor C/OIO had authorization to enter, and which itself was monitored by means of a security camera, such that anyone accessing the server room would be recorded doing so. In light of the security measures in place, D/ADB asserted that it was the Secretariat's opinion that the data had been stored securely and appropriately.

44. Aligning himself with the Representative of South Africa, the Representative of Nigeria questioned the suggestion that the act of having downloaded certain Delegations' e-mail data without their authorization had not constituted an interception of diplomatic correspondence. In doing so, he opined that it had been inappropriate, and well-beyond the mandate of the investigation that only some Delegations' e-mail data had been downloaded, whereas the content of other Delegations' correspondence had not. In his opinion, there was no sufficient justification for having downloaded this data, nor for having kept it for so long after significant concerns had been expressed by some Delegations. He contended therefore, that the only way to restore the confidence of those Delegations' whose e-mail data had been potentially breached, was to destroy the stored data, as soon as possible.

45. The Representative of the Russian Federation supported the comments of the Representatives of South Africa and Nigeria, as did the Representative of India, who added that a decision should be taken at the present meeting on a way forward, with a view to concluding the matter as soon as

possible. The Representatives of China and Brazil shared the view that the issue should be resolved at the earliest.

46. Drawing on the remarks of the Representative of Nigeria, the Representative of South Africa stressed that there were no grounds, even in the context of a potentially criminal investigation, to have downloaded the data from national Delegations, considering that any wrong doing that may have been perpetrated by a diplomatic official would be addressed through other government channels. He also questioned how under the circumstances, the downloading of Delegations' e-mail data could be interpreted as anything other than interception of their correspondence, particularly as the Delegations' had not authorized the download, nor had the Secretariat been transparent in advising the Delegations of the actions taken in this regard. In this connection, it was his recollection that following consultation with the Canadian authorities, it had been understood that the investigation could not proceed on the basis of the data collected, until a solution was found to segregate the Delegations' e-mail data from that of the Secretariat, without violating their diplomatic immunities and privileges. On this basis, the Representative maintained that the Council was not in a position to allow Delegations' confidential data to be held contrary to those Delegations' wishes, and could not take a decision that would impinge on Delegations' rights, as afforded to them under relevant international conventions and treatise.

47. The Representative of France averred that his Delegation's "icao.int" e-mail services, and to his understanding, many other Delegations' e-mail data, had been downloaded from the ICAO server as part of the investigation, such that all the Delegations had ultimately been affected by the download. The Representative of the United Kingdom joined in confirming that he had also assumed that his Delegation's data was being held as part of the downloaded data.

48. The Representative of South Africa clarified that his concerns related specifically to those confidential, diplomatic exchanges between the Delegations and their home Governments, which had been downloaded without the Delegations' explicit consent. He asserted that while all Delegations may use the "icao.int" account for internal ICAO matters, only some Delegations used this same account for their official correspondence with their Capitals, and as a result, had a greater stake in the future of the downloaded data, in his opinion.

49. Supplementing his earlier intervention, the Representative of France firmly stated that on no occasion during which this matter had been considered by the Council had he asked that the Delegations' downloaded data be retained. Rather, he underscored that while the Delegations' data had been captured together with the Secretariat's, it was the latter that was the focus of the investigation by the Canadian authorities. With this in mind, he reaffirmed that the intention was not to retain the Delegations' data for the purpose of this investigation, but only until a means could be identified to separate the Delegation and Secretariat e-mail data, without compromising the confidentiality and integrity of the Delegations' diplomatic correspondence.

50. While summarizing the foregoing discussion and with a view to facilitating a final decision on the way forward, the President of the Council foreshadowed his intention to submit a proposal during the 227th Session to allow the Council to decide whether to continue to pursue the legal analysis, or to destroy the disc containing the downloaded data. In this way, he aimed to address the concerns raised by a number of Delegations on the need to expedite a resolution to this long-standing issue, while also allowing additional time in the intervening period for the legal assessment to continue on whether the downloaded data might be segregated in such a way as to avoid any violation of the Delegations' e-mail data.

51. Both the Representatives of South Africa and Nigeria expressed their concern that the 227th Session was not soon enough, and requested that a decision be taken on this matter during the current Session. The Representative of South Africa added that while he was understanding of the compromise put



forward by the President of the Council, he still did not comprehend the rationale for any further legal analysis, and remained dubious of the security of the downloaded data, despite the assurances provided by D/ADB to this effect. As such, the Representative reiterated his request that the Council continue its consideration of this issue, with the aim of coming to a final decision by the end of the current Session.

52. Noting these concerns, the President of the Council suggested that the Council suspend further consideration of this topic for the time being, on the understanding that the Council would resume its discussion at a subsequent meeting, pending the outcome of the legal assessment, as well as the consultations between the Chairperson, D/ADB and D/LEB in this regard.

53. Following its initial consideration, the Council:

- a) took note of the information presented in the oral report, and acknowledged the progress made in the area of information security in accordance with the associated Roadmap, as well as the recent completion of the draft ICT Strategy, including the Digital Transformation plan;
- b) also noted that pursuant to its previous decisions concerning the investigation into anonymous e-mails (C-DEC 222/7 and C-DEC 224/11 refer), the Secretariat had continued to explore possible solutions for the segregation of emails while ensuring that there was no diminution of the diplomatic privileges and immunities of the delegations, and in this connection, further noted that the Secretariat had met with the United Nations Office of Legal Affairs to obtain further guidance in this regard; and
- c) took further note that the Chairperson of the COG had arranged to consult with the Director of the Legal Affairs and External Relations Bureau (D/LEB) and the Director of the Bureau of Administration and Services (D/ADB) to further progress a resolution to the matter as outlined in sub-paragraph b), above, and that pending the outcome of this consultation, the Council would continue its deliberations on this subject, if possible, at a subsequent meeting of the current session, or else at a subsequent session.

54. The Council adjourned at 13:00.



**COUNCIL — 226TH SESSION**

**SUMMARY MINUTES OF THE NINTH MEETING**

**(HYBRID MEETING, FRIDAY, 10 JUNE 2022, AT 1000 HOURS)**

President of the Council: Mr. Salvatore Sciacchitano

Secretary: Mr. Juan Carlos Salazar, Secretary General

**PRESENT:**

Argentina	— Mr. G.E. Bompadre	Malaysia	— Mrs. F. Chin
Australia	— Mr. R. Adams	Mexico	— Mr. D. Méndez Mayora
Brazil	— Mr. N. Moretti	Netherlands	— Mr. R. Ossendorp
Canada	— Mr. C. Hurley	Nigeria	— Mr. M.S.B. Tukur
China	— Mr. Shengjun Yang	Paraguay	— Mr. C.D. Urquhart Cáceres
Colombia	— Mr. M. Ramírez Koppel	Peru	— Mr. A. Freyre Layzequilla
Costa Rica	— Mr. G. Hoppe Pacheco	Republic of Korea	— Mr. S. Kim
Côte d’Ivoire	— Mr. C.A. Djibril	Russian Federation	— Mr. S. Gudkov
Dominican Republic	— Mr. J. Peña Guzmán	Saudi Arabia	— Mr. B. Al-Sagri
Egypt	— Mr. S. Elhefny	Singapore	— Ms. E. Poh
Equatorial Guinea	— Mr. E. Esono Anguesomo	Spain	— Mr. V.M. Aguado
Finland	— Mr. S. Vuokila	Sudan	— Mr. I.M. Elhag
France	— Mr. L. Pic	Tunisia	— Mr. I. Torjemane
Germany	— Mr. U. Schwierczinski	United Arab Emirates	— Mr. M. Salem (Alt.)
Greece	— Ms. M. Saranti	United Kingdom	— Mr. A. O’Henley
India	— Mrs. S. Juneja	United States	— Mr. C. Sullenberger
Italy	— Ms. S. Costantini	Zambia	— Mr. V. Banda
Japan	— Mr. I. Fukushima		

**ALSO PRESENT:**

Mr. P. Kelleher	— President, ANC
Mr. C. Fernández (Alt.)	— Argentina
Mr. S. Lucas (Alt.)	— Australia
Ms. C. Fitzgerald (Alt.)	— Australia
Ms. I. de Melo Maciel (Alt.)	— Brazil
Mr. A. Bertolino (Alt.)	— Brazil
Mr. M. Lima (Alt.)	— Brazil
Mr. D. L. Pereira (Alt.)	— Brazil
Mr. R. Arruda (Alt.)	— Brazil
Ms. A. Barbosa (Alt.)	— Brazil
Mr. J. Liang (Alt.)	— China
Ms. A. Jiménez (Alt.)	— Costa Rica
Ms. C. Moya (Alt.)	— Dominican Republic

**SECRETARIAT:**

Mr. M. Vreedenburgh	— SPO/OSG
Mr. S. Creamer	— D/ANB
Mr. J. Vargas	— D/TCB
Mr. M. Rahma	— D/ATB
Mr. A. Mishra	— D/ADB
Mr. M. Gill	— D/LEB
Mr. P. Zo’o Minto’o	— RD, WACAF
Mr. B. Kashambo	— RD, ESAF
Mr. S. Lefoyer	— DD/ASF
Mr. T. Efendioglu	— C/OIO
Ms. T. de Bodt	— H/SPCP
Ms. O. Nam	— C/FIN
Ms. T. Agiri	— DD/HR
Mr. A. Larcos	— C/ACS
Ms. V. Muraca	— ACS
Ms. D. Lane	— Précis-writer

*Mr. Eric Jeannot, Vice-President, Swiss Federal Audit Office (SFAO)*

*Mr. Martin Kohli, Director Manager, SFAO*

*Mr. Didier Monnot, Head of Mandate and Coordinator, SFAO*

*Mr. Bernhard Hamberger, Head of Competence Center for IT audits and IT Audit Leader, SFAO*

**ALSO PRESENT: (Cont'd)**

Ms. V. Adalsteinsdottir (Alt.)	— Finland
Ms. V. Betchava (Alt.)	— Greece
Mr. A. Kalognomis (Alt.)	— Greece
Ms. V. Lazari (Alt.)	— Greece
Mr. M. Silanos (Alt.)	— Italy
Mr. A. Joshi (TE)	— India
Mr. S. Oshima (Alt.)	— Japan
Mr. S. Sugiyama (Alt.)	— Japan
Mr. M. Loustaunau (Alt.)	— Mexico
Mr. C. Schleifer (Alt.)	— Netherlands
Mr. C. Bustamante (Alt.)	— Peru
Mr. C. Zamora (Alt.)	— Peru
Mr. S. Ahn (Alt.)	— Republic of Korea
Ms. O. Mozolina (Alt.)	— Russian Federation
Mr. M. Habib (Alt.)	— Saudi Arabia
Ms. D. AlKurdi (Alt.)	— Saudi Arabia
Ms. E. Ang (TE)	— Singapore
Ms. S. Toh (TE)	— Singapore
Ms. T. Goodwin (Alt.)	— United Kingdom
Mr. A. Veprek (Alt.)	— United States
Mr. M. Waniwa (Alt.)	— Zambia

Representatives to ICAO

Cameroon  
 Chile  
 Congo  
 Ethiopia  
 Indonesia  
 Iran (Islamic Republic of)  
 Kenya  
 Niger  
 Poland  
 Qatar  
 Turkey  
 Uganda  
 Uruguay

Airports Council International (ACI)  
 European Union (EU)  
 International Air Transport Association (IATA)  
 International Business Aviation Council (IBAC)  
 International Coordinating Council of Aerospace Industries Associations (ICCAIA)  
 International Federation of Air Line Pilots' Associations (IFALPA)

## **Financial Statements and Report of the External Auditor for the Financial Year 2021**

1. The Council considered this item on the basis of C-WP/15362 and Addenda Nos. 1 & 2, which presented the audited Financial Statements of the Organization for the year ended 31 December 2021, reflecting the financial situation of ICAO, as well as the financial performance of projects and activities managed by ICAO on behalf of third parties. The Council also had for consideration an oral report thereon from the Finance Committee (FIC), as well as a PowerPoint presentation by the External Auditor.

2. Introducing the working paper, the Secretary General acknowledged that the review and audit process during the preparation of the Financial Statements and the report of the External Auditor for the financial year 2021 had required more than the usual effort by the External Auditor and the Secretariat. He appreciated that the External Auditor had recognized the work undertaken by the Secretariat to close audit recommendations from previous audits and in respect of the standards of presentation and transparent disclosures. The Secretary General conveyed that he had accepted the newly issued audit recommendations with targets for closure at the earliest possible time, and thanked the External Auditor for the excellent work and valuable recommendations.

3. The Chairperson of the FIC (Representative of the Netherlands) highlighted that the External Auditor had informed the Committee of the unqualified audit opinion issued for the 2021 financial statements, and that twelve new recommendations had been issued related to the 2021 audit along with nine recommendations with respect to the performance audit on IT governance and strategic IT management. During the discussions which followed, the Committee had expressed particular interest and concern regarding the IT-related performance audit and recommendations, specifically underscoring the necessity to ensure that in the context of the implementation of the new ICT strategy and action plan, these recommendations be appropriately addressed and incorporated into the work. The Chairperson relayed the Committee's satisfaction with the transparency of the financial statements and with the improvements that had been introduced, and encouraged the Secretariat to continue in this direction. With regard to the FIC's recommendation in the oral report that instructed the Secretariat to amend the text of the draft resolutions to be presented to the Assembly, the Chairperson proposed replacing the words "to reflect the *positive opinions* given by the External Auditor" with "to reflect the *unqualified opinion* given by the External Auditor", and underlined that the draft resolutions should reference the financial years 2019, 2020 and 2021. He further proposed that in addition to noting the Plan of Action included in the annex to C-WP/15362, the Council note that all of the recommendations of the External Auditor contained therein had been accepted by the Secretary General for implementation, or had already been partially implemented.

4. On behalf of the External Auditor, the Swiss Federal Audit Office (SFAO), Mr. Didier Monnot, Head of International Mandates for the SFAO, offered preliminary remarks wherein he related that the 2021 financial audit had been the first occasion, since the start of the SFAO's mandate on 1 January 2020, that it had been possible for the SFAO team to meet the Representatives and the Secretariat in person. He acknowledged that the opportunity for an on-site audit had enlarged SFAO's understanding and consolidated its relationship of trust with the Council and the senior management of the Organization. Asserting that trust was an essential pillar of the SFAO's work, he thanked the Council for the confidence entrusted to the SFAO as External Auditor.

5. The SFAO Director of Audit for the ICAO mandate, Mr. Martin Köhli, presented an overview of the process, findings and recommendations of the External Auditor, indicating that some audit procedures were performed on-site, while further audit evidence was gathered through remote work, virtual meetings and online access to ICAO systems. He commented that this had been made possible through constructive cooperation and open communication with the Secretariat, and fruitful exchanges with the Office of Internal Oversight (OIO) and the Evaluation and Audit Advisory Committee (EAAC). He underlined that the SFAO had delivered an unqualified audit opinion on the financial statements, which he

confirmed had been prepared in accordance with International Public Sector Accounting Standards (IPSAS) and on a going-concern basis, and that all significant misstatements had been corrected during the audit. Explaining that the audit findings mainly referred to internal control matters, he highlighted that there were issues raised related to a number of IT environment and control matters; authorized signatures on bank accounts; payment processes in the Regional Offices; and key audit findings related to the management of fixed assets which would need to be subjected to further investigation in a future audit. While noting that at the end of May 2022, 33 recommendations remained open, he highlighted that 50 of the 72 recommendations from previous audits had been closed. He stated that this was a notable achievement by the Secretariat, and expressed praise for the considerable effort undertaken by the Secretariat, particularly by the Finance Branch, to improve the financial reporting.

6. The Representative of Colombia expressed thanks for the work of the External Auditor stating that it contributed to the sound management of the Organization, and to the Secretariat for the extraordinary effort put forward to resolve and close 50 recommendations. Echoing these remarks, the Representative of Spain anticipated that the digital transformation exercise underway would support control and transparency in financial management.

7. Closing the discussion on this item, the President of the Council reiterated the appreciation expressed to the representatives of the SFAO for their participation as External Auditor and to the Secretariat for the transparency and improvements incorporated into the Financial Statements for the year 2021, remarking that this had been the first opportunity for the recently appointed Chief of Finance to participate in the preparation of the financial statements.

8. In concluding its consideration of this item, the Council:

- a) expressed appreciation to the representatives of the Swiss Federal Audit Office (SFAO) for their comprehensive report and for the additional clarifications provided, as well as to the Secretariat for the transparency and improvements made to the 2021 Financial Statements;
- b) noted with satisfaction the External Auditor's unqualified opinion on the Organization's Financial Statements for the financial year 2021, and expressed appreciation to the Secretariat for the progress made in the implementation of the recommendations, notwithstanding the concerns raised in relation to the IT security issues identified by the External Auditor and the low implementation rate of IT-related recommendations;
- c) approved the submission of the financial audit reports listed in the Executive Summary of C-WP/15362 to the next ordinary session of the Assembly for approval;
- d) approved the use of the text of the draft resolution as attached to C-WP/15362, for the consolidated draft resolution for the financial years 2019, 2020 and 2021, subject to the amendments requested by the FIC being reflected therein; and
- e) noted the Plan of Action contained in the annex to C-WP/15362.

### **Performance Audit on Project Management “NAM19801” of the ICAO Technical Cooperation Programme**

9. The Council considered this item on the basis of C-WP/15423, which presented a report of the External Auditor on the Performance Audit on Project Management “NAM19801” of the ICAO Technical Cooperation Programme, which aimed to examine and evaluate the Technical Cooperation

Bureau (TCB)'s project management and its processes, using as an example the Namibia technical cooperation project entitled "Preparation of the ICAO USOAP CMA Audit" (NAM19801), implemented between March 2020 and April 2021. The Council also had for consideration an oral report thereon from the Committee on Governance (COG), as well as a PowerPoint presentation by the External Auditor. In doing so, the Council agreed to waive the requirement in Rule 26 of the *Rules of Procedure for the Council*, given that the COG oral report had not been made available 72 hours before this meeting.

10. The Secretary General opened his remarks by asserting that project management "NAM19801" was representative of TCB's capacity-building support and the impact that the Technical Cooperation (TC) Programme was capable of having on enhancing the safety oversight capabilities in Member States and improving effective implementation (EI) levels. He highlighted that such results were in line with the Implementation Support Policy recently approved by the Council. The Secretary General underscored that the overall evaluation of the NAM19801 project was positive, drawing attention to the External Auditor's assessments that it was possible for TCB to determine the needs of Member States using existing mechanisms; that TCB had an appropriate project management system and tools for handling a project in a professional manner from the outset through to completion; and that TCB's prerequisites for sound project implementation were adequate to provide project assurances. The Secretary General asserted that the audit had confirmed there was a solid foundation in place for the Organization to continue to work towards enhancing the relevance, consistency, efficiency and effectiveness of its implementation support services to Member States as part of a continuous improvement process. He believed that the Director and staff of TCB had done tremendous work to improve the delivery of support to Member States, and gave assurances of his commitment to the growth and success of the Organization's implementation support activities and to enhancing services in collaboration with all ICAO bureaux, the Regional Offices and external partners, with a view to providing greater value and benefits to Member States. The Secretary General availed himself of the opportunity to call upon Member States in the Council to encourage their respective administrations to consider the advantages of using ICAO's TC Programme for the implementation of civil aviation capacity-building and development projects. He closed his remarks by expressing appreciation to the External Auditor for the clear and comprehensive performance audit report.

11. In presenting the oral report on C-WP/15423, the Vice-Chairperson of the COG (Representative of Zambia) conveyed that the Committee had noted the overall positive results of the performance audit of project management "NAM19801" and had encouraged the Secretariat to take the necessary action with respect to areas identified for improvement. He reiterated the appreciation for the work of the External Auditor and relayed the Committee's recommendation that the performance audit report be endorsed by the Council.

12. On behalf of the External Auditor, the Swiss Federal Audit Office (SFAO), Mr. Didier Monnot, Head of International Mandates for SFAO, presented an overview of the performance audit report. As a means of providing background, he explained that the SFAO had developed a framework for performance audits in respect of development projects which enabled an efficient audit process and delivered maximum added value. Without going into detail about the methodology, he indicated that the four components of the framework had shown positive results in respect of the performance audit of NAM19801. In this regard, the SFAO had concluded firstly, that TCB had the necessary instruments to assess the level of implementation of the ICAO Standards and Recommended Practices (SARPs) in the beneficiary Member States and that the procedures in place were sufficiently flexible and could be adapted according to specific needs. Secondly, the SFAO had concluded that the initial cost estimates had been developed in detail and approved by the parties, and that transparency guaranteed both direct and indirect costs. In this regard, the SFAO believed that TCB could improve the budgetary follow-up of projects with digitalized solutions and that it could implement a fine quality assurance at the end of the project. Thirdly, the SFAO had concluded that ICAO had robust project structures and tools with predefined written

processes and deliverable requirements, and that the necessary elements of a professional project management system were therefore available.

13. Finally, the SFAO had concluded that the evaluation instruments used were adequate and provided key elements for quality assurance for determining potential improvement and optimization. Turning to the recommendations made in the performance audit report, he reiterated that on the basis of project management “NAM19801”, the SFAO had not identified any contractual or systemic problems or performance gaps that would require general recommendations for TCB. He characterized the two recommendations included in the performance audit report as operational recommendations which were also applicable to all projects managed by TCB. He conveyed his understanding that these recommendations would be implemented without much difficulty. Bearing in mind the need to balance theory and practice, an ideal outcome and the reality in the field, and the application of international best practices and the sovereignty of the Member State, the SFAO had not issued a formal recommendation with respect to the assessment of the sustainability and impact of the project, but rather encouraged TCB to better integrate sustainability and capacity-building aspects into its overall TC programme, convinced that a recommendation difficult to implement concretely would not confer added value.

14. Expressing thanks for the presentation by the External Auditor, the President of the Council underlined that the performance audit report had provided context to the discussions which had recently taken place in the Council and in the Council committees regarding both the difficulties faced in the implementation of TCB activities and the strength and capabilities of TCB with respect to programme management. He considered the performance audit report a timely validation of the Council’s recent decision to extend assistance activities within TCB by leveraging programme management capabilities.

15. While the Representative of Spain concurred that the performance audit report was encouraging, he asserted that implementation required two fundamental pillars to succeed, one of which was project management capacity and the other cost accounting. He believed that by strengthening these two pillars the Organization would achieve an implementation policy which would guarantee continued support to Member States.

16. The Representative of Brazil associated himself with the preceding interventions by the President of the Council and the Representative of Spain, particularly that the performance audit report engendered the confidence necessary to expand the scope of TCB’s ability to assist Member States with the implementation of SARPs.

17. Commenting that the performance audit report had highlighted TCB’s robust structure for managing projects in a transparent fashion, the Representative of Colombia credited the Secretariat’s hard work for this achievement. He drew attention to the upcoming Global Implementation Support Symposium (GISS) to be held in Istanbul, Turkey, from 28 June to 1 July 2022, which would include a session on ICAO implementation support programmes.

18. The Representative of Mexico expressed his agreement with the previous interventions and his thanks to the COG for the work undertaken to review the performance audit report. In this regard, the Representative proposed that the COG recommendation that the Council take note of the External Auditor’s performance audit report be amended to reflect that the Council took note “with satisfaction”.

19. Following-up on the point raised by the Representative of Mexico, and having observed the extraordinary work done by the Secretariat and the External Auditor with respect to project management “NAM19801”, the Representative of Peru suggested that the Council “welcome” the External Auditor’s performance audit report, rather than simply note it.



20. The Representative of Singapore concurred with the view that had highlighted the importance of cost accountability, pointing out that TCB handled many contracts, some of which were associated with a high level of financial responsibility. Having noted that the External Auditor had not found contractual or systemic problems in TCB's project management, and that TCB had a robust project structure, she was confident that, going forward, the Organization would be well positioned to render assistance to Member States for important initiatives such as long-term aspirational goals and the new implementation policy.

21. The Representative of Costa Rica stated that the results of the performance audit of project management "NAM19801" conferred a level of confidence and security not only for the Council but also for the valuable human resources who staff the TCB. He supported the invitation issued by the Secretary General for Representatives to act as focal points for informing Member States about the availability and advantages of the TC Programme to support implementation and capacity-building.

22. On behalf of the Secretariat, the Secretary General embraced and welcomed the kind recognition and words of support offered by the Representatives, and assured the Council that the Secretariat would continue in its efforts to generate yet more confidence and trust in the capabilities of the Organization by improving project management and project implementation. In this regard, he conveyed that recent Council decisions to approve a new business model for TCB had been an important step forward.

23. In concluding its consideration of this item, the Council:

- a) took note, with satisfaction, of the External Auditor's Performance Audit Report on project management "NAM19801", as contained in the Appendix to C-WP/15423, including the comments of the Secretary General reflected therein, and reiterated its appreciation to the External Auditor for the comprehensive and transparent report; and
- b) endorsed the recommendations and key findings outlined in the External Auditor's Performance Audit Report, and in so doing, encouraged the Secretariat to take the necessary action to address the recommendations and strengthen those areas identified for further improvement.

### **Draft Assembly working paper — Measures towards Gender Equality at ICAO and the Global Aviation Sector by 2030**

24. The Council considered this item on the basis of C-WP/15395, which presented a draft Assembly working paper outlining the ongoing initiatives to improve gender equality and promote gender mainstreaming and the empowerment of women. The Council also had for consideration an oral report thereon from the Committee on Governance (COG).

25. The Secretary General introduced the working paper by outlining the activities that had been undertaken during the past triennium in support of the ICAO Gender Equality Programme and in line with Assembly Resolution A39-30 — *ICAO Gender Equality Programme promoting the participation of women in the global aviation sector*. In this regard, he drew attention to advocacy and outreach efforts; consideration of gender in the recruitment of staff; targeted training initiatives; removal of gender-discriminatory or biased language from existing ICAO policies or other official documents; and profiting from opportunities to engage with partners, including through the conclusion of arrangements related to gender equality as well as participation in relevant initiatives and mechanisms led by the United Nations. He underscored the significance of the adoption by Council of the *Declaration on Improving Gender Representation in ICAO's Governing and Technical Bodies* (C-DEC 222/7) and indicated that the Secretariat was in the process of preparing the Gender Equality Programme Implementation Plan for the

2023–2025 triennium. In this regard, he referred to future opportunities for advocacy and promotion of gender equality in aviation through the identification of specific goals or targets for the aviation sector, with the objective of enhancing representation of women and girls in the workforce of the aviation industry; the conducting of studies around gender data and analysis in aviation; and by means of the Second Global Aviation Gender Summit planned to take place in 2023 in Madrid, Spain. Turning to the revised Assembly Resolution A39-30 contained in Appendix A to the draft Assembly working paper attached to C-WP/15395, the Secretary General indicated that the revisions had been undertaken under the leadership and with the valuable contributions of the Small Group on Gender. He explained that the proposed changes were aimed at encouraging strengthened commitment at all levels to advance gender equality and women's empowerment objectives in aviation, while giving due consideration to the importance of data; inclusion of gender equality as a core element of the ICAO human resources strategy; and stronger partnerships to promote, share and exchange best practices.

26. Presenting the oral report, the Vice-Chairperson of the COG (Representative of Zambia) highlighted that the Committee had recommended that the Council approve the draft Assembly working paper attached to C-W/15395 on the basis that the Secretariat would include greater detail on its efforts to address the gender balance at the higher professional grade levels.

27. The Chairperson of the Small Group on Gender (SGG) (Representative of France) briefly elaborated the rationale behind the revisions proposed to update Assembly Resolution A39-30. He explained that the SGG had considered that gender equality in aviation would not progress without first identifying roadblocks that may exist in the aviation industry at large, in Member States, in the governing bodies of the Organization and in the Secretariat. In this regard, the SGG believed that precise data was necessary, and in order to make it possible to measure progress over time, dynamic data was also needed, while acknowledging that the means for collecting such data was not always available. With respect to the long-term sustainability of initiatives towards achieving gender equality, and with a view to maintaining the momentum achieved so far, the Chairperson related that the SGG had advocated for intermediate goals, inspired by the IATA objective to have 25 per cent of women in high-level posts. He underscored the importance placed by the SGG on the role of the future human resources strategy in making progress towards gender equality, and advocated for taking into account the entire work life-cycle of staff members from recruitment to separation. Closing his remarks, the Chairperson conveyed the SGG's willingness to continue to support this important work.

28. Expressing appreciation to the Chairpersons of the COG and the SGG as well as to the Secretariat for the work undertaken in pursuit of gender equality, the Representative of Greece fully supported the draft Assembly working paper included in C-WP/15395.

29. The Representative of the United Kingdom voiced support for the oral report by the COG and recalled that during the Committee's discussions, it was pointed out that barriers may exist in the current working practices that may deter women with young children from seeking employment at ICAO. In this regard, he submitted that the Council calendar did not always align with the local school holidays, which may inconvenience those women in the midst of developing their professional interests while coping with the bulk of childcare responsibilities. The Representative suggested that the Council recesses could be adjusted to coincide with school holiday breaks in order to create a more welcoming environment for the persons the Organization hoped to attract and retain. The Representative of Australia associated himself with this intervention, stating that this was an example of a simple change which may enhance the work-life balance for those serving the Organization. While he recognized that this was not an issue related to the draft Assembly working paper under discussion, he suggested that this matter be considered in a subsequent Council session, to which the President of the Council voiced agreement.

30. The Representative of Mexico commented that while it was clear that a significant amount of work had been done by the Secretariat to improve gender equality in the Organization, he had misgivings about the wording of subparagraph a) of the action proposed in the executive summary of the draft Assembly working paper; specifically, that the Assembly “take note of the progress undertaken and achievements made by the Organization to enhance gender equality and gender mainstreaming”. In this regard, he pointed out that since the level of gender equality in the Organization had remained low, the use of the word “achievements” was inappropriate. Recalling concerns raised during other Council discussions with respect to the precise language to describe satisfaction or achievements, the President of the Council called upon the Secretariat to provide feedback on this intervention.

31. The Secretary General clarified that the achievements referred to in subparagraph a) of the executive summary encompassed the many aspects and activities underway in relation to the ICAO Gender Equality Programme, rather than to a percentage increase in female representation in the Secretariat or the Council. He explained that it was the intention of the Secretariat to reflect that efforts towards parity had been translated into action, citing as an example the advances made in the composition of some committees and groups, both within the Secretariat and those of the Council.

32. Drawing attention to the draft Assembly Resolution contained in Appendix A to the draft Assembly working paper, in particular to the clause that welcomed the “achievements made by ICAO and Member States pursuant to ICAO Assembly Resolution A39-30 while regretting that the progress towards gender equality remain[s] limited and too slow”, the Representative of France stated that this wording better reflected the current situation, in that, while achievements had been undertaken, there was more progress to come.

33. The Representative of Peru felt that the Assembly should be invited to note the progress to enhance gender equality and gender mainstreaming rather than to note the achievements made, as the term “achievement” was ambiguous and non-specific.

34. In his view, the Representative of South Africa considered that the word “achievement” signified completion of a task, and since the Organization had not yet attained gender parity, but was instead in the process of establishing systems to accomplish that goal, he would have difficulty with the Assembly being invited to take note of the achievements made, preferring instead that progress be noted.

35. In response to the comments raised regarding the wording of subparagraph a) of the executive summary of the draft Assembly working paper, the President of the Council proposed deleting the reference to “achievements” with the result that the Assembly be invited to “take note of the progress undertaken by the Organization to enhance gender equality and gender mainstreaming”.

36. In concluding its consideration of this item, the Council:

- a) took note of the information presented in C-WP/15395, as well as the COG oral report thereon, and in this connection, expressed its appreciation for the efforts made over the past triennium to enhance gender equality at ICAO and across the aviation sector, while also acknowledging the need to accelerate progress toward achieving this objective, including by creating an enabling working environment at ICAO, and through greater cooperation between Member States and ICAO in this regard; and
- b) approved the draft Assembly working paper attached to C-WP/15395, subject to the amendments requested by the COG being reflected, as well as the changes agreed on by the Council in the course of the consideration of this item, including with respect to the action a) as contained in the Executive Summary of the draft Assembly working

paper, and delegated authority to the President to thereafter approve the revised working paper on its behalf, for subsequent submission to the 41st Session of the Assembly.

### **Report of the Eleventh Meeting of the AFI SECFAL Plan Steering Committee (AFI SECFAL Plan SC/11)**

37. The Council considered this item on the basis of an oral report, as well as a PowerPoint presentation, delivered by the Chairperson of the AFI SECFAL Plan Steering Committee.

38. The Chairperson of the AFI SECFAL Plan Steering Committee (SC) (Observer Representative of Uganda) opened his remarks by summarizing the overall progress achieved since the Comprehensive Regional Implementation Plan for Aviation Security and Facilitation in Africa (AFI SECFAL Plan) was launched at the first AFI SECFAL Plan SC meeting in Maputo, Mozambique (18 May 2015). In this regard, he conveyed that most of the targets identified under the programme approved at that time had been achieved, with 34 AFI Member States audited under the Universal Security Audit Programme Continuous Monitoring Approach (USAP CMA) scoring, on average, 66.2 per cent, which was above the Global Aviation Security Plan (GASeP) target of 65 per cent, and with close to 55 per cent of AFI Member States, including those which were audited, having an average above 65 per cent. The Chairperson indicated that the SC believed that these percentages were actually significantly higher, as Member States had been benefitting from the intervention assistance programmes associated with the AFI SECFAL Plan and supported by development partners, the Regional Offices and the Technical Cooperation Bureau (TCB), but regretted that these presumed higher percentages could not be confirmed because of the lack of USAP activities in Africa. Given this background, the Chairperson advocated for increased USAP-CMA audits in Africa to evaluate and motivate progress.

39. Turning to current activities, the Chairperson revealed that there was an initiative to optimize the engagement of security and facilitation experts available in Africa to deliver assistance programmes, firstly, through the Regional Aviation Security and Facilitation Group (RSAFALG), a high-level group that reviewed strategies and recommended interventions at the strategic level, and secondly, at the operational level by means of the African Cooperative Expert Scheme which deployed expertise from a roster of ICAO-qualified experts in the AFI region. He indicated that this initiative was complemented by assistance programmes delivered by respective experts in Member States, such as the United States, and by development partners, such as the European Union (EU) through the Civil Aviation Security in Africa, the Middle East and Asia (CASE II) Project. The Chairperson highlighted that the AFI SECFAL SC was maintaining its focus on priority States as determined through audit results and gap analyses, and was collaborating with various UN agencies, and with the African Union, the latter which was driving specific programmes such as ePassports, Advance Passenger Information (API) and Passenger Name Record (PNR) systems, and leading advocacy efforts for increased membership of the ICAO Public Key Directory (PKD).

40. Illustrating the progress made more specifically, the Chairperson conveyed that of the 54 AFI Member States, approximately 45 were presently issuing ePassports, and that efforts directed at raising awareness that membership in the PKD optimized the benefits of ePassports had increased the enrollment of AFI Member States in the PKD to 15. He indicated that State-specific projects had been carried out in seven AFI Member States, and that seven expert missions had also been conducted. The Chairperson highlighted that 350 experts from 41 Member States had participated in a training course on Annex 9 — *Facilitation* (held virtually from 21 to 25 February 2022), and that security and facilitation iPack activities had been coordinated in several AFI Member States. Pointing to a distinctive example of success, the Chairperson relayed that, by virtue of the intervention assistance extended to it, one AFI Member State's USAP CMA effective implementation score had risen from two per cent to 69 per cent.

41. Outlining the future priorities of the AFI SECFAL Plan, the Chairperson highlighted the removal of significant security concerns; implementing long-term activities (2021–2023) to achieve Plan targets; optimization of the use of available experts in Africa; enhanced use of technological advancement, innovation and e-learning; and a continued focus on API, PNR and PKD. Regarding the objective to inspire the political will to elevate aviation security and facilitation, the Chairperson appealed to the Council and the Secretariat to reinforce this goal in their communications with Member States.

42. With respect to the present challenges to the implementation of the AFI SECFAL Plan, the Chairperson indicated that there remained significant security concerns in two AFI Member States. In this regard, he revealed that inadequate political will, lack of legislative provisions, the inability to retain qualified staff and insufficient resources were key challenges which existed at the State level. At the AFI SECFAL Plan level, the Chairperson underscored the need for a sustainable funding mechanism, averring that without such funding, objectives would be difficult to attain. In light of this, he conveyed the recommendation of the SC that at least US 1 million be allocated from the Regular Programme Budget to the AFI SECFAL Plan for the 2023–2025 triennium, and for the Secretariat to prioritize USAP activities in Africa in order to validate the progress achieved. On behalf of the AFI SECFAL Plan SC, the Chairperson expressed his thanks to all those who attended AFI SECFAL Plan SC/11, in particular those from partner Member States, and to the Council and the Secretariat for their continued support.

43. Addressing the recommendations of the SC, the Secretary General advised that he was not in a position to commit funds from the 2023–2025 triennium Regular Programme budget as it had not yet been approved by the Council or the Assembly. With regard to the request for additional USAP-CMA audits, he confirmed that for the years covering 2022 and 2023, ten USAP-CMA audits were planned for Member States in the Eastern and Southern African (ESAF) Region and four for Member States in the Western and Central African (WACAF) Region.

44. The Representative of the United States, referring to paragraph 2.1 of the oral report, concurred that there was a need to revisit the GAsEP aspirational targets to assess whether they were leading to improved effective implementation of the Standards and Recommended Practices (SARPs) in Annex 17 — *Security*, or whether the current GAsEP targets were inadvertently creating obstacles to implementation. He recalled that, within this context, the Aviation Security Panel (AVSECP) had recommended that the GAsEP Task Force be reactivated and tasked with analyzing and revising the GAsEP as necessary. With this in mind, the Representative believed that Member States should be encouraged to share their experiences using the GAsEP with a view to improving its effectiveness. Turning to the key challenges to the implementation of the AFI SECFAL Plan as outlined under paragraph 3.1 of the oral report, the Representative requested clarification of subparagraph f), specifically, what real-time data was lacking and how the availability of such data would facilitate decision-making and planning, resource allocation, and prioritization of activities. With respect to the key challenge identified in subparagraph 3.1 g), he recalled that the lack of USAP-CMA audits/validation missions to validate the progress achieved had been raised in an African Civil Aviation Commission (AFCAC) working paper presented to the thirty-third meeting of the AVSECP (AVSECP/33, 9 to 13 May 2022). While he agreed that actual EI levels may not be fully up to date due to the limitations that had been imposed during the COVID-19 pandemic, he asserted that this highlighted the importance for every Member State to each have an active national security quality control programme to identify deficiencies so that corrective actions may be undertaken without delay. The Representative underscored that, while implementation progress is validated through the USAP-CMA, it should not be the primary tool relied on by Member States to measure compliance with Annex 17 and the security provision of Annex 9.

45. Addressing the matters raised in the preceding intervention, the Chairperson explained that a continent-wide scarcity of data management systems was responsible for the lack of real-time data for the purpose of assessing not only aviation security but also aviation safety. Against this background, he

conceded that data was being generated, but not captured, processed or stored in a manner that would enable risk assessment and risk management. Speaking to the issue of the assessment by Member States of their respective levels of implementation of security-related SARPs, the Chairperson related that this was being widely carried out by AFI Member States, including through mechanisms such as the RASFALG or with the assistance of the Regional Offices and through assistance programmes. He underscored that through these self-audits and those supported by interventions, implementation levels had, in fact, improved; but that this would only be updated and reflected on the USAP-CMA dashboards after the audit validation missions had taken place.

46. The Representative of Spain concurred with the Chairperson on the important role of USAP-CMA activities in the validation of Member States' implementation levels, while considering that the project management mechanisms successfully used by the Technical Cooperation Bureau (TCB) might also serve as useful tools to create better visibility for project management as well as greater clarity for the results and progress achieved under the AFI SECFAL Plan. The Representative of Zambia concurred with these remarks.

47. Voicing support for the AFI SECFAL Plan, the Representative of Brazil welcomed the information that 14 USAP-CMA audits had been planned by the Secretariat for Africa for the years 2022 and 2023. He stated that the SC's request for allocation of funds from the 2023–2025 Regular Programme budget was reasonable when considered from a broad perspective and urged that all possible efforts be taken to provide the Plan predictable funding. Conveying his State's commitment to contribute meaningfully to the AFI SECFAL Plan, the Representative indicated that negotiations in this regard between his State and the Secretariat were underway.

48. In response to a query by the Representative of Sudan seeking to ascertain whether all AFI Member States had included requirements related to the implementation of API/PNR in their respective regulatory legislation, the ICAO Regional Director (ICAORD), ESAF Regional Office (Nairobi) indicated that, because many AFI Member States needed support to develop regulations and legislative frameworks, current implementation was low, with presently only Mali, Rwanda and South Africa implementing API. He stated that, to address this key challenge, funds that had been provided as carry-over were being used to finance workshops and seminars designed to raise Member States' awareness of the value of API/PNR and PKD. With respect to the issue of real-time data, he informed that funds had been made available from the AFI SECFAL Plan and from AFCAC for an ambitious project to develop a database platform to store and make available data for the entire continent in respect of all the Organization's strategic objectives. He was pleased to report that the database platform had been established and was already providing real-time data to Member States. As to the suggestion put forward that the AFI SECFAL Plan emulate the project management practices in use in TCB, he concurred that this may further support the Plan in implementing and monitoring projects.

49. The Director of the Air Transport Bureau (D/ATB) cited the AVSEC Fund as an example of one of a number of funds being used to increase assistance to AFI Member States. Pointing to other measures being considered in this regard, such as augmenting the number of audit team leaders able to work in English or French, and covering the costs of audit mission travel, he also revealed that the Secretariat was in discussions with the United States, as one of the main donor States for the AVSEC Fund, regarding assistance for specific projects under the AFI SECFAL Plan and with respect to accelerating USAP-CMA audits.

50. The Representative of Zambia, underscored the global importance of security in Africa, the value of the AFI SECFAL Plan not only for equipping Member States to manage security, but also in support of the overall security posture of the continent. He expressed appreciation to ICAO RD, Nairobi for his collaboration with the Chairperson of the SC and for the generosity of donor States.

51. The President of the Council added his voice to the gratitude expressed by Representatives in their interventions towards the AFI SECFAL Plan SC and its Chairperson for the oral report and the progress described therein. With respect to the allocation of funds to the Plan from the 2023–2025 Regular Programme budget, the President indicated that this would be addressed during Council discussions on the triennial budget and business plan at a subsequent meeting.

52. Following consideration, the Council:

- a) recognized the steady progress achieved in relation to the Comprehensive Regional Implementation Plan for Aviation Security and Facilitation in Africa (AFI SECFAL Plan), despite the adverse impacts of the COVID-19 pandemic, and in this connection, welcomed the resumption of on-site assistance and support activities in light of the recent easing of travel restrictions and vaccination programmes in the region;
- b) took note of the main challenges to the implementation of the AFI SECFAL Plan, as outlined in paragraph 3 of the oral report;
- c) endorsed the key priorities identified by the Steering Committee, as reflected in paragraph 4 of the oral report;
- d) underscored the need to strengthen project management capabilities in order to more effectively support the implementation of the AFI SECFAL Plan;
- e) reaffirmed the importance of resource mobilization efforts in support of the AFI SECFAL Plan and in this regard, encouraged Member States to continue to provide voluntary financial and in-kind contributions to support implementation efforts in the region, as well as to strengthen capacity-building activities in key areas of aviation security and facilitation; and
- f) invited the President of the Council and the Secretary General to continue to take every opportunity to highlight the priorities of the AFI SECFAL Plan in the context of their missions and meetings with high-level representatives of Member States.

#### **Any other business**

#### **Schedule for the 226th Session**

53. The Council took note that due to the President's in-person attendance at the Flight Safety Foundation Awards Ceremony in Washington D.C. on 21 June 2022 (paragraph 8 of C-DEC 226/6 refers), the meeting of the Council that was originally scheduled in the morning of 22 June 2022, would now be re-scheduled for the afternoon of the same day instead.

#### **Informal Meetings — Mobilizing capital towards a green transition of the aviation sector**

54. The Council took note that two informal meetings on this topic would be scheduled during the current session with various private sector corporations. The first informal meeting would be scheduled on the afternoon of Wednesday, 15 June 2022, while the second would be scheduled on the morning of Thursday, 23 June 2022. Both meetings would take place in the hybrid format. On the latter, it was understood that the informal meeting would be held immediately prior to the scheduled Council meeting,

and that an additional meeting of the Council had been tentatively planned for the afternoon of 23 June, in the event the Council did not complete consideration of all the items scheduled that day.

55. The meeting adjourned at 13:00 hours.



**COUNCIL — 226TH SESSION**

**SUMMARY MINUTES OF THE TENTH MEETING**

**(HYBRID MEETING, MONDAY, 13 JUNE 2022, AT 1430 HOURS)**

President of the Council: Mr. Salvatore Sciacchitano

Secretary: Mr. Juan Carlos Salazar, Secretary General

**PRESENT:**

Argentina	— Mr. G.E. Bompadre	Malaysia	— Mrs. F. Chin
Australia	— Mr. R. Adams	Mexico	— Mr. D. Méndez Mayora
Brazil	— Mr. N. Moretti	Netherlands	— Mr. R. Ossendorp
Canada	— Mr. C. Hurley	Nigeria	— Mr. M.S.B. Tukur
China	— Mr. Shengjun Yang	Paraguay	— Mr. C.D. Urquhart Cáceres
Colombia	— Mr. M. Ramírez Koppel	Peru	— Mr. A. Freyre Layzequilla
Costa Rica	— Mr. G. Hoppe Pacheco	Republic of Korea	— Mr. S. Kim
Côte d’Ivoire	— Mr. C.A. Djibril	Russian Federation	— Mr. S. Gudkov
Dominican Republic	— Mr. J. Peña Guzmán	Saudi Arabia	— Mr. B. Al-Sagri
Egypt	— Mr. S. Elhefny	Singapore	— Ms. E. Poh
Equatorial Guinea	— Mr. E. Esono Anguesomo	Spain	— Mr. V.M. Aguado
Finland	— Mr. S. Vuokila	Sudan	— Mr. I.M. Elhag
France	— Mr. L. Pic	United Arab Emirates	— Mr. M. Salem (Alt.)
Germany	— Mr. U. Schwierczinski	United Kingdom	— Mr. A. O’Henley
Greece	— Ms. M. Saranti	United States	— Mr. A. Veprek (Alt.)
India	— Mrs. S. Juneja	Zambia	— Mr. V. Banda
Italy	— Ms. S. Costantini		
Japan	— Mr. I. Fukushima		

**ALSO PRESENT:**

Mr. P. Kelleher	— President, ANC
Mr. C. Fernández (Alt.)	— Argentina
Ms. C. Fitzgerald (Alt.)	— Australia
Ms. I. de Melo Maciel (Alt.)	— Brazil
Mr. A. Bertolino (Alt.)	— Brazil
Mr. M. Lima (Alt.)	— Brazil
Mr. D. L. Pereira (Alt.)	— Brazil
Mr. R. Arruda (Alt.)	— Brazil
Ms. A. Barbosa (Alt.)	— Brazil
Mr. Fachinan (Alt.)	— Canada
Mr. J. Liang (Alt.)	— China
Ms. A. Jiménez (Alt.)	— Costa Rica
Ms. C. Moya (Alt.)	— Dominican Republic

**SECRETARIAT:**

Mr. M. Vreedenburgh	— SPO/OSG
Mr. S. Creamer	— D/ANB
Mr. M. Rahma	— D/ATB
Mr. A. Mishra	— D/ADB
Mr. M. Gill	— D/LEB
Mr. S. Lefoyer	— DD/ASF
Mr. M. Marin	— A/DD/SAF
Mr. P. Zo’o Minto’o	— RD, WACAF
Mr. B. Kashambo	— RD, ESAF
Ms. N. Abdennebi	— C/FAL
Mr. A. Larcos	— C/ACS
Ms. V. Muraca	— ACS
Ms. I. Gelinis	— Précis-writer

**ALSO PRESENT: (Cont'd)**

Ms. V. Adalsteinsdottir (Alt.)	— Finland
Ms. V. Betchava (Alt.)	— Greece
Mr. A. Kalognomis (Alt.)	— Greece
Ms. V. Lazari (Alt.)	— Greece
Mr. M. Silanos (Alt.)	— Italy
Mr. A. Joshi (TE)	— India
Mr. S. Oshima (Alt.)	— Japan
Mr. S. Sugiyama (Alt.)	— Japan
Mr. M. Loustaunau (Alt.)	— Mexico
Mr. C. Schleifer (Alt.)	— Netherlands
Mr. W.R. Linares (Alt.)	— Peru
Mr. C. Bustamante (Alt.)	— Peru
Mr. S. Ahn (Alt.)	— Republic of Korea
Ms. O. Mozolina (Alt.)	— Russian Federation
Ms. D. AIKurdi (Alt.)	— Saudi Arabia
Mr. F.A.A. Alsuhabani (Alt.)	— Saudi Arabia
Ms. E. Ang (TE)	— Singapore
Ms. S. Toh (TE)	— Singapore
Mr. I. Pacheco (Alt.)	— Spain
Ms. T. Goodwin (Alt.)	— United Kingdom
Mr. M. Waniwa (Alt.)	— Zambia

Representatives to ICAO

Cameroon  
 Chile  
 Cyprus  
 Ethiopia  
 Ghana  
 Indonesia  
 Iran (Islamic Republic of)  
 Kenya  
 Niger  
 Poland  
 Qatar  
 Turkey  
 Uganda

Airports Council International (ACI)  
 Civil Air Navigation Services Organization (CANSO)  
 European Union (EU)  
 International Air Transport Association (IATA)  
 International Business Aviation Council (IBAC)  
 International Coordinating Council of Aerospace Industries Associations (ICCAIA)  
 International Federation of Air Line Pilots' Associations (IFALPA)

**Report of the AFI Plan Steering Committee — Report of the twenty-fifth meeting of the AFI Plan Steering Committee (AFI Plan SC/25)**

1. The Council considered this item on the basis of an oral report and PowerPoint presentation delivered by the Secretary of the Africa-Indian Ocean (AFI) Plan Steering Committee, on behalf of the Chairperson.
2. Before embarking on his presentation, the Secretary of the AFI Plan Steering Committee recalled the African Aviation Security and Facilitation (AFI SECFAL) Plan, previously reviewed by the Council (*cf.* C226/9). He underscored Assembly Resolution A36-1, *Comprehensive Regional Implementation Plan for Aviation Safety in Africa* and its instrumentality in enhancing aviation performance for States in the AFI Region, specifically in the area of safety. The Secretary stated that the twenty-fifth meeting of the AFI Plan Steering Committee (AFI Plan SC/25), took place during aviation week in Abuja, Nigeria concurrently with the ninth meeting of the Directors-General of Civil Aviation (DGCA/9), eleventh meeting of the AFI SECFAL (AFI SECFAL SC/11) and AFI Aviation Symposium, which emphasized the importance of the Strategic Objectives of ICAO. The event had been attended by over 200 participants and its objective was to review the progress of the AFI Plan implementation throughout 2021-2022. Presentations included a revised AFI Plan project, complementary studies related to Regional Safety Oversight Organizations (RSOOs) in Africa and aviation professionals, as well as material from stakeholders related to the Abuja safety target.
3. Agenda Item 1 discussed follow-up actions and the implementation status of the Decisions and Recommendations of the AFI Plan SC/24. The resulting recommendations were brought to the missions of the Regional Office Safety Team and the African Civil Aviation Commission (AFCAC) Cooperative Inspectorate Scheme, with priorities set according to State need and low Effective Implementation (EI) areas. Developing key performance indicators to measure the impact of the AFI Plan on State performance had also been underscored. The Committee recommended that the President of the Council and the Secretary General continue to engage with States to work through these challenges, and encouraged follow-up action on the Aviation Infrastructure for Africa Gap Analysis Workshop, conducted in 2019.
4. Under Agenda Item 2, the Committee approved projects relating to State safety plans (SSPs), aeronautical information management, air navigation service providers (ANSPs) and safety oversight, as well as the 2022 AFI Plan work programme and budget. Extending the Plan to 2030 to include other areas within its scope had been acknowledged by the Committee and as such, the Secretariat had been requested to develop an Assembly working paper to this effect, in accordance with resolution A38-7 (*cf.* A36-1). It was also requested that the AFI Plan programme be evaluated: an exercise that was being undertaken by the Secretariat.
5. Agenda Item 3 covered the implementation status of the revised Abuja safety targets, which fell under the purview of AFCAC, who reported challenges in its data collection. The Committee noted the safety targets were obsolete and required alignment with the Global Aviation Safety Plan (GASP) and Global Air Navigation Plan (GANP). AFCAC was to work closely with RSOOs for aviation data access while Rwanda offered to assist in the development of a digital dashboard, to support the continuous monitoring of State performance. In addition, a memorandum of understanding had been signed between the Civil Aviation Authority of Singapore and AFCAC, to strengthen civil aviation training and promote knowledge sharing for the civil aviation sector in Africa.
6. As a follow-up to the African Union Ministerial Summit in July 2007 Agenda Item 4 covered the status of implementation of the revised Windhoek Declaration and targets, including the aforementioned study related to the optimization and sustainability of RSOOs set up in Africa. The Committee recommended that this study be presented to the ministers for endorsement and further guidance.

The Committee noted the ongoing nature of the study on aviation professionals and acknowledged the 2021 annual report of the regional aviation safety group (RASG)-AFI.

7. Finally, Agenda Item 5 considered interventions from the European Union, the European Union Aviation Safety Agency (EASA), the International Air Transport Association (IATA) and other involved stakeholders. The Committee encouraged the Secretariat to continue coordinating and ensure the alignment of programmes. The future of the Association of African Aviation Training Organizations (AATO) came into question, as the Committee sought support from the AFI and AFI SECFAL Plans. Short-term projects in collaboration with other partners were encouraged to ensure the AATO's sustainability. In his conclusion, the Secretary of the AFI Plan Steering Committee called upon States, international organizations, financial institutions and industry to support the AFI Plan and its related projects.

8. The President of the Council thanked the Secretary of the AFI Plan Steering Committee for his excellent report, but questioned whether an amendment to Resolution A38-7 was truly necessary in order to extend the AFI Plan until 2030, noting that the Assembly working papers on the subject were already processed (*cf.* C226/2). The Secretary of the AFI Plan Steering Committee sought guidance on the best way forward to extend the programme and emphasized that the Assembly Resolution would nonetheless remain in force. The Representative of Singapore, while commending the Chairs of both the AFI and AFI SECFAL Plans for their efforts in delivering such positive achievements, considered it prudent not to associate the safety target with the year 2030, stating that EI scores should achieve the ICAO average of 60 per cent as soon as possible.

9. The request for clarity from the Representative of the United States regarding further support of the AATO was answered by the Secretary of the AFI Plan Steering Committee, who provided some background and explained that the lack of human resources and qualified technical staff in the region initiated the establishment of the AATO. Its objective early on was to harmonize programmes and build a capacity to meet training needs. It was established as a funding mechanism to receive contributions from training organizations while working closely with the ICAO Trainair Plus Programme and the Global Aviation Training (GAT) Office. However, since members were not paying their contributions, the Organization has been idle. The Secretary of the AFI Plan Steering Committee reiterated the need for short-term support in order to develop a more sustainable, long-term solution.

10. The Representative of Sudan expressed his support for the Plans and recalled being part of the AATO initiative, asserting that it brought AFI States together to unify a training methodology and harmonize the region's industry activities.

11. The Representative of Spain commended the noticeable progress made with regard to safety in the AFI Region. To improve the clarity of future such reports, it was suggested to reference any studies or documents discussed with links to aid readers in their comprehension. Recalling his intervention from a previous Council meeting on the same topic, the Representative recommended that a project management approach be applied to the AFI Plan. Regarding his query on how the programme would be evaluated, the Secretary of the AFI Plan Steering Committee clarified that the ICAO Office of Internal Oversight (OIO) was evaluating the AFI Plan and would report through the appropriate channels. The Representatives of Saudi Arabia and the United Arab Emirates associated themselves with this intervention, while echoing their full support for both Plans.

12. The Representative of Mexico commended the harmonization across civil aviation authorities in Africa, while noting that this plan could apply to other regions if needed. Regarding the remark where he considered it prudent to wait for the review of the OIO prior to deciding on the recommendations put forth, the Secretary of the AFI Plan Steering Committee clarified that deliverables of the ongoing evaluation would be delivered in the fall, while the outcome of the evaluation would be tabled

at the session thereafter. The President of the Council confirmed the process and thought it best for the Council to continue its deliberations while welcoming the review of the evaluation in the coming fall.

13. Support was expressed by the Representatives of Côte d'Ivoire and Zambia, underscoring the importance of the Plans to the African continent. The involvement of all stakeholders was appreciated while the leaders of the programmes were encouraged to strengthen their communication with the States involved to further benefit from the Plans. The Representative of Nigeria applauded the progress made by the region while expressing appreciation to the donors who contributed towards this important effort.

14. Concluding the discussion on this item, the President of the Council underscored the importance of support in connection with the AATO, citing it as a crucial element of success to the AFI Plan.

15. Following consideration, the Council:

- a) took note of the information presented and welcomed the achievements by the AFI Plan, despite the adverse impacts of the COVID-19 pandemic on the implementation of the programme activities, and in this connection, welcomed the commencement of on-site support and assistance activities during the second quarter of 2022, which would allow for closer engagement with States;
- b) endorsed the decisions and recommendations arising from the 25th meeting of the AFI Plan Steering Committee, as outlined in the oral report, subject to a review being undertaken by the Secretariat on the question of whether it would be necessary for Assembly Resolution A38-7 to be updated in order to continue the AFI Plan;
- c) underscored the need to strengthen project management capabilities in order to more effectively support the implementation of the AFI Plan recommendations; and
- d) invited the President of the Council and the Secretary General to continue to take every opportunity to highlight the priorities of the AFI Plan in the context of their missions and meetings with high-level representatives of Member States.

#### **Draft Assembly working paper – Consolidated statement of continuing ICAO policies related to Facilitation**

16. The Council considered this item on the basis of C-WP/15376, which presented a draft Assembly working paper containing proposed revisions to Assembly Resolution A40-16: *Consolidated statement of continuing ICAO policies related to facilitation* in light of developments since the last Assembly. The Council also had for consideration an oral report thereon and Addendum No.1 thereto, both presented by the Chairperson of the Air Transport Committee (Representative of Côte d'Ivoire).

17. The Secretary General underscored the relevance of the working paper, as it related to the COVID-19 pandemic and the fruitful discussions from last year's High-level Conference on COVID-19 (HLCC).

18. There being no interventions on this item, the Council:

- a) reiterated the need for greater consistency in the terminology used within the operative clauses of ICAO Assembly Resolutions; and

- b) approved the draft Assembly working paper attached to C-WP/15376, subject to the amendments requested by the ATC in its oral report and the Addendum No. 1 to the working paper being reflected, for subsequent submission to the 41st Session of the Assembly.

### **Draft Assembly working paper – Outcome of the Facilitation Stream of the High-level Conference on COVID-19**

19. The Council considered this item on the basis of C-WP/15382, which presented a draft Assembly working paper on the outcomes of the Facilitation (FAL) Stream of the High-level Conference on COVID-19 (HLCC), which included 79 recommendations endorsed by the Ministerial Plenary of the Conference. The Council also had for consideration an oral report thereon presented by the Chairperson of the Air Transport Committee (ATC) (Representative of Côte d'Ivoire) and Addendum No. 1 to the working paper.

20. In his introduction of C-WP/15382, the Secretary General referenced the 79 recommendations emanating from the Facilitation Stream of the High-level Conference on COVID-19 (HLCC), of which 17 were addressed to ICAO. Recalling the inclusion of these recommendations in the 2023-2025 Business Plan with their priority based on the budget available, the Secretary General underlined the lack of human and financial resources as the predominant challenges that lay ahead of their implementation. In this regard, he also noted the low levels of implementation support in the Facilitation area due to the COVID-19 pandemic; issues that would be further addressed in the next triennium. Specific attention was drawn to paragraph 2.9 of the draft Assembly working paper, which underscored the dependence of enhanced facilitation initiatives and public health matters on financial implications, which were critical to address. The Secretary General alluded to revised Standards and Recommended Practices (SARPs), new guidance material, lessons learned and other initiatives to support Member States in their air transport facilitation activities, especially in times of crisis. The draft Assembly Resolution put forth for adoption by the Assembly would enable aviation's safe and efficient recovery from the COVID-19 pandemic. Finally, he encouraged State support of extra-budgetary contributions and their follow-up on the implementation of the HLCC recommendations emanating from the Facilitation Stream.

21. Subsequent to the introduction of the oral report by the Chairperson of the ATC, several Representatives expressed their appreciation for the work and relayed their apologies for not highlighting comments earlier.

22. With regard to Operative Clause 7 of the draft Resolution, the vaccination certificates and the possible digitization thereof, the Representative of France highlighted that the Visible Digital Seal for non-constrained environments (VDS-NC) approach was one of many approaches available and perhaps States had established other approaches in this regard. He felt that the language of the clause was too strong and believed that "*Requests* Member States...." should change to "*Invites* Member States...." and "in line with....", should change to "and take into account....". While supporting this intervention, the Representative of Singapore also wished to add "or other interoperable formats from regional or global intergovernmental bodies" to the last sentence. The Representative of Sudan also suggested to change the phrase "if issued digitally" to "when issued digitally". The Deputy Director, Aviation Security and Facilitation (DD/ASF) addressed the interventions and felt that "*Requests*...." remained the appropriate wording, in line with WHO recommendations, however the second proposal from the Representative of France and modifications proposed from the Representatives of Singapore and Sudan were supported.

23. Recalling the difficulties raised on this topic at the HLCC, the Representative of Brazil cautioned against diluting the meaning of Operative Clause 7, citing possible distancing from the general objective of harmonization. He felt that, following the proposal from the Representative of Singapore, the additional phrase should start with "and" not "or", to include the ICAO VDS-NC Standard. Pointing to the

original Operative Clause 5 of C-WP/15382, the Representative of France underscored how much the text had changed since and asserted the simplicity of the new wording presented in the Oral report, modified by DD/ASF and other interventions. However, the Representative of Canada thought it prudent to further consult the text if need be. Declaring his support for the previous intervention made by the Representative of Brazil, he believed that the words such as “request” gave any State the right to vary from what was meant to be an aspirational harmonization effort. Mindful of the unintended consequences that may arise from too much variation in the text, he thought that excluding the priority given to the ICAO Standard in terms of the certificates would be ill advised. He felt that the word “and” would be stronger to use or suggested to keep the text as written in the Oral Report.

24. The Representative of the International Air Transport Association (IATA) felt that the reference to interoperable organizations was limited to State organizations and international organizations belonging to States. He mentioned that solutions from the industry could also be utilized as they were already well developed, a concept that would be further explored in the upcoming Assembly paper presented by IATA. The Representative raised concern over the exclusion of the industry in the clause, and expressed concern that its endorsement by the Assembly would hamper any future cooperation. The Representative of France proposed to reference regional and global bodies or internationally recognized organizations. The Representatives of the Netherlands and Singapore echoed this suggestion. The Representatives of Canada and the Netherlands proposed grammatical rectifications, supported by DD/ASF, for the final clause to read:

7. *Requests* Member States to support vaccination certificates in line with the WHO recommendations and these vaccination certificates, when issued digitally, should be interoperable, and take into account the specifications in the ICAO Technical Report Visible Digital Seal for non-constrained environments (VDS-NC) and other interoperable formats from regional and global bodies, or internationally recognized organizations;

25. Operative Clauses 12, 13 and 14 of the draft Assembly resolutions were put into question by the Representative of Spain, as he believed these requests reflected a predominantly long-term approach, specifically related to the Business Plan as well as the budget. He felt that the clauses would be better suited for the Organization to address, as opposed to the Secretary General. This intervention was also supported by the Representatives of Singapore and Peru, while DD/ASF agreed to the request, thereby changing “*Requests* the Secretary General” to “*Requests* ICAO”.

26. Following consideration, the Council:

- a) acknowledged the important role of facilitation in the immediate response, restart, recovery and resilience of the air transport sector, as well as the increasing importance of health-related matters within facilitation, and in noting the lack of implementation of the provisions in Annex 9 – Facilitation by Member States, also acknowledged the priority which had been assigned to those recommendations addressed to ICAO from the Facilitation Stream, together with the financial and resource implications of their implementation; and
- b) approved the draft Assembly working paper attached to C-WP/15382, subject to the amendments requested by the ATC in its oral report and the Addendum No. 1 to the working paper, as well as the changes agreed on by the Council in the course of the consideration of this item being reflected, including in relation to operative clauses 7, 12, 13 and 14, and delegated authority to the President to thereafter approve the revised working paper

**Report of the ANC and D/ANB — Consolidated report on Planning and Implementation Regional Groups (PIRGs) and Regional Aviation Safety Groups (RASGs) for 2021**

27. The Council considered this item on the basis of C-WP/15370, which presented a consolidated annual report on Planning and Implementation Regional Groups (PIRGs) and Regional Aviation Safety Groups (RASGs), covering the period from April 2021 to March 2022.

28. The President of the Air Navigation Commission (P/ANC) introduced the working paper as a joint presentation with the Air Navigation Bureau. While the report provided an overview of the work of the Planning and Implementation Regional Groups (PIRGs) and Regional Aviation Safety Groups (RASGs) for the year ending 31 March 2022, it also demonstrated the implementation progress of ICAO provisions and the challenges faced in the region requiring further action.

29. Appendix A summarized the ANC meetings held with each PIRG and RASG, while Appendix B detailed regional implementation progress. Appendix C set out three newly identified global challenges: the first related to use of reduced vertical separation minimum (RVSM) by aircraft not meeting the related safety requirements, typically State aircraft. Actions to improve civil-military coordination were therefore suggested. The second challenge called for ICAO to update its web-based integrated Safety Trend Analysis and Reporting Systems (iSTARS) for States to reliably measure and analyse their progress. The Secretariat intended to complete the update by the end of this year. The third issue had been a request from APRIG and RASG-AFI regarding the geographical area they covered, and that it be the basis to define the AFI Region. Problems with regional safety and air navigation planning activities surfaced from States in the APIRG and RASG-AFI geographic area, not part of the AFI Region. The Commission recognized that States electing which region to affiliate themselves to, had not been confined to the AFI Region, and that the matter required careful consideration. Appendix D provided an update on previously reported global challenges. P/ANC concluded that Appendix E contained an outline of the participation levels in PIRG and RASG meetings since 2011 and underscored the significant increase in participants due to the virtual meetings held in response to COVID restrictions.

30. With regard to the action to be taken by Council, the Representative of Mexico was in favour of a simplified statement for c), but expressed concern for the participants referred to in e), as the participants' level of authority remained unclear. P/ANC underscored the attempt of the Commission to simplify the global challenges, but noted that it was indeed a challenging task. He also noted that the level of representation was out of the ANC's control, but with the help of the Regional Offices, a more specific response might be possible. He assured that these fruitful comments would be taken into consideration for future reports.

31. The Representative of Spain expressed his gratitude for the work being carried out by the PIRGs and RASGs, and the ANC's effort to summarize their progress. The relevance of Appendices C and D was appreciated, as it identified challenges worldwide and the actions taken thereon. However, some discomfort was expressed toward item g), stating that the aspect of governance required more expansion before the review of future reports could be suspended. P/ANC welcomed a joint effort with the Committee on Governance to strike the right balance moving forward. The President of the Council alluded to the decision on the suspension of the former ISPG review, underscored the differences of the ISPG to that of the COG, and supported the need to specify governance at the regional level, as indicated in e) below.

32. Following consideration, the Council:

- a) took note of the progress made and outcomes achieved by the PIRGs and RASGs, as outlined in Appendix B to the working paper, including the progress made in the regional implementation of the Global Air Navigation Plan (GANP) and Global Aviation Safety Plan (GASP);



- b) approved the actions to be taken as outlined in Appendix C to the working paper, while also noting the previous actions taken on reported global challenges reflected in Appendix D;
- c) noted the detailed information provided with respect to the level of participation in PIRG and RASG meetings, as contained in Appendix E to the working paper, and in this connection, expressed concern at the limited involvement of some State authorities in PIRG and RASG meetings as well as related activities, and the effect on the decision-making process in these bodies as a result;
- d) further noted that the information included in the consolidated report was consistent with the information provided during the 225th Session in C-WP/15286, Annual Report on Regional Offices' Activities during 2021 and Operating Plans for 2022; and
- e) agreed that future iterations of this report should be submitted to the COG for review of the governance aspects of issues arising, including those associated with the level of participation in meetings of the PIRGs and RASGs, as referenced in sub-paragraph c) above.

### **Report on the 38th Session of the Legal Committee**

33. The President of the Council proposed, and the Council agreed, for this item to be deferred to the next meeting, as a clarification would be presented by the Legal Bureau, addressing a previous concern expressed by a Member of the Council who was absent during this meeting.

### **Any other business**

#### **ICAO leadership on economic matters**

34. The Chairperson of the Air Transport Committee (ATC) (Representative of Côte d'Ivoire) recalled that on 9 February 2022, the ATC explored ways in which ICAO could strengthen its leadership on economic development, which spanned over two meetings. On 29 April 2022, the ATC concluded that the Council establish a small group to delve into the measures that could be taken to ensure this leadership. He was confident that the Council would establish the mandate of the group, while the ATC would monitor and oversee the activities relating to economic development in air transport, including topics already being addressed by the Air Transport Regulation Panel (ATRP).

35. The Representative of Germany expressed his concern for the request, considering the many competing demands that the Organization was currently faced with, including the forthcoming session of the Assembly and the new Council that would be elected. He wondered whether it was appropriate to take the decision now, rather than to wait until a new Council was elected and then to allow new Members of the Council to participate in this group. While the ATC Chairperson clarified there would be no impact on the deliverables related to the Assembly, the President of the Council emphasized that a decision be taken on the establishment of the group, suggesting that implementing and modifying the work of the group was another topic that would be further discussed.

#### **Oral report on the Council President Certificates**

36. The President of the Council recalled that the Council President Certificates recognized Member States that made special progress in the areas of safety and security. Considering that these

certificates would be bestowed upon select States at the Assembly, the President urged the Council to consider the relevant reports on the matter and encouraged the continuation of this noteworthy practice.

**Oral report on international organizations that may be invited to attend suitable ICAO meetings**

37. The President of the Council requested the Council to consider the pending request of the Aviation Academie of Engineers in France for their addition to the list of organizations that may be invited to attend suitable ICAO meetings. Despite the pending status of the review currently underway, he encouraged the attendance by the President of the organization to the upcoming Assembly as an Observer.

**Appointment of Members and Alternate on the Air Navigation Commission (ANC)**

38. The Representative of Argentina noted that Mr. Martin Jacquet would be appointed as of 11 July 2022 and not 8 July 2022 as originally published in the order of business.

**Adjournment**

39. The meeting adjourned at 17:25 hours.

**COUNCIL — 226TH SESSION**

**SUMMARY MINUTES OF THE ELEVENTH MEETING**

**(HYBRID MEETING, WEDNESDAY, 15 JUNE 2022, AT 1000 HOURS)**

President of the Council: Mr. Salvatore Sciacchitano

Secretary: Mr. Juan Carlos Salazar, Secretary General

**PRESENT:**

Argentina	— Mr. G.E. Bompadre	Malaysia	— Mrs. F. Chin
Australia	— Mr. R. Adams	Mexico	— Mr. D. Méndez Mayora
Brazil	— Mr. N. Moretti	Netherlands	— Mr. R. Ossendorp
Canada	— Mr. C. Hurley	Nigeria	— Mr. M.S.B. Tukur
China	— Mr. Shengjun Yang	Paraguay	— Mr. C.D. Urquhart Cáceres
Colombia	— Mr. M. Ramírez Koppel	Peru	— Mr. A. Freyre Layzequilla
Costa Rica	— Mr. G. Hoppe Pacheco	Republic of Korea	— Mr. S. Kim
Côte d’Ivoire	— Mr. C.A. Djibril	Russian Federation	— Mr. S. Gudkov
Dominican Republic	— Mr. J. Peña Guzmán	Saudi Arabia	— Mr. B. Al-Sagri
Egypt	— Mr. S. Elhefny	Singapore	— Ms. E. Poh
Equatorial Guinea	— Mr. E. Esono Anguesomo	South Africa	— Mr. L. Mabaso
Finland	— Mr. S. Vuokila	Spain	— Mr. V.M. Aguado
France	— Mr. L. Pic	Sudan	— Mr. I.M. Elhag
Germany	— Mr. U. Schwierczinski	United Arab Emirates	— Mr. M. Salem (Alt.)
Greece	— Ms. M. Saranti	United Kingdom	— Mr. A. O’Henley
India	— Mrs. S. Juneja	United States	— Mr. C. Sullenberger
Italy	— Ms. S. Costantini	Zambia	— Mr. V. Banda
Japan	— Mr. I. Fukushima		

**ALSO PRESENT:**

Mr. P. Kelleher	— President, ANC
Mr. S. Lucas (Alt.)	— Australia
Ms. C. Fitzgerald (Alt.)	— Australia
Ms. I. de Melo Maciel (Alt.)	— Brazil
Mr. A. Bertolino (Alt.)	— Brazil
Mr. M. Lima (Alt.)	— Brazil
Mr. D. L. Pereira (Alt.)	— Brazil
Mr. R. Arruda (Alt.)	— Brazil
Ms. A. Barbosa (Alt.)	— Brazil
Mr. Fachinan (Alt.)	— Canada
Mr. J. Liang (Alt.)	— China
Ms. A. Jiménez (Alt.)	— Costa Rica
Ms. C. Moya (Alt.)	— Dominican Republic

**SECRETARIAT:**

Mr. M. Vreedenburgh	— SPO/OSG
Mr. S. Creamer	— D/ANB
Mr. J. Vargas	— D/TCB
Mr. M. Rahma	— D/ATB
Mr. A. Mishra	— D/ADB
Mr. M. Gill	— D/LEB
Mr. T. Efendioglu	— C/OIO
Ms. T. de Bodt	— H/SPCP
Ms. O. Nam	— C/FIN
Mr. A. Larcos	— C/ACS
Ms. V. Muraca	— ACS
Ms. D. Lane	— Précis-writer

**ALSO PRESENT: (Cont'd)**

Ms. V. Betchava (Alt.)	— Greece
Mr. A. Kalognomis (Alt.)	— Greece
Ms. V. Lazari (Alt.)	— Greece
Mr. M. Silanos (Alt.)	— Italy
Mr. A. Joshi (TE)	— India
Mr. S. Oshima (Alt.)	— Japan
Mr. S. Sugiyama (Alt.)	— Japan
Mr. S. Togami (Alt.)	— Japan
Mr. H. Katsuma (Alt.)	— Japan
Mr. M. Loustaunau (Alt.)	— Mexico
Mr. C. Schleifer (Alt.)	— Netherlands
Mr. A. Coutinho (Alt.)	— Netherlands
Mr. W.R. Linares (Alt.)	— Peru
Mr. C. Zamora (Alt.)	— Peru
Mr. C. Bustamante (Alt.)	— Peru
Mr. M. Habib (Alt.)	— Saudi Arabia
Ms. D. AlKurdi (Alt.)	— Saudi Arabia
Mr. F.A.A. Alsuhabani (Alt.)	— Saudi Arabia
Ms. E. Ang (TE)	— Singapore
Mr. Y. K. Koh (TE)	— Singapore
Ms. S. Toh (TE)	— Singapore
Ms. T. Goodwin (Alt.)	— United Kingdom
Mr. A. Veprek (Alt.)	— United States
Ms. H. Mance (Alt.)	— United States
Mr. M. Waniwa (Alt.)	— Zambia

Representatives to ICAO

Cameroon  
Ethiopia  
Indonesia  
Qatar  
Turkey  
Uganda  
Ukraine  
Uruguay

Airports Council International (ACI)  
Civil Air Navigation Services Organization (CANSO)  
European Union (EU)  
International Business Aviation Council (IBAC)  
International Coordinating Council of Aerospace Industries Associations (ICCAIA)

## **Draft ICAO Business Plan for 2023-2024-2025**

1. The Council considered this item on the basis of C-WP/15412, which presented the draft ICAO Business Plan for 2023–2024–2025. The Council also had for consideration an oral report thereon from the Committee on Governance (COG).

2. In presenting the draft Business Plan for 2023-2024-2025, consisting of a Strategic Narrative, a Triennial Operating Plan and the Performance Monitoring Framework, the Secretary General stated that these three important elements represented the totality of the work programme mandated to ICAO for the next triennium. He recalled that the Council (C-DEC 225/9) had requested that the Secretariat update the draft Business Plan, and in this regard, highlighted that the Strategic Narrative now included updated information on the outcomes of the High-level Conference on COVID-19 (HLCC), and on matters related to innovation and innovation support. He indicated that the revised draft Business Plan better linked the Strategic Narrative to the Triennial Operating Plan, and included a clarification of differences between the Transformational Objective and supporting strategy outputs. Referring to the Triennial Operating Plan, he highlighted that it reflected the results of a prioritization review, as well as the impact of the Zero Nominal Growth (ZNG) 1 Plus Regular Budget scenario, with estimates identifying the activities and programmes that would remain fully or partially unfunded and that would require extra-budgetary resources to be implemented during the triennium. He conveyed that there was now greater consistency between the priorities in the Air Navigation Work Programme and the priorities in the Triennial Operating Plan for areas related to safety and air navigation capacity and efficiency, and that HLCC recommendations at the activity level had been included. With reference to the Performance Monitoring Framework, he explained that it included updated outcome and output indicators, baselines, milestones and targets. The Secretary General invited the Council to take note of the information provided in C-WP/15412 and to endorse the Strategic Narrative included in Appendix A and the Performance Monitoring Framework outcome indicators included in Appendix B. He underscored his commitment that the Business Plan would be maintained as a living document and serve as a baseline for monitoring the progress of the work programme of the Organization, stating that it would be revised as needed after endorsement by the Council and the 41st Session of the Assembly. Closing his remarks, the Secretary General expressed appreciation to the Committee on Governance (COG) for the fruitful and constructive discussions on the draft Business Plan.

3. The Chairperson of the COG (Representative of Spain), as a means of providing background to the recommendations outlined in the oral report on C-WP/15412, explained that the outcome indicators in the Performance Monitoring Framework were related to the Strategic Narrative, while outputs were linked to the Triennial Operating Plan. He stated in addition to this architecture, which allocated responsibilities between the Council and the Secretary General, the Committee had recommended that the important element of accountability by the Secretary General be addressed during the winter session by means of a report to Council on the progress and performance of the Business Plan. He shared the view that the Business Plan should continue to evolve as a living document, rather than become simply an academic instrument, and underlined the necessity for it to serve as a practical tool for management of the Secretariat and accountability between the Secretary General and the Council. Referring to the recommendations by the Committee for specific amendments to C-WP/15412, the Chairperson indicated that paragraph 3 b) of the oral report should be amended to read “Appendix A, page A-8,: *Amend* para 2.3.2 to better explain the relationship with industry;”. He relayed the Committee’s recommendation that the Council note the information provided in C-WP/15412, and endorse the Strategic Narrative of the draft Business Plan for 2023-2024-2025 as well as the outcome indicators included in the Performance Monitoring Framework in Appendices A and B, respectively, in line with amendments itemized in paragraph 3 of the oral report.

4. While confident that changes to the Business Plan arising from the COG oral report and this Council meeting would be accurately incorporated by the Secretariat, the Representative of Brazil

emphasized that any revised text should faithfully reflect the sensitivity of such matters as environmental issues by using fact-based language that conformed to the recommendations of the COG and the Council. Turning to a specific matter, the Representative stated he was unclear about the meaning of the term “advanced implementation” as it was used in the context of CORSIA in the title of output ENV 3 — *Advanced implementation of the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA)* (C-WP/15412, page A-44 refers). In this regard, he proposed that the title of output ENV 3 could be clarified by replacing “advanced” with “continued” in line with paragraph 10.2.1 c) on page A-43 of the working paper.

5. Supporting the view that care should be taken with respect to the terminology used when revising the draft Business Plan going forward, the Representative of Saudi Arabia underscored that it was important to avoid pre-empting decisions to be taken by the Assembly, and equally important to ensure that input provided by the Assembly was subsequently incorporated into the Business Plan. Seeking clarification of subparagraph 3 c) of the oral report by the COG, the Representative asked whether the objective of recommendation to “*modify* [paragraph] para 2.6 to emphasize sustainability and the transition towards decarbonisation” (C-WP/15412, page A-10 refers) was to amend the heading of section 2.6 — *Global Aviation Context and the COVID-19 Pandemic* or to revise one of the thirteen subparagraphs under section 2.6.

6. The Chairperson of the COG clarified that the intent of subparagraph 3 c) of the oral report of the COG was for the Secretariat to include, in one of the paragraphs under the heading of 2.6, a reference which would link the lessons of the COVID-19 pandemic to the concept of sustainability going forward. The Chairperson concurred with the proposal by the Representative of Brazil to replace “advanced implementation” by “continued implementation” in the title of output ENV 3, remarking that the concept of “advanced implementation” may be somewhat difficult to grasp.

7. While the Director of the Air Transport Bureau (D/ATB) agreed that replacing “advanced implementation” with “continued implementation” would preserve the intended meaning of outcome ENV 3, he suggested that the term “active implementation” would confer a better sense of the activities to be undertaken in relation to CORSIA, such as the updating of relevant SARPs. The Representative of Brazil supported this suggestion, while the Representative of France favoured retaining the term “advanced implementation” stating that it implied “advancement” or “progress” which he believed was the underlying goal of outcome ENV 3.

8. The Representative of Mexico expressed full support for the draft Business Plan and for the recommendations in the oral report by the COG, stating the belief that maintaining the balance between the activities of support and improvement in the draft Business Plan would ensure its successful implementation.

9. Expressing the view that the draft Business Plan reflected what was required of the Secretariat to deliver on the core functions and obligations of the Organization in line with the discussions in the COG, the Representative of Singapore fully endorsed the draft Business Plan. She emphasized the need for it to serve as a living document that would allow the Secretariat to remain nimble and flexible in order to adapt to the needs of aviation, citing the current dynamic and delicate juncture of recovery, the uncertainty of inflation and the risk of cyber-attacks as potentially challenging developments that may test the resilience of the industry.

10. Taking up the issue of the current challenges facing the industry, the Representative of Brazil recounted recent press reports of consistent problems at airports around the world indicating a less-

than-smooth resumption of international travel. In this regard, he proposed that the Secretariat present an informal briefing on the current state of global air travel.

11. The Representative of Spain concurred that it was important for the Council to be apprised of disruptions affecting the travelling public as these may relate to Annex 9 — *Facilitation* or Annex 19 — *Safety Management* with respect to the air transport system's capacity to respond not only to the needs of passengers but also to difficult or unexpected circumstances. He recalled that past meetings of the Industry High Level Group (IHLG) had provided valuable insight into various challenges affecting the aviation industry, such as maintaining staffing levels, and to lessons learned.

12. Agreeing that flight disruption was an important issue, D/ATB commented that the concerns raised in the preceding interventions in this regard constituted the type of feedback that was helpful for improving the air traffic dashboards on the ICAO website. Underlining that the dashboards were dynamic and updated with live data on a weekly basis, he indicated that he would explore the possibility of augmenting the dashboards with information on flight cancellations, which in due course could be compared month over month and year over year. While expressing appreciation for this initiative, the Representative of Brazil underscored that the current disruptions went beyond flight cancellations and involved systemic issues relating primarily to a shortage of personnel in many airport services.

13. The Representative of France asserted that the disruptions caused by the current personnel shortages at airports was an outcome envisaged during the work of the Council's Aviation Recovery Task Force (CART) and discussions on how the impact on staff would affect the recovery. He submitted that, in the same way that the Organization mobilized to address the crisis caused by the COVID-19 pandemic, it needed to be ready to mobilize to address the fallout from the crisis, and that this would require not only tools, but sound policies.

14. The President of the Council took note of the proposal that an informal briefing be arranged on developments relating to airport/airline disruptions in the post-COVID-19 pandemic recovery period and any potential actions that may be required by ICAO. In this connection, the Secretariat undertook to explore the possibility for this informal briefing to be convened during a future session.

15. In response to the President's invitation for final comments on the draft ICAO Business Plan for 2023-2024-2025, the Secretary General expressed appreciation to the Council and the COG for enabling a constructive process, and acknowledged the months of diligent work by the Secretariat to craft an instrument that would provide opportunities for further productive interactions and for fostering progress.

16. In concluding its consideration of this item, the Council:

- a) took note of the information presented in C-WP/15412, as well as the associated oral report by the COG;
- b) endorsed the strategic narrative part of the Draft ICAO Business Plan 2023-2024-2025, as well as the Performance Monitoring Framework outcome indicators, as provided in Appendices A and B to C-WP/15412, respectively, subject to the amendments requested by the COG in paragraph 3 of its oral report, as well as the changes agreed on by the Council in the course of the consideration of this item, including with respect to the correction to an incorrect reference in paragraph 3 b) of the COG oral report as well as to replace the phrase "Advanced implementation" with "Active implementation" at the introductory text before paragraph 10.4.3 of Appendix A; and

- c) underscored that the ICAO Business Plan for 2023-2024-2025, as a living document, would need to be revised on a regular basis to reflect the outcomes and decisions arising from ICAO high-level meetings, such as the 41st Session of the Assembly, as well as new priorities and contingencies that may emerge over the course of the triennium, and in this regard, recalled its decision to request the Secretary General to report any such amendments to the Council, as well as to provide an annual report, during the winter session, on the progress made to execute the Business Plan, using the Performance Monitoring Framework indicators (C-DEC 225/9, refers).

### **Draft Assembly working paper — Proposed Draft Budget of the Organization for 2023, 2024 and 2025**

17. The Council considered this item on the basis of C-WP/15360, which presented a final proposal for the draft Regular Budget estimates for the Organization for the upcoming 2023-2024-2025 triennium, as well as a draft Assembly working paper, which included the draft Budget document and a related draft Assembly Resolution. The Council also had for consideration an oral report thereon from the Finance Committee (FIC).

18. Introducing the working paper, the Secretary General recalled that the Council (C-DEC 225/12) had agreed that the two components forming the basis for the draft Regular Budget estimates for the 2023-2024-2025 triennium would be a Zero Nominal Growth (ZNG-1) component using the 2022 assessments as a baseline, supplemented by a Plus component comprising additional funding aimed at supporting the outputs related to the proposed Transformational Objective as a one-time allocation. In this regard, he highlighted the direction given by the Finance Committee (FIC) that the funding of the Plus component should be limited to CAD 15 million and that the Secretariat should continue to closely monitor the impact of inflation and scrutinize the funding balance in the Operational Reserve as a funding source to supplement the Plus component. He indicated that the total proposed budget for the triennium of CAD 357.6 million would cover the five Strategic Objectives work plan, the four high-priority Transformational Objective initiatives and 14 supporting activities. He specified that the ZNG-1 component represented an amount of CAD 341.6 million to fund the core activities of the Organization, while the Plus component of CAD 15.9 million was specifically allocated for the Transformational Objective initiatives. He drew attention to the executive summary in C-WP/15360 inviting the Council to approve the transfer of CAD 5.6 million to the Operational Reserve, to approve the use of CAD 7.1 million of the Operational Reserve as one of the funding sources of the draft budget of the Organization for the next triennium, and to approve the draft Assembly working paper attached to C-WP/15360 on the Draft Budget of the Organization for 2023-2024-2025. The Secretary General expressed appreciation to the FIC and its Chairperson, and to the Secretariat, in particular the staff of the Finance Branch, for the outstanding work to prepare, refine and finalize the draft budget as presented in the working paper, and for their support and cooperation.

19. As a means of providing context for the presentation of the oral report of the Finance Committee (FIC), the Chairperson of the FIC (Representative of the Netherlands) recalled that the Council (C-DEC 224/5) had reviewed indicators, efficiencies and sources of funding, and had subsequently (C-DEC 225/12) reviewed the initial draft ICAO Business Plan for the 2023-2024-2025 triennium as well as three budget scenarios and the draft scales of assessment for 2023, 2024 and 2025. Acknowledging the close links between the Organization's budget and business plan, the Chairperson expressed appreciation to the Committee on Governance (COG) and to the Secretariat for their collaboration with the FIC and for their efforts directed at ensuring consistency between these two critical documents. Indicating that the lessons learned from the parallel consideration of the budget and the business plan would prove useful during future triennium cycles, the Chairperson stated that scheduling the discussion on the draft scales of



assessment during the winter (225th) session rather than the spring (226th) session had proved beneficial to the overall development of the budget. The Chairperson emphasized that, in accordance with the guidance provided by the FIC and decisions taken by the Council during the previous triennium, the systematic process used to prepare and finalize the budget proved to be extremely effective and efficient.

20. Turning to the oral report of the FIC on its review of C-WP/15360, the Chairperson highlighted that current developments with respect to the global economy, in particular the rapidly rising inflation rates, had had a significant impact on the preparation and ensuing discussions of the Draft Budget of the Organization for 2023, 2024 and 2025. Recalling that the Council (C-DEC 225/12) had agreed that there was a need to continue to consider the long-term sustainability and viability of the Organization, the Chairperson underlined that the FIC, in its oral report, had requested the Secretariat to monitor closely inflation fluctuations and the possible impact on the budget estimates.

21. The Chairperson highlighted a request by the FIC that the Secretariat ensure that the Plus component of CAD 15 million be closely linked to the Transformational Objective outputs and that it be regarded as a one-time contribution by Member States. In this regard, the FIC had emphasized the need to underline this principle in the Council's Decision, the Council's Message on the Budget of the Organization and the draft Assembly Resolution, and had included in the attachment to the oral report a proposed addition to the draft Assembly Resolution. With respect to the Council's Message on the Budget, the Chairperson indicated that a draft message would be circulated for Council approval before the end of the current session.

22. Drawing attention to the funding gap of CAD 7.1 million, particularly resulting from the significant adjustments in the inflation assumption for the 2023-2024-2025 triennium, and the FIC's proposal to bridge this funding gap through the Operational Reserve, the Chairperson revealed that the FIC had requested the Secretariat to verify under which authority the use of the Operational Reserve could be approved. He conveyed that subsequent informal discussions on this issue between the Chairperson of the FIC and the Secretariat had resulted in a suggestion to add a clause to the draft Assembly Resolution which would make reference to the possibility of using the Operational Reserve as one of the additional sources of funding for the 2023-2024-2025 triennium budget.

23. In supplementing the information provided by the Chairperson of the FIC related to the Operational Reserve, the Chief of the Finance Branch (C/FIN) proposed that the executive summary of the draft A41 working paper attached to C-WP/15360 be amended to include an action inviting the Assembly to approve that the Operational Reserve in the amount of CAD 7.1 million be retained as one of the funding sources for the Regular Budget for the 2023-2024-2025 triennium.

24. While he believed it was appropriate for the Assembly to approve the Operational Reserve as a source of funding, the Representative of Spain questioned whether the amount of CAD 7.1 million represented the entirety of the Operational Reserve. He also queried whether it would be advisable for the Council to consider, at a future session, an amendment to the *ICAO Financial Regulations* (Doc 7515/16) which would specify the policy surrounding the use of the Operational Reserve.

25. In responding to the questions raised, C/FIN recalled the relatively recent establishment of the Operational Reserve after the Council (C-DEC 123/11) approved the carry-over of CAD 11.1 million of unspent 2020 appropriation to 2021 to be used for three projects contemplated in the Operating Plan for the years 2021, 2022 and 2023. She explained that it might be helpful to view the Operational Reserve as now having two components; the first being the CAD 7.1 million to be approved by the 41st Session of the Assembly as one of the funding sources for the draft budget of the Organization for 2023-2024-2025, and the second a residual balance of the three projects previously approved which would be used to supplement the Plus component by approximately CAD 1 million. With respect to the question raised regarding the

revision of Doc 7515, C/FIN considered that amendments would be initiated as required based on the experience gained, as use of the Operational Reserve was a new and evolving process.

26. The Representative of the United States expressed his appreciation for the transparent budget process, acknowledging the leadership of the Chairperson of the FIC and the responsiveness of C/FIN. He voiced support for the proposed draft budget included in C-WP/15360, including the Plus component for the Transformational Objective. While he trusted that the Secretary General's efforts to transform the Organization were essential to its future, the Representative believed there was a need for further assurances that the increase in Member States' assessments to fund the Transformational Objective initiatives would be a one-time contribution. In this regard, he proposed that the second clause of the proposed addition to the draft Assembly Resolution included in the attachment to the oral report of the FIC be amended to read "*Specifies* that the funding through Assessments on States of an amount of CAD 14 977 000 for selected high priority Transformational Objective initiatives, for the 2023-2024-2025 triennium, is a one-time contribution and shall not form part of the baseline used for preparing budget estimates for the 2026-2027-2028 triennium". The Representatives of France, Germany, Greece, Italy and Japan supported this intervention.

27. The Representative of Mexico aligned himself with views expressed by the Representative of the United States in the preceding intervention. While he concurred that the additional text proposed therein should be included in the Assembly Resolution attached to the oral report of the FIC, he proposed that the word "extraordinary" be inserted before "one-time contribution" as a means of highlighting this exceptional contribution by Member States. He also expressed support for the suggestion put forward in the intervention by C/FIN to include in the draft A41 working paper an invitation to the Assembly to approve the use of the Operational Reserve as a source of funding to bridge the projected funding gap of CAD 7.1 million. In this regard, the Representative underscored the need for the Secretariat to also address this funding gap by working in accordance with the highest standards of austerity and efficiency and by seeking other possible funding sources and savings. The Representatives of Brazil, Canada, China, India and Sudan associated themselves with this intervention.

28. While he agreed with the proposed addition to the draft Assembly Resolution to underscore that the Plus component was a one-time contribution, the Representative of Colombia was grateful for this additional financial support for the Transformational Objective, believing that these funds would enable greater improvements to the Organization's information technology systems. The Representative also favoured the approach to seek the Assembly's approval for use of the Operational Reserve. The Representative of Costa Rica associated himself with this intervention.

29. The Representative of Singapore stated that the budget approval process had been thorough and transparent and had resulted in a pragmatic budget that had established an acceptable balance between the Organization's needs and the challenging economic reality, and in this regard, thanked the Chairperson of the FIC for taking the initiative to meet with individual Representatives to understand their priorities and concerns. She fully endorsed the proposed draft budget of the Organization for 2023, 2024 and 2025, and for the transfer of Operational Reserve funds to be approved by the Assembly. The Representative considered that closely integrating the development of the business plan and the budget had been a useful and beneficial approach.

30. Echoing the view that the proposed draft budget balanced the realities of the current economic climate and the need to undertake priority activities, the Representative of Australia asserted that in the same way that aviation was an enabler for economic and sustainable growth, investment in the Organization through the much-needed one-time injection of funds provided by the Plus component would allow it to effectively and efficiently deliver its work programme. With this in mind, he supported the

conclusions of the oral report on C-WP/15360 with the additions proposed by the Representatives of Mexico and the United States to the draft Assembly Resolution.

31. The Representative of the United Arab Emirates shared in the appreciation expressed by each Representative in their interventions for the collaborative work of the Chairperson of the FIC and the Secretariat which had resulted in a budget process that was transparent and straight-forward.

32. The Secretary General gratefully accepted the Representatives' appreciation for the efforts of the Secretariat over the long and sometimes arduous process to deliver the draft budget of the Organization for 2023, 2024 and 2025, and expressed his gratitude for the work of the FIC and the COG and their Chairpersons, and for the trust conferred upon the Secretariat by the Council. He conveyed his assurance that the Secretariat would work tirelessly to maintain this trust and continue to work collaboratively with the Council, Member States and stakeholders to better the Organization and enhance its relevance and contributions to civil aviation.

33. In concluding its consideration of this item, the Council:

- a) took note that the final draft Regular Budget proposal totalled CAD 357.6 million, and was comprised of a Zero Nominal Growth (ZNG)-1 component amounting to CAD 341.6 million, which had been calculated using Member States' 2022 assessments as the baseline, as well as a "Plus" component of CAD 15.9 million to fund high priority deliverables related to the Transformational Objective, of which CAD 15.0 million would be funded through an increase in Member States' assessments, and the remaining balance from the Operational Reserve;
- b) underscored that the increase in Member States' assessments to fund the Transformational Objective initiatives in the amount of CAD 15.0 million was a one-time, non-precedent setting contribution that should therefore be treated as a non-consolidated amount and should not form part of the baseline used for preparing budget estimates for the 2026-2027-2028 triennium, and in this connection, requested the Secretariat to also highlight this principle in the Council's "Message on the Budget of the Organization" and the Assembly Resolution, to be inserted in the final budget document in due course, taking into account the comments received during the consideration of this item<sup>1</sup>;
- c) also noted that notwithstanding the proposed budget of CAD 357.6 million, a funding gap of CAD 7.1 million still remained, due to the significant adjustment required to the inflation assumption for the next triennium, in the amount of CAD 6.1 million, and given the additional funding needed to cover activities under the Transformational Objective as referenced in sub-paragraph a) above, and in this regard:
  - i. approved the transfer of CAD 5.6 million to the Operational Reserve from the 2022 appropriations, with the understanding that this sum included CAD 2.4 million of anticipated 2022 unutilized appropriations resulting from freezing posts, CAD 0.7 million of anticipated 2022 unutilized appropriations resulting from efficiency gains in printing services and CAD 2.5 million of unutilized 2021 appropriations to be re-prioritized towards the next triennium;

---

<sup>1</sup> The changes to the text of the draft Assembly Resolution are reflected in the Attachment to this C-MIN.

- ii. requested the Secretariat to update the draft Assembly working paper by adding an action item requesting the Assembly to approve retaining an amount of CAD 7.1 million from the Operational Reserve as one of the funding sources for the Regular Budget of the Organization for 2023-2024-2025; and
- d) approved the draft Assembly working paper attached to C-WP/15360, including the draft Assembly Resolution appended thereto, subject to the amendments requested by the FIC, including in sub-paragraph c-ii), above, as well as the changes agreed on by the Council in the course of its consideration of this item being reflected, with a view to the revised working paper being thereafter submitted to the 41st Session of the Assembly, on the understanding that the Council's "Message on the Budget of the Organization" would be circulated shortly for approval under the "written" procedure.

### **Any other business**

### **Financial and in-kind contributions from Member States**

34. The Council took note of and welcomed the announcements by the Representatives of the United Kingdom, the Republic of Korea, Finland (on behalf of the NORDICAO Group of Member States), Japan and France regarding their Governments' respective voluntary financial and in-kind contributions to support the strategic priorities of the Organization, including the newly established Transformational Objective. In doing so, the Council expressed its appreciation to all the respective Governments for the generosity of their contributions.

### **Council President Certificates**

35. The Council took note of an oral report from the President of the Council, in which it was recalled that pursuant to C-DEC 205/2, C-DEC 205/3 and C-DEC 206/7, the Council had agreed to establish the "Council President Certificates", which in the context of the *No Country Left Behind* initiative, would serve to recognise States from each ICAO region that have made significant progress in resolving their safety or security oversight deficiencies and improving the level of effective implementation (EI) of safety and/or security oversight systems in compliance with ICAO Standards and Recommended Practices (SARPs). In doing so, the Council agreed to resume this practice, on the understanding that the Council President Certificates would be awarded at the forthcoming 41st Session of the Assembly based on the updated eligibility criteria outlined in the oral report. It was further noted that the cut-off date for consideration would be linked to the USAP and USOAP final reports, which are to be published by 31 July 2022.

### **Invitation to the Air and Space Academy to the 41st Session of the Assembly**

36. The Council took note of an oral report from the President of the Council concerning a request from the Air and Space Academy (AAE), a longstanding institution based in Toulouse, France, to be included in the *List of international organizations that may be invited to attend ICAO meetings*. In this connection, it was noted that the request was pending in light of the current refinement of the process and criteria for the assessment of such requests from international organizations (C-DEC 225/3 refers). Notwithstanding the preceding and without prejudice to any future decision by the Council on the request from AAE, the Council agreed that the AAE would be added to the List of International Organizations to be invited to attend the 41st Session of the Assembly.

37. The meeting adjourned at 1255 hours.

**ATTACHMENT**

Pursuant to paragraph 6 b) of C-DEC 226/11, the Council agreed that the text of this part of the draft Assembly Resolution would be as follows:

-----

B. *The Assembly*, with respect to the **Regular Budget**:

*Recognizes* the importance of the new Transformational Objective and its initiative.

*Specifies* that the funding through Assessments on States of an amount of CAD 14 977 000 for selected high priority Transformational Objective initiatives, for the 2023-2024-2025 triennium, is an extraordinary one-time contribution that shall be treated as a non-consolidated amount and shall not form part of the baseline used for preparing budget estimates for the 2026-2027-2028 triennium.



**COUNCIL — 226TH SESSION**

**SUMMARY MINUTES OF THE TWELFTH MEETING**

**(HYBRID MEETING, FRIDAY, 17 JUNE 2022, AT 1000 HOURS)**

President of the Council: Mr. Salvatore Sciacchitano

Secretary: Mr. Juan Carlos Salazar, Secretary General

**PRESENT:**

Argentina	— Mr. G.E. Bompadre	Malaysia	— Mrs. F. Chin
Australia	— Mr. R. Adams	Mexico	— Mr. D. Méndez Mayora
Brazil	— Mr. N. Moretti	Netherlands	— Mr. R. Ossendorp
Canada	— Mr. C. Hurley	Nigeria	— Mr. M.S.B. Tukur
China	— Mr. J. Liang (Alt.)	Paraguay	— Mr. C.D. Urquhart Cáceres
Colombia	— Mr. M. Ramírez Koppel	Peru	— Mr. A. Freyre Layzequilla
Costa Rica	— Mr. G. Hoppe Pacheco	Republic of Korea	— Mr. S. Kim
Côte d'Ivoire	— Mr. C.A. Djibril	Russian Federation	— Mr. S. Gudkov
Dominican Republic	— Mr. J. Peña Guzmán	Saudi Arabia	— Mr. B. Al-Sagri
Egypt	— Mr. S. Elhefny	Singapore	— Ms. E. Poh
Equatorial Guinea	— Mr. E. Esono Anguesomo	South Africa	— Mr. L. Mabaso
Finland	— Mr. S. Vuokila	Spain	— Mr. V.M. Aguado
France	— Mr. L. Pic	Sudan	— Mr. I.M. Elhag
Germany	— Mr. U. Schwierczinski	Tunisia	— Mr. M.I. Torjemane
Greece	— Ms. M. Saranti	United Arab Emirates	— Mr. M. Salem (Alt.)
India	— Mrs. S. Juneja	United Kingdom	— Mr. A. O'Henley
Italy	— Ms. S. Costantini	United States	— Mr. C. Sullenberger
Japan	— Mr. I. Fukushima	Zambia	— Mr. V. Banda

**ALSO PRESENT:**

Mr. P. Kelleher	— President, ANC
Mr. C. Fernández (Alt.)	— Argentina
Mr. S. Lucas (Alt.)	— Australia
Ms. C. Fitzgerald (Alt.)	— Australia
Ms. I. de Melo Maciel (Alt.)	— Brazil
Mr. A. Bertolino (Alt.)	— Brazil
Mr. M. Lima (Alt.)	— Brazil
Mr. D. L. Pereira (Alt.)	— Brazil
Mr. R. Arruda (Alt.)	— Brazil
Ms. A. Barbosa (Alt.)	— Brazil
Ms. M. Anselmi (Alt.)	— Brazil
Mr. D. Santos (Alt.)	— Brazil
Mr. R. Alves (Alt.)	— Brazil
Mr. D. Calçado (Alt.)	— Brazil
Ms. A. Jiménez (Alt.)	— Costa Rica
Ms. C. Moya (Alt.)	— Dominican Republic

**SECRETARIAT:**

Mr. M. Vreedenburgh	— SPO/OSG
Mr. S. Creamer	— D/ANB
Mr. J. Vargas	— D/TCB
Mr. M. Rahma	— D/ATB
Mr. A. Mishra	— D/ADB
Mr. M. Gill	— D/LEB
Ms. J. Hupe	— DD/ENV
Mr. S. Lefoyer	— DD/ASF
Mr. J. Lamosa	— C/ASA
Mr. A. Larcos	— C/ACS
Ms. V. Muraca	— ACS
Ms. D. Cooper	— Précis-writer

**ALSO PRESENT: (Cont'd)**

Ms. V. Adalsteinsdottir (Alt.)	— Finland
Mr. E. Risse (Alt.)	— France
Mr. N. Naoumi (Alt.)	— Germany
Ms. V. Betchava (Alt.)	— Greece
Mr. A. Kalognomis (Alt.)	— Greece
Ms. V. Lazari (Alt.)	— Greece
Mr. M. Silanos (Alt.)	— Italy
Mr. A. Joshi (TE)	— India
Mr. S. Oshima (Alt.)	— Japan
Mr. S. Sugiyama (Alt.)	— Japan
Mr. S. Togami (Alt.)	— Japan
Mr. M. Loustaunau (Alt.)	— Mexico
Mr. C. Schleifer (Alt.)	— Netherlands
Mr. A. Coutinho (Alt.)	— Netherlands
Mr. W.R. Linares (Alt.)	— Peru
Mr. C. Bustamante (Alt.)	— Peru
Mr. S. Ahn (Alt.)	— Republic of Korea
Ms. O. Mozolina (Alt.)	— Russian Federation
Mr. M. Habib (Alt.)	— Saudi Arabia
Ms. D. AlKurdi (Alt.)	— Saudi Arabia
Mr. F.A.A. Alsuhabani (Alt.)	— Saudi Arabia
Ms. E. Ang (TE)	— Singapore
Ms. S. Toh (TE)	— Singapore
Mr. Y. K. Koh (TE)	— Singapore
Mr. I. Pacheco (Alt.)	— Spain
Mr. A. Veprek (Alt.)	— United States
Mr. A. Mitchell (Alt.)	— United States
Mr. D. Williams (Alt.)	— United States
Mr. M. Waniwa (Alt.)	— Zambia

Representatives to ICAO

Cameroon  
Congo  
Cyprus  
Ethiopia  
Indonesia  
Niger  
Oman  
Turkey  
Uganda  
Ukraine

Airports Council International (ACI)  
Civil Air Navigation Services Organization (CANSO)  
European Union (EU)  
International Air Transport Association (IATA)  
International Coordinating Council of Aerospace Industries Associations (ICCAIA)



**Draft Assembly working paper – Carbon Offsetting and Reduction Scheme for International Aviation (CORSA)**

1. The Council considered this item on the basis of C-WP/15393, which presented a draft Assembly working paper on progress made since the 40th Session of the Assembly regarding the implementation of CORSIA. The Council also had for consideration an oral report thereon from the Climate and Environment Committee (CEC), presented by the Chairperson of the CEC (Representative of Colombia).

2. In his introduction of C-WP/15393, the Secretary General highlighted that paragraph 4.4 of the draft Assembly working paper would be updated with the Council's recommendation to the Assembly following its further consideration of the CORSIA baseline beyond the pilot phase and on the 2022 CORSIA periodic review.

3. In this regard, the Chairperson of the CEC (Representative of Colombia) observed that the next item for Council discussion, C-WP/15394 on proposed revisions to the CORSIA Assembly Resolution A40-19, would also provide useful input for paragraph 4.4.

4. To the point raised by the CEC Chairperson, the President of the Council proposed that consideration of elements related to the baseline should not be pursued in the course of the context of this item. He proposed that discussions on CORSIA itself be moved to the next item; and that the Council focus on the CEC recommendations presented in paragraphs 3 and 5 of the oral report.

5. As his State's position had not been available during the CEC discussions on this draft Assembly working paper, the Representative of China took the opportunity to provide the specific comments that he had now received.

6. Firstly, China recognized ICAO's efforts in promoting CORSIA implementation, as set out in the paper, which had seen certain outcomes that helped Member States understand CORSIA and the Monitoring, Reporting and Verification (MRV) activities amongst others. China was of the view that to further improve the effectiveness of CORSIA implementation, more States needed to participate and enhance MBM contributions to international civil aviation emissions reduction. The design and implementation elements of CORSIA needed to be revised and refined according to the guiding principles established by the corresponding Assembly Resolution and accorded periodic review. Therefore, China proposed to add a section entitled "CORSA improvement" and hoped a nationally determined approach to improve CORSIA, as proposed by China, could be incorporated in the text to be considered by the Council under the next item.

7. Secondly, China noted the brief description of the 2022 CORSIA periodic review and that previously, the Council had considered a full periodic report presented by CAEP. China believed that paragraph 4.4 of the draft Assembly working paper should present the main findings of the analysis in a comprehensive manner and be supplemented with language from the report on cost analysis and market distortion caused by CORSIA implementation, which were key elements. China remained consistent in its position on the CORSIA periodic review that this work did not fully deliver what was requested by Resolution A40-19. In future, work had to continue in conducting a detailed analysis on the impact of CORSIA implementation on States and the market as well as a cost analysis of the airlines.

8. Thirdly, in order to carry out future CORSIA periodic reviews more effectively, China believed that ICAO should follow the guiding principles of the Assembly Resolution and establish a methodological system of CORSIA review that was composed of specific indicators and criteria, therefore

China proposed to clearly define the meaning of each guiding principle for MBM design implementation and the periodic review; and to develop the elements to be reviewed as well as review indicators and criteria according to the defined meaning of the guiding principles. China strongly proposed that these elements be included in the mandate of the CAEP/13 cycle which comprised the study and submission of the resulting methodology to be used for the upcoming 2022 review; and that experts from China participate in this work.

9. Fourthly, the analytical work on the basis and criteria for triggering safeguards conducted by the Council and CAEP was noted, and since international aviation varied in each State in terms of the stage of development, capabilities and circumstances, that States be allowed to act in accordance with different triggering conditions to adopt appropriate risk control measures.

10. Lastly, as the LTAG discussion had yet to be completed, and in order not to pre-empt any conclusions, China proposed to delete the phrase “as more participating States will bring closer the higher environmental integrity of CORSIA in meeting the ICAO global aspirational goal” presented in the penultimate and last lines of paragraph 1.5 on page 2 of the draft Assembly working paper.

11. The Representative of the Russian Federation supported the preceding intervention while the President of the Council observed that some points raised by the Representative of China were more relevant to the Council discussion on the subsequent item; C-WP/15394.

12. Referring to paragraph 3 c) of the oral report, the Representative of Saudi Arabia suggested “crisis” be replaced by “climate challenge” in the proposed amendment to the last sentence in paragraph 3.2 of the draft paper. The Representatives of the United Arab Emirates, Nigeria, the Russian Federation and Egypt voiced support for this proposal.

13. Of the view that it was in fact a climate crisis, the Representative of the United States opposed the proposal by the Representative of Saudi Arabia as did the Representative of Peru who thought the current global environmental situation was much more serious than to describe it merely as a “challenge”. Likewise, the Representative of Mexico favoured the word “crisis” as it more aptly reflected the present and future circumstances; and of the same view, the Representative of Germany observed that it was indeed a global crisis and not just a challenge that could be easily facilitated. Similarly, the Representative of the Netherlands saw no reason to deviate from the wording and agreed with the oral report as presented.

14. Referring to paragraph 3.4 on page 5 of the draft paper, the Representative of India reserved comments on the basis and criteria for triggering safeguards against the perceived inappropriate economic burden on international aviation for discussions on the next item.

15. Agreeing with the CEC Chairperson’s oral report, the Representative of Zambia congratulated him on his excellent approach on such a delicate issue; and thanked the Secretariat for the comprehensive work on this matter.

16. In support of the President’s approach, the Representative of Costa Rica also thanked the CEC Chairperson and members for their dedicated work on this matter, as well as the Secretariat for this major achievement. In concurrence with the oral report, he recognized the difficulty in reflecting every position and was grateful for all efforts towards this programme to achieve ICAO’s Strategic Objectives.

17. While understanding and respecting the preceding interventions, the Representative of Saudi Arabia called for consistency when introducing new terminology such as “climate crisis”, especially in external communications; and recalled that during the discussions at the High-level Conference on COVID-19, the word “crisis” had been replaced by “challenge” in the Ministerial Declaration.

18. The Observer from Uganda was encouraged that so many States, like Uganda, had voluntarily joined CORSIA; and referring to CORSIA buddy partnerships in Appendix B of the paper, queried whether the Council or Secretariat had assessed the partnerships effectiveness so as to ensure that States in all regions who had volunteered could constructively participate in CORSIA as it seemed some regions were having difficulties.

19. The Deputy Director, Environment (DD/ENV) responded that in the very rigorous Secretariat follow up with all States, and reviews with the experts involved in implementing CORSIA, that the information garnered was very positive and that its implementation had been successful. If there was a specific case, DD/ENV requested the Observer from Uganda to contact the Secretariat to determine the matter, yet the data indicated otherwise.

20. The Representative of South Africa intended to pursue the concern raised by the Observer from Uganda with the Secretariat, and if required, would revert to the Council. As to the suggestion by the Representative of Saudi Arabia, and the point raised in his second intervention, agreed that there should be consistency in terminology used, especially given the sensitivity of the issue which might present difficulties with the negotiations moving forward. The Representative of Nigeria supported these views.

21. The Representative of Brazil recalled that Brazil had previously raised the issue and thought that the best approach was to be consistent with the existing terminology used by the Council.

22. In support of the draft Assembly working paper and the CEC Chairperson's oral report, the Representative of Australia suggested to focus on the urgent action and amend "crisis" to read "change" so as to remove the emotion of that word. The Representatives of Finland, France, India, Malaysia, Côte d'Ivoire, Colombia, Italy, Zambia, Paraguay, Nigeria, Brazil, and the United Kingdom supported this proposal as did the Representative of Singapore who thought the discussion on paragraph 3.2 related to the report of the Intergovernmental Panel on Climate Change (IPCC) which spoke of an urgent crisis. Likewise, the Representative of South Africa thought the proposal an excellent contribution as it did not alter the approach being taken on this issue.

23. Conversely, the Representative of the United States thought the suggested words "climate change" would lose the clarification for urgent action, thus proposed the compromise wording "climate change crisis".

24. In summarizing the discussion, the President of the Council noted that a decision on the CORSIA baseline beyond the pilot phase, as referenced in paragraph 4.4 of the draft Assembly working paper, would be pursued separately; that the position of the Representative of China, supported by the Representative of the Russian Federation, was noted as were the specific amendments to paragraph 1.5 on page 2 of the paper; that the CEC proposals to amend the paper, as outlined in paragraph 3 of the oral report, were generally supported; and as to the discussion on paragraph 3 c), there was a convergence with the proposal by the Representative of Australia to replace "crisis" by "change", thus, the last sentence of paragraph 3.2 of the draft Assembly working paper would be amended to read "need to take urgent action for addressing the climate change".

25. The Representatives of Saudi Arabia and Egypt supported the President's summary, as did the Representative of Côte d'Ivoire who underscored that according to the Larousse dictionary, an environmental crisis was an imbalance of the ecosystem that threatened living beings and populations, therefore proposed for future discussions, that physical danger to populations should be the determining factor as to whether there was a crisis.

26. In concluding its consideration of this item, the Council:
- a) noted the information presented in C-WP/15393, as well as the oral report by the CEC thereon; and
  - b) approved the draft Assembly working paper attached to C-WP/15393, subject to the amendments requested by the CEC, as well as the change agreed on by the Council in relation to paragraph 3 c) of the oral report to replace “the climate crisis” with “climate change”, on the understanding that the contents of paragraph 4.4 of the draft Assembly working paper attached to C-WP/15393 would be adjusted by the Secretariat to take into account the outcome of the Council’s further consideration of the CORSIA baseline beyond the pilot phase, prior to the 41st Session of the Assembly, and delegated authority to the President to thereafter approve the revised working paper on its behalf for subsequent submission to the Assembly.

**Draft Assembly working paper – Consolidated statement of continuing ICAO policies and practices related to environmental protection – Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA)**

27. The Council commenced its consideration of this item on the basis of C-WP/15394, which presented a draft Assembly working paper containing proposed revisions to Assembly Resolution A40-19: *Consolidated statement of continuing ICAO policies and practices related to environmental protection – Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA)*, in light of developments since the last Assembly. The Council also had for consideration an oral report thereon from the Climate and Environment Committee (CEC), presented by the Chairperson of the CEC (Representative of Colombia).

28. In his oral report, the Chairperson of the CEC (Representative of Colombia) highlighted that the Committee had reviewed this difficult but very important issue with special care and noted that three members had provided written comments and statements which had been circulated to all members for consideration during the CEC discussions. As some members supported the same position, namely: to extend the CORSIA pilot phase for three years to account for no offsets in the pilot phase; that the calculation of CORSIA offsetting requirements use the 100 per cent sectoral approach; and that the matter be further discussed, the CEC Chairperson proposed that the penultimate sentence in paragraph 3 of his report be amended to read “Some members expressed the same positions and supported the proposals to be further discussed.”, and that it be repositioned after the first sentence.

29. In prefacing the discussion, the President of the Council proposed that the Council immediately secure a decision on the CORSIA baseline so as to be clear on the further analyses to be undertaken by CAEP; and noted the CEC recommendation to Council that CAEP carry out the analyses using the scenarios presented in paragraph 7 a) of the oral report and that, as proposed in paragraph 7 b), the results be available by the end of June 2022 to facilitate discussions and a review by the Council in late August 2022, together with the consideration of the results of the High-level Meeting on LTAG.

30. Thanking the CEC Chairperson for the detailed oral report, the Representative of France observed that one of the extremely important elements in the CEC discussion was that the baseline should not lose sight of the high level of ambition referenced in paragraph 7 of the report. He also proposed an amendment to subparagraph 7 a), to insert item 7 a) 4), the average of 2019 and 2020 emissions, after “the regional breakdown using” to better reflect the situation at the beginning of the discussion, that an agreed baseline period held until further instruction, and as the default baseline, it should be dealt with on the same

basis as the others; and then to continue subparagraph 7 a) with the three options presented in items 1) to 3). The Representative also queried whether Council discussions on the results of the CAEP analyses could begin earlier than the meeting in late August.

31. The President of the Council observed that it was best to specifically refer to the agreed baseline in Resolution A40-19, and as clarified during the CEC discussions, if no decision was taken, there was the established baseline decided by the Assembly.

32. Supporting the President's efforts to progress this discussion and thanking the CEC Chairperson for all his work on this challenging item, the Representative of the United Kingdom indicated that his State strongly supported CORSIA and commended all States who voluntarily took part in the scheme which was an integral part of ICAO's response to climate change and its external reputation. Recognizing CORSIA was launched by the Assembly in 2016 and validated in 2019, no substantial design changes were required at this stage beyond confirmation of the baseline for the upcoming phase, with 2022 being the first of many regular periodic reviews going forward. He supported the proposed updates to the draft paper and Assembly Resolution, and accepted the scheme in the draft Resolution, to extend its current form if no consensus was found to change it.

33. In regard to the baseline, the Representative of the United Kingdom suggested reverting back to the average of the 2019-2020 baseline as soon as possible, but as agreed, this point could be decided following the CAEP analyses so as to maintain the integrity of the scheme as launched and to address the questions of fairness raised by colleagues on the absence of offsetting thus far. He supported the suggestion by the Representative of France to add the reference to the agreed baseline in subparagraph 7 a) and if other Representatives were serious about amending key design aspects of the scheme, such as the timing of various phases, then consequential amendments to extend the life of CORSIA from 2035 commensurately would need to be reviewed to ensure they reflected the integrity and balance of the current scheme. While recognizing the concerns expressed on the impact of COVID-19 on later phases or unfair competition specifically from 2028, he observed the need to focus on the issues at hand, address them in a timely and logical way, and to maintain a list of emerging or potential issues for consideration in future periodic reviews.

34. The Representative of Germany expressed support for the interventions by the Representatives of France and the United Kingdom.

35. In full support of the President's proposal, the Representative of the Netherlands also concurred with the Representative of France, that perhaps the Council could discuss the outcome of the CAEP analyses before the end of August.

36. The Representative of India thought it extremely important that there be constructive discussions on the CORSIA review with the baseline being one of the very critical issues. Paragraph 7 of the oral report gave a clear indication to return to the forecasting with the kind of growth trajectory expected in 2020; and subparagraph 7) a) 2) moved towards what was expected and forecast yet she cautioned that it may be too early to decide to focus on 2020 prior to COVID-19 as the recovery from the pandemic was not the same in all regions. Although important to take a decision now, it was equally important to allow for the trajectory of growth expected once COVID-19 gradually receded and it may not be possible to look at averages as they would only distort the truth, thus it would be best to use only the 2019 emissions for the baseline; and she placed on record the reservation of the Delegation of India in this regard.

37. Underscoring that the Council had previously discussed the methodology, the President of the Council nonetheless took note of the reservation conveyed by the Representative of India. He further

clarified that the discussion was not on the decision to be taken on the baseline but rather on the means by which to reach a decision. He then invited the Council to consider the CEC proposals presented in paragraph 7 of the oral report as well as the amendment proposed by the Representative of France; and drew attention to subparagraph 7 c) that beyond the importance of defining a specific scope for the CAEP analyses, that the choice of scenarios would not pre-empt further Council discussion and decision on the CORSIA baseline or other parts of the draft Assembly Resolution. He suggested that the Council give a clear decision that CAEP would work along these lines and that a decision would be taken by the Council during its subsequent discussions in August; and in response to the suggestion by the Representative of France, further suggested that a preliminary Council discussion be held on 18 July 2022 to consider this subject based on the analyses carried out by CAEP with subsequent discussions at the scheduled meeting of the Council on 24 August 2022.

38. In concurrence with the President's suggestions, the Chairperson of the CEC (Representative of Colombia) clarified that CAEP would proceed immediately with the analyses and that the data would be distributed by the end of June, as indicated in subparagraph 7 b), thus accommodating a preliminary discussion by the Council in July.

39. Noting the Council agreement to the CEC proposals in paragraph 7 of the oral report, the President of the Council indicated that the discussion would now continue with broader consideration of the draft Assembly working paper and Resolution; that the CEC Chairperson's report did not outline a unique proposal but reflected different views that could be classified in three groups: 1) no modification to the basic elements of the scheme and any other matter would be considered during the next review cycle; 2) a modification to some of the basic elements of the scheme; and 3) moving to a nationally-determined approach; and that the Council had to converge on the direction to be taken.

40. Thanking the CEC Chairperson for all his efforts, the Representative of Saudi Arabia underscored the observation by the Representative of France, that more time was required to discuss this issue before the August meeting. In regard to the oral report, he recalled that during the CEC discussions Saudi Arabia had clearly indicated that: the guiding principles on designing and implementing any global market-based measure were essential and key for the review, and were in line with the intervention by the Representative of China on the preceding item; that a comparison be made of the status of CORSIA agreed in 2016 against the current status, taking into account the impacts as a result of the pandemic; and that a further analysis be carried out on the effect of extending the pilot phase. He observed that these points had not been thoroughly captured in the report and should be included in the Council decision.

41. Referring to the intervention by the Representative of France, the Representative of Spain thought the ambition level could not be lowered beyond the minimum of 2016. CORSIA was the sole global agreement in the aviation sector and the Organization's recognition in this area should not be damaged by the amendment of certain elements, such as the potential market distortion which required further study. The need to continue with the analyses was evident, nonetheless there were aspects that many believed could not be agreed upon before the Assembly; and the only result absolutely required before then was the determination of a baseline. The Representative congratulated the CEC Chairperson on his report and observed the need for the Council to clearly instruct CAEP on the scope of its analyses.

42. The Representative of the United States supported the interventions by the Representatives of France, the United Kingdom and Spain to keep CORSIA strong and effective, and to prepare for the 41st Session of the Assembly.

43. Thanking the CEC Chairperson for his efforts on these very important issues, the Representative of Greece remarked that her State was one of the first to join CORSIA and she firmly

believed in the need to safeguard the initial ambition of the scheme; and to protect its reputation and that of ICAO by sending a message of progress. While further analysis was required, ICAO should move forward, and in this regard, she fully agreed with the interventions by the Representatives of France, the United Kingdom, Spain and the United States and with the proposal by the President to have a preliminary Council meeting to discuss these important issues and find a sound solution.

44. Thanking the CEC Chairperson for his very constructive and enterprising approach in trying to reach some conclusion on this extremely important issue, the Representative of India observed that the CORSIA review was one of the most critical tasks given by the Assembly to the Council, and that the draft Assembly working paper had to clearly reflect the discussions on the CORSIA review as indicated in C-DEC 225/13. The CORSIA baseline, affected by the impact of COVID-19, had been changed and there was a need for absolute certainty before making any further changes. There were developments in a particular region for a regional emission scheme which could be a challenge to CORSIA as the only MBM. There had been State consultations on CORSIA which had raised concerns about its design elements that would likely affect developing countries as well as new entrants. Issues had been raised regarding the voluntary phase not really delivering as there had been no offsetting and the delicate balance, as part of the Resolution, had been lost and this reality could not be left out of the discussions today. States had impressed upon the Council the need to include this in the CORSIA review which required a clear methodology and direction, and it was the Council's responsibility to ensure this for the current and future reviews, taking into consideration the cost of CORSIA to States and operators. There was a need to revisit the phased implementation of CORSIA; that the sectoral and individual growth factors were likely to cause market distortions, hence the need for safeguards to be established.

45. Thanking the CEC Chairperson for his very balanced report which correctly reflected the CEC discussions, and the President of the Council for summarizing the three options and various positions arising from those discussions, the Representative of Mexico felt that the draft Resolution needed updating in light of the pandemic and that the proposed text was the product of comprehensive negotiations that maintained a very careful balance; and while he could agree with some of the proposals provided there was broad consensus, he observed that the Assembly had fundamentally rejected a nationally-determined approach given the significant impact it would have on aviation, furthermore, ICAO's environmental objective would lack clarity, hence the correct approach was multilateral agreement with all States who had contributed to the scheme. The position of Mexico was to make essential changes only to the draft Resolution as approved by the Council and that any other proposals would be inappropriate without broad consensus given the Council mandate from the Assembly in this regard. With reference to the concerns on the effect of sectoral or individual approaches, as pointed out by the Representative of Spain, these could be considered in future reviews, however, they should be addressed to the Assembly so that in future, the Council could make the required modifications.

46. Thanking the CEC Chairperson and all speakers for the constructive discussion, the Representative of Costa Rica agreed with the intervention by the Representative of Greece and with the final observation in the preceding intervention. Costa Rica had always strived for consensus and inclusivity in positively transforming towards the objectives of decarbonisation and with sound balance between the long-term vision and immediate actions.

47. Thanking the CEC for the work done and report presented, the Representative of the Russian Federation expressed support for the interventions by the Representatives of India and Saudi Arabia.

48. Agreeing with the interventions by the Representatives of the United Kingdom, Spain and Mexico, the Representative of France observed that civil aviation was a global industry facing global problems and a global solution had to be found. This was the very essence of the Organization's work and

should be included specifically in ICAO's schemes. At the risk of destabilizing a scheme that took time to build, he queried the need to take a decision based on projections when the impacts of the phenomena being addressed, if they continued, would occur after the subsequent periodic review and thus, he favoured a reasonable approach that did not call into question the main building blocks of CORSIA at a time when there was no immediate need to do so. In respect to equity and the impacts of the pandemic on aviation, balanced solutions had to be found but the proposal to extend the voluntary phase by three years with no change to the actual scheme posed a problem in this regard and the Council should not compound the solutions when a decision was currently required on the baseline. Lastly, he thought it important to consider the political concerns expressed so that all positions were reflected in the Assembly Resolution; and to commit to address the problems as they arose, thus a much more informed decision could be taken rather than on the current basis of projections, forecasts, and very distant impacts.

49. In full support of the CEC Chairperson's oral report, the Representative of Finland concurred with the interventions by the Representatives of the United Kingdom, France, Spain, the United States, Greece, Mexico and others. As there were well over 100 voluntary States in CORSIA, the Council should avoid making premature decisions on their behalf but rather work in a cooperative spirit towards an ambitious, transparent, effective CORSIA to benefit all States; and he agreed with the Representative of Spain on the level of ambition.

50. The Representative of China voiced support for the comments by the Representative of India on the methodological periodic review and need to improve the CORSIA design elements. Thanking the CEC Chairperson for circulating China's specific comments on the draft Assembly working paper, he took the opportunity to reiterate his State's position which was not fully covered in the oral report.

51. Firstly, in regard to the CORSIA baseline, China recommended adding an option of a nationally determined baseline as per a State's domestic circumstances. China maintained that international emissions reduction should be dealt with under the guidance of the relevant principles of the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement, in particular, the principle of Common But Differentiated Responsibilities (CBDR), equality, respective capabilities in the way of nationally determined contributions and best ability through multilateral cooperation. China maintained that the carbon neutral growth (CNG) 2020 goal only emphasized the control of emission increases which was not conducive to facilitating the sustainable development of international civil aviation, especially for developing countries.

52. Secondly, the CORSIA scheme had room for improvement and refinement. In 2022, all the results of the periodic review had already shown that China had concerns with it. In order to improve the effectiveness of implementation and attract more States to participate, China proposed a nationally determined approach to implement CORSIA as a constructive way forward to further improve the CORSIA scheme; and as a general overview under this approach, States should establish the offsetting baselines according to their respective circumstances; establish the MRV requirements in light of ICAO MRV requirements; prioritize the use of ICAO recommended eligible emission units; and establish sustainable aviation fuels (SAF) certification in light of ICAO criteria for promoting the implementation of this nationally determined approach. As well, financial, technical, and capacity-building support should be provided by setting up an ICAO decarbonisation fund to help developing countries achieve decarbonisation. The experts of China were finalizing this approach and further details would be provided.

53. On the specific amendments, comments had been made on paragraphs 3, 4, 5, a new paragraph 10, and paragraphs 14, 16, 23, 24, 25, 26, 27, 28, and 30. China had provided its comments on the nationally determined approach; and had expressed its position with regard to the periodic review and the triggering of safeguards.



54. Congratulating the CEC Chairperson for his great leadership and ability to listen to all concerns, the Representative of South Africa voiced support for the interventions by the Representatives of China, Saudi Arabia, and India; and that there should not be any constraints on the review by reason of the number of States voluntarily participating in CORSIA because ultimately the decision would be made by States at the Assembly.

55. The Representative of Australia observed that over the past three years the only element in the operating environment that warranted changes to the scheme was the impact of COVID-19 on the expected amount and distribution of the offsetting requirements across the life of the scheme which was contrary to what was expected when agreed by the Council in 2016. His first preference was to wait until the full impact of COVID had washed through the system before making any changes, but he could see the merit of some modifications now to allow industry time to adjust to the Council decision, but more importantly, any back loading of offsetting requirements should be avoided in the later part of the scheme. He supported the use of the baseline as a means of addressing any rebalancing or fairness and to maintain ambition. He also looked forward to the results of the CAEP work on the options and to a quick decision on the baseline. Other tools that might be available, as some had suggested, were growth factor, timing and phasing but those could be reviewed later. The next triennium must be used to ensure that any changes made to the baseline had the intended effect on rebalancing and ambition and then in later reviews it could be determined whether adjustments were needed. He was agreeable to including some text in the draft Resolution to ensure that the concerns regarding market distortion, cost and impact were appropriately recognized; and that the Council was committed to monitoring and addressing those issues in later reviews should there be a need.

56. Thanking the Secretariat for its excellent work on CORSIA and congratulating the CEC Chairperson for his leadership and flexibility, the Representative of Côte d'Ivoire observed that his State was one of the first to voluntarily join CORSIA and thought it auspicious that over 100 States had now done so and had also designated focal points. While supporting the ongoing work of CORSIA, as it was a key ICAO programme for the environment, as well as the draft Assembly working paper, he underscored the need for further analysis to support any required changes to ensure that they were meant to accelerate the programme and to facilitate Council discussion. The concerns raised also needed to be addressed as this was central to CORSIA implementation. Moreover, increased communication was required on the cost of inaction such as the financial and physical risks to populations and air operations, and would highlight the importance of the Council in progressing this matter.

57. The Representative of Brazil observed that the CEC Chairperson had clearly expressed the textual amendment that he had proposed for paragraph 3 of the oral report, that Brazil had indicated the inability to support the draft text of the Resolution which was supported by other members. As to the issues discussed, if agreed upon by the Council, it could recommend that the Assembly address those concerns; and the only alternative to a decision based on projections was to wait for matters to arise and then evaluate them. In regard to the CORSIA review, specifically the individual growth factor, Brazil believed that the Council had good, solid and reliable projections data from CAEP that did not depend on the evolution of the pandemic's impact over the sector. A Council decision had to be taken now to give industry the predictability to make its own decisions well before the cost structures changed. On the level of ambition, he thought that some comments by Representatives might apply to the suggestions by Brazil and therefore might imply that the Brazilian proposals would change or reduce the level of ambition which was not the case. For example, if the individual growth factor was changed or eliminated, the Council would be more fairly distributing the burden amongst operators; and lastly, he agreed that the Council challenge was to recommend to the Assembly that changes be made while preserving the Organization's integrity and reputation. The Council had to ensure that CORSIA worked equitably for all and not risk the withdrawal of States from the scheme based on its decisions on the baseline.

58. The Representative of the Russian Federation lent support to the preceding intervention as well as the comments by the Representative of China.

59. Thanking the CEC Chairperson for being objective on this difficult issue, the Representative of Singapore observed the very notable point made by the Representative of Mexico, that this was a global scheme agreed by the Assembly. It was balanced with equilibrium based on the guiding principles, as evidenced in the consolidated documents, and as pointed out by several States, including India and China. The pandemic had certainly impacted the scheme with the level of global traffic just 25 per cent of what had been initially envisaged for 2019 and 2020; and while no offsets had been required thus far, the traffic recovery was uncertain and might only recover fully in 2023 or 2024, as forecast by IATA at its recent presentation. Thus, clarity in this regard was needed before the components of the scheme could be addressed. She thought that there was a general acknowledgement that because the pilot phase had been impacted by the COVID-19 pandemic, it affected the phased implementation design of CORSIA, starting with the 100 per cent sectoral offsets where more offsets were expected in the pilot phase, and in terms of the balance of the overall offset contributions amongst all air operators over the 15-year CORSIA period. Therefore, some text should be included to indicate that these aspects would be explicitly considered in the next review period. It might also help to address the concerns raised while getting better clarity on the traffic recovery. As suggested by the Representative of Australia, perhaps consideration of the baseline analyses might be one way to address the fact that the offsets were very low in the pilot phase. The baseline could be used to front-load the 100 per cent sectoral offsets by considering an analysis of the 2019 traffic level. So, while there may be differences, she did see a merging of views on the need to address the sectoral and individual components, but only after the traffic recovered for clarity purposes.

60. The Representative of Canada joined those that were ambitious in establishing the aspirational goals; and given ICAO's leadership role with CORSIA, he clearly supported remaining focused on achieving its objectives despite the present challenges.

61. Thanking the President for handling this quite complex debate and the CEC Chairperson for the astonishing work done together with all the team, the Representative of Italy, in keeping with the comments by the Representatives of France and Mexico, underscored that ICAO was a global organization, that aviation was a global sector, and that climate change was a global problem that needed a global solution. As highlighted by the Representative of Australia, this was not the time for extensive changes that would destabilize CORSIA as already agreed upon; that only the implementation elements of CORSIA, not the design elements, should be reviewed given the Council mandate.

62. The Representative of the Netherlands congratulated the CEC Chairperson for his ability to summarize a complex discussion and the Secretariat for ably supporting him. Observing the importance of the Council work to the real world, the level of ambition of the scheme was an essential consideration and he noted the comments by the Representative of Brazil in this regard as well as those by the Representative of Mexico with respect to the Council mandate on the scope of the current review. He very much welcomed the approach by the Representative of Australia as there would be further opportunity to discuss the best way forward when reviewing the results of CAEP's analyses on the baseline; and lastly, he thought the implication that States would withdraw from the scheme was merely speculation.

63. In regard to the baseline, the Representative of Germany supported the views expressed in paragraph 4 of the CEC oral report. At the time the Council had decided to change the CORSIA baseline, the effects of COVID-19 were assumed to be temporary and the recovery of aviation to the 2019 emissions level was expected in approximately a year or two. Given the visible recovery of international air traffic, it was reasonable to return to what was agreed in Assembly Resolutions A39-3 and A40-19 or else risk having very little offsetting overall in the lifetime of CORSIA which would put the credibility or effectiveness of

CORSIA into doubt and risk global support for the scheme. Thus, he fully supported all the comments made regarding the high level of ambition.

64. Recognizing and congratulating the work done by the CEC Chairperson and the Secretariat, the Representative of Equatorial Guinea fully supported the Representatives of Spain, the United Kingdom, France, Mexico, Finland, Italy and others, that this was not an appropriate time for lengthy discussions on a matter that had been considered three years ago; multilateral agreements were not being readily dismantled; and there was still time for further discussions on this item as the Council was dealing with a global issue that required global solutions.

65. Thanking the Secretariat for the work done and the guidance of the President, the Representative of Zambia realized the environmental issues affected everyone and that the President had achieved in moving the matter forward by bringing all views to the table for the sake of inclusivity. He voiced support for the paper and oral report and thanked the CEC Chairperson for the manner in which he had handled the Committee discussions.

66. The Representative of the United States supported the interventions by the Representatives of Australia, Côte d'Ivoire, Canada, Italy, the Netherlands, and others. In regard to projections, there were a number of them, and the most important ones indicated that for every State, without exception, the greatest cost by far was the cost of inaction.

67. The Representative of Saudi Arabia associated himself entirely with the Representative of Brazil. In regard to the many interventions on the guiding principles, he recalled that the MBM principle should support a sustainable development of international aviation sectors and mitigation of greenhouse gas (GHG) emissions from international aviation in regard to offsetting, and that one of the most important principles agreed upon was that MBMs should not be duplicative and international aviation CO<sub>2</sub> emissions should be accounted for only once; and that it not impose an inappropriate economic burden on international aviation. The global crisis caused by the impact of COVID-19 reached beyond the aviation sector, so limiting the economic burden to the baseline was incorrect as the CAEP robust analysis in the last Council session clearly showed that there was a problem in other elements of CORSIA and they should be comprehensively addressed in a fair and adequate manner and that the CORSIA periodic review should be inclusive of all its design elements. The Council had a mandate to propose recommendations to the Assembly and through Council discussion, a way forward to advance the matter would be found.

68. The Representative of Japan supported the interventions by the Representatives of Australia, the Netherlands, Italy, the United States, and others. There were many aspects to CORSIA that required consideration of the special circumstances and respective capabilities of States as well as market distortions, therefore the design elements of CORSIA should not be modified.

69. Understanding the concerns and points raised by the Representatives of Brazil, Saudi Arabia, and South Africa, the Representative of India observed that no one could have envisioned COVID-19 and its impact; and in 2020 the Council responded with a decision to immediately exercise the provision of economic hardship and the baseline was changed. Since then, the pandemic had not only hit the baseline, but other design elements of the scheme, and it was very important that the Assembly be made aware of the need to readdress the design elements given the pandemic's impact and that the equilibrium, which was very finely balanced in the scheme, required resetting and would deter from what the Council had been authorized to do if not addressed in the Assembly Resolution. She agreed with the Representative of Australia that the Council had to move forward and make the right adjustments so that the scheme was successful and in doing so, requested that the Council work constructively to submit to the Assembly all the different aspects that had been discussed in trying to adjust the imbalance in the scheme.

70. The Representative of South Africa pointed out that there had not been any offsetting in the pilot phase, that CBDR had been accommodated in the scheme because in the next phase, all would equally be required to participate on the same footing. As to the comments that the scheme could not be reviewed because many States had voluntarily joined CORSIA was in his opinion not the right approach. There should be no apprehension in submitting the CORSIA scheme for review as the Council would make recommendations to the Assembly for its decision. The Representative of Egypt supported these views.

71. The Representative of China supported the interventions by the Representatives of India, Brazil and South Africa. The results of the CAEP analysis had shown that the CORSIA design elements would lead to serious market distortion and in response, the Council should take action by reporting this matter to the Assembly.

72. The Representative of Spain stated that his Delegation could not accept the terminology “market distortions that were compromised”; that while there was a need to refer to potential market distortions, existing ones had not been discussed, thus the existing terminology should be used.

73. Observing the importance of the preceding intervention, the Representative of France indicated that the quality of the CAEP forecast was not being called into question and no CAEP expert had ever confirmed that there was distortion of competition, so the figures were not being studied in the same way as it was not the actual data themselves.

74. In summarizing the discussion, the President of the Council noted the emerging majority support to keep the basic scheme as it was and to incorporate the suggested amendments by the Secretariat as well as those in the CEC Chairperson’s oral report. While others wished to introduce amendments as a matter of principle, such as the Representatives of China, India and Brazil, especially in regard to the impact of COVID-19 on the scheme, he pointed out that the concerns expressed by the Representatives of India and Brazil had previously been captured in C-DEC 225/13. The differing preferences were to move forward with amending the basic elements of the Resolution; or to incorporate the amendments in the draft Resolution as a general concern that emerged from the Council discussion on the CORSIA review and to address them during the next review period; and his understanding was that the second scenario was preferred. Additionally, as stressed by the Representative of Australia, and reiterated by others, the decision on the baseline would be an important component of the draft Resolution’s equilibrium in the sense that the impact of COVID-19, as stated in C-DEC 225/13, was not expected to produce offsetting requirements for the pilot phase but that the review of the baseline could introduce some adjustments. Although a final decision would not be taken until 24 August 2022, realizing that there were still major differences in a way forward, discussions would continue at the next meeting to further streamline positions and then to restart discussions on that basis in August.

75. The Representative of Egypt voiced support for the President’s summary and the need for further discussion of the issue.

76. In concluding its consideration of this item, the Council agreed that the proposed draft text of its decision on this item would be circulated for advance consideration, with a view to adopting the final text of the decision during the next meeting of the current session (C 226/13).

## **Any other business**

### **Update on the work of the Fact-Finding Investigation Team (FFIT)**

77. The Council noted the information provided by the Secretary General in relation to the ongoing work of the ICAO Fact-Finding Investigation Team (FFIT), and the progress made since the 225th Session (C-DEC 225/1, refers). It was further noted that as the FFIT was currently in the process of finalizing the investigation report in order to reflect the new information and materials received, the report would now only be available in July 2022. As such, it was understood that the FFIT report would be considered at a subsequent meeting of the current session, to be held on 18 July 2022. In consequence, it was also understood that the Council's consideration of C-WP/15418, *Request of the Republic of Belarus to the ICAO Council for its Consideration Under Article 54 (j) of the Chicago Convention, and C-WP/15416, Notes on Articles 54 j), 54 k), 54 n) and 84 of the Chicago Convention*, would also be re-scheduled accordingly so that all three items would be considered at the same meeting.

### **Adoption of Amendment 48 to Annex 6, Part I**

78. With respect to C-WP/15422, *Adoption of Amendment 48 to Annex 6, Part I*, the Council noted that additional time was required before this matter could be considered, as a number of Member States had indicated that they were not presently in a position to take a final decision on the proposed Amendment, in light of the ongoing consideration of the proposal within their national jurisdictions. As such, the Council agreed to defer consideration of this item to a subsequent meeting of the current Session, to be held on 18 July 2022.

79. The meeting adjourned at 13:15 hours.



**COUNCIL — 226TH SESSION**

**SUMMARY MINUTES OF THE THIRTEENTH MEETING**

**(HYBRID MEETING, MONDAY, 20 JUNE 2022, AT 1430 HOURS)**

President of the Council: Mr. Salvatore Sciacchitano

Secretary: Mr. Juan Carlos Salazar, Secretary General

**PRESENT:**

Argentina	— Mr. G.E. Bompadre	Malaysia	— Mrs. F. Chin
Australia	— Mr. R. Adams	Mexico	— Mr. D. Méndez Mayora
Brazil	— Mr. N. Moretti	Netherlands	— Mr. R. Ossendorp
Canada	— Mr. C. Hurley	Nigeria	— Mr. M.S.B. Tukur
China	— Mr. Shengjun Yang	Paraguay	— Mr. C.D. Urquhart Cáceres
Colombia	— Mr. M. Ramírez Koppel	Peru	— Mr. A. Freyre Layzequilla
Costa Rica	— Mr. G. Hoppe Pacheco	Republic of Korea	— Mr. S. Kim
Côte d’Ivoire	— Mr. C.A. Djibril	Russian Federation	— Mr. S. Gudkov
Dominican Republic	— Mr. J. Peña Guzmán	Saudi Arabia	— Mr. B. Al-Sagri
Egypt	— Mr. S. Elhefny	Singapore	— Ms. E. Poh
Equatorial Guinea	— Mr. E. Esono Anguesomo	South Africa	— Mr. L. Mabaso
Finland	— Mr. S. Vuokila	Spain	— Mr. V.M. Aguado
France	— Mr. L. Pic	Sudan	— Mr. I.M. Elhag
Germany	— Mr. U. Schwierczinski	Tunisia	— Mr. M.I. Torjemane
Greece	— Ms. M. Saranti	United Arab Emirates	— Mr. M. Salem (Alt.)
India	— Mrs. S. Juneja	United Kingdom	— Mr. A. O’Henley
Italy	— Ms. S. Costantini	United States	— Mr. C. Sullenberger
Japan	— Mr. I. Fukushima	Zambia	— Mr. V. Banda

**ALSO PRESENT:**

Mr. P. Kelleher	— President, ANC
Mr. C. Fernández (Alt.)	— Argentina
Ms. C. Fitzgerald (Alt.)	— Australia
Ms. I. de Melo Maciel (Alt.)	— Brazil
Mr. M. Lima (Alt.)	— Brazil
Mr. D. L. Pereira (Alt.)	— Brazil
Mr. R. Arruda (Alt.)	— Brazil
Ms. A. Barbosa (Alt.)	— Brazil
Ms. M. Anselmi (Alt.)	— Brazil
Mr. D. Santos (Alt.)	— Brazil
Mr. R. Alves (Alt.)	— Brazil
Mr. D. Calçado (Alt.)	— Brazil
Mr. J. Liang (Alt.)	— China
Ms. C. Moya (Alt.)	— Dominican Republic
Ms. V. Adalsteinsdottir (Alt.)	— Finland
Mr. E. Risse (Alt.)	— France

**SECRETARIAT:**

Mr. M. Vreedenburgh	— SPO/OSG
Mr. S. Creamer	— D/ANB
Mr. J. Vargas	— D/TCB
Mr. M. Rahma	— D/ATB
Mr. A. Mishra	— D/ADB
Mr. M. Gill	— D/LEB
Ms. J. Hupe	— DD/ENV
Mr. D. Guindon	— DD/MO
Mr. M. Marin	— A/DD/SAF
Ms. A. Jordaan	— C/MED
Mr. A. Larcos	— C/ACS
Ms. V. Muraca	— ACS

**ALSO PRESENT: (Cont'd)**

Mr. N. Naoumi (Alt.)	— Germany
Ms. V. Betchava (Alt.)	— Greece
Mr. A. Kalognomis (Alt.)	— Greece
Ms. V. Lazari (Alt.)	— Greece
Mr. M. Silanos (Alt.)	— Italy
Mr. A. Joshi (TE)	— India
Mr. S. Oshima (Alt.)	— Japan
Mr. S. Sugiyama (Alt.)	— Japan
Mr. S. Togami (Alt.)	— Japan
Mr. H. Katsuma (Alt.)	— Japan
Mr. M. Loustaunau (Alt.)	— Mexico
Mr. C. Schleifer (Alt.)	— Netherlands
Mr. A. Coutinho (Alt.)	— Netherlands
Mr. J. van Manen (Alt.)	— Netherlands
Mr. W.R. Linares (Alt.)	— Peru
Mr. C. Zamora (Alt.)	— Peru
Mr. C. Bustamante (Alt.)	— Peru
Mr. S. Ahn (Alt.)	— Republic of Korea
Mr. J. W. Kim (Alt.)	— Republic of Korea
Ms. O. Mozolina (Alt.)	— Russian Federation
Mr. M. Habib (Alt.)	— Saudi Arabia
Ms. D. AlKurdi (Alt.)	— Saudi Arabia
Mr. F.A.A. Alsuhabani (Alt.)	— Saudi Arabia
Ms. E. Ang (TE)	— Singapore
Ms. S. Toh (TE)	— Singapore
Mr. Y. K. Koh (TE)	— Singapore
Mr. I. Pacheco (Alt.)	— Spain
Ms. T. Goodwin (Alt.)	— United Kingdom
Mr. A. Veprek (Alt.)	— United States
Mr. A. Mitchell (Alt.)	— United States
Mr. M. Waniwa (Alt.)	— Zambia

**Representatives to ICAO**

Chile  
Congo  
Cyprus  
Ethiopia  
Ghana  
Indonesia  
Iran (Islamic Republic of)  
Kenya  
Qatar  
Senegal  
Turkey  
Uganda  
Ukraine

Airports Council International (ACI)  
Civil Air Navigation Services Organization (CANSO)  
European Union (EU)  
International Air Transport Association (IATA)  
International Coordinating Council of Aerospace Industries Associations (ICCAIA)



**Draft Assembly working paper – Consolidated statement of continuing ICAO policies and practices related to environmental protection – Carbon Offsetting and Reduction Scheme for International Aviation (CORSA)**

1. The Council resumed its consideration of C-WP/15394 on the basis of a draft decision of the Council thereon, which pursuant to C-DEC 226/12, had been circulated to the Council in advance of the present meeting.

2. Prefacing the discussion, the President of the Council recalled that during its previous meeting, the Council had held an extensive discussion of C-WP/15394, and while there had been a clear divergence on various elements between a majority of Representatives on the one hand, and a substantial minority on the other, certain points of convergence had also emerged during the deliberations. He further recalled that in concluding its discussion, the Council had agreed that the draft text for a potential decision on this item would be circulated for its advance consideration, with a view to facilitating the adoption of a decision during the present meeting.

3. In then turning to present the preliminary decision text which had been distributed to the Representatives by e-mail on 19 June 2022, the President of the Council highlighted that the draft text aimed to strike a balance amongst the views expressed during the Council’s deliberations, while ensuring that the concerns raised by a number of Representatives were appropriately reflected and taken into account. Likewise, the text sought to reinforce that the current decision would not pre-empt or limit the Council’s subsequent deliberations on this issue, and that there would be further opportunities to refine the text of the draft Assembly Resolution appended to the working paper, leading to the 41st Assembly. On that basis, the President invited the Council to focus its consideration on the draft decision text, which was presented as follows:

“[...]”

5. *Following consideration, the Council, by a majority decision:*

- a) *took note of the information presented in C-WP/15394, as well as the oral report by the CEC thereon, and in doing so, agreed to the proposed amendment to paragraph 3 of the oral report in relation to the re-ordering of the text so that the wording at the end of the first sentence would now be: “Some Members expressed the same position and supported the proposals to be further discussed”;*
- b) *further noted that a majority had expressed support for maintaining the CORSIA scheme, without any changes to be made to its design elements, and that there had been wide convergence in support of the draft Assembly Resolution, as attached to C-WP/15394;*
- c) *notwithstanding the majority view indicated in the preceding sub-paragraph, also acknowledged the concerns expressed by a number of Delegations with respect to the need to address the impacts of the COVID-19 pandemic on the implementation of CORSIA;*
- d) *mindful that the concerns expressed in sub-paragraph c) above would need to be further addressed in operative clause 17 of the draft Assembly Resolution in line with paragraph 4 of C-DEC 225/13, which recalled that the CAEP inputs during the 225th Session had considered potential market distortions in 2030-2035, which should continue to be closely monitored, and in this connection, reaffirmed the need for the*

*regular and systematic assessment of CORSIA, such as updates on market and cost impacts to States, aeroplane operators and on international aviation, in each of the CORSIA periodic reviews;*

- e) *building upon the analyses delivered by CAEP during the 225th Session on the impacts of COVID-19 on CORSIA and its baseline (CWP/15326, Appendix A and C-DEC 225/13, refer), agreed to request that CAEP undertake further analyses to estimate the offsetting requirements and the regional breakdown, using the average of 2019 and 2020 emissions as the default baseline, in accordance with Assembly Resolution A40-19, as well as the following scenarios for the CORSIA baseline after the pilot phase (2024 to 2035):*
    - i. *2019 emissions only;*
    - ii. *a percentage of 2019 emissions, which reflects an equivalent level to the average of 2019 and 2020 emissions; and*
    - iii. *the mid-point between the baseline scenarios i) and ii) above;*
  - f) *further requested that the updated analyses from CAEP, as identified in sub-paragraph e) above, should be distributed to the Council as soon as possible, and preferably by the end of June 2022, in order to facilitate the discussions and review by the Council in August 2022, when it would also consider the results of the ICAO High-level Meeting on LTAG; and*
  - g) *taking into account the concerns expressed by some Delegations on the impacts of COVID-19 pandemic on the implementation of CORSIA, noted that a decision on the CORSIA baseline could be an effective tool to rebalance and address these impacts vis-à-vis CORSIA offsetting requirements.*
6. *It was recorded that one Delegation expressed its reservation in relation to this decision of the Council.*
7. *The Council agreed that the outstanding aspects of C-WP/15394, including in relation to the text of the draft Assembly Resolution, would be addressed in a subsequent meeting of the 226th Session. [...]"*

4. While the Representative of Brazil was appreciative of the efforts to highlight the diverging perspectives and address the views raised by a substantial minority of Representatives during the previous meeting, he expressed concern that sub-paragraphs 5 d) and g) as proposed would, in effect, close the discussion on key issues from further consideration, and thereby limit further opportunities to foster consensus. He therefore proposed deleting sub-paragraphs 5 d) and g) entirely, and in turn, suggested that the Council use the coming weeks leading to the end of the current Session and prior to the commencement of the Assembly to expand the basis for an agreement.

5. The President of the Council clarified that sub-paragraphs d) and g) were intended as an initial step to take into account the concerns expressed, and in this connection, highlighted that paragraph 7 of the draft decision affirmed the Council's agreement that the outstanding aspects of C-WP/15394, including in relation to the text of the draft Assembly Resolution, would be considered further at a subsequent meeting of the 226th Session. In drafting the text in this way, the President had sought to clearly identify potential areas of convergence, while still providing flexibility for additional consultation prior to finalizing the text of the Assembly Resolution.

6. Drawing on the observations of the Representative of Brazil, the Representative of Spain agreed that sub-paragraphs d) and g) acted as “windows” for possible further negotiations leading to the ICAO High-level Meeting on a Long-term Aspirational Goal (HLM-LTAG) and the Assembly, and that the issues identified therein merited further examination. However, from his perspective, the text of said sub-paragraphs duly reflected the Council’s earlier deliberations, and should not impede the Council from continuing its discussions in this regard. At the same time, he underlined that paragraph 7 affirmed that any outstanding aspects would be addressed during the upcoming meetings of the 226th Session. As such, while he was understanding of the concerns raised, he did not believe the text prevented any further discussion from taking place.

7. The Representative of France shared the views expressed by the Representative of Spain, adding that the draft text was a strong starting point for further work and highlighting the importance of paragraph 7 in providing assurance that the Council would continue its deliberations on any pending aspects. With regard to paragraph g), the Representative noted that the language used in the draft text was careful in suggesting that the CORSIA baseline “could be” an effective tool, and in doing so, did not preclude the possibility for further negotiation. Moreover, he averred that the draft decision text gave direction to the future work to be undertaken on this subject, including with respect to the analysis to be carried out by the Committee on Aviation Environmental Protection (CAEP) as described in sub-paragraph e). In this connection, the Representative suggested replacing the term “default” baseline, in sub-paragraph e), with “agreed” baseline, as the latter was more accurate given the context, and was consistent with the standard terminology.

8. Aligning himself with the interventions of the Representatives of Spain and France, the Representative of the United Kingdom concurred that the draft text had effectively captured the Council’s previous discussion on this item, and was a fair reflection of the views expressed by both the majority and the minority. He noted that while he would be amenable to making certain improvements to the draft text, he could not support deleting or bracketing text at this point, and in this respect, underscored that deletion of sub-paragraphs d) and g) would be particularly problematic from his perspective, as the text reflected the views put forward by a number of Representatives, including himself, over the course of the preceding meeting.

9. The Representative of the United States strongly supported the interventions of the Representatives of Spain, France and the United Kingdom, and agreed that the draft decision text as proposed by the President of the Council had accurately summarized the Council’s earlier discussion, and had reflected the consensus achieved, together with the objections, in a fair and balanced manner.

10. In also conveying her appreciation for the draft text as presented by the President of the Council, the Representative of India noted that although sub-paragraph 5 d) made reference to C-DEC 225/13, sub-paragraph 4 e), the text stating “in each of the CORSIA periodic reviews, starting from 2022”, had not been included. In her opinion, omission of the specific text “starting from 2022” was counterproductive to the work envisaged in sub-paragraph d), as it was essential that an assessment of each of the elements mentioned in d) begin in 2022, during the first periodic review. At the same time, recalling that paragraph 4 d) of C-DEC 225/13 had noted that the impacts of the COVID-19 pandemic and adjustment of the CORSIA baseline had affected the CORSIA pilot phase, which in turn could have an impact on the phased implementation of the scheme as originally intended, the Representative reiterated the need to examine this issue further. In the same vein, on sub-paragraph g), the Representative did not consider that modifications to the CORSIA baseline alone would be an effective means of restoring the equilibrium within the scheme. On that basis, the Representative supported the proposal to delete sub-paragraphs d) and g), and expressed her willingness to work constructively on a way forward to address these outstanding issues. Regarding paragraph 6, the Representative clarified that her Delegation’s reservation related specifically to sub-paragraphs e) ii. and iii., and not the Council decision as a whole.

11. The Representative of Saudi Arabia (Alternate) shared the concerns raised by the Representatives of Brazil and India, and agreed with their respective proposals regarding the draft decision text. In relation to sub-paragraph b), the Alternate Representative considered the text to be imprecise, as it left the impression that the CORSIA baseline was not one of the CORSIA design elements. To the contrary, he underscored that the baseline was indeed a fundamental element of the scheme, and as such, contended that it would be misleading to suggest that the baseline could be adjusted, while the other CORSIA design elements would remain unchanged. In stressing that the design elements were essential in ensuring the equitable, balanced and fair implementation of the scheme, he suggested revising sub-paragraph b) to provide greater clarity and specificity to the text on this point.

12. The Representative of the Russian Federation (Alternate) supported the preceding interventions by the Representatives of Brazil, India and Saudi Arabia, including the proposal to delete sub-paragraphs 5 d) and g), and agreed that work to find a solution on these complex elements would need to continue, in line with paragraph 7. Acknowledging that there remained key points of divergence, the Alternate Representative averred that it would be important for Delegations to be granted more time to reach a compromise and ensure that the different views were addressed appropriately.

13. Supporting the comments of the Representatives of Brazil, India, Saudi Arabia and the Russian Federation, particularly on sub-paragraphs 5 d) and g), the Representative of China opined that the current draft text had failed to fully reflect all the different views expressed over the course of the Council's deliberations on C-WP/15394. The Representative maintained that the technical analysis conducted by the CAEP in support of the CORSIA 2022 periodic review had demonstrated that the current CORSIA design elements would lead to a relatively serious market distortion, and as such, he suggested that the Council take a decision during the current meeting to task CAEP to undertake further work, as necessary, to address this issue. On paragraph 7, the Representative inquired as to how the Council was expected to proceed with its discussion on the outstanding aspects of C-WP/15394.

14. The Representative of Sudan also voiced his full support for the points raised by the Representatives of Brazil, China, India and the Russian Federation.

15. The Representative of Mexico welcomed the draft text as proposed, as he considered it to have clearly summarized the views expressed during the Council's discussion, including in highlighting the concerns raised by a number of Representatives. He agreed with the Representative of Spain however, that the draft decision text did not prevent the Council from reviewing any pending issues during its subsequent meeting in August, or even thereafter, depending on the decisions taken by the Assembly. He had found in his experience that the discussions on this subject tended to focus on the CORSIA baseline as it was a fundamental element of the scheme, and was a key concern for Member States, as well as the industry. In addition, the pandemic had significantly and unexpectedly affected the baseline, which in turn, could have repercussions on the future offsetting calculations. Thus, while he agreed that the CORSIA design elements would need to be reviewed in light of these unforeseen circumstances, he asserted there was currently no sufficient evidence to justify re-opening a complex debate on the review of CORSIA, and that doing so in the absence of the necessary data would be inappropriate. He therefore cautioned the Council to proceed prudently, on the understanding that further direction on the next steps would be provided by the Assembly in due course, and in this regard, underscored the importance of ensuring that CORSIA did not lose the level of ambition as agreed by the Assembly, and that it would not impact the growth of the sector globally.

16. In expressing his support for the text of the draft decision as presented by the President of the Council, the Representative of Finland suggested that it might also be beneficial to capture those comments which had been raised on the need to avoid lowering the level of ambition of CORSIA, though he acknowledged that this issue would likely come to the fore during the ensuing negotiations, in any case.

He also expressed his support for the revision to sub-paragraph 5 c), as proposed by the Representative of France.

17. The Representative of Australia also supported the preliminary text put forward by the President of the Council, which from his perspective, accurately reflected the Council's earlier discussion on this item. In having reviewed the elements of paragraph 5, the Representative agreed that the proposed text did not appear to limit the potential for further discussion, particularly when considered in conjunction with paragraph 7, but instead, provided an important platform for additional consultation, and for moving the deliberations on these complex issues forward. In this regard, he emphasised that the effort to strengthen the language of operative clause 17 of the Assembly Resolution, as outlined in sub-paragraph d), would be essential in addressing some of the concerns raised regarding the impact of CORSIA in terms of distribution, fairness and equity of the scheme for all Member States. Furthermore, he underlined that by drawing attention to these concerns and the need to monitor developments closely through the Assembly Resolution, the Council could ensure that the key elements of the scheme were appropriate and fit-for-purpose. On paragraph g), the Representative clarified that while the text suggested that the baseline could help to address some of the concerns raised with respect to restoring the equilibrium of the scheme, it also reinforced the notion that further analysis was needed on this issue, before a final determination could be made. With this in mind, while the Representative conveyed his readiness to consider alternative proposals to enhance the text as appropriate, he was not in a position to support the complete deletion of sub-paragraphs d) and g) at this point.

18. In expressing his gratitude to the President of the Council for his efforts to build consensus and ensure that the different views were taken into account, the Representative of South Africa did not see any harm in deleting sub-paragraphs d) and g), particularly if the alternative risked the possibility of a future agreement. Thus, it was in the spirit of compromise and with a view to forging a strong consensus that the Representative encouraged the Council to omit sub-paragraphs d) and g) as proposed by the Representative of Brazil and supported by others.

19. The Representatives of Japan and Malaysia lent their support to the draft text as proposed by the President of the Council, as an accurate and well-balanced reflection of the Council's deliberations on C-WP/15394, as did the Representatives of Costa Rica, Germany and Greece, who also expressed their support for the views expressed by the Representatives of France, Spain, the United Kingdom and the United States.

20. Although he agreed that taking decisions by consensus was always preferable, the Representative of the Netherlands acknowledged that in some instances, reaching consensus was far more challenging than others, with CORSIA being one such example. In such circumstances, the Representative considered that the best way forward was for the decision to clearly reflect the different positions expressed over the course of the Council's deliberations, and in that respect, supported the draft text as proposed by the President, while echoing the comments of the Representatives of Australia, Finland, France, Greece, Mexico, Spain, the United Kingdom and the United States.

21. The Representative of Canada concurred that the draft text had accurately reflected the progress made by the Council thus far on this subject, and in this regard, expressed his support for the interventions by Spain, France, the United Kingdom, the United States, Finland, Mexico, Australia, Germany, Costa Rica, the Netherlands and Greece.

22. While the Representative of Singapore fully supported the draft text of paragraph 5 as drafted, she suggested that in light of the concerns raised during the foregoing discussion, it might be helpful to reaffirm in paragraph 7 that the Council would have the opportunity to further consider the question of the CORSIA baseline beyond the pilot phase, at a subsequent meeting.

23. The Representative of Italy joined the preceding speakers in welcoming the draft decision put forward by the President of the Council, averring that the text was a well-balanced and accurate reflection of the Council's previous discussion on this item. In relation to sub-paragraphs 5 d) and g), as well as paragraph 7, the Representative remarked that there appeared to be sufficient space for further negotiations to take place, and in this connection, aligned herself with those Representatives that had commented along these lines. The Representative also supported the modification to sub-paragraph c), as proposed by Representative of France.

24. Stressing the importance of inclusiveness and consensus as key principles in the process of decision-making by the Council, the Representative of Nigeria cautioned against taking a decision that could be negatively perceived as the majority exerting its will over the minority. He highlighted that consensus was often achieved through extensive negotiation and through concessions being granted by all sides, and in this regard, recognized the progress that had already been made by the Council to foster agreement on this subject. In therefore expressing his concern that taking a majority decision at this stage could jeopardize the gains achieved thus far, the Representative urged the Council to continue its deliberations, with a view to reaching further compromise and a broader consensus on the text.

25. Building from the comments of the Representative of Nigeria, the Representative of Zambia underscored that the present discussion held implications not only for CORSIA, but for all of humanity in terms of the global effort to address the impact of climate change. With this in mind, he observed that taken together, the Delegations that had requested changes to certain elements of the draft text represented almost five billion people on the planet; given the significant proportion of the global population represented by these Member States, the Representative encouraged the Council, in the spirit of compromise, to consider reviewing the text as had been suggested, with a view to reaching as wide a consensus as possible on such an important issue.

26. Expressing his support for the comments made by the Representatives of Nigeria and Zambia, the Representative of Egypt emphasised that the matter at hand was not a majority versus minority issue. He recalled that one of the core concepts that had underpinned the initial agreement on CORSIA in 2016, was that developed States would show leadership during the voluntary phase, while supporting developing States in the implementation of the scheme. At the same time, the Representative underscored the importance of reaching a consensus on the text, including sub-paragraphs d) and g), in time for the Assembly, as did the Representative of the United Arab Emirates (Alternate) who also underlined that given the global nature of the issue, it would be important to secure the support of all Member States.

27. Noting that the objective of any negotiation was to achieve an agreement, the Chairperson of the Climate and Environment Committee (Representative of Colombia) invited the Council to seek opportunities to expand on existing points of convergence and work together to reach consensus on this subject, as from his perspective, the longer that time elapsed without an agreement, the more challenging it would be to arrive at a compromise.

28. Supplementing his earlier intervention, the Representative of Brazil requested that two further revisions be made to sub-paragraph 5 c), in order to include the word "substantial" before "number of Delegations", consistent with the language used by the President in describing the minority views, and to add "and the individual growth factor" at the end of the sentence.

29. Returning to sub-paragraphs d) and g), notwithstanding the widely-held understanding that the text did not limit the scope for subsequent discussions on these pending issues, the Representative of Brazil contended that this interpretation of the text was inaccurate, or there would not be so many Delegations raising this concern, nor would there be such a clear divergence of views. To this point, he asserted that the text of sub-paragraph d) strongly implied that the individual growth factor would not be

addressed during the 41st Assembly, but at subsequent Assemblies. Likewise, while he acknowledged that sub-paragraph g) had been carefully drafted to indicate that the CORSIA baseline could be an effective tool to rebalance the scheme and address the impacts of the pandemic on the CORSIA offsetting requirements, the Representative pointed out that it could also be an ineffective one, and in this respect, noted that another potential effective tool for this purpose, namely the extension of the CORSIA pilot phase, had not been mentioned at all. He therefore reiterated his proposal that the aforementioned sub-paragraphs be deleted, in order ensure that future discussions in this regard were not unnecessarily constrained.

30. Moreover, while the Representative of Brazil understood that a decision would need to be taken, whether by a majority or by consensus, and that appropriate procedures and tools were in place for that very purpose, he did not consider it to be the right moment for employing these measures, as doing so in his opinion, could jeopardize the Council's flexibility to build consensus and bridge the differences that had continued to persist on these issues. He averred that it would be regrettable to impose a decision on such a substantial minority in the Council, not only in terms of the number of Delegations that had expressed concerns with the text, but with respect to the percentage share of the travelling public and the aviation industry represented by these States.

31. From the tone of the discussion, the Representative of Spain remained optimistic that the Council would be able to reach a consensus agreement, and in this regard highlighted that while it was not feasible for all the details of the Council's earlier discussion to be reflected in the final decision, there were certain elements of the text that could be strengthened. On this note, he suggested that further consideration should be given to the comments of the Representative of Saudi Arabia with respect to sub-paragraph b) regarding the CORSIA baseline. Regarding sub-paragraph g), the Representative supported the text as presented, and echoed the point raised by the Representative of France, in stating that the text was clear in highlighting that the baseline could be one of the effective tools, but not necessarily the only tool for this purpose.

32. The Representative of Côte d'Ivoire underscored the importance of compromise as an essential element in moving the Council toward greater consensus, which in turn, was critical to ensuring the effective implementation of CORSIA.

33. Taking into account the preceding interventions and in an effort to reaffirm the intention of the Council to continue to work toward achieving a consensus on this issue, the Representative of France proposed that the text of paragraph 7 be revised to reinforce the importance of inclusivity in the Council's subsequent discussions in this regard during the 226th Session.

34. Concluding the discussion, the President of the Council noted that although there remained key areas of divergence within the Council, with a majority of Representatives having expressed support for the text on the one hand, and a substantial minority having proposed amendments and revisions on the other, important progress had still been made toward bridging the gap between these positions. With this in mind, he stressed that while the objective was always for the Council to take decisions by consensus, it was also necessary for the Council to make progress in its deliberations. As such, it was his understanding that on the basis of the foregoing discussion that the text of sub-paragraphs d) and g) should be retained, subject to the modifications agreed over the course of the deliberations. At the same time however, he had also gathered that there remained sufficient flexibility and readiness to continue to negotiate to refine the text, before taking a final decision on these outstanding issues. Regarding the proposal to revise sub-paragraph b), the President of the Council was amenable to amending the text as suggested, although he questioned whether it was absolutely essential to make such an editorial specification at this stage. On sub-paragraphs c) and e), the President invited the Council to accept the proposals of the Representative of Brazil and the Representative of France, respectively. The President of the Council also noted that the clarification provided by the Representative of India on paragraph 6 with respect to her specific reservation to the text,

as well as the comments raised by the Representatives of China and France on paragraph 7, would be taken into account in the final text. Accordingly, the President of the Council informed that he would finalize the text of the decision to reflect the outcome of the Council's deliberations, and in accordance with Rule 57 of the *Rules of Procedure for the Council*, would circulate the draft final decision for approval by the Council, as per the usual procedure.

35. In light of the President of the Council's summary, the Representative of Brazil conveyed his Delegation's reservation to the Council's decision on this subject.

36. Maintaining that the current text of the draft Assembly working paper was not yet sufficiently mature to be submitted to the Assembly, the Representative of China stressed that the self-determined baseline should be one option for consideration, and that the self-determined implementation approach and CORSIA design elements should be revised. On this basis, the Representative voiced his reservation to the Council's decision.

37. Given the number of changes to be made to the draft text, as outlined by the President of the Council, the Representative of Saudi Arabia (Alternate) requested that the revised text of the draft decision be displayed to facilitate the Council's consideration. He also sought clarification on the meaning of the term "outstanding" in the context of paragraph 7, as it was unclear to him how this was to be interpreted by the Council as it progressed its deliberations. The President of the Council replied that as it was his intention to circulate the text of the decision to the Council for approval, in line with Rule 57, the Representatives would have the opportunity to make further revisions as needed, as per the standard practice. He also reiterated that doing so would also allow for further consultation amongst the Representatives, as well as with their national Governments, if required. Accepting this explanation, the Representative of Saudi Arabia nonetheless joined in expressing his reservation to the text, while noting that his Delegation would determine whether to withdraw its reservation, subject to their review of the final text.

38. The Representatives of India and the Russian Federation supported the remarks of the Representative of Saudi Arabia, and also recorded their respective reservations to the Council's decision on this issue.

39. Following consideration, the Council, by a majority decision:

- a) took note of the information presented in C-WP/15394, as well as the oral report by the CEC thereon, and in doing so, agreed to the proposed amendment to paragraph 3 of the oral report in relation to the re-ordering of the text so that the wording at the end of the first sentence would now be: "Some Members expressed the same position and supported the proposals to be further discussed";
- b) without prejudice to the outcome of the Council's ongoing discussions with respect to the CORSIA baseline after the pilot phase, further noted that a majority had expressed support for maintaining the CORSIA scheme, without any changes to be made to the rest of its design elements, and that there had been wide convergence in support of the draft Assembly Resolution, as attached to C-WP/15394;
- c) notwithstanding the majority view indicated in the preceding sub-paragraph, also acknowledged the concerns expressed by a substantial number of Delegations with respect to the need to address the impacts of the COVID-19 pandemic on the implementation of CORSIA, and the concerns regarding the use of individual growth factors;



- d) mindful that the concerns expressed in sub-paragraph c) above could be further addressed in operative clause 17 of the draft Assembly Resolution taking into account paragraph 4 of C-DEC 225/13, which recalled that the CAEP inputs during the 225th Session had considered potential market distortions in 2030-2035, which should continue to be closely monitored, and in this connection, reaffirmed the need for the regular and systematic assessment of CORSIA, such as updates on market and cost impacts to States, aeroplane operators and on international aviation, in each of the CORSIA periodic reviews, starting in 2022;
- e) building upon the analyses delivered by CAEP during the 225th Session on the impacts of COVID-19 on CORSIA and its baseline (CWP/15326, Appendix A and C-DEC 225/13, refer), agreed to request that CAEP undertake further analyses to estimate the offsetting requirements and the regional breakdown, using the average of 2019 and 2020 emissions as the agreed baseline, in accordance with Assembly Resolution A40-19, as well as the following scenarios for the CORSIA baseline after the pilot phase (2024 to 2035):
  - i. 2019 emissions only;
  - ii. a percentage of 2019 emissions, which reflects an equivalent level to the average of 2019 and 2020 emissions; and
  - iii. the mid-point between the baseline scenarios i) and ii) above;
- 1.1.2
- f) further requested that the updated analyses from CAEP, as identified in sub-paragraph e) above, should be distributed to the Council as soon as possible, and preferably by the end of June 2022, in order to facilitate the discussions and review by the Council in August 2022, when it would also consider the results of the ICAO High-level Meeting on LTAG; and
- g) taking into account the concerns expressed on the impacts of COVID-19 pandemic on the implementation of CORSIA, noted that a decision on the CORSIA baseline could be an effective tool to rebalance and address these impacts vis-à-vis CORSIA offsetting requirements.

40. In a spirit of inclusivity, and in reaffirming its intention to continue to work constructively toward reaching a consensus on this subject to the extent possible, the Council agreed that further consideration of the draft Assembly working paper, including in relation to the text of the draft Assembly Resolution, would be addressed in a subsequent meeting of the 226th Session in August 2022.

### **Report on the 38th Session of the Legal Committee**

41. The Council considered this item on the basis of C-WP/15402, which presented a summary report on the outcome of the 38th Session of the Legal Committee, held virtually from 22 to 25 March 2022.

42. In opening the discussion, the President of the Council recalled that notwithstanding that C-WP/15402 requested the Council to approve the general work programme of the Legal Committee, as set out in paragraph 4.1 of said working paper, the Council had already endorsed this work programme at an earlier meeting of the current session, in the context of its discussions on C-WP/15400, *Draft Assembly Working Paper - Work Programme of the Organization in the Legal Field* (C-DEC 226/4, refers). Moreover, it was his understanding that the outstanding concerns raised by the Delegation of South Africa with respect

to the Report of the Legal Committee had since been resolved, and that the Council could therefore proceed with its consideration of the item.

43. The Representative of South Africa affirmed that following consultation between his Delegation and the Chairperson of the Legal Committee, as facilitated by the Secretariat, it had been agreed that the matter raised by South Africa vis-à-vis the Committee Report would perhaps best be resolved by the Legal Committee in due course. He also noted that as his Delegation's concerns did not impact the work programme of the Legal Committee, it had been further agreed that the presentation of the Legal Committee's Report to the Council could move forward. As such, he fully endorsed the proposed work programme of the Legal Committee, and congratulated the Chairperson of the Legal Committee and the Secretariat on a successful meeting.

44. The Representative of the United States commended the Chairperson of the Legal Committee and the Secretariat for their leadership and execution of the 38th Session of the Legal Committee, particularly given the challenging circumstances, and recognized the 75<sup>th</sup> Anniversary of the Committee, as did the Representative of India, who remarked that the Committee's Chairperson, Ms. Siew Huay Tan of Singapore, was the first woman to hold this position.

45. In expressing his gratitude to the Chairperson of the Legal Committee for her hard work, the Representative of Spain highlighted the number of important topics to be addressed by the Legal Committee under its work programme, and in this regard, asked if the Council could be given a sense of how this work will be progressed, and the outcomes to be expected from the subsequent meetings of the Legal Committee. On this point, the President of the Council noted that he had already suggested to the Secretariat and the Chairperson that holding the next Session of the Legal Committee in the fourth quarter of 2023 or early 2024 was too late in terms of the key issues that needed to be advanced.

46. Responding to the Representative of Spain, the Director, Legal Affairs and External Relations Bureau (D/LEB) informed that the Secretariat would convene an informal briefing during the 227th Session in order to provide the Council with more detailed information on various aspects of the Legal Committee's work programme, as well as to provide an update on the status of the work on key priorities. With regard to the timeframe for convening the next Session of the Legal Committee, D/LEB took note of the concerns expressed, and assured that the Secretariat would endeavour to accelerate the work, to the extent possible. He pointed out, however, that it was anticipated that the Legal Committee would only be convened once the work on these issues had sufficiently matured, and insofar as there would be concrete decisions to be taken by the Committee in that regard.

47. Welcoming the prospect of a future briefing to clarify various aspects of the Legal Committee and LEB work programmes, the Representative of Spain added that it would be especially important to understand the status of the work specifically in relation to the promotion of the ratification of the protocols amending Articles 50 and 56 of the *Convention on International Civil Aviation* (Chicago Convention), given the aspiration that this process would be completed before the 42nd ICAO Assembly. In turn, D/LEB noted that a treaty ratification side event was being organized on the margins of the 41st Assembly in order to facilitate the process of ratification for Member States by providing a timely opportunity for them to deposit their instruments of ratification with the Organization. He also underlined that the side event aimed to bring greater visibility to this process, with a view to generating momentum toward a greater rate of ratification of air law instruments by Member States.

48. Acknowledging the importance of the work of the Legal Committee to the Organization, the Representative of France shared the views of the President of the Council on the timing for the next Session of the Legal Committee, and agreed on the need to build further momentum for the work of the Committee. He also joined the Representative of Spain in supporting D/LEB's suggestion to organize an

informal briefing on this subject, and welcomed the opportunity to further consider how this work could be made more efficient, including with respect to the ratification process.

49. Following consideration, the Council:
- a) took note of information presented in C-WP/15402 in relation to the 38th Session of the Legal Committee;
  - b) recalled that in relation to paragraph 4.1 of C-WP/15402, the Council had previously considered the draft Assembly working paper – Work Programme of the Organization in the legal field (C-WP/15400), and in this connection, had approved the draft Assembly working paper, including the General Work Programme of the Legal Committee, on the understanding that the Council reserved the right to give additional directions to the Legal Committee, if necessary (C-DEC 226/4 refers); and
  - c) noted that, in due course, the Secretary General, following consultations with the Chairperson of the Legal Committee and the President of the Council, would present, for the Council's consideration and approval, a proposal regarding the convening of the 39th Session of the Legal Committee.

**Draft Assembly working paper – The implementation of Resolutions A39-24 and A40-14 and the role of the ICAO CAPSCA Programme**

50. The Council considered this item on the basis of C-WP/15407, which presented a draft Assembly working paper on the progress of implementation of Resolutions A37-13, A39-24, A40-14, the ongoing work of the CAPSCA under the supervision of the Medical Provisions Study Group (MPSG) in view of lessons learnt from disease outbreaks and the recent COVID-19 pandemic, and proposals to strengthen the CAPSCA programme. The Council also had for consideration oral reports thereon from the President of the Air Navigation Commission (P/ANC) and Chairperson of the Air Transport Committee (Representative of Côte d'Ivoire), respectively. In doing so, the Council agreed to waive the requirement in Rule 26 of the *Rules of Procedure for the Council*, given that the oral reports of the ANC and ATC had not been made available at least 72 hours before the present meeting.

51. On the basis of the clarification provided by the President of the Council concerning the documents presently under consideration, it was understood by the Council that the revised working paper appended to the ANC oral report contained the consolidated amendments proposed by both the ANC and ATC, and would therefore serve as the focus of the current discussion.

52. Referring to Operative Clause 1 of the revised draft Assembly Resolution appended to the ANC oral report, the Representative of Spain underscored that the establishment of a crisis response mechanism would be an important issue during the Assembly, on which he expected a number of Member States to bring forward proposals that would need to be taken into account. At the same time, he pointed out that such a framework would not only have to address the response to public health crises, but other types of disruptions that may arise, such as those caused by natural disasters, and which may have strategic implications for the aviation sector.

53. In this regard, the Representative of Spain suggested that in light of the lessons learned in addressing the challenges caused by the COVID-19 pandemic, and the significant role of the ICAO Collaborative Arrangement for the Prevention and Management of Public Health Events in Civil Aviation (CAPSCA) programme to these efforts, particularly, through its contribution to the Council Aviation Recovery Task Force (CART), it was essential that CAPSCA undergo an institutional transformation, as a

means to ensure that ICAO stood ready to deal with future crises. He recalled that during the CAPSCA Global Symposium, held in March 2022, an entire panel session dedicated to strengthening the CAPSCA programme had been arranged, during which the discussion had focussed on enhancing the programme through the creation of a robust framework that would serve to align the work of CAPSCA with that of ICAO. With that in mind, the Representative stressed that it would be important to avoid framing the question of how to strengthen the CAPSCA programme only in financial or administrative terms, and instead, to consider how to reinforce the CAPSCA institutional framework, and to fit it within the regular ICAO arrangements and procedures, and bring part of the ICAO institutional framework. He therefore proposed that the draft Assembly Resolution be revised to better reflect this principle where possible, including in Operative Clause 9, which he maintained should make reference to strengthening CAPSCA as a framework, rather than as a programme. The Representative also emphasised that it would also be necessary to avoid any rigid procedures that would hinder the flexibility and agility needed within the framework in order to respond to crises efficiently and effectively.

54. The Representative of Mexico supported the proposed amendments of the ATC and ANC to the draft Assembly working paper, and underscored that it would be important that the Assembly agree that these matters be discussed prior to developing the necessary provisions for the proposed new *Procedures for Air Navigation Services (PANS) – Health*. With regard to the institutionalization of CAPSCA and its relationship to the ICAO Medical Provisions Study Group (MPSG), the Representative observed that while the proposal of the Representative of Spain might introduce some clarity in this regard, it was ultimately up to the Council to consider these aspects in due course, and to ensure that CAPSCA provided an appropriate institutional framework for the Organization’s work in this area.

55. The Representative of France agreed with the Representative of Spain that the crux of the issue was how CAPSCA could be made more robust and sustainable through institutional restructuring. However, in general, the Representative was of the view that the text of the draft Assembly Resolution fell short in demonstrating all the work that had been undertaken over the past several years to deal with the impact of the pandemic, including the establishment of the CART. Additionally, he noted that the draft Resolution appeared to overlook the recommendations of the High-level Conference on COVID-19 (HLCC) which had clearly highlighted the importance of enhancing the Organization’s crisis response capability. Accordingly, the Representative suggested that Operative Clause 1 of the draft Resolution be revised to read as follows: “Directs ICAO to strengthen its crisis management capacity, including by establishing a crisis response framework and mechanism based on the experience gained during the COVID-19 crisis.” In this way, he felt that the text would more clearly reflect the significant work carried out to respond to the most recent crisis, rather than simply referring to the earlier Resolution A39-24. He also noted that there should be a single mechanism in place to respond to the different types of potential system disruptions, rather than a plethora of tools and mechanisms.

56. With regard to paragraph 3.1 of the draft Assembly working paper appended to C-WP/15407, the Representative of Costa Rica noted that whereas the working paper indicated that 83 per cent of Member States were CAPSCA Members, the CAPSCA public website referred to 160 Member States and five Territories being Members of CAPSCA. In order to ensure consistency in reporting these figures, the Representative suggested revising paragraph 3.1 to reflect the CAPSCA membership in terms of total numbers, rather than a percentage, in line with the information published on the public website. He also sought clarification on the actual increase in CAPSCA membership since the start of the pandemic in March 2020, and expressed his support for the comments of the Representatives of France and Spain.

57. The Representative of Equatorial Guinea agreed with the preceding interventions, and in his capacity as Chairperson of the CART, attested to the invaluable contributions of CAPSCA to the work of the CART. The Representative underlined that the current CAPSCA administrative structure gave the impression that the programme was of a transitory nature, which was not appropriate given the critical role

played by the CAPSCA programme in the Organization's ability to respond to crises. As such, he concurred that it would be essential for CAPSCA to be regularised institutionally, and that a framework be established to ensure the long-term viability of the programme.

58. Responding to the suggestion of the Representative of Spain, the Secretary General agreed to amend Operative Clause 9 as proposed, and to that effect, offered to revise the end of the sentence as follows, "[...] (CAPSCA) to strengthen its implementation and ensure that its goals are achieved." In this connection, while the Secretary General pointed out that the institutionalization of CAPSCA and the creation of an appropriate administrative structure would remain a key challenge in the coming triennium, he assured that the Secretariat would continue to explore opportunities for establishing such a mechanism with the necessary flexibility, and taking into account lessons learned from the pandemic. Moreover, the Secretary General affirmed that the revisions to Operative Clause 1 as recommended by the Representative of France would also be incorporated, as would the comment of the Representative of Costa Rica with respect to paragraph 3.1. On the comments of the Representative of Equatorial Guinea, although the Secretary General acknowledged the need for CAPSCA to be formalized into a more permanent structure, he reiterated that further work was needed by the Secretariat to examine possible options for doing so. He therefore highlighted the importance of the Resolution in calling on Member States to continue to mobilize additional contributions to fund and support further progress in the CAPSCA-related work.

59. Appreciative of the clarifications provided by the Secretary General, the Representative of Spain agreed that this exercise would require more time and further study before a solution was found. However, he also noted that as CAPSCA was a voluntary arrangement, it would be important that CAPSCA be provided a more solid foundation moving forward, and in this connection, suggested adding an Operative Clause 9 *bis*, to request the Secretariat to explore ways to strengthen the CAPSCA framework. On this point, he put forward the option of turning CAPSCA into a Committee, which could avoid having to establish a large-scale administrative support structure, but would still allow for the work being carried out to have a clear link to the rest of the Organization.

60. Responding to an additional comment from the Representative of Costa Rica on the need to clearly quantify the increase in CAPSCA membership due to the pandemic, the President of the Council noted that paragraph 3.1 of the draft Assembly working paper as revised by the ATC and ANC already appeared to have addressed this point, albeit perhaps indirectly, in stating that the membership of CAPSCA had increased, from 64 per cent (124 Member States) in 2019 to 83 per cent (160 Member States) of ICAO Member States in 2022.

61. Following consideration, the Council:

- a) took note of the information presented in C-WP/15407, as well as the associated oral reports by the ANC and ATC thereon;
- b) approved the draft Assembly working paper attached to C-WP/15407, subject to the amendments requested by the ATC and ANC, as consolidated and appended to the ANC oral report, as well as the changes agreed on by the Council in the course of its consideration of this item, including in relation to operative clauses 1 and 9 of the draft Assembly Resolution being reflected, with the latter amendment consisting of dividing operative clause 9 into two separate clauses, such that in addition to requesting support from States, ICAO should also be requested to explore means to strengthen the CAPSCA framework, and delegated authority to the President to thereafter approve the revised working paper on its behalf for subsequent submission to the 41st Session of the Assembly; and

- c) consistent with the preceding sub-paragraph b), agreed that a review of the CAPSCA framework, structure and governance arrangement, should be undertaken at a future session, taking into account the experience gained and lessons learned during the COVID-19 pandemic.

### **Any other business**

#### **Monkey pox**

62. The Council took note of the information conveyed by the Secretary General and the Chief, Aviation Medicine (C/MED) in relation to the recent outbreak of the monkey pox virus in a number of Member States, including in Canada and the province of Québec. While the Council also acknowledged that the risk to public health remained generally low, it further noted that ICAO, in coordination with the World Health Organization (WHO), and the aviation industry, continued to monitor the evolution of the situation closely, and would keep the Council apprised of developments, as needed.

#### **Calendar of meetings**

63. The Council noted that the fourteenth meeting of the current session would be convened in the afternoon on Wednesday, 22 June 2022, at 1430 hours, rather than in the morning.

64. The Council adjourned at 1730 hours.

**COUNCIL — 226TH SESSION**

**SUMMARY MINUTES OF THE FOURTEENTH MEETING**

**(HYBRID MEETING, WEDNESDAY, 22 JUNE 2022, AT 1430 HOURS)**

President of the Council: Mr. Salvatore Sciacchitano

Secretary: Mr. Juan Carlos Salazar, Secretary General

**PRESENT:**

Argentina	— Mr. G.E. Bompadre	Malaysia	— Mrs. F. Chin
Australia	— Mr. R. Adams	Mexico	— Mr. D. Méndez Mayora
Brazil	— Mr. N. Moretti	Netherlands	— Mr. R. Ossendorp
Canada	— Mr. C. Hurley	Nigeria	— Mr. M.S.B. Tukur
China	— Mr. Shengjun Yang	Paraguay	— Mr. C.D. Urquhart Cáceres
Colombia	— Mr. M. Ramírez Koppel	Peru	— Mr. A. Freyre Layzequilla
Costa Rica	— Mr. G. Hoppe Pacheco	Republic of Korea	— Mr. S. Kim
Côte d'Ivoire	— Mr. C.A. Djibril	Russian Federation	— Mr. A. Novgorodov
Dominican Republic	— Mr. J. Peña Guzmán	Saudi Arabia	— Mr. B. Al-Sagri
Egypt	— Mr. S. Elhefny	Singapore	— Ms. E. Poh
Equatorial Guinea	— Mr. E. Esono Anguesomo	South Africa	— Mr. L. Mabaso
Finland	— Mr. S. Vuokila	Spain	— Mr. V.M. Aguado
France	— Mr. L. Pic	Sudan	— Mr. I.M. Elhag
Germany	— Mr. U. Schwierczinski	United Arab Emirates	— Mr. M. Salem (Alt.)
Greece	— Ms. M. Saranti	United Kingdom	— Mr. A. O'Henley
India	— Mrs. S. Juneja	United States	— Mr. C. Sullenberger
Italy	— Ms. S. Costantini	Zambia	— Mr. V. Banda
Japan	— Mr. I. Fukushima		

**ALSO PRESENT:**

Mr. P. Kelleher	— President, ANC
Mr. C. Fernandez (Alt.)	— Argentina
Mr. S. Lucas (Alt.)	— Australia
Ms. C. Fitzgerald (Alt.)	— Australia
Ms. I. de Melo Maciel (Alt.)	— Brazil
Mr. M. Lima (Alt.)	— Brazil
Mr. D. L. Pereira (Alt.)	— Brazil
Mr. R. Arruda (Alt.)	— Brazil
Ms. A. Barbosa (Alt.)	— Brazil
Mr. J. Liang (Alt.)	— China
Ms. A. Jiménez (Alt.)	— Costa Rica
Ms. C. Moya (Alt.)	— Dominican Republic

**SECRETARIAT:**

Mr. M. Vreedenburgh	— SPO/OSG
Mr. S. Creamer	— D/ANB
Mr. J. Vargas	— D/TCB
Mr. M. Rahma	— D/ATB
Mr. A. Mishra	— D/ADB
Mr. M. Gill	— D/LEB
Mr. N. Rallo	— RD, EUR/NAT
Mr. S. Lefoyer	— DD/ASF
Mr. D. Guindon	— DD/MO
Mr. M. Marin	— A/DD/SAF
Ms. T. de Bodt	— H/SPCP
Mr. A. Larcos	— C/ACS
Ms. V. Muraca	— ACS

*Ms. Niamh O'Brien, Director, Aviation Services Division, Department of Transport, Ireland*

*Mr. Peter Bombay, Senior Advisor, Directorate-General for Mobility and Transport (DG MOVE), European Commission*

**ALSO PRESENT: (Cont'd)**

Ms. V. Adalsteinsdottir (Alt.)	— Finland
Mr. N. Naoumi (Alt.)	— Germany
Ms. V. Betchava (Alt.)	— Greece
Mr. A. Kalognomis (Alt.)	— Greece
Ms. V. Lazari (Alt.)	— Greece
Mr. M. Silanos (Alt.)	— Italy
Mr. A. Joshi (TE)	— India
Mr. S. Oshima (Alt.)	— Japan
Mr. S. Sugiyama (Alt.)	— Japan
Mr. M. Loustaunau (Alt.)	— Mexico
Mr. C. Schleifer (Alt.)	— Netherlands
Mr. A. Coutinho (Alt.)	— Netherlands
Mr. J. van Manen	— Netherlands
Mr. W.R. Linares (Alt.)	— Peru
Mr. C. Zamora (Alt.)	— Peru
Mr. C. Bustamante (Alt.)	— Peru
Mr. J. W. Kim (Alt.)	— Republic of Korea
Mr. S. Ahn (Alt.)	— Republic of Korea
Mr. A. Batalov (Alt.)	— Russian Federation
Ms. O. Mozolina (Alt.)	— Russian Federation
Mr. M. Habib (Alt.)	— Saudi Arabia
Ms. D. AlKurdi (Alt.)	— Saudi Arabia
Ms. E. Ang (TE)	— Singapore
Mr. Y. K. Koh (TE)	— Singapore
Ms. S. Toh (TE)	— Singapore
Mr. I. Pacheco (Alt.)	— Spain
Ms. T. Goodwin (Alt.)	— United Kingdom
Mr. A. Veprek (Alt.)	— United States
Mr. M. Waniwa (Alt.)	— Zambia

**Representatives to ICAO**

Chile  
Congo  
Cyprus  
Ethiopia  
Ghana  
Indonesia  
Iran (Islamic Republic of)  
Kenya  
Oman  
Senegal  
Turkey  
Ukraine  
Uruguay

Airports Council International (ACI)  
Civil Air Navigation Services Organization (CANSO)  
European Union (EU)  
International Air Transport Association (IATA)  
International Business Aviation Council (IBAC)  
International Coordinating Council of Aerospace Industries Associations (ICCAIA)  
International Federation of Air Line Pilots' Associations (IFALPA)



## **Welcome to a new Representative**

1. The newly appointed Representative of the Russian Federation (Mr. Alexey Novgorodov) was welcomed to the Council. It was recalled that Mr. Novgorodov had previously served as the Representative of the Russian Federation on the Council of ICAO from 2008 to 2017.

## **Draft Assembly working paper – Fundamental Rights of Passengers at International Airports**

2. The Council considered this item on the basis of C-WP/15424, which pursuant to C-DEC 226/2, presented a draft Assembly information paper on the work carried out by the Council to consider the particular rights that might be applicable in an air passenger's journey, related to interactions with various authorities at airports, as well as ICAO's role in that regard.

3. Introducing the item, the Secretary General recalled that during the second meeting of the current session, the Council had requested the Secretariat to prepare an information paper that could be presented to the 41st Session of the ICAO Assembly with a view to raising levels of awareness among Member States of the importance of this issue.

4. Welcoming the paper, the Representative of Mexico agreed that there should be greater awareness about the fundamental rights of air passengers, both among passengers themselves, but also with airline and airport authorities. Doing so would have the added advantage of helping to reduce the incidents of unruly passengers and their risk to aviation safety. The Representative also observed that in paragraph 2.3 c) of the paper where the text referred to the "right to privacy", the Spanish language version of this phrase could have been better aligned with the English language version.

5. The Representative of the United States expressed support for efforts to protect and promote respect for human rights and fundamental freedoms during the pre-departure screening process. However, he was of the view that the substance of the paper diverged too far from international human rights law, as well as current ICAO standards and practices. The terms "fundamental rights" and "overarching principles" appeared to have been used in a rather imprecise manner within the paper. This was important because under international human rights law, the appropriate terminology should have been "human rights" and "fundamental freedoms". It was also a matter of concern that the paper referred to "rights" not found in international human rights instruments such as a "right to non-discrimination".

6. In relation to the term "right to privacy", the Representative stated that his delegation could not accept this term without reference to Article 12 of the Universal Declaration of Human Rights or Article 17 of the International Covenant on Civil and Political Rights, which specifically protected the right to be free from arbitrary or unlawful interference with privacy. In this connection, both state actors and private actors may carry out passenger checks. Likewise, the right to effective remedy only applied with respect to violations of international human rights obligations, which could only be the result of state action.

7. Finally, the Representative noted that matters such as border controls and consumer protection were distinct from interactions with passengers during the pre-departure screening process. Border controls for example related to the exercise of a state's sovereignty over its territory through the application of laws and regulations governing the admission or departure of persons from its territory. For all the preceding reasons, the Representative indicated that his delegation felt obligated to express its concerns in relation to the paper.

8. The Representative of Australia recalled that the work carried out by the Small Working Group (SWG) on this issue had not meant to be either authoritative or definitive. Rather, the work had been

meant to provide a platform or guide the relevant experts who could then use this as a basis for their further consideration and subsequent work. Acknowledging the concerns outlined by the United States in the preceding intervention, the Representative noted that no member of the SWG was an international human rights expert. Indeed, it had not been anticipated that some of the points raised in relation to the precise terminology would be finalised by the SWG, but rather in subsequent deliberations by the relevant expert panels, which would be the appropriate forum for these types of issues. At the same time, the Representative welcomed the paper as an opportunity to generate further discussion among Member States on the important issues that had been raised.

9. In welcoming the paper that had been presented, the Representative of Côte d'Ivoire recalled that the genesis for the paper lay in an intervention by the former Representative of Saudi Arabia, who had raised this issue during a previous session of the Council. At the same time, the Representative highlighted the need for airport authorities to work with ACI to explore how to improve information provided on airport websites in relation to passenger rights. Doing so would be one way to help improve the air passenger experience.

10. Recalling that it had taken quite some time for this issue to be sufficiently distilled into the form of a paper to be presented to the Assembly, the Representative of the Russian Federation underscored that this did not represent the end of a process. Rather, ICAO should continue to have further work carried out on this issue after the Assembly session.

11. The Representative of Sudan observed that in most cases, specialized personnel from different security bodies working at airports managed the provision of aviation security at airports. In this context, the focus was primarily from a security perspective and not necessarily a facilitation perspective, which was potentially why issues had arisen in the past. This meant that there was a need to harmonize security requirements with passenger rights. The Representative hoped that the experts that would undertake additional work on this subject matter, would develop specific protocols that could be applied and used in the training of security personnel.

12. The Representative of Spain recalled that the reason why it had been decided to present an information paper to the forthcoming session of the Assembly, was that this was the most appropriate way to convey that the Organization was currently working on the issue and that further work would be undertaken on this subject matter. In other words, at this stage, this should be seen primarily as a "work in progress". The Representative had taken note of the preceding interventions and in this regard, took the opportunity to align himself with the comments made by Mexico. However, as for the intervention by the United States, the Representative was of the view that the broad thrust of the comments and concerns expressed by the United States could be taken into account and incorporated by the Secretariat.

13. Speaking as a member of the Small Working Group (SWG), the Representative of India welcomed the information paper that had been presented. She recalled that the work of the SWG had only ever been meant to be part of an overall process and not the conclusion. In this regard, she acknowledged the concerns expressed by the United States, but it was her understanding that these ought to be taken into account by the expert panels who would be continuing to refine the work on this subject matter.

14. The Representative of Peru acknowledged that it would be necessary for further work to be carried out on this subject matter. In that respect, he agreed with the intervention from Spain in describing this as a "work in progress".

15. The Representative of Brazil underscored the necessity of having this issue raised at the forthcoming session of the Assembly. At the same time, he had taken note of the concerns outlined by the

United States and in this regard, the Representative stated that it was important to ensure that the concepts referred to in the paper were consistent with international law. Accordingly, he proposed that the Secretariat undertake a further review of the text of the information paper before it was finalized.

16. In welcoming the paper that had been presented, the Representative of Singapore stated that it was nonetheless important to ensure that the various concepts referred to were consistent with existing terminology used within the United Nations system. She hoped that an additional review in this regard could be carried out by the Secretariat before the paper was finalized.

17. In response to the preceding interventions, the Director, Air Transport Bureau (D/ATB) explained that when this issue was first referred to the Facilitation Panel (FALP), it was not entirely clear at the time what the expectation of the Council was in this regard. Subsequently, the Air Transport Committee had agreed on an approach to be taken, which had ultimately resulted in the earlier working paper that had been presented for consideration at the second meeting of the current session. D/ATB recalled that following that discussion, the Council had requested the Secretariat to develop an information paper that could be presented to the Assembly, but it had to be recognised that the Secretariat had been given very little time to draft and turn around the information paper that had been presented.

18. Turning to some of the specific comments raised in the course of the preceding deliberation, D/ATB agreed that as requested by Mexico, the Secretariat would review the text of paragraph 2.3 c) to ensure alignment in all the language versions. As for the concerns outlined by the United States, D/ATB proposed that the Secretariat would work closely with the Chairperson of the Small Working Group (SWG) to seek to address these concerns and then further refine the information paper before it was finalized. He acknowledged that there was room for improvement in the text, but stated that it was important for this work and any revisions to be closely coordinated with the Chairperson of the SWG.

19. In closing, D/ATB stressed the merit in bringing this issue to the attention of the Member States at the forthcoming session of the Assembly. This represented an opportune occasion on which to raise the subject matter and for additional work to then be carried out by the various expert panels, including the FALP and AVSECP.

20. Before closing, the President of the Council invited the Representative of the United States to indicate whether the subsequent information and explanations provided by the Secretariat would be sufficient to allay the concerns that he had expressed, to which the Representative concurred with the outline of the approach that had been proposed.

21. In concluding its consideration of this item, the Council took note of the information presented in C-WP/15424. In doing so, the Council approved the draft Assembly information paper attached thereto, subject to the amendments requested by the Council in the course of its consideration of this item being reflected, including with respect to, inter alia, paragraph 2.3 c) of the Spanish language version of the draft Assembly information paper. The Council further requested refinement of the language used for the text in relation to certain legal concepts, and delegated authority to the President to approve thereafter the revised information paper on its behalf for subsequent submission to the 41st Session of the Assembly.

22. The Council noted the concerns expressed by the Representatives of the United States, Mexico, and Sudan, as outlined in the preceding interventions. In this connection, the Council acknowledged that these concerns would be considered further in the context of the work to be undertaken by the Aviation Security (AVSEC) and Facilitation (FAL) Panels on this subject.

**Draft Assembly working paper – Increasing the efficiency and effectiveness of ICAO**

23. The Council considered this item on the basis of C-WP/15351, which presented a draft Assembly working paper on key achievements and progress made by ICAO's governing bodies and the Secretariat to improve the efficiency and effectiveness of the Organization. The Council also had for consideration an oral report thereon presented by the Chairperson of the Committee on Governance (Representative of Spain).

24. Introducing the item, the Secretary General indicated that the paper reported on the key achievements and progress made to improve the efficiency and effectiveness of the Organization. Among these, ICAO had focused on developing a leaner and more enhanced Business Plan, which included a new transformational objective to drive much needed changes. Work also continued on an accountability framework and the establishment of a more coordinated approach to managing risks with the inclusion of a new corporate risk register. In relation to human resources, reforms were underway to better align ICAO with best practices elsewhere in the UN system, while in the area of ICT, a digital transformation initiative was aimed at optimizing and improving processes across the Organization.

25. Elaborating on additional measures to improve organizational efficiencies, the Secretary General mentioned a range of initiatives being undertaken, including the refined document management system, enterprise resource planning and project portfolio management, the information security roadmap, and the implementation of the revised ICAO Framework on Ethics. The Secretary General expressed the belief that all the initiatives presented in the paper would result in efficiency and effectiveness gains over the course of the next triennium, which would in turn deliver better governance, improve accountability and transparency, and continue to enhance collaboration within ICAO and its Member States.

26. Before concluding, the Secretary General indicated that in Attachment A to the working paper, the text referring to actions taken in relation to risk management and internal controls could have inadvertently led to the conclusion that the work in this area had been completed, whereas in reality, work was ongoing on certain aspects. In this regard, he explained that before the Assembly working paper was finalized, this text would be revised to better clarify this point.

27. In relation to the draft Assembly resolution attached to the working paper, the Representative of Mexico highlighted the importance of ensuring clarity in the text pertaining to initiatives to be undertaken to improve efficiencies in the Organization. Specifically, he noted the need for there to be a clear separation between actions that fell within the mandate of the Secretary General from those actions pertaining to governance arrangements that were within the domain of the Council. In addition, the Representative expressed concern in relation to the text of paragraph 2.3.3 of the working paper, which he believed unnecessarily elevated the status of the JIU recommendations pertaining to the governance structure of the Organization; an issue that he opined fell solely within the domain of the Council. In this regard, the Representative was of the view that this should have been better reflected in the text of the proposed resolution that was contained in Appendix B to the paper.

28. The Representative of France referred to the text in Appendix B of the working paper and observed that in the reference to the governance structure of ICAO and the need to strengthen transparency, the current text was somewhat ambiguous. He suggested that the text of this part of operative clause 4 c) could be improved by revising it so that it stated: "...its capacity for more effective, accountable, transparent and simple decision-making".

29. Likewise, in Appendix C to the working paper, the Representative recalled that during the meeting of the COG, he had specifically requested that the text of sub-paragraphs g) and j) should not be

deleted, but rather should be retained given their relevance. It was important to convey to the Assembly that efforts were ongoing in a range of areas to deliver even more efficiencies, including on specific initiatives in the context of the multilingualism strategy where the length of documents was being reduced so as to minimise the burden on the language translation services within the Secretariat.

30. Associating himself with the preceding intervention, the Representative of the Russian Federation expressed support for the points made by France.

31. Referring to paragraph 2.2.2 of the working paper, the Representative of Côte d'Ivoire remarked that while the efforts aimed at strengthening collaboration between the Headquarters and the Regional Offices were to be commended, it was equally essential to ensure that there was a greater level of collaboration between different entities within the Secretariat particularly when crosscutting issues were under consideration. Indeed, this also entailed a potential collaborative framework under which ICAO could combine efforts with Member States as well as partner organizations within the aviation sector.

32. In concluding its consideration of this item, the Council:

- a) took note of the information presented in C-WP/15351, as well as the COG oral report thereon;
- b) approved the draft Assembly working paper attached to C-WP/15351, subject to the amendments requested by the COG, as well as the changes agreed on by the Council in the course of its consideration of this item being reflected, including with respect to, inter alia, replacing “amend” with “delete” in paragraph 4 d) of the COG oral report, further elaboration on the implementation of the information disclosure policy, expansion of the concept of collaboration as described in paragraph 2.2.2, revisions to the status of selected benchmarks in Pillar 2 of Appendix A, revisions to operative clause 4 b) of Appendix B, as well as sub-paragraphs g) and j) of Appendix C, and associated changes to be reflected in paragraph 2.8 of the working paper, and delegated authority to the President to thereafter approve the revised working paper on its behalf for subsequent submission to the 41st Session of the Assembly.

### **Registration and Operation of Aircraft in the Russian Federation**

33. The Council considered this item on the basis of an oral report presented by the Secretary General, which pursuant to C-DEC 225/8, provided an overview of the applicable legal principles relating to the registration of aircraft. The oral report also outlined the actions undertaken by the Secretariat in the particular interest of preserving air safety in the context of operation of aircraft, including its efforts to clarify the situation with the involved Contracting States. The Council also had for consideration C-WP/15425 and Revision No. 1, presented by 19 Member States<sup>1</sup>, which outlined infractions of the *Convention on International Civil Aviation* (Chicago Convention), and requested the ICAO Council to take action accordingly, consistent with the relevant provisions of the Convention.

34. Before proceeding with its consideration of the item, the President of the Council informed Representatives that in accordance with Article 53 of the Chicago Convention and Rule 31 of the *Rules of Procedure for the Council*, Ireland and the European Union had been invited to participate in the discussion

---

<sup>1</sup> Australia, Canada, Colombia, Costa Rica, Dominican Republic, Finland, France, Germany, Greece, Italy, Japan, Republic of Korea, Mexico, Kingdom of the Netherlands, Paraguay, Peru, Spain, United Kingdom and United States.

on this item given their special interest in the matter.*(There being no objections to this proposed course of action, the Council proceeded on this basis).*

35. Introducing the item, the Secretary General recalled that during the eighth meeting of the previous session on 7 March 2022, the Council had considered the subject of “Registration of aircraft”, following which it had requested the Secretariat to clarify the situation with the involved Contracting States and to undertake appropriate related actions. His report on this item outlined the legal principles and provisions of the Chicago Convention regarding registration of aircraft, including references to Articles 18, 19, 31, 32 and 83bis. The report also described the actions taken by the Secretariat, including an exchange of letters with States and International Organizations, clarifications received from the Russian Federation, the issuance of an Electronic Bulletin and State letter, information pertaining to mandatory continued airworthiness, and actions taken in line with the Universal Safety Oversight Audit Programme (USOAP).

36. Speaking on behalf of the 19 Member States that had co-sponsored the working paper, the Representative of Finland highlighted that the international civil aviation system relied on Contracting States respecting and complying with the agreed rules as per the Chicago Convention. In particular, the Convention noted in its preamble the principle of international civil aviation being developed in a safe and orderly manner. In this context, the registration of aircraft and the certificate of airworthiness represented cornerstones in providing assurances to the travelling public on aviation safety.

37. The Representative explained that paper was not meant to be a political statement, but rather to offer a technical safety-oriented approach to the issue. The paper presented evidence for infractions of Articles 18 and 19 of the Chicago Convention related to dual registration by the Russian Federation, as well as other infractions of several articles of the Chicago Convention by the Russian Federation. In presenting the paper, the Council was being invited to report these infractions to the Assembly, in accordance with Article 54 j) and k) of the Chicago Convention. The Representative also stressed the need for the Council to urge the Russian Federation to immediately stop all of its infractions to the Chicago Convention and its Annexes, and urgently remedy these in full. Finally, the Representative noted that there was a precedent in the history of ICAO for a similar course of action and this occurred following the 1990 invasion of Kuwait by Iraq. At the time, the matter had been referred to the Assembly, which had adopted Assembly Resolution 28-7 condemning the violation of the sovereignty of the airspace of Kuwait, including the seizure and removal to Iraq of 15 aircraft of Kuwait Airways and the subsequent proprietary registration of those aircraft by Iraq.

38. The Representative of the Russian Federation indicated that at the outset that he wished to highlight the necessity of maintaining the principles of unity and cooperation, which had been successfully fostered for 78 years under the Chicago Convention. In particular, he recalled the preamble to the Convention, which stated: "Whereas the future development of international civil aviation can greatly help to create and preserve friendship and understanding among the nations and peoples of the world, yet its abuse can become a threat to the general security", and "Whereas it is desirable to avoid friction and to promote that cooperation between nations and peoples upon which the peace of the world depends". In this context, he wondered whether any member of the Council now wanted to abandon the wisdom of the principles contained in this preamble. Given the paper that had been presented, he also wondered whether members of the Council now believed the preamble to be outdated.

39. The Representative then referred to the Director-General for Transport and Mobility of the European Commission, Mr. Henrik Hololei, who had recently said: "I dare to say that we have been destroying Russian civil aviation, which has been the whole idea of sanctions." Given such hostile sentiments, the Representative wondered how it was conceivable that such an individual could represent the interests of ICAO Member States from the European Union.

40. Referring to the paper that had been presented by the 19 Member States, the Representative observed that it had suggested in the paper that the Russian Federation was in violation of Article 1 as well as other provisions of the Chicago Convention. But he wanted to ask those who prepared this document whether Article 1 was violated when NATO forces without the authorization of the UN Security Council launched the massive bombing attack on Yugoslavia for 78 days, as well during the military operation in Iraq in 2003, and in the course of the military operation in Syria against the Islamic State in 2014 and in other well-known military operations involving individual states on whose behalf this document is presented today.

41. The Representative stated that it was not the Russian Federation that had violated the provisions of the Chicago Convention when a number of countries had unilaterally imposed a ban on flights of Russian aircraft into their airspace. He recalled the wording of sub-paragraph b) of Article 9 of the convention: "Each contracting State reserves also the right, in exceptional circumstances or during a period of emergency, or in the interest of public safety, and with immediate effect, temporarily to restrict or prohibit flying over the whole or any part of its territory, on condition that such restriction or prohibition shall be applicable without distinction of nationality to aircraft in all other States". In this connection, the Representative stated that as a result of the unilateral restrictive measures that other States had imposed on the Russian Federation, normal air traffic was cut off across more than 50 million square kilometres of Russian territory.

42. The Representative stated that the closure of the national airspace by a number of States on the basis of national segregation was followed by the unilateral termination of leasing agreements and the cancellation of aircraft certificates of airworthiness without any prior notification or any objective grounds for these actions. At the same time, none of the leasing companies returned the security deposit payments to Russian airlines and nor did they fulfil their obligations associated with the unilateral termination of leasing agreements. In the circumstances, it seemed clear to him that it was no longer possible to refer to the sustainable development of international civil aviation in a safe and orderly manner or for air transport services to be established on the basis of equality of opportunity. The Representative opined that through their actions, a number of other States had deliberately violated fundamental human rights, including the freedom of movement; rights which were enshrined in the Universal Declaration of Human Rights.

43. The Representative explained that the subsequent retaliatory actions taken by the Russian Federation were of an extremely forced nature and were taken exclusively in the interests of protecting the country's national security. He questioned whether the States that had sponsored the working paper were intent on destroying the civil aviation infrastructure of the Russian Federation, as Mr. Hololei, the Director-General for Transport and Mobility of the European Commission, had stated. He also wondered if the Council genuinely believed that the Russian Federation had no right to take any action to protect its own national security in response to the unfriendly actions taken by other States. Indeed, he wondered how the actions that those States had taken against the Russian Federation were consistent with the principle of international cooperation enshrined in the Chicago Convention. The Representative cautioned against the ICAO Council being used as an instrument of political pressure on individual States for the benefit of other States. Otherwise, it would mean that the principles of international cooperation and mutual respect underlying the Chicago Convention were no longer applicable and that the "No Country Left Behind" initiative was no longer relevant.

44. In closing, the Representative indicated that the Russian Federation was prepared to respond to all the questions raised in working paper C-WP/15425, but in the first instance, he would prefer to hear from those States that considered themselves to be free of their obligations under the Chicago Convention. Specifically, he stated that those countries that had imposed unilateral sanctions on the civil

aviation system of the Russian Federation and who had presented this working paper, should explain their legal position with respect to how their actions were consistent with their obligations under the Chicago Convention.

45. The Representative of Singapore emphasized that dual registration of aircraft represented a contravention of Article 18 of the Chicago Convention, especially given the concerns and implications on the safety oversight responsibility for the aircraft. Having an aircraft dually registered also raised serious questions about the veracity of the certificate of airworthiness of the aircraft, which in turn posed risks to the safety of civil aviation and aircraft operations. Furthermore, aircraft operating without a valid certificate of airworthiness would amount to a contravention of Articles 29 and 31 of the Chicago Convention.

46. In relation to the recent issuance by ICAO to the Russian Federation of a significant safety concern under USOAP, the Representative noted that this related to the operation of aircraft operating without a valid certificate of airworthiness, a valid radio station licence or without assurance of associated oversight responsibilities. In this regard, Singapore was concerned with the contraventions of the Chicago Convention by the Russian Federation, which she considered posed an immediate safety risk to international civil aviation. The Representative highlighted the need to ensure the safety of civil aviation and the importance of all States adhering to the Chicago Convention. She urged the Russian Federation to take action to comply with the Convention. In accordance with Council's mandatory functions under Article 54 of the Chicago Convention, the Representative also indicated her country's support for the actions proposed by the working paper.

47. As the state of registry for aircraft in respect of which actions had been taken by the Russian Federation, the Representative of Ireland (Observer) indicated that her country viewed those actions as infringements of the Chicago Convention. Ireland maintained that it could deregister aircraft only on the request of the registered owner in accordance with the relevant Irish legislation and procedures. In this case however, there was evidence of continued operation of these aircraft despite the revocation of their certificates of airworthiness by the Irish Aviation Authority. As such, Ireland requested the Council to agree to undertake the actions that were outlined in the working paper given the immediate safety risk to international civil aviation that had been identified.

48. As one of the States co-sponsoring the working paper that had been presented, the Representative of Japan emphasized that the registration of aircraft was fundamental to ensuring aviation safety and therefore, the absence of certificates of airworthiness represented a clear violation of the Chicago Convention. His delegation condemned the violation of the territorial integrity and sovereignty of a Member State of the United Nations, including its sovereign airspace, which was incompatible with the principles of the Charter of the United Nations as well as Article 1 of the Chicago Convention. In this connection, the Representative remained concerned by the risk to international civil aviation and the violation of the Chicago Convention, which had been conveyed to the Russian Federation as a significant safety concern.

49. The Representative indicated that his delegation supported the actions proposed in the working paper that had been presented. It was clear to him that the Russian Federation had violated various articles of the Chicago Convention and through its actions had endangered aviation safety. Indeed, in this instance, these violations were being committed by a Member State that was represented on the ICAO Council. The Representative highlighted that as the guardian of international civil aviation law, the Council had an obligation to bring this issue to the 41st Session of the Assembly in accordance with Article 54 k) of the Chicago Convention.



50. Referring to the report of the Secretary General, the Representative of Côte d'Ivoire noted that this had clearly identified some obvious risks to aviation safety. Accordingly, he supported the proposed actions in the working paper that had been presented by the 19 Member States.

51. As one of the co-sponsors of the working paper that had been presented, the Representative of the Netherlands indicated that the issue before the Council was directly related to a significant safety concern and represented a serious infraction of the Chicago Convention. Accordingly, he urged the Council to fulfil its responsibilities and take the actions proposed in the working paper that had been presented.

52. The Representative of Equatorial Guinea indicated that the issue under consideration by the Council was serious since it related to violations of the Chicago Convention, which was something that could never be tolerated. On a broader level however, he did wonder at the current state of global affairs and how humanity would be judged in historical terms when looking back on actions taken in relation to items such as this. In closing, the Representative expressed his support for the actions proposed in the working paper that had been presented.

53. The Representative of the Russian Federation underscored that the issues under consideration by the Council were important not just for the Russian Federation, but for all Member States. This was because numerous States had violated the Chicago Convention. In contrast to other countries, the Russian Federation continued to place a high priority on aviation safety. However, the unfriendly actions of numerous other countries, were aimed at undermining aviation and the Russian Federation and so it was necessary to first consider the actions of those countries towards his own. The Representative also indicated that the airlines of the Russian Federation continued to pay leasing fees, but because of the economic sanctions that had been imposed on his country, it was not possible for the Russian central bank to make the necessary transfer payments. The Russian Federation would have preferred to initiate negotiations with the leasing companies themselves. The Representative cautioned that if the ICAO Council continued to politicise the issue of dual registration, then it would not be possible to make any progress. The actions that his country had taken were aimed at protecting the Russian Federation and indeed had been taken only because of the actions that other countries had taken against the Russian Federation.

54. The Representative of France recalled that in the Electronic Bulletin and State letter that were recently issued on this subject matter, the applicable rules and provisions were explained in detail to all Member States. In this context, it was clearly conveyed to the Russian Federation as to the consequences of not according with the rules, which was central to the issuance of the significant safety concern. However, the responses from the Russian Federation were completely unsatisfactory in this regard, the result of which there was now a serious and undoubted risk to aviation safety. In relation to the statement from the Russian Federation that a number of countries had banned its aircraft from their airspace, the Representative noted that one of the reasons that those other countries had done so was because of their fears in relation to aviation safety. In response to the actions of the Russian Federation, the Representative stressed that the Council was obligated to take action in accordance with Article 54 of the Chicago Convention.

55. In response to the preceding intervention, the Representative of the Russian Federation stated that the actions of the Russian Federation in relation to the certificates of airworthiness were taken only after the actions taken by several countries to close their airspace to Russian aircraft. He reiterated that the actions of the Russian Federation were based on maintaining its national security.

56. The Representative of Greece remarked that any violation of territorial integrity and sovereignty of a UN Member State and its airspace introduced risks for the safety and security of civil aviation and represented an infringement of the Chicago Convention. It was for that reason that Greece had

co-sponsored the working paper that had been presented so she supported the proposed actions outlined in the working paper that had been presented by the 19 Member States.

57. The Representative of South Africa stated that the challenge facing the Council on this subject matter was in part, due to what he termed selective condemnation. This meant that the Council ought to be consistent in the actions that it took on such matters. In this connection, he recalled that there had been other similar cases involving serious safety implications that the Council had dismissed on the basis that the matter had been political. He could not say that the Russian Federation was not contravening the Chicago Convention, because dual registration of aircraft was clearly not allowed. However, based on the intervention of the Russian Federation, it seemed to him that before addressing the issue of dual registration, the Council ought first to address the actions taken by other countries that had caused the Russian Federation to take the action that it had. In his view, the former should be addressed first before the Council engaged in statements of condemnation of the latter.

58. As one of the co-sponsors to the paper, the Representative of Colombia indicated that he supported the actions proposed to be taken in the working paper especially given the significant safety concerns that had been identified.

59. The Representative of China stated that his country had always supported upholding the principles of the Chicago Convention aimed at promoting the safe and orderly development of international civil aviation. In that context, he hoped that the Council would seek to address this issue in accordance with its own rules of procedure. In his view, the issue under consideration raised a number of technical, legal, and political dimensions, which suggested that the Council should proceed with caution in order to avoid rushing a decision that might give the impression of political interference. Instead, the parties should be encouraged to have an open dialogue that would facilitate a solution to the issue.

60. Underscoring the necessity of upholding the principles of the Chicago Convention, the Representative of Nigeria expressed concern that some measures taken by different Member States represented violations of the articles of the Chicago Convention. ICAO should condemn all such actions. In his view, this issue represented a clear test for ICAO that needed to be handled carefully in order not to damage the reputation of the Organization. He urged that all parties involved cease any activities that violated the Chicago Convention.

61. The Representative of the United Arab Emirates (Alternate) stressed the importance of promoting peace and security in civil aviation. He called upon all Member States to respect the articles of the Chicago Convention.

62. Observing that in this case, the violations of Articles 18, 19, 29, and 31 of the Chicago Convention were undeniable, the Representative of Spain emphasized the necessity for the Council to address this and assume its responsibilities under the Convention. He expressed concern that if the Council took no action, then this would damage the reputation of ICAO. For him it was inconceivable for the Council to ignore actions that clearly disrupted the lawful security and the safety of air flight operations as well as undermining international world order. In the circumstances, the Council should fulfil its obligations in accordance with the Chicago Convention and he welcomed the fact that a broad majority of the Council appeared to agree with that sentiment.

63. Welcoming the paper that had been presented, the Representative of Zambia stated that it was important to condemn any actions that represented a violation of the Chicago Convention. At the same time however, he had paid close attention to the intervention of the Russian Federation and it seemed to him that one set of actions taken by another set of countries were also violations to the Chicago Convention

and that these had actually triggered the response by the Russian Federation. In this context, he was of the view that it was important for the Council to consider the totality of the violations that had been committed by all parties and not just to look at one set of violations in isolation from the other.

64. Speaking as one of the co-sponsors to the paper that had been presented, the Representative of Mexico stressed that it was important for the Council to take action in the face of serious violations of the Chicago Convention. At the same time, if a Member State was of the view that another set of Member States had also committed violations of the Chicago Convention, then that should be reported to the Council. The latter however, did not mean that the Council should take no action against the violations that were the subject of the working paper that had been presented at this meeting. Indeed, the working paper was clear in that the Council had a responsibility to act appropriately and so he supported the actions proposed in the working paper that had been presented.

65. The Representative of the United Kingdom stated that ensuring the safety and security of international civil aviation should be ICAO's highest and most urgent priority. All Member States had a responsibility to do their part to uphold the Chicago Convention, which was why the United Kingdom was a co-sponsor of the working paper. The issuance by ICAO of a significant safety concern on the Russian Federation represented a serious matter. He had noted that despite being provided with ample opportunity to take corrective action, the Russian Federation remained in breach of the Chicago Convention. In doing so, the Russian Federation had undermined and disregarded fundamental articles of the Chicago Convention and that country's actions had threatened the safe operation of international civil aviation.

66. Based on the preceding interventions, it seemed clear to the Representative that a majority of the Council was concerned about the actions of the Russian Federation. Therefore, the United Kingdom called upon the Russian Federation to stop immediately all its infractions of the Convention and to urgently remedy these in full. The Representative agreed that the Council should report these infractions to Member States and the Assembly. He had noted that some previous interventions had called for consistency in such matters, but he believed that the Council was indeed being consistent. In this connection, he cited Iraq's invasion of Kuwait in 1990, following which ICAO had adopted Assembly Resolution A28-7; operative clause 3 of which asserted that such unilateral registration of aircraft was an invalid action.

67. The Representative of Costa Rica remarked that his country had always sought to be constructive and to engage in dialogue under the applicable international treaties. In this context, it was important for the Council to ensure strict compliance with the provisions of the Chicago Convention.

68. As a co-sponsor to the working paper that had been presented, the Representative of Australia highlighted that Article 84 of the Chicago Convention provided a framework under which the Council had an obligation to report infractions of the Convention to Member States and the Assembly. If the international rules pertaining to air safety were being broken, then this was something that ought to be identified and reported. In this case, there was clear evidence of deliberate breaches of a number of articles of the Chicago Convention by the Russian Federation. The significant safety concern issued to the Russian Federation on 15 June 2022 only served to underscore the threat that these breaches presented to the safety of the international civil aviation system.

69. The Representative drew attention to the necessity of upholding the aviation system that provided for the single source of registration and the validity of airworthiness certificates. This arrangement instilled integrity and trust in the safety of an aircraft and its operation. In this connection, he observed that over half the global aviation fleet was leased. Therefore, if leasing companies could not be assured of the security of their assets, this had an adverse impact on risk premiums, which would represent an additional cost to every airline in the world. The Representative appealed to the Council to show leadership in this

matter, support the actions presented in the paper and respond to the infractions of the Chicago Convention by the Russian Federation.

70. The Representative of the United States remarked that the issue under consideration went to the heart of the international aviation system. It was important that Articles 18, 19, 29 and 31 of the Chicago Convention were upheld, because if more than one state registered an aircraft or issued a certificate of airworthiness for airplanes, then accountability for the operational safety of a fleet would be severely compromised. Indeed, it would result in an increased risk to operators, passengers and every country to where these planes flew.

71. The Representative had taken note of the claim by the Russian Federation that it had taken its actions because it had been unable to access parts and software for its aircraft, which had been designed and manufactured by companies in the United States and Europe. However, this was a problem that the Russian Federation itself was responsible for creating since it had effectively facilitated the theft of several hundred leased aircraft financed with capital from investors from around the world who understandably had relied on existing international treaties to protect their investments.

72. The actions taken by the Russian Federation had caused lasting harm to the global capital leasing market for aircraft by casting doubt on the guarantees under international law that were related to aircraft financiers and lessors. This harm would also likely have a negative economic impact on parties with the least access to capital for financing the purchase or leasing of aircraft if they were pressured by the Russian Federation into not complying with their obligations.

73. In the circumstances, the United States was supporting the working paper and his delegation called upon the Russian Federation to immediately cease all its infractions of the Chicago Convention. It was important for the Council to condemn the Russian Federation's actions infringing the principle of Article 1 of the Chicago Convention, as well as the provisions of Articles 18, 19, 29 and 31, and for this matter to be reported to Member States at the 41st Assembly for appropriate action.

74. Acknowledging that there may have been other violations of the Chicago Convention committed in the past and that there was a need for the Council to be consistent, the Representative of Peru stated that it was nonetheless important for the Council to take action on the violations that were happening at the present time. This was especially the case since doing nothing at the present time would adversely affect the reputation of the Organization in this matter.

75. As a co-sponsor to the working paper that had been presented, the Representative of the Dominican Republic emphasized the necessity of upholding the provisions of the Chicago Convention, which were essential to ensure air safety.

76. The Representative of Germany stated that the actions taken by the Russian Federation with respect to leased aircraft already registered in other countries represented a clear violation of the Chicago Convention. In this connection, he had noted that the safety risk posed to international civil aviation, had already led to the issuance of a significant safety concern to the Russian Federation. Indeed, the actions taken by the Russian Federation in re-registering leased aircraft onto the registry of the Russian Federation without the agreement of the current state of registration and without it first deregistering the aircraft, was contrary to Articles 18 and 19 of the Chicago Convention. Moreover, the forced re-registration or dual registration effectively meant that the Russian Federation had failed to fulfil its obligations under the Chicago Convention. The Representative was also concerned at the impact the Russian actions would have on international leasing companies and agreements. In the circumstances, it was a duty of the Council to report those infractions to the 41st Session of the Assembly.

77. The Representative of Canada indicated his full support for the proposed actions outlined in the working paper that had been presented. The matter under consideration represented a test for the Council, which was required to fulfil its obligations under Articles 54 j) and k) of the Chicago Convention.

78. Emphasising that any violations of the Chicago Convention should always be responded to, the Representative of Argentina remarked that the Council had an obligation to ensure the safe and orderly development of international civil aviation and therefore his delegation was in support of the proposed actions outlined in the working paper.

79. The Representative of India stated that it was vital for the Council to uphold the Chicago Convention and in that connection, any violations could not be condoned. At the same time however, she was aware that there were always two sides to every story and therefore it was important to take into account the points that had been presented in the intervention by the Russian Federation.

80. The Representative of the Republic of Korea (Alternate) associated himself with preceding interventions that had highlighted the need to uphold the Chicago Convention. As one of the co-sponsors to the working paper that had been presented, his delegation was in support of the proposed actions.

81. Observing that the ICAO Council had a unique role as a governing body, the Representative of Italy indicated that one aspect of this role was as the guardian of the Chicago Convention. As such, her delegation was in support of the working paper that had been presented and in taking the actions that had been outlined in the working paper.

82. Assuring the Council that his country intended to remedy the situation, the Representative of the Russian Federation stated that in order for the violations of the Chicago Convention to be addressed, first all the other violations being committed by other countries against his own had to stop. In this connection, it was not the Russian Federation that had terminated the leasing agreements and nor was it the Russian Federation that had cancelled the certificates of airworthiness. He explained that the Russian Federation was an enormous country that relied heavily on the aviation system, which was important for national security. Against this background, he indicated that his delegation intended to present its own working paper that would outline all the violations of the Chicago Convention that were being committed by other countries against his own.

83. The Representative opined that the issue under consideration by the Council and the decision to be taken carried serious implications for the unity of the Organization. Unless the Council was able to resolve such issues appropriately and to ensure that ICAO was not being used as an instrument of political pressure, then it would mean that the Organization was acting in a way that was incompatible with the Chicago Convention. The Representative requested that the Council take note of his country's intention to rectify the situation. His delegation was not happy about the actions that it had taken and nor was his country seeking to violate the Chicago Convention in any way. On the contrary, the Russian Federation placed a high priority on ensuring flight safety to eliminate any risk to air passengers. Indeed, in relation to the significant safety concern that had been issued by ICAO, his delegation would welcome the ICAO audit that can be undertaken at any time and demonstrate, for example, that the "Aeroflot Technics" is ready to carry out the required technical maintenance to ensure the airworthiness of aircrafts with its 1,500 qualified staff. In closing, the Representative assured the Council that the Russian Federation regretted the situation that had arisen, but his country's violation of the Chicago Convention had proven necessary in response to the violations committed by other countries against his own. He remained hopeful that every State concerned could work together to remedy the situation.

84. Observing that the Russian Federation had now intervened four times on the item under consideration, the Representative of the United Kingdom highlighted that this did not help to facilitate the efficiency of proceedings in the Council. He urged the Council to conclude its consideration of this item so that the governing body could move onto the next agenda item.

85. The Representative of South Africa reiterated his belief that the issue under consideration was related to questions of consistency on the part of the Council. He recalled that there had been previous occasions of a similar nature involving a dispute between states where more time had been requested in order to see whether an amicable solution could be arrived at. Based on the preceding intervention from the Russian Federation, he was of the view that it would be possible for all the parties to work together and try to find a solution. This being the case, he urged the Council not to definitively close this item at this meeting, since that would potentially be counterproductive. Rather, he was of the view that the Council should wait until the Russian Federation had been given the opportunity to present its own working paper and for time to be provided for those issues to also be considered.

86. The Representative of China associated himself with the preceding intervention by South Africa. The Representative was of the view that this was a reasonable request so he hoped that the Council would agree with the proposed course of action.

87. The Representative of Ukraine (Observer) indicated that her delegation was fully aligned with the 19 Member States that had co-sponsored the working paper that had been presented for consideration by the Council. She emphasized that the Russian Federation had been violating the fundamental principles of the Chicago Convention since 2014 when it illegally occupied Ukrainian territory. More recently in February 2022, the Russian Federation had unleashed its full-scale barbaric war against the Ukraine asserting itself as a persistent violator of the norms and principles of international law and a wide array of binding international treaties. By disregarding the standards and procedures of the Chicago Convention, the Russian Federation had adversely affected the safety and security of international civil aviation. This included the actions by the Russian Federation to refuse to return aircraft to the appropriate lessors and instead to attempt to register the aircraft in the Russian Federation, which effectivity meant that the Russian Federation had stolen those aircraft.

88. The Representative highlighted that Articles 18 and 19 of the Chicago Convention strictly forbade dual registration of aircraft. Moreover, some of the aircraft in the Russian Federation were being flown without valid certificates of airworthiness resulting in continued risks to the safety of civil aviation, which represented clear violations of Articles 29 and 31 of the Chicago Convention. In addition, the Russian Federation was currently engaged in destroying civil aviation infrastructure in the Ukraine, including airports and other air transport facilities that were necessary for the operation of civil aviation in her country. These actions were also contrary to the preamble of the Chicago Convention. In closing, the Representative expressed her support for informing the Member States at the Assembly of the infractions of the Chicago Convention that had been committed by the Russian Federation.

89. In response to the preceding intervention, the Representative of the Russian Federation expressed the view that the statement by the Ukraine went beyond the bounds of the Chicago Convention. He stated that the United Nations Security Council was the appropriate venue for such statements and not the ICAO Council.

90. In closing the discussion, the President of the Council assured delegations that all the preceding interventions would be reflected in the minutes to this meeting. Based on the discussion, it was clear that there was a majority of views in support of the working paper that had been presented by the 19 Member States and for the essence of the actions proposed, which were related to the violation of the

Chicago Convention by the Russian Federation and to report this item to the Assembly. He had also taken note that some delegations, while acknowledging that there had been violations of the Chicago Convention, had nonetheless been of the view that these violations were as a consequence of violations committed by other countries.

91. In concluding its consideration of this item, the Council:

- a) took note of the applicable legal principles as contained in the Chicago Convention with respect to the registration of aircraft, as well as the actions taken by the Secretariat pursuant to C-DEC 225/8, including to identify a Significant Safety Concern (SSC) that remained unresolved by the Russian Federation, pertaining to the area of airworthiness of aircraft (AIR) in relation to dual registration of aircraft, and in turn, the validity of radio station licences and certificates of airworthiness issued to those aircraft (EB 2022/29, refers);
- b) recalled that under the preamble to the Chicago Convention, all ICAO Member States had pledged their commitment to uphold and support the aims of the Convention, namely, the safe and orderly development of international civil aviation, and reaffirmed the paramount importance of preserving the safety and security of international civil aviation and the related obligations of Member States, and in this connection, called on the Russian Federation to immediately cease its infractions of the Chicago Convention, with a view to preserving the safety and security of civil aviation, while also urging the Russian Federation to urgently remedy these violations;
- c) requested the Secretary General to report these infractions of the Chicago Convention, if not urgently rectified, to all Contracting States, in accordance with Article 54 j) of said Convention, and decided to submit this matter to the 41st Session of the ICAO Assembly (September-October 2022) for its consideration, in accordance with Article 54 k) of the Chicago Convention; and
- d) requested the Secretariat to continue to monitor the situation closely, and to report any further developments in this regard to the Council, as may be required.

92. The meeting adjourned at 1730 hours.





**COUNCIL — 226TH SESSION**

**SUMMARY MINUTES OF THE FIFTEENTH MEETING**

**(HYBRID MEETING, ASSEMBLY HALL, 23 JUNE 2022, AT 1100<sup>1</sup> HOURS)**

President of the Council: Mr. Salvatore Sciacchitano

Secretary: Mr. Juan Carlos Salazar, Secretary General

**PRESENT:**

Argentina	— Mr. G.E. Bompadre	Malaysia	— Mrs. F. Chin
Australia	— Mr. R. Adams	Mexico	— Mr. D. Méndez Mayora
Brazil	— Mr. N. Moretti	Netherlands	— Mr. R. Ossendorp
Canada	— Mr. C. Hurley	Nigeria	— Mr. M.S.B. Tukur
China	— Mr. Shengjun Yang	Paraguay	— Mr. C.D. Urquhart Cáceres
Colombia	— Mr. M. Ramírez Koppel	Peru	— Mr. A. Freyre Layzequilla
Costa Rica	— Mr. G. Hoppe Pacheco	Republic of Korea	— Mr. S. Kim
Côte d'Ivoire	— Mr. C.A. Djibril	Russian Federation	— Mr. A. Novgorodov
Dominican Republic	— Mr. J. Peña Guzmán	Saudi Arabia	— Mr. B. Al-Sagri
Egypt	— Mr. S. Elhefny	Singapore	— Ms. E. Poh
Equatorial Guinea	— Mr. E. Esono Anguesomo	South Africa	— Mr. L. Mabaso
Finland	— Mr. S. Vuokila	Spain	— Mr. V.M. Aguado
France	— Mr. L. Pic	Sudan	— Mr. I.M. Elhag
Germany	— Mr. U. Schwierczinski	United Arab Emirates	— Mr. M. Salem (Alt.)
Greece	— Ms. M. Saranti	United Kingdom	— Mr. A. O'Henley
India	— Mrs. S. Juneja	United States	— Mr. C. Sullenberger
Italy	— Ms. S. Costantini	Zambia	— Mr. V. Banda
Japan	— Mr. I. Fukushima		

**ALSO PRESENT:**

Mr. P. Kelleher	— President, ANC
Mr. C. Fernandez (Alt.)	— Argentina
Ms. C. Fitzgerald (Alt.)	— Australia
Ms. I. de Melo Maciel (Alt.)	— Brazil
Mr. A. Bertolino (Alt.)	— Brazil
Mr. M. Lima (Alt.)	— Brazil
Mr. D. L. Pereira (Alt.)	— Brazil
Mr. R. Arruda (Alt.)	— Brazil
Ms. A. Barbosa (Alt.)	— Brazil
Mr. P. Langlais (Alt.)	— Canada
Mr. J. Liang (Alt.)	— China
Ms. A. Jiménez (Alt.)	— Costa Rica
Ms. C. Moya (Alt.)	— Dominican Republic
Ms. V. Adalsteinsdottir (Alt.)	— Finland

**SECRETARIAT:**

Mr. M. Vreedenburgh	— SPO/OSG
Mr. S. Creamer	— D/ANB
Mr. J. Vargas	— D/TCB
Mr. M. Rahma	— D/ATB
Mr. A. Mishra	— D/ADB
Mr. M. Gill	— D/LEB
Mr. S. Lefoyer	— DD/ASF
Mr. T. Efendioglu	— C/OIO
Mr. D. Guindon	— DD/MO
Ms. T. de Bodt	— H/SPCP
Mr. A. Larcos	— C/ACS
Ms. V. Muraca	— ACS, Précis-writer

---

<sup>1</sup> The meeting of the Council commenced following the conclusion of an informal meeting, “Mobilizing Capital for Sustainable Aviation Fuels (SAF) by Rolls Royce and Shell plc” (PRES Memo SS/3347, refers).

**ALSO PRESENT: (Cont'd)**

Ms. V. Betchava (Alt.)	— Greece
Mr. A. Kalognomis (Alt.)	— Greece
Ms. V. Lazari (Alt.)	— Greece
Mr. M. Silanos (Alt.)	— Italy
Mr. A. Joshi (TE)	— India
Mr. S. Oshima (Alt.)	— Japan
Mr. S. Sugiyama (Alt.)	— Japan
Mr. M. Loustaunau (Alt.)	— Mexico
Mr. C. Schleifer (Alt.)	— Netherlands
Mr. A. Coutinho (Alt.)	— Netherlands
Mr. W.R. Linares (Alt.)	— Peru
Mr. C. Zamora (Alt.)	— Peru
Mr. C. Bustamante (Alt.)	— Peru
Mr. J. W. Kim (Alt.)	— Republic of Korea
Mr. S. Ahn (Alt.)	— Republic of Korea
Ms. O. Mozolina (Alt.)	— Russian Federation
Mr. M. Habib (Alt.)	— Saudi Arabia
Ms. D. AlKurdi (Alt.)	— Saudi Arabia
Mr. F. A. A. Alsuhabani (Alt.)	— Saudi Arabia
Ms. E. Ang (TE)	— Singapore
Mr. Y. K. Koh (TE)	— Singapore
Ms. S. Toh (TE)	— Singapore
Ms. T. Goodwin (Alt.)	— United Kingdom
Mr. D.E. Ward (Alt.)	— United States
Mr. A. Veprek (Alt.)	— United States
Mr. M. Waniwa (Alt.)	— Zambia

**Representatives to ICAO**

Cuba  
 Cyprus  
 Ethiopia  
 Indonesia  
 Iran (Islamic Republic of)  
 Namibia  
 Qatar  
 Turkey  
 Ukraine  
 Uruguay

Airports Council International (ACI)  
 European Union (EU)  
 International Air Transport Association (IATA)  
 International Business Aviation Council (IBAC)

### **Issues concerning the Convention on International Civil Aviation raised by the Russian Federation**

1. The Council commenced its consideration of this item on the basis of the e-mail message from the Delegation of the Russian Federation dated 30 March 2022, conveying a letter from Mr. Alexander Neradko, Head of the Russian Federal Air Transport Agency, and which was subsequently circulated to all Delegations via e-mail by the President of the Council, on 5 April 2022.
2. In response to a request for clarification from the President of the Council as to whether it was the intention of the Russian Federation to also present a working paper to the Council on this same subject at a subsequent meeting, the Representative of the Russian Federation confirmed that his Delegation would indeed submit a working paper on this matter for consideration by the Council at a subsequent meeting of the current Session. At the same time, while the Representative expressed his desire to deliver his introductory remarks on the letter from Mr. Neradko as he had planned, given its relevance to the forthcoming working paper on this same issue, the President of the Council suggested that it was preferable to postpone further discussion of this subject, pending the issuance of the envisaged working paper, in order to ensure that all the elements relating to this item would be taken together. The Representative of the Russian Federation agreed with this approach.
3. On this understanding, the President of the Council proposed, and the Council agreed, to defer further consideration of this matter to a subsequent meeting of the 226th Session, or until such time as the working paper of the Russian Federation would be made available, it being understood that said working paper would be circulated in accordance with the rules of procedure and established practice.

### **Draft Assembly working paper – Unannounced Missile Launches**

4. The Council considered this item on the basis of C-WP/15426, which pursuant to C-DEC 226/5, presented a draft Assembly working paper reporting on recurring unannounced missile launches by the Democratic People's Republic of Korea (DPRK), constituting an infraction of the *Convention on International Civil Aviation* (Chicago Convention) under Article 54 k) of the Convention. In doing so, the Council agreed to waive the requirement in Rule 26 of the *Rules of Procedure for the Council*, given that the working paper had not been made available in all languages at least five working days before this meeting.
5. The Representative of the United States expressed his strong support for the draft Assembly working paper appended to C-WP/15426, and in doing so, also noted that his Delegation would provide the Secretariat with supplementary information concerning additional launch events carried out by the DPRK for inclusion in the list contained in Appendix A of said working paper, as appropriate.
6. While the Representative of Japan also voiced his support for the draft Assembly working paper, he underscored that as the situation concerning these launches by the DPRK may evolve in the period leading to the 41st Assembly, the text of the draft Assembly Resolution contained in Appendix B of the working paper may need to be updated during the Assembly, in light of any developments. Moreover, in referring to operative clause 1 of the Resolution, the Representative pointed out that any launch of a ballistic missile by the DPRK, regardless of whether it is announced or not, constituted a violation of the applicable UN Security Council Resolutions, and as such, requested that the text of the Resolution be clarified in this regard.
7. In the same vein as the Representative of Japan, the Representative of France also sought clarification on how the language in operative clause 1 of the draft Assembly Resolution stating “[...] without prejudice to the compatibility of ballistic missile launches with the applicable United Nations

Security Council Resolutions [...]”, should be interpreted given the context. He noted that while he understood the text to imply that ICAO had the capacity to assess this compatibility, given the possible alternative interpretations, it would be important to have confirmation on the intended meaning, and to revise this clause accordingly. In addition, the Representative suggested that a preambular clause starting with the term “considering” should be added to the draft Assembly Resolution, in order to affirm that the Council had remained seized of the matter in the intervening period between 2017 and 2022 and to highlight the actions taken by ICAO in that regard.

8. Recalling that it was his Delegation that had requested the Secretariat to explore additional measures that could be brought by the Council to the Assembly in order to more effectively address this issue, the Representative of Spain, welcomed the draft Assembly working paper, and supported the interventions of the Representatives of France and Japan thereon, noting in particular the latter’s suggestion that further updates may be needed to the working paper depending on the evolution of this issue in the intervening period prior to the Assembly. In turning to the working paper itself, the Representative pointed out that there appeared to be a discrepancy between the action indicated for the Assembly in paragraph 5.2, and the actions identified in the Executive Summary. In this regard, he suggested that it would be useful that the action identified in paragraph 5.2 also be included in the Executive Summary, for the purpose of consistency and clarity.

9. The Representative of Colombia aligned himself with the Representatives of Japan, France and Spain, and recognized the initiative taken by the Representative of Spain to highlight the importance of raising this matter to the attention of the Assembly.

10. Reaffirming the longstanding, and serious concern of the United Kingdom in relation to the continued testing of ballistic missiles by the DPRK, and reiterating that such tests constituted a clear violation of UN Security Council Resolutions, the Representative of the United Kingdom underscored the threat these launches posed to regional peace and security, and to civil aviation operations in particular. As such, the Representative stressed that the DPRK must refrain from all provocations and respect its international obligations. He therefore supported the draft Assembly working paper and Resolution appended thereto, as well as the suggestions made by the Representatives of France and Japan. At the same time, and mindful of the recent discussions in the Council, the Representative highlighted that the present deliberations were a clear demonstration of the Council taking action on its obligations to report violations of the Chicago Convention to the Assembly, without fear or favour.

11. In also expressing his support for the working paper and the remarks of the Representatives of Japan, Spain and France, the Representative of Peru questioned whether the use of the term “violation” was more appropriate in this context, rather than “infraction”. Based on his understanding, the lack of action on the part of the State to remedy the situation, despite repeated requests to do so from the Secretary General and the Council, implied an element of intentionality in contravening the Chicago Convention, and thus “violation” might better suit the circumstances. Along these lines, the Representative also suggested that it would be helpful if the ICAO Legal Affairs and External Relations Bureau (LEB) could in the future submit an information paper to the Council examining the difference between an act of aggression by a State and a criminal act, bearing in mind the importance of intent in making this distinction, while also taking into account international agreements and instruments in this regard, such as the Kampala Declaration (First Review Conference of the Rome Statute of the International Criminal Court, 2010). In this respect, he noted that in terms of international civil aviation, although not all acts of unlawful interference constituted acts of aggression per se, such incidents nevertheless caused all users to suffer, and undermined not only air and operational safety, but the civil aviation system as a whole.

12. The Representative of the Russian Federation agreed with the points raised by the Representative of Peru, and noted that based on the text of the proposed Resolution, it was unclear what results had actually been achieved in light of the actions taken by the Council to address this issue. In this regard, the Representative underscored that ICAO's role was not only to judge, but to undertake the preventative measures to avoid and mitigate threats to aviation safety and security, and with this in mind, he suggested that the Assembly be invited to instruct the Secretary General and ICAO to initiate negotiations with the DPRK with a view to resolving this matter.

13. Addressing the preceding interventions, the Director, LEB (D/LEB) noted that while the text of operative clause 1 of the draft Resolution currently reflected the standard wording that had been used in the various communications with the DPRK on this subject, he agreed with the Representatives of France and Japan on the need to refine and better clarify this language for the purpose of the Resolution. On the query of the Representative of Peru, D/LEB explained that the use of the term "infraction" was consistent with the terminology used in Articles 54 j) and 54 k) of the Chicago Convention, and in this connection, reminded that C-WP/15416, *Notes on Articles 54 j), 54 k), 54 n) and 84 of the Chicago Convention*, which had been presented to the Council at an earlier meeting during the current Session, provided a comprehensive overview of these provisions and their application. Nonetheless, he agreed that LEB could potentially review the *travaux préparatoires* from the Chicago Conference (1944) in order to ascertain the intention of the Parties in having selected the term "infraction" for that specific provision, as opposed to "violation" or other wording, and would report its findings to the Council, if any, at a future session.

14. Expressing his gratitude for the clarification provided by D/LEB, the Representative of Peru supplemented his earlier intervention in noting that regardless of the direction of the discussion, and no matter how long it may take to reach a conclusion, it was paramount the Council complied with its obligations as set forth by the Chicago Convention.

15. The Representative of Australia lent his full support to the draft Assembly working paper, as well as the suggestions of the Representatives of Japan and France. At the same time, he was pleased to see the Council taking action on this matter, in line with its obligation to report infractions of the Chicago Convention to the Assembly.

16. The Representative of Costa Rica, in reminding that Costa Rica was a demilitarized democracy, vigorously condemned the launching of ballistic missiles by the DPRK, and in doing so, lent his full support to the draft Assembly working paper.

17. The Representatives of Argentina, Brazil, Dominican Republic, Finland, Germany, Malaysia, the Netherlands, Saudi Arabia (Alternate), Sudan, and the United Arab Emirates also joined in conveying their full support to the working paper, as well as the comments made by the Representatives of Japan, France and others who had intervened along these lines, as did the Representative of Greece, who strongly condemned the unannounced missile launches by the DPRK and expressed her appreciation to the Secretary General for closely monitoring the evolving situation.

18. In also aligning herself with the interventions of the Representatives of Japan and France, the Representative of Singapore underlined that while any ballistic missile launch conducted by the DPRK was in contravention of the relevant United Nations Security Council Resolution, unannounced missile launches specifically, constituted a violation of the Chicago Convention. The Representative highlighted that these two principles should be clearly reflected in the text of the Resolution, and in turn, condemned these actions by the DPRK.

19. The Representative of Canada joined in strongly condemning the repeated unannounced missile launches conducted by the DPRK, and its failure to properly manage its airspace according to the established ICAO guidelines, which significantly endangered civil aviation operations in the region. The Representative noted that Canada's aeronautical information circular regularly advised Canadian airlines to take into account the potential safety risks when flying over or near the DPRK, in light of the threat posed by unannounced ballistic missile launches. He also underscored that these launches went against the principles of the Canada-led "Safer Skies" initiative, which had been strongly endorsed by the Council, and which sought to avoid further losses of civilian life due to military actions by State or non-State actors. In light of the foregoing, the Representative conveyed his support for the working paper, as well as the comments made by the Representatives of France, Japan, Spain and others.

20. In also condemning, in the strongest terms, the testing of intercontinental ballistic missiles by the DPRK as a flagrant violation of the relevant United Nations Security Council Resolutions, which undermined international peace and security, as well as the global non-proliferation regime, the Representative of Italy expressed her full support to the working paper, together with the comments of the Representatives of France and Japan.

21. The Representative of Nigeria joined in expressing his support for the working paper, and the points raised by the Representatives of Japan, France and Spain, and noted in particular his agreement with the latter's suggested amendment to the Executive Summary of the working paper.

22. The Representative of the Republic of Korea was appreciative of the strong support of the Council in taking action to address the matter of unannounced missile launches by North Korea, and in this regard, firmly supported the interventions of the Representatives of Japan and France.

23. Following consideration, the Council:

- a) took note of the information presented in C-WP/15426;
- b) approved the draft Assembly working paper attached thereto, subject to the changes agreed on by the Council in the course of its consideration of this item being reflected, including with respect to:
  - i. updating the list provided in Appendix A to reflect additional launches based on information to be provided to the Secretariat;
  - ii. adding a preambular clause in the draft Assembly Resolution starting with the term "*considering*", to affirm that the Council had remained seized of the matter in the intervening period between 2017 and 2022 and to highlight the actions taken by ICAO in that regard;
  - iii. refining the language used in operative clause 1 of the draft Assembly Resolution contained in Appendix B as necessary, in order to avoid any potential misinterpretation of the text; and
  - iv. modifying the actions identified for the Assembly in the Executive Summary of the working paper, in line with paragraph 5.2 thereof; and
- c) delegated authority to the President to thereafter approve the revised working paper on its behalf for subsequent submission to the 41st Session of the Assembly.

### **Work Programmes of the Council and its Committees for the 227th Session**

24. The Council considered this item on the basis of C-WP/15369, which presented the work programmes of the Council and its Committees for the 227th Session. The Council also had for consideration an oral report thereon from the Chairperson of the Committee on Governance (Representative of Spain).

25. With respect to the schedule for the 227th Session, the Council recalled its recent decision through the “silence” procedure to adjust the dates for the 227th Council Session in order to take into account the revised timeframe for the 41st Session of the ICAO Assembly (27 September to 7 October 2022). As such, the Council noted that the Committee Phase would now be convened from 24 October to 4 November 2022, while the dates of the Council phase would remain unchanged.

26. The Secretary General highlighted the efforts made to streamline the work programme for the 227th Session, in coordination with the Chairpersons of the Council Committees and the President of the Council, which included identifying papers that could be circulated for information under cover of a President memorandum, and items that could be discussed by the Committees without necessarily having to be submitted to the Council for consideration at this stage, as appropriate. He reaffirmed that both he and the President of the Council would continue to seek efficiencies where possible, to facilitate the work of the Council.

27. The Chairperson of the COG (Representative of Spain), in presenting his oral report, outlined the proposed changes to be made to the COG work programme for the 227th Session, as contained in paragraph 3 of the COG oral report. Regarding the proposed list of informal briefings, the Chairperson highlighted that in addition to convening an informal briefing on the lessons learned from the ICAO HLM-LTAG and the 41st Assembly, it was his impression that this subject could also serve as the focus of a future Council retreat.

28. Following a suggestion by the Representative of Saudi Arabia on the need to record the Council’s decision regarding the proposed deferral of the item relating to lessons learned from the reconstituted Council Committee structure, which pursuant to C-DEC 223/3 had been envisaged for the 227th Session, the Council noted that this item would instead be presented during the 228th Session.

29. Subject to the above outlined amendments, the Council approved the Work Programme of the Council and its Committees as presented in C-WP/15369. It was also understood that the decisions taken by the Council over the course of the current Session that affected the Work Programme for the 227th Session in terms of supplementary items, amendments to existing items, or deferrals of items, and that were not currently reflected, would be incorporated in a revised version of C-WP/15369, which would be issued in due course.

30. The Council also noted the proposed list of informal briefings to take place during the 227th Session, as appended to the COG oral report, and in so doing, agreed that all briefings should preferably be scheduled during the Committee phase of the session, and not the Council phase. The Council also reiterated that as far as practicable, meetings of the Committees should occur during the Committee phase of the session and not during the Council phase, and underlined that this was especially relevant in the context of the 227th Session, given the two-week timeframe to complete the Council phase.

**Any other business****Financial contribution from Saudi Arabia**

31. The Council took note of and welcomed the statement delivered by the Alternate Representative of Saudi Arabia in which it was announced that the Government of Saudi Arabia would be making a voluntary financial contribution of USD \$1,000,000 to support the activities and projects under the *No Country Left Behind Initiative* (NCLB).

**New Understanding between ICAO and the Government of Québec**

32. The Council noted the information presented by the Secretary General to advise that the new *Understanding between the International Civil Aviation Organization and the Government of Quebec concerning the immunities, exemptions and courtesy privileges extended to the Organization, to its Officials, to Member State and to Members of a Permanent Representation to the Organization*, which had been signed previously on 26 June 2018, would come into effect on 1 July 2022.

**Farewell to a Representative**

33. The Council bade farewell to the Representative of the United States (Ambassador Chesley Burnett Sullenberger).

**Calendar of meetings**

34. It was recalled that the Sixteenth Meeting of the current session would be scheduled for Monday, 18 July 2022.

**Deadline for the submission of environment-related working papers to the Assembly**

35. The Representative of France followed-up on an earlier inquiry concerning the revised deadline for the submission of working papers from Member States to the 41st Assembly, under Agenda items 17 and 18, considering that the Council was not expected to finalize its deliberations on these issues until late August, well beyond the current deadline of 2 August 2022. The Director, Air Transport Bureau (D/ATB) informed that the Secretariat was exploring all possible options to identify a suitable date in this regard, and assured that the Council would be advised as soon as an appropriate deadline was determined.

36. The Council adjourned at 12:55.



**COUNCIL — 226TH SESSION**

**SUMMARY MINUTES OF THE SIXTEENTH MEETING**

**(HYBRID MEETING, MONDAY, 18 JULY 2022, AT 1000 HOURS)**

President of the Council: Mr. Salvatore Sciacchitano

Secretary: Mr. Juan Carlos Salazar, Secretary General

**PRESENT:**

Argentina	— Mr. G.E. Bompadre	Malaysia	— Mrs. F. Chin
Australia	— Mr. R. Adams	Mexico	— Mr. D. Méndez Mayora
Brazil	— Mr. N. Moretti	Netherlands	— Mr. R. Ossendorp
Canada	— Mr. C. Hurley	Nigeria	— Mr. M.S.B. Tukur
China	— Mr. Shengjun Yang	Paraguay	— Mr. C.D. Urquhart Cáceres
Colombia	— Mr. M. Ramírez Koppel	Peru	— Mr. A. Freyre Layzequilla
Costa Rica	— Mr. G. Hoppe Pacheco	Republic of Korea	— Mr. S. Kim
Côte d'Ivoire	— Mr. C.A. Djibril	Russian Federation	— Mr. A. Novgorodov
Dominican Republic	— Mr. J. Peña Guzmán	Saudi Arabia	— Mr. B. Al-Sagri
Egypt	— Mr. S. Elhefny	Singapore	— Ms. E. Poh
Equatorial Guinea	— Mr. E. Esono Anguesomo	South Africa	— Mr. L. Mabaso
Finland	— Mr. S. Vuokila	Spain	— Mr. V.M. Aguado
France	— Mr. L. Pic	Sudan	— Mr. I.M. Elhag
Germany	— Mr. U. Schwierczinski	Tunisia	— Mr. I. Torjemane
Greece	— Ms. M. Saranti	United Arab Emirates	— Mr. S. Alsuwaidi
India	— Mrs. S. Juneja	United Kingdom	— Mr. A. O'Henley
Italy	— Ms. S. Costantini	United States	— Mr. A. Veprek (Alt.)
Japan	— Mr. I. Fukushima	Zambia	— Mr. V. Banda

**ALSO PRESENT:**

Mr. J. Liang	— Vice-President, ANC
Mr. C. Fernandez (Alt.)	— Argentina
Mr. S. Lucas (Alt.)	— Australia
Ms. C. Fitzgerald (Alt.)	— Australia
Ms. I. de Melo Maciel (Alt.)	— Brazil
Mr. A. Bertolino (Alt.)	— Brazil
Mr. R. Arruda (Alt.)	— Brazil
Ms. A. Barbosa (Alt.)	— Brazil
Mr. P. Langlais (Alt.)	— Canada
Mr. F. Fachinan (Alt.)	— Canada

**SECRETARIAT:**

Mr. M. Vreedenburgh	— SPO/OSG
Mr. S. Creamer	— D/ANB
Mr. J. Vargas	— D/TCB
Mr. M. Rahma	— D/ATB
Mr. A. Mishra	— D/ADB
Mr. M. Gill	— D/LEB
Mr. N. Rallo	— RD, EUR/NAT
Mr. S. Lefoyer	— DD/ASF
Mr. K. Guindon	— DD/MO
Mr. M. Marin	— A/DD/SAF

*Artem I. Sikorsky, Director, Department of Aviation, Ministry of Transport and Communication, Belarus*

*Ligita Betaga, Deputy Head of Aviation Department, Latvia*

*Ambassador Darius Skusevičius, Representative of Lithuania to ICAO*

*Justas Rašomavičius, Deputy Director General, Civil Aviation Authority, Lithuania*

*Stephen Camilleri, Senior Manager, Civil Aviation Directorate, Malta*

*Robert Przybylski, Director of International Affairs Department, Civil Aviation Authority, Poland*

*Carlos Bermejo Acosta, Head of Unit, Directorate-General for Mobility and Transport (DG MOVE), European Commission*

**ALSO PRESENT: (Cont'd)**

Ms. A. Jiménez (Alt.) — Costa Rica  
 Mr. C. Kanga (Alt.) — Côte d'Ivoire  
 Ms. C. Moya (Alt.) — Dominican Republic  
 Mr. A. Kalognomis (Alt.) — Greece  
 Mr. M. Silanos (Alt.) — Italy  
 Mr. A. Joshi (TE) — India  
 Mr. S. Oshima (Alt.) — Japan  
 Mr. S. Sugiyama (Alt.) — Japan  
 Mr. M. Loustaunau (Alt.) — Mexico  
 Mr. C. Schleifer (Alt.) — Netherlands  
 Mr. A. Coutinho (Alt.) — Netherlands  
 Mr. A. Vandenabeele (Alt.) — Netherlands  
 Mr. C. Zamora (Alt.) — Peru  
 Mr. J. W. Kim (Alt.) — Republic of Korea  
 Mr. S. Ahn (Alt.) — Republic of Korea  
 Mr. A. Batalov (Alt.) — Russian Federation  
 Ms. O. Mozolina (Alt.) — Russian Federation  
 Mr. M. Habib (Alt.) — Saudi Arabia  
 Ms. D. AlKurdi (Alt.) — Saudi Arabia  
 Mr. F. A. A. Alsuhabani (Alt.) — Saudi Arabia  
 Ms. E. Ang (TE) — Singapore  
 Ms. S. Toh (TE) — Singapore  
 Mr. I. Pacheco (Alt.) — Spain  
 Mr. M. Salem (Alt.) — United Arab Emirates  
 Ms. T. Goodwin (Alt.) — United Kingdom  
 Ms. C. Lacrosse (Alt.) — United States  
 Mr. A. Tampio (Alt.) — United States  
 Mr. M. Brown (TE) — United States  
 Mr. M. Waniwa (Alt.) — Zambia

**SECRETARIAT: (Cont'd)**

Mr. J. Lamosa — C/ASA  
 Mr. A. Larcos — C/ACS  
 Ms. V. Muraca — ACS

**Representatives to ICAO**

Benin  
 Cameroon  
 Chile  
 Congo  
 Cuba  
 Cyprus  
 Ethiopia  
 Ghana  
 Indonesia  
 Iran (Islamic Republic of)  
 Mauritania  
 Oman  
 Ukraine  
 Uruguay

Airports Council International (ACI)  
 Civil Air Navigation Services Organization (CANSO)  
 European Union (EU)  
 International Air Transport Association (IATA)  
 International Coordinating Council of Aerospace Industries Associations (ICCAIA)  
 International Federation of Air Line Pilots' Associations (IFALPA)

## **Adoption of Amendment 48 to Annex 6, Part I**

1. The Council considered this item on the basis of C-WP/15422, which presented a proposal from the Air Navigation Commission for Amendment 48 to Annex 6 – *Operation of Aircraft, Part I – International Commercial Air Transport — Aeroplanes*.

2. Introducing the item, the Vice-President of the Air Navigation Commission (VP/ANC) explained that the proposed amendment related to a standard for the location of an aeroplane in distress. The amendment was considered necessary because of the COVID-19 pandemic and its impact on the aviation industry and specifically on supply chain processes, which meant that it was no longer possible for the aviation industry to meet the timelines outlined in Annex 6. Originally, new aeroplanes weighing over 27,000 kg were required to have autonomous distress tracking (ADT) capability as from 1 January 2023, but the proposed amendment would delay by one year the date by which these aircraft would be required to be equipped with ADT capability. VP/ANC explained that it was not enough to install ADT equipment on such aircraft. Each country also had to complete its national airworthiness certification process before accepting one of these aircraft onto its aircraft registry. To help states and the industry to complete this process, the proposed amendment provided a further year's relief by setting an embedded applicability date of 1 January 2025.

3. As this was thought to be the first time that ICAO had presented an equipage date that preceded the embedded applicability date, the Secretariat had agreed to provide support to states as they were to implement this amendment to the standard if adopted. In determining whether to support this amendment, the ANC had first considered carefully whether there was sufficient justification to revise the current standard. Having considered all the evidence provided by industry, the ANC reluctantly agreed that there was. In considering a range of options, it became apparent however that the only viable way forward was to amend Annex 6.

4. VP/ANC highlighted that this would be the second amendment to Annex 6, Part I, this year. He recalled that the Council adopted Amendment 47 on 7 March 2022. At the same time, the ANC had understood that Assembly Resolution A39-22 provided for the Council to amend the Annex again without consulting states and international organizations in situations where urgent action was required. In this case, the advice of the ANC was that the amendment should be limited to a change of dates quoted in the current standard. Having considered the information provided by the aviation industry, the ANC had agreed that urgent action to amend Annex 6 for a second time this year was indeed justified.

5. As to the amendment itself, VP/ANC indicated that the ANC had preferred a text that would give relief to states and industry and that could most readily be implemented while not reducing substantially the final numbers of aircraft with ADT capability. The Commission was also conscious of the reputational issues of further delays to a standard that had already been delayed by two years from the initial date of 1 January 2021. The text being proposed for Amendment 48 was arrived at after many hours of intense debate and analysis of a range of options within the ANC. Indeed, the choice between the available options was so finely balanced that the ANC could not come to a consensus position, which unusually for the Commission, therefore resulted in a vote being taken. Ultimately, however, VP/ANC explained that a clear majority supported the text of the amendment as proposed in the paper.

6. By way of supplementary information on the proposed amendment, the Acting Deputy Director, Aviation Safety (A/DD/SAF) recalled that the adoption of Amendment 48 to Annex 6, Part I, was originally scheduled to be considered at an earlier date in the current 226th Session of the Council. As a result, he explained that due to the rescheduling of the item and in keeping with Article 90 of the Convention and the established practices, the effective and applicability dates in the resolution of adoption, would need to be modified. This meant that 8 November 2022 would now be the effective date instead of 24 October

2022, while 29 December 2022 would become the new applicability date instead of 1 December 2022. It was intended that these date modifications would also be reflected in the amendment to the Foreword of Annex 6, Part I, Appendix E.

7. Expressing his support for the proposed amendment, the Representative of Spain recalled that the genesis for the amendment lay in Air France flight AFR447, which crashed in the Atlantic Ocean while on a scheduled flight from Rio de Janeiro to Paris on 1 June 2009. He observed that there had been other similar accidents since then, including Malaysia Airlines flight MH370 in 8 March 2014. The Representative noted that the adoption by the Council of the systems to respond accordingly were first proposed in May 2016. However, six years later there was now a proposal to extend the proposed action until 2025. This would effectively mean that it took 16 years to deal with the problem first identified with the crash of Air France flight AFR447 in 2009.

8. The Representative had also taken note that the aviation industry had expressed concern that the proposed amendment would have a cost impact of millions of dollars. In this regard, he professed himself to be unimpressed with this argument given that the expenditure associated with locating the wreckage and remains of the crash of Air France flight AFR447 and MH370 was far in excess of hundreds of millions of dollars. Most important was to recall that the issue under consideration was related to human lives and potential survivors and it was in this context that he was unimpressed by a focus on the cost involved of the amendment. Despite this, his delegation would vote in favour of the amendment. In closing, he urged the ANC to deal with problems that face the aviation sector in a more contextual manner, which meant considering all the facts and not necessarily placing high emphasis on cost only.

9. Associating himself with the preceding intervention, the Representative of France indicated that his delegation also intended to vote in favour of the proposed amendment, but he would have preferred a shorter delay given that the issue was directly related to passenger safety.

10. The Representative of Sudan expressed his support for the proposed amendment on the basis that it would enhance the safety of global air navigation.

11. There being no further interventions, the Council noted that having examined the technical circumstances associated with the implementation of the amendment, the Air Navigation Commission considered that an effective date of 18 November 2022 and a proposed applicability date of 29 December 2022 would be suitable for Amendment 48 to Annex 6, Part I with a delayed applicability date of 1 January 2025 for the Standard related to location of an aeroplane in distress.

12. The Council also recognized the unprecedented nature of the COVID-19 pandemic, and its impacts on Member States and the aviation industry. In doing so, the Council agreed that certain implications arising from the COVID-19 pandemic warranted the application of Assembly Resolution A39-22, operative clause 7, which, subject to the adequacy of the verification and validation process, allowed the Council to forego consultation with Member States in such circumstances where the Council deemed urgent action necessary.

13. In concluding its consideration of this item, the Council by 35 votes in favour, no votes against, and no abstentions (one Representative being absent):

- a) adopted, as Amendment 48 to Annex 6, Part I, the amendment to the Standard as contained in Appendix C to the working paper;
- b) approved the Resolution of Adoption in Appendix D to the working paper; and

- c) approved, as part of the said amendment, the amendment to the Foreword of Annex 6, Part 1, as contained in Appendix E to the working paper.

### **Order of Business**

14. At this point of the proceedings, the Representative of the Russian Federation raised a point of order. Referring to rule 34 c) of the *Rules of Procedure for the Council*, he proposed that the remaining sequence of items be re-arranged so that the second item to be considered at this meeting would be the draft Assembly working paper on the AFI Plan. Immediately thereafter, the Council should then consider C-WP/15429, which was presented by the Russian Federation. He claimed that by considering C-WP/15429 before all the other remaining items would help to clarify questions that pertained to those items. The fourth agenda item to be considered would then be C-WP/15419, concerning the FFIT Report into the incident involving Ryanair Flight FR4978. Then would follow the C-WP/15418, regarding the request of the Republic of Belarus for consideration under Article 54 (j). The sixth agenda item would then be the draft Assembly working paper concerning Infractions of the Chicago Convention by the Russian Federation and then the seventh item would be the paper concerning the Notes on Articles 54 j), 54 k), 54 n) and 84 of the Chicago Convention.

15. In response, the President of the Council indicated that since the proposal of the Russian Federation had been presented as a point of order pursuant to rule 34 c) of the *Rules of Procedure for the Council*, he was obligated to provide a ruling as the presiding officer of the meeting. In this connection, his intention was to retain the sequence of items on the Order of Business in the way in which it had been originally published. The President explained that he had understood the rationale for why the Russian Federation sought to alter the sequence of items. At the same time however, he highlighted that a number of the items on the Order of Business had already been delayed from previous meetings, including specifically, the second item on the Order of Business concerning the report into the incident involving Ryanair Flight FR4978 (C-WP/15419). In a similar way, both the third and fourth items on the Order of Business (C-WP/15416 and C-WP/15418), also derived from decisions taken at previous meetings in the current session. Likewise, the fifth item (C-WP/15427) arose from a decision taken by the Council at a previous meeting, while C-WP/15429 was related to the same item so there was a certain obvious continuity and logical flow in the way in which the sequence of items had been determined in the Order of Business.

16. On the proposal of the Russian Federation, the Representative of Spain indicated that he was in agreement with the ruling by the President of the Council and specifically to retain the sequence of items on the Order of Business in the same way in which it had been originally published. At the same time, the Representative observed that rule 34 c) of the *Rules of Procedure for the Council*, was perhaps not applicable under which to have raised such a point of order.

### **Report into the incident involving Ryanair Flight FR4978 in Belarus airspace on 23 May 2021**

17. The Council considered this item on the basis of C-WP/15419, which presented the Report on the fact-finding investigation of the event involving Ryanair Flight FR4978 on 23 May 2021, as prepared by the ICAO Fact-Finding Investigation Team (FFIT).

18. In introducing the item, the Secretary General recalled that the interim report of the Fact-Finding Investigation Team (FFIT) had been presented at the first meeting of the previous session on 31 January 2022. Following its consideration of the interim report at that meeting, the Council had expressed concern at the gaps in information provided by Belarus and the inconsistencies in the evidence provided to the FFIT in relation to crucial aspects of the factual reconstruction of the event. At the same time, it was apparent that the criminal investigative authorities of some Member States had at their disposal additional

information and materials that could be of interest to the fact-finding investigation. The Council therefore decided to request the FFIT to continue its work with a view to establishing the missing facts, including in connection with the ongoing criminal as well as other investigations, and to report any further findings to the Council as appropriate.

19. The Secretary General indicated that in the course of its additional work between February and July 2022, the FFIT had received additional information and materials from Latvia, Poland and the United States. In addition, the FFIT had the opportunity to interview the air traffic controller of the Minsk area control centre who was assigned to Ryanair Flight FR 4978, and moreover, the FFIT had obtained access to audio recordings made by him both during and after the event. Accordingly, the FFIT report had been updated to incorporate these additional elements. He explained that Appendix A contained a clean copy of the updated report while Appendix B contained a version that showed the changes as compared to the initial report presented to the Council on 31 January 2022. This was intended to facilitate consideration by the Council.

20. By way of supplementary information, the Deputy Director Aviation Security and Facilitation (DD/ASF) highlighted several elements of the updated report. Principal among these were the timelines of the investigation in which the FFIT had held meetings with the authorities in charge of the criminal investigation conducted by the United States and in addition, the Secretariat had been able to conduct another mission to Poland to meet the prosecutor in charge of the criminal investigation underway in Poland. The Secretariat had also now had the opportunity to interview the air traffic controller who was in charge of the Flight FR4978 on 23 May 2021 and this was the most important element in the update of the report, which justified the continuation of the investigation.

21. DD/ASF explained that as a result of the preceding, the report of the FFIT had been updated and then published on 11 July 2022. Despite the updates, the structure of the report had not been changed. Appendix A to the report presented a clean version of the report, while Appendix B contained a version in which all the changes made were clearly outlined.

22. Turning to the conclusions of the report, DD/ASF indicated that the first conclusion did not change and that the false bomb threat had been confirmed. The receipt of the first e-mail message at 9:25 hours as suggested by Belarus could not be verified. The phone records to pass the information between the receipt of the e-mail message to the control tower were also not verified and there was no evidence of any attempt by Belarus to contact the operator. Unfortunately, the video recordings, which ordinarily are important for any investigation, were not made available.

23. DD/ASF then highlighted one of the most important changes since the interim report. This pertained to the fact that the Secretariat had now been able to speak with the air traffic controller who was assigned to the Ryanair flight on the day of the incident. In addition, the Secretariat had also been given access to the audio recordings that were made by this controller in the operations room and also during the debriefing that he had with the more senior officers in the relevant Belarusian agencies. These new elements clearly demonstrated that an unidentified individual with enough authority to enter into the area control centre (ACC) had given the controller instructions that compelled the pilot to divert the flight to Minsk. The controller stated that he was requested by the hierarchy to amend his report in order to cover part of the facts. Moreover, the air traffic controller was able to refer to the videos taken by passengers on the day, which enabled him to separately identify the individual who had given the instructions in the ACC. This particular individual was on the ramp of the airport at the moment of the disembarking process of passengers.

24. In concluding, DD/ASF indicated that this additional information presented in the report took the Secretariat a while to collate and then to be distilled into the updated version of the report. He

explained that it had been important for the FFIT to proceed carefully and to verify the new information by listening to the different witnesses and participants in the matter. It was also necessary to verify that the recordings on board at the area control centre and those recorded by the controller's telephone were consistent and that they confirmed that these conversations did in fact take place.

25. Before opening the item for discussion, the President of the Council informed the Council that in accordance with Article 53 of the Chicago Convention, he had invited the Representatives of Belarus, Ireland, Lithuania, Poland and the EU to participate as Observers in this meeting and specifically in the discussion on this item. As there was no objections, the President indicated that these Observers would be permitted to participate in the debate, but without any voting right.

26. Expressing his appreciation to the FFIT for establishing a number of vital facts in this matter, the Representative of the United Kingdom stated that in doing so, it was now possible to attribute state responsibility for the incident to Belarus. Despite efforts by Belarus to cover up their actions, the evidence was persuasive. The Council had already agreed that the bomb threat against Ryanair flight FR4978 was deliberately false and that consequently this had endangered the safety of an aircraft in flight, which was an offence under both the Montreal and Chicago Conventions. The Council had also previously expressed concern of the gaps and inconsistencies in information provided by Belarus to the FFIT. The updated report that had now been presented effectively closed any remaining information gaps that had existed. The updated report also made it clear that Belarus was responsible for having made the deliberately false bomb threat and related actions by the air traffic control that had led the Ryanair flight to land in Minsk as well as the subsequent attempt to cover all this up.

27. The Representative noted that a Belarus state agent associated with the Belarusian air navigation service provider was given access to the most sensitive parts of the airport including the air traffic control tower and tarmac to coordinate the landing of the Ryanair flight after the false bomb threat. This agent immediately ordered the use of special air frequencies in an apparent attempt by Belarus to cover its tracks. Indeed, the Belarus state agent had begun to coordinate the response to the false bomb threat over two hours before the alleged e-mail containing the bomb threat was even sent. The report also highlighted mobile phone footage of Belarus state agents directing the falsification of official reports on the incident. This new evidence led the FFIT to conclude that individuals with sufficient authority to enter the Minsk ACC participated in or were involved in providing information about a false bomb threat to the flight leading to its diversion to land at Minsk. This clearly meant that the safety of Ryanair flight FR4978 was endangered when a false bomb was communicated to the crew leading to its diversion.

28. Highlighting the false bomb threat, the Representative observed that this appeared to have been communicated to the Ryanair crew by the Minsk ACC on the instructions of an unidentified individual who had been given access to the Minsk ACC. Therefore, it was now possible to attribute these acts of unlawful interference to an individual or state. Accordingly, the United Kingdom delegation had no doubt that the actions by Belarus clearly endangered an aircraft and its passengers for political purposes; an operation solely and entirely designed to lead to the detention of two passengers on board.

29. The Representative urged the Council to condemn Belarus for committing this state act of unlawful interference and for violating its obligations under both the Chicago and Montreal Conventions. He emphasized that given the seriousness of the infractions of the Chicago Convention and related treaties, the Council had a duty to uphold its principles and report this matter to all Member States at the upcoming ICAO Assembly. Moreover, a copy of the FFIT report should also be forwarded to the UN Secretary-General for his follow-up action as appropriate.

30. The Representative of the Russian Federation stated that the report of the FFIT appeared to represent a deliberate attempt to shape the main conclusions to match certain predetermined outcomes

by which the Republic of Belarus would be blamed for everything. The Representative considered it noteworthy that the report did not analyse the actions of the Lithuanian authorities who in his view had failed to respond to the email message that had been received about the threat of an explosion on board the aircraft. Nor did the report examine why Lithuanian authorities had made no effort to assist the crew or to ensure a line of communication between the crew and the Ryanair operations control centre (OCC). Indeed, as far as he was concerned, the report reminded him of one of those substandard action movies about Russian bad guys where even the Russian speech was mangled and mixed with inaccuracies. Given what he considered the extent of perceived inaccuracies in the report, the Representative was of the view that a separate meeting of the Council should be convened just to discuss the report alone.

31. In essence, the delegation of the Russian Federation was of the view that the conclusions of the report were based on information that should never have been considered credible. To begin with, it was well known that the working procedures of air traffic control service centres prohibit staff from having access to mobile phones while in the centre. This would suggest therefore that in this case, the controller acted in violation of the established rules when he brought a mobile phone into the operations room and then activated an audio recording application on his phone. It appeared that instead of engaging in his duties, this same controller listened in on conversations between officers of the Director General of the Belarusian air navigation services provider and other unidentified persons discussing the details of a special operation in the operations room. It seemed remarkable to the Representative that this conversation was sufficiently audible to be overheard by everyone despite the staff in the control tower wearing headsets.

32. The FFIT report also suggested that due to the presence in the control centre of an individual who was presumed to be a KGB officer, the normal recordings of the air traffic control communications were subsequently destroyed. The report went on to suggest that somehow the controller decided to record his communications with Ryanair on his smartphone. As far as the Representative was concerned, these findings were absurd. Likewise, the report suggested that the controller made an audio recording of the meeting on 1 June 2021 between himself, the duty supervisor and the Deputy General Director of the Belarusian air navigation services provider. In this regard, the Representative questioned the legitimacy of such actions. The report suggested that the controller then went on vacation and somehow disappeared and that the Belarusian authorities had been unable to determine his whereabouts. Despite that, the report seemingly claimed that the authorities of Poland and the United States had access to this witness and that they were able to obtain information as a result of interviews conducted on 2 June 2022.

33. Continuing with the presumed sequence of events, the Representative stated that following his disappearance, the air traffic controller then apparently retracted his written testimony and made available the recordings that he had allegedly made with his smartphone. In this regard, the Representative questioned whether it was truly possible to ensure that the audio recordings provided were genuine and that the air traffic controller was not actually under pressure to alter his testimony. The Representative also wondered if a proper examination had been carried out on the authenticity of the newly provided recordings. Given the apparent shortcomings of the report, the Representative was concerned therefore that the Federal Bureau of Investigation of the United States had filed an indictment charging four individuals who are government officials of Belarus with conspiracy to commit air piracy. He noted that this offence under the US law carried a maximum penalty of life in prison and a mandatory minimum sentence of 20 years.

34. Recalling a different aviation incident on 1 July 2013, in which a civilian airplane with the former President of Bolivia on board was forced to land at Vienna Airport while en route from the Russian Federation, the Representative stated that this had occurred only because France, Spain, Italy and Portugal had all suddenly closed the use of their national airspace for the continuation of the flight. He further recalled that after landing at the Vienna Airport, the plane was searched in order to determine if former CIA agent, Mr. Edward Snowden was on board, an action that represented a violation of the sovereignty of the



Republic of Bolivia. Despite this incident, the Representative was unaware if the ICAO Council at the time had engaged in this matter or with the apparent infringement of Article 9 b) of the Chicago Convention or with the question of whether someone was subsequently convicted in the United States of conspiracy to commit air piracy.

35. The Representative questioned why the FFIT report had failed to undertake an analysis of the consequences of the decision agreed with the airline regarding the cockpit voice recorder (CVR) during the parking of the airplane at the Minsk Airport. In his view, this was important because the CVR retained the last two hours of recordings of discussions in the cockpit and yet, turning off the CVR at the parking stand is part of the standard procedures for completing the flight. In this regard, the Representative concluded that this was a deliberate act in relation to the exchanges with the cockpit that would have been vital for any investigation.

36. The Representative stated that there were other equally surprising conclusions captured in the report. For instance, the report concluded that the safety of Ryanair flight FR4978 was endangered when a false bomb threat was communicated to the crew leading to its diversion. At the same time, the report stated that no bomb was found on the plane either during the pre-departure screening in Athens, Greece, or after various searches of the aircraft in Belarus and Lithuania. On this basis, it was concluded that the bomb threat was deliberately false. Knowingly communicating false information that endangered the safety of an aircraft in flight was an offence under Article 1.1 e) of the Montreal Convention. From this, it followed that informing the crew of the threat of an act of unlawful interference in a case in which a terrorist act did not take place was also a crime under Article 1.1 e) of the Montreal Convention.

37. In the interest of protecting the reputation of the Organization and given what he had considered shortcomings in the report, the Representative urged that the report should be classified as a restricted document in accordance with Appendix F of the Rules of Procedure for the Council. The Representative opined that electronic terrorism was a very common phenomenon in recent years and that Russian airlines and airports received threats of bombs being placed aboard aircraft and in airport terminal buildings almost on a daily basis. However, according to his information, the number of such false threats had decreased significantly since the closing of several so-called call centres in the Ukraine. Despite this, he expressed concern that such acts of unlawful interference against the civil aviation of the Russian Federation remain unnoticed by ICAO.

38. In concluding, the Representative considered the report of the FFIT to be wholly unsatisfactory. Moreover, he was of the view that the report risked undermining the Organization's reputation and accordingly, his delegation protested a number of the conclusions that had been presented in the report.

39. Responding specifically to the question of the authenticity of the audio recordings, the Deputy Director, Aviation Security and Facilitation (DD/ASF) explained that ICAO itself had no capability to verify if the recordings were authentic. Nonetheless, he noted that since the recordings were first transmitted to the relevant authorities in both Poland and the United States, ICAO had been assured that both jurisdictions undertook appropriate checks to ensure the recordings were indeed authentic since this would be necessary in any subsequent criminal proceedings. This applied to both the cockpit voice recordings as well as to the audio recordings obtained from the air control centre that what were provided by the air traffic controller, all of which were confirmed as being authentic.

40. Turning to the FFIT investigation process itself, DD/ASF explained that the publication by the relevant authorities in both Poland and the United States of vital information pertaining to the incident, enabled the FFIT to pursue its investigation, including the reappearance of the air traffic controller. In this connection, it had been important for the FFIT to meet with and interview this individual and to undertake

an analysis of the consequences of the decisions taken by the airline. These elements were now analysed in the report.

41. On the question of why the cockpit voice recorder (CVR) was not stopped by the crew while the airplane was parked at Minsk airport, DD/ASF indicated that the reason for doing so was that the crew had wanted to take off again as soon as possible. If the CVR had been stopped, there would have been an additional delay as they crew would have had to wait for the relevant technical staff to restart the CVR. This was actually part of the Ryanair operational procedures. Indeed, if the CVR had been stopped, it would have meant that the passengers would have been blocked in Minsk and likely would have had to wait for a new aircraft or some other technical procedures to be activated and approved by Polish authorities since the aircraft was registered in Poland.

42. Finally, in response to the suggestion by the Russian Federation that it received many false alarms and bomb threats and that ICAO did not deal with these, DD/ASF highlighted that a false alarm constituted an unlawful act and that these should always be notified to ICAO. In this regard, he observed that ICAO had not received any such notifications from the Russian Federation concerning the false bomb threats that the Representative had referred to in his intervention. DD/ASF invited the Representative of the Russian Federation to notify ICAO of these acts of unlawful interference.

43. Welcoming the report of the FFIT, the Representative of France stated that the additional information presented helped to provide a more comprehensive understanding of what exactly had transpired with Ryanair flight FR4978 from the moment the flight had left Athens and in the period following, including when an unidentified individual took over air operations to force the aircraft to land in Minsk. It was certain that this particular individual was an agent of the Government of Belarus and that he had access to the air control area. Moreover, the Director General of the air navigation services provider of Belarus accompanied that individual. It was also clear that direct or indirect instructions were given to the air traffic controller that resulted in the forced landing of the aircraft at Minsk airport and when the air traffic controller realised that something strange was happening involving external individuals, he decided to tape the ensuing conversations. It was certainly a good thing he had done so because otherwise the outside world might never have learned the truth about this incident. However, it fitted with the existing pattern that the electronic messages concerning a bomb threat were completely fabricated to the point where the air traffic controller had to modify his report on the incident at the direct request of the Director General of the Belarus air navigation services provider, as indicated in Appendix J of the report. In other words, there was clear manipulation in this incident.

44. The Representative highlighted that the false bomb threat could be clearly attributed to the authorities of Belarus. This meant that the authorities of Belarus had violated their obligations under the Chicago Convention. What happened on 23 May 2021 was extremely serious and resulted in the arrest of a passenger and his partner. Belarus, as a Contracting State did not hesitate to use a false alert and use procedures to force an aircraft to land where it should never have landed and thus endangered this Ryanair flight. This incident threw into doubt the expectation by all air passengers that they could take a flight and be assured that they would arrive safe and sound at their destination. It was imperative therefore, that the Council acted in a clear, firm, and decisive manner. The decision to be taken by the Council should attribute to the authorities of Belarus the responsibility of a false bomb alert that forced the aircraft to land in Minsk and in addition, to note that this represented a violation of the Chicago Convention, both in terms of the spirit and letter of the Convention. Moreover, the Council should condemn Belarus for having committed this act and for having violated both the Montreal and Chicago Conventions. The Representative also stressed the importance of presenting a report of this infraction to the Assembly in accordance with Article 54 j) and k) of the Convention and finally, he urged that the report be published and shared with the Secretary-General of the United Nations.

45. Associating himself with the preceding interventions of the United Kingdom and France, the Representative of Canada condemned the unlawful interference with international civil aviation that had been identified in the FFIT report. The Representative indicated that this action had clearly demonstrated that Belarusian authorities had deliberately orchestrated the diversion and forced landing of a civilian aircraft for the sole purpose of arresting a political opponent. Accordingly, the diversion of Ryanair flight FR4978 was not only a blatant misuse of civil aviation for a purpose inconsistent with the aims of the Chicago Convention, but also represented an attack on media freedom.

46. Also associating himself with the preceding interventions of the United Kingdom and France, the Representative of the United States (Alternate) addressed what he described as attempts by the delegation of the Russian Federation to cast doubt on the credibility of the report. In his view, those attempts were completely without merit and should be disregarded. The air traffic controller was a direct witness and an unwilling participant in the Lukashenko regime's scheme and his testimony was supported by documentary evidence in the form of audio recordings. Ultimately, the Belarusian authorities could not provide any coherent rebuttal to this testimony and the FFIT had every reason to find his evidence credible.

47. Turning to the issue of the deactivation of the cockpit voice recorder (CVR), the Representative had taken note of the suggestion by the Russian Federation that this must have been deliberate. The additional information provided by the Secretariat clearly demonstrated that this was not the case. It was also inexplicable as to why the Belarusian regime had chosen to delay for almost an hour the disembarking of the passengers from an aircraft, which allegedly contained a bomb. Then there was the outstanding question concerning the missing closed circuit television footage from the exterior of the airport terminal.

48. The Representative remarked that the significant new evidence presented in the updated report established without any doubt what had been evident all along, which was that Belarusian authorities had manufactured a false bomb threat to force Ryanair flight FR4978 to land in Minsk. This had been arranged for the benefit of the Lukashenko regime's own political agenda and in violation of the fundamental trust that must exist between pilots and air traffic controllers. Indeed, the Lukashenko regime's forced diversion of Ryanair flight FR4978 to detain passenger and independent Belarusian journalist Raman Pratasevich and his companion Sofia Sapega, represented a flagrant violation of international aviation law, an egregious act of transnational repression, and a blatant manipulation of the civil air navigation system. The Representative stressed that as a result, there had to be consequences for those responsible.

49. It was important that ICAO not allow civil aircraft in mid-flight to become instruments of political repression. That would be contrary to the spirit of the Chicago Convention wherein the preamble clearly upheld the development of international civil aviation to create and preserve friendship and understanding among the nations and peoples of the world. In this context, the United States urged the Council to condemn the Lukashenko regime for its actions and send a strong message that such attacks on international civil aviation would not be tolerated.

50. Moreover, the Representative urged the Council to exercise its responsibility to protect international civil aviation by attributing responsibility to the Belarus authorities for deliberately fabricating a bomb threat. Such a manipulative action deserved to be condemned. The Representative also supported the proposal that this infraction of the Chicago Convention should be reported to the 41st Session of the Assembly in accordance with Article 54 j) and 54 k) of the Chicago Convention. Finally, the Representative supported the proposal for a copy of the report to be forwarded to the UN Secretary-General as well as published on the ICAO website.

51. Within the context of international and civil aviation law, the Representative of Greece condemned the unlawful actions that had led to the forced diversion of Ryanair flight FR4978. She

considered that these actions had violated the safety of an aircraft in flight and put at risk the passengers on the flight. No airport or country should face again such an incident anywhere in the world and so it was important that ICAO properly addressed this matter. The Representative emphasized that not only were there no explosives detected at the pre-departure screening in Athens or when the plane was searched on landing, but nor was there any e-mail message to suggest that there was a threat during the flight. Given that the bomb threat was deliberately false, the Representative highlighted that knowingly communicating false information is an offence under Article 1 of the Montreal Convention.

52. In closing, the Representative drew attention to the fact that information remained missing from Belarus. She associated herself with the intervention by France in stressing that there was an obligation on the Council to condemn the violation of both the Chicago and Montreal Conventions and for this matter to be submitted to the 41st Session of the ICAO Assembly in accordance with Article 54 j) of the Chicago Convention. In addition, the Representative urged that a copy of the FFIT report be shared with the UN Secretary-General and communicated to ICAO Member States via a State letter.

53. The Representative of Costa Rica remarked that the conclusions of the FFIT report were obvious and in that regard, it was essential that all Contracting States complied with their international obligations and ensured the application of the Chicago Convention and its various annexes. On that basis, the Council should issue a statement of denunciation and then disseminate the report findings.

54. Associating himself with the previous interventions of France and the United Kingdom, the Representative of the Netherlands agreed that the report findings were such that it enabled the Council to draw a clear set of conclusions. He underscored that this represented a clear case of an act of unlawful interference that involved the active participation of a state agent in a manner that should be a matter of concern to all the Council Representatives irrespective of region or affiliation. This was because the case involved important aspects of safety and security whereby international aviation was put at risk. Indeed, the evidence presented was compelling and in this respect, the Council should condemn Belarus for committing an act of unlawful interference and for violating its obligations under both the Chicago and Montreal Conventions. Moreover, the Representative urged that the issue should be reported to all Contracting States at the upcoming session of the Assembly in accordance with Article 54 k) of the Chicago Convention. Finally, the Representative agreed with other previous speakers that in the interests of transparency, the report should be published as well as forwarded to the UN Secretary-General.

55. Welcoming the report, the Representative of Japan emphasized that the Belarusian authorities had clearly failed to provide a satisfactory explanation for the incident and the series of actions taken that had undermined the safety of international civil aviation. The Representative associated himself with the preceding interventions, including from the United Kingdom and France. Such actions of unlawful interference threatened the safety of international civil aviation and the passengers with a false bomb threat and in that context, the Representative agreed that it was appropriate for this matter to be reported to the upcoming session of the Assembly.

56. The Representative of Australia agreed with preceding interventions in that this matter represented a serious international aviation incident. He welcomed the robust nature of the report, which he noted had been completed despite Belarus being unable to provide information relevant to this incident. Nonetheless, the evidence from the report was compelling and highlighted significant infractions of the Chicago Convention and other international air law instruments by Belarus in relation to the forced diversion of the flight to Minsk. Accordingly, the Representative associated himself with the preceding interventions in condemning Belarus in this regard. His delegation also supported the proposal that this infraction should be reported to ICAO Member States and the Assembly in accordance with the applicable provisions of the Chicago Convention. The Representative also agreed that a copy of the report should be

transmitted to the UN Secretary-General given the seriousness of this international aviation incident and in this regard, he hoped that the UN could determine any further action that might be required.

57. Lauding the courage of the air traffic controller in Belarus who had come forward to provide details on exactly what had transpired that day, the Representative of Germany remarked that this had helped the supplementary research to be undertaken. As a result, the report reinforced the assessment that the explanations provided by Belarus of the circumstances leading to the diversion of flight FR4978, were simply not convincing. Indeed, the report clearly highlighted a number of obvious inconsistencies and gaps that raised reasonable doubt about the explanations provided by Belarus. The Representative found it incomprehensible that crucial information pertaining to the bomb threat should be unavailable. In the circumstances, he agreed with the report assessment that the bomb threat was deliberately false and that it had endangered the safety of Ryanair flight FR4978 and its passengers.

58. The Representative underscored that the conclusion to be drawn from the events related to the Ryanair flight was that this represented a clear violation of the provisions of Article 4 of the Chicago Convention. Moreover, it represented an apparent breach of the Montreal Convention and constituted a criminal offence under Articles 1 and 2 of the Convention. His delegation was of the view that the subsequent arrest of the journalist Raman Pratasevich and his companion Sofia Sapega clearly suggested that the whole incident was fabricated by Belarus. In the light of the evidence made available in the report, the Representative considered it imperative to submit the report to the UN Secretary-General with a view to further discussion taking place at the UN Security Council. Belarus should be strongly condemned for its illegal actions and this matter should be reported to all Member States at the forthcoming Assembly.

59. Associating himself with the preceding interventions of the United Kingdom, France, the Netherlands, Canada, the United States, Greece, Costa Rica, Japan, Australia, and Germany, the Representative of Colombia urged the Council to condemn Belarus for its actions and for this matter to be reported to the Assembly in accordance with Article 54 of the Chicago Convention.

60. Welcoming the issuance of the final report of the FFIT, the Representative of Spain indicated that it had done a great service to the entire international civil aviation community. He had noted that the report had concluded that some relevant information had either been unavailable or had been lost and in this regard, he wondered whether this suggested a need to strengthen applicable aviation law instruments as well as Standards and Recommended Practices (SARPs) to ensure an avoidance of such incidents in the future.

61. Turning to the earlier intervention by the Russian Federation, the Representative recalled that reference had been made to an incident in July 2013, whereby the plane on which the former President of Bolivia was on board, had an unscheduled landing in Vienna, Austria, while en route from the Russian Federation. In this connection, the Representative of the Russian Federation had remarked that four European countries; France, Spain, Italy, and Portugal, had closed their airspace to the plane. On this point however, the Representative of Spain recalled that Article 3 of the Chicago Convention clearly stated that no state aircraft of a Contracting State should fly over the territory of another state or land thereon without an authorized flight plan. In this sense, this was a completely different and wholly unrelated case from the matter currently before the Council.

62. Specifically in relation to Ryanair flight FR4978, the Representative of Spain underscored the seriousness of the incident as an act of unlawful interference involving a false bomb threat, which was made by unidentified state officials. These state officials clearly had spurious intentions vis-à-vis the passengers on board and in his view, such actions were completely unacceptable and affected the international order applicable to international civil aviation. Therefore, the Representative agreed with preceding interventions in urging that the Council take strong action in this matter, among which it was

necessary to condemn the actions of Belarus, inform the Member States and the Assembly accordingly, and transmit a copy of the report to the Secretary-General of the United Nations.

63. The Representative of the Dominican Republic agreed with the conclusions to be drawn from the report in assessing the actions of Belarus as an act of unlawful interference. He also associated himself with the preceding interventions of the United Kingdom, France, the United States, Canada, Greece, and Costa Rica, and supported the actions proposed to be taken by the Council on this matter.

64. The Representative of Singapore expressed concern that based on the report findings, certain individuals with sufficient authority to enter the Minsk ACC had participated in or were involved in an act of unlawful interference against Ryanair flight FR4978. It also appeared that some of these same individuals had provided information about a false bomb threat to the aircraft resulting in its diversion to Minsk airport. In this connection, her delegation condemned all acts of unlawful interference relating to international civil aviation operations especially in cases such as these that endanger human lives and the safety of aircraft in flight. While underscoring the importance of compliance with the Chicago Convention and its Annexes and other related Conventions and treaties, the Representative also urged Belarus to take strong actions against such acts of unlawful interference and to hold individuals responsible for the diversion of the Ryanair flight. She stressed that it was important to prevent such incidents from occurring.

65. Associating himself with the preceding interventions of the United Kingdom, France, Canada, the United States, and Greece, the Representative of Finland stated it was important to condemn such actions of unlawful interference and for this matter to be reported to the Member States at the Assembly, as well as to the UN Secretary-General.

66. Also associating himself with the preceding interventions of the United States, the United Kingdom, Canada, France, and Spain, the Representative of Equatorial Guinea stated that it was necessary for the Council to condemn any type of unlawful interference related to civil aviation.

67. The Representative of the Republic of Korea agreed with preceding interventions and the suggestions outlined on the actions that the Council should take in response to the report presented.

68. The Representative of Brazil expressed his serious concern with the information presented in the report and the actions of Belarus, which represented a violation of the Chicago Convention as well as other applicable instruments of international law.

69. Welcoming the comprehensive nature of the report, the Representative of Mexico agreed that there was a clear lack of cooperation from Belarus in this matter. He reiterated the necessity of the Council condemning such acts of unlawful interference, which damage the international order and prevent the safe development of civil aviation. In this regard, the Representative associated himself with all previous interventions wherein these points had been made. Indeed, it was clear to him that a majority of the Council shared the same sentiments in terms of the decisions that the Council should take.

70. Associating himself with the interventions of the United States, France and Spain, the Representative of Côte d'Ivoire stated that it was important for the Council to condemn any and all acts of unlawful interference.

71. Referring specifically to the preceding intervention of Spain, the Representative of Peru recalled that an important point of principle pertaining to the world order had been alluded to. In this connection, the Representative expressed concern that there were an increasing number of cases of unlawful interference some of which had not necessarily been reported to the Council. This had led him to reflect

that perhaps the Council needed to consider ways in which to better identify such actions. He also recalled the preceding intervention by Greece in which reference was made to a violation of the Chicago Convention having been committed. In this regard however, the Representative indicated that he was not so certain that it could be so definitively concluded that a violation had been committed or at least the precise nature of the violation within the context of both the Chicago and Montreal Conventions.

72. Associating himself with the preceding interventions of the United States, France, the United Kingdom, and Spain, the Representative of Zambia stated that it was important for the Council to condemn all forms of unlawful interference.

73. The Representative of Nigeria indicated that his delegation would always condemn all actions of unlawful interference especially as in such cases where the safety of international civil aviation was jeopardized and which represented such clear violations of the Chicago Convention. The Representative supported taking the action that had been outlined.

74. The Representative of Italy welcomed the additional information provided in the final report. She noted that there was now no doubt that Belarus was responsible in committing an act of unlawful interference and in this connection, her delegation condemned any such actions that illegally interfered with civil aviation especially as safety and security were core priorities of international civil aviation that should be upheld. The report clearly assessed the bomb threat as being deliberately false and in light of all the additional new evidence presented, the Representative stated that it was important for the Council to condemn this act of unlawful interference by Belarus. Such violations of the Chicago Convention were completely unacceptable and accordingly, the Representative supported the proposal for the report to be forwarded to the UN Secretary-General as well as this matter being reported to all Member States as well as to the Assembly.

75. The President of the Council informed the Council that a number of non-Council Member States had requested to deliver an intervention under this item and so in accordance with Article 53 of the *Convention on International Civil Aviation* (Chicago Convention), he would invite them to do so.

76. Despite the FFIT having completed its work, the Representative of Belarus (Observer) reiterated that his country did not commit the act of which it had been accused in the report. In his view, a number of countries had a predetermined agenda of wishing to accuse Belarus, but in doing so, they had abandoned the focus of the investigation, which should have been to prevent such incidents from ever happening again in the future. For instance, he recalled that about a year after the incident involving Ryanair flight FR4978, the same thing had happened in Germany. More recently, there was also a similar incident involving a military aircraft intercepting a civil aircraft in Spain.

77. The Representative stated that at no time in the course of the investigation conducted by the FFIT had anyone asked Belarus for additional information. Instead, a report had been crafted based on the supposed statements of an air traffic controller, whose name was not even reported. Therefore, it was necessary to question who this air traffic controller was and what his motivation was. For its part, Belarus never hid the fact that this air traffic controller was indeed working on the day, but then it was necessary to ask why he went on vacation with a one-way ticket and never returned to Belarus. Given this context, it was necessary to question to whom the FFIT had actually spoken. His impression of the report was that it was akin to some sort of spy novel and so he did not understand how so many individuals on the Council appeared to be so naïve and cynical. The Representative urged the Council to focus on the fundamentals of the Chicago Convention and the international laws of aviation. The problems of aviation security and the events that had occurred in Belarus were symptomatic of global problems happening elsewhere. Therefore, levelling accusations and imposing sanctions on his country would not help to solve these problems.

78. Associating himself with the preceding interventions of the United Kingdom, France, Greece, the United States, and Canada, the Representative of Lithuania (Observer) considered that the report of the FFIT carefully analysed the incident and took into account the additional information received from the countries most affected by this extremely serious incident. In doing so, the report detailed the sequence of the events that day in an accurate and methodical manner and provided a much better understanding of the circumstances surrounding this incident. At the same time however, his delegation had hoped that the conclusions drawn in the report would have more clearly identified the violations of the main civil aviation conventions and attributed these violations accordingly to one party. In this connection, his delegation was of the view that the conclusion to be drawn by the ICAO Council should clearly indicate that Belarus was responsible for flagrantly violating both the Chicago and Montreal Conventions.

79. The Representative regretted that the report did not mention the fact that after the forceful diversion of the Ryanair flight to Minsk, two of the passengers were arrested and one of them was sentenced. This fact was important, because it went to the heart of the reasons, goals and aims of those who were responsible for the events of 23 May 2021. It was imperative therefore, that the Council draw clear, firm and unambiguous conclusions and not shy away from naming those responsible for this grave violation of the rules and laws underpinning international civil aviation. He warned that a failure to identify those responsible for orchestrating this event would only encourage other irresponsible regimes from likewise using civil aviation for goals incompatible with the principles of the Chicago Convention. This would likely further contribute to eroding not only the international norms of civil aviation, but also more generally the international rules-based order on which the world depended. In that context, the very foundation of the international civil aviation rules-based order was dependent on the Council taking an appropriate decision on this matter.

80. In closing, the Representative agreed with previous speakers in endorsing the suggestion for the report to be widely disseminated, including that a copy to be forwarded to the UN Secretary-General for his follow-up action as appropriate.

81. The Representative of the Russian Federation expressed concern that some of the preceding interventions from other Representatives had been based on incorrect assumptions. For instance, he recalled that when an airplane came to a stop on the tarmac, ordinarily the engines were turned off, which meant that there was no way thereafter to switch the recorder back on again. He reiterated that civil aviation should not be used for political means, which would be contrary to the principles of the Chicago Convention.

82. He had also taken note that several Representatives had suggested publishing the report on the website. In this connection however, he wondered if sufficient Representatives were fully aware of Appendix F of the *Rules of Procedure for the Council*. In this case, the rules require that a meeting of the Council should be convened in closed session if the discussion involves aviation security and disputes between Contracting States. Therefore, in his view, to publish the report on the website would be tantamount to ignoring the rules of procedure.

83. The Representative stated that in relation to the incident in 2013 involving the airplane with the former President of Bolivia, which had landed in Vienna, Austria, en route from the Russian Federation, the circumstances were not quite the way in which they had been characterised by the Representative of Spain.

84. Turning to the information paper presented by the Secretariat, the Representative had observed that it had stated that a determination under Article 54 j) or k) of the Chicago Convention required the Council to follow due process and the principle of justice. In that regard, he opined that Belarus had not been provided with an adequate opportunity to address the details of the report and to respond to some of



the questions that had arisen. For instance, it was necessary to ascertain whether the air traffic controller came under undue pressure. It was established that he had left the country, but the circumstances of his disappearance remained unclear.

85. In closing, the Representative urged the Council to continue its work on this matter. He agreed that the UN Secretary-General should be provided with the report, but at the same time, there remained many questions and inaccuracies in the report that still needed to be addressed.

86. In relation to the point raised in the previous intervention concerning Appendix F of the *Rules of Procedure for the Council*, the President of the Council clarified that these were applicable only to meetings of the Council convened in closed session. In this connection, he pointed out that this meeting of the Council was being convened in open session so this did not prevent the Council from taking a decision in which the report under consideration could be publicly disseminated.

87. Observing that by his count more than 20 delegations had welcomed the report, the Representative of Poland (Observer) urged the Council to condemn Belarus for its actions, which clearly represented an act of unlawful interference. It was essential that such incidents should never be repeated again. In this connection, he saluted the bravery of the air traffic controller who on the day had made an audio recording of the exchanges in the control centre. The Representative agreed with the suggestions that a copy of the report should be conveyed to the UN Secretary-General and that the findings should be disseminated as widely as possible. He also agreed with the proposal that the report should be presented to the forthcoming ICAO Assembly.

88. In concluding its consideration of this item, the Council, by a majority decision:

- a) recalled its previous decisions on this matter (C-DEC 223/2, C-DEC 224/3, and C-DEC 225/1, refer), reaffirmed the importance of establishing the facts of what happened and understanding whether there had been any breach by any ICAO Member State of international aviation law, including the *Convention on International Civil Aviation* (Chicago Convention) and its Annexes, and in doing so, reiterated its appreciation to the ICAO Fact-Finding Investigation Team (FFIT) for all their strenuous efforts and the comprehensive analysis undertaken in this regard;
- b) further recalled that the FFIT report had demonstrated that the bomb threat against Ryanair Flight FR4978 on 23 May 2021, was deliberately false and had consequently endangered the safety of an aircraft in flight, while underlining that knowingly communicating false information which endangers the safety of an aircraft in flight is an offence under the *Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation* (Montréal Convention 1971), and in this connection, strongly condemned such practices;
- c) noted that in light of the new analysis and findings of the FFIT, a number of senior officials of the Government of Belarus had knowingly participated or were involved in providing information about a false bomb threat to the flight leading to its diversion to land at Minsk Airport;
- d) concluded with grave concern, that based on the facts established by the FFIT, the safety of Ryanair Flight FR4978 was endangered when a false bomb threat was communicated to the flight crew, on the instructions of the senior government officials of Belarus;

- e) reiterated that the aims of the Chicago Convention include the safe and orderly development of international civil aviation and promoting the safety of flight in international air navigation, and that the use of civil aviation by any State for any purpose inconsistent with these aims would contravene the spirit of the Convention, its Preamble and its Article 4;
- f) taking into account the preceding, condemned the actions of the Government of Belarus in committing an act of unlawful interference in this matter that deliberately endangered the safety and security of Ryanair Flight FR 4978 and the lives of all those on board, and which represented a flagrant and serious violation of the Chicago Convention;
- g) requested the Secretariat to:
  - i. communicate the conclusion of the FFIT investigative process as well as the relevant conclusions of the Council discussions, to all Member States by means of a State letter, and by publishing them on the ICAO public website; and
  - ii. prepare a draft Assembly working paper, including text for a proposed Assembly Resolution, to be submitted at the forthcoming 41st Session of the ICAO Assembly for the consideration of Member States in accordance with Article 54 k) of the Chicago Convention, on the understanding that the said draft Assembly working paper would be presented for approval by the Council at a subsequent meeting of the current session; and
- h) in accordance with C-DEC 225/1, requested the President of the Council to forward the final report of the FFIT together with the Council's decision thereon, to the United Nations Secretary-General for information and any appropriate further action.

89. The Representative of the Russian Federation indicated that he could not support this text and therefore, he requested that his delegation be recorded as having expressed a reservation in relation to this decision of the Council.

**Notes on Articles 54 j), 54 k), 54 n) and 84 of the Chicago Convention  
Request of the Republic of Belarus to the ICAO Council for its consideration under Article 54 j) of the Chicago Convention**

90. The Council agreed to consider these two items concurrently.

91. The Council considered the first item on the basis of C-WP/15416, which pursuant to C-DEC 225/1, provided an overview of the legal and procedural aspects pertaining to Articles 54 j), 54 k), 54 n) and 84 of the *Convention on International Civil Aviation* (Chicago Convention).

92. The Council considered the second item on the basis of C-WP/15418, which related to the request of the Government of the Republic of Belarus presented in accordance with Article 54 j) of the *Convention on International Civil Aviation* (Chicago Convention).

93. Introducing C-WP/15416, the Secretary General explained that the paper provided an overview of the legal and procedural aspects of Articles 54 j), 54 k), 54 n) and 84 of the Chicago Convention. Specifically in relation to Article 54 j), he indicated that the paper elaborated on the arrangements for

reporting to Contracting States concerning infractions to the Convention, as well as of any failure to carry out the recommendations or determinations of the Council. He also referred to how Article 54 k) related to the reporting to the Assembly of infractions to the Convention. In this connection, he underscored how the Council had not, to date, ever made an explicit determination on the basis of Article 54 k). He recalled however that on 1 June 2022, during the fifth meeting of this current 226th Session, the Council had rendered its first ever decision under Article 54 k) and that decision related to the risks posed by unannounced missile launches by the Democratic People's Republic of Korea.

94. In his introductory remarks, the Secretary General highlighted a key distinction between the provisions presented in the working paper. The *Rules of Procedure for the Council* governed the proceedings before the Council when items under Articles 54 j), 54 k) or 54 n) of the Convention were being considered. However, the *ICAO Rules for the Settlement of Differences* applied to proceedings under Article 84 of the Chicago Convention. Another important distinction was that the decisions of the Council taken under Article 84 could be appealed to either the International Court of Justice or an ad hoc arbitral tribunal, whereas the decisions of the Council taken in accordance with Articles 54 j), 54 k) and 54 n) were not subject to judicial appeal.

95. Finally, the Secretary General explained that the Chicago Convention required that no member of the Council should vote when the Council considered a dispute to which it was a party under Article 84 of the Convention; a concept that was set out in Article 53 of the Convention.

96. Introducing C-WP/15418, the Representative of Belarus (Observer) stated that between 28 May and 8 June 2021, Ukraine and then Poland, Lithuania and other countries of the European Union, had closed their airspace to aircraft registered in the Republic of Belarus and restrictions were imposed on the access of its aircraft to international airspace. He considered such measures to be unprecedented and inconsistent with the Chicago Convention. The prohibition on the use of the airspace created problems for air passengers and financial implications for airlines as well as a negative environmental impact. The paper that Belarus had presented outlined what it considered to be violations of the Chicago Convention for which other countries were responsible.

97. The Representative recalled that in the aftermath of the Second World War, the United Nations was created as a means to protect the interests of small states and in this context, he appealed to the ICAO Council to help protect the legitimate interests of his state. He requested the Council to urge all Contracting States to ensure that their actions were in accordance with the aims of the Chicago Convention and specifically, that all the sanctions that had been imposed on Belarus be lifted in order for aircraft registered in his country to resume their normal air traffic operations.

98. Expressing his support for the paper presented by Belarus, the Representative of the Russian Federation stated that it was important to recall the fundamental principles enshrined in the Chicago Convention. In his view, a number of countries referred to in the paper were violating various provisions of the Convention.

99. The Representative of the United States (Alternate) considered that the paper presented by Belarus had no merit. He indicated that Article 9 of the Chicago Convention could not be read as a limitation on the discretion of sovereign states to decide which foreign commercial operations could be conducted in their airspace, especially in the context of air safety and security concerns. The Lukashenko regime of Belarus had taken actions that clearly undermined the safety of international civil aviation. In contrast, other states had justifiably responded to those actions with measures aimed at strengthening the safety of international civil aviation. He urged the Council to reject the paper presented by Belarus and its attempt to redirect blame for its own violations of international civil aviation law. The Representatives of Finland, Germany, and the Netherlands all associated themselves with this intervention.

100. Also associating himself with the preceding intervention of the United States, the Representative of France underscored that the whole world was well aware that Belarus had threatened and endangered air navigation security and safety through its act of unlawful interference. As a result, other countries had been well justified in taking measures to prevent this threat from affecting them. It simply was not possible to trust any state that invented false bomb threats for the sole purpose of arresting someone who was on board an aircraft and accordingly, there was no merit in the paper from Belarus.

101. Associating himself with the interventions of the United States and France, the Representative of the United Kingdom emphasized that responsibility for the current situation rested entirely with Belarus since it had committed an act of unlawful interference. In doing so, Belarus had endangered the safety and security of aircraft operating in its airspace. The Representative concluded that there was simply no merit in the paper presented by Belarus and that there were no grounds for any action to be taken by the Council.

102. In light of the discussion that the Council had under the previous item, the Representative of Greece indicated that it was clear that an act of unlawful interference had been committed. It was in that context and the legitimate safety concerns that had been identified, that several European countries had responded appropriately. She had concluded therefore, that there was no merit for further action to be taken by the Council on the paper that Belarus had presented.

103. Stressing the need for the Council to be consistent in its actions, the Representative of South Africa urged that civil aviation should not be used for political purposes. In his view, the Council had not been consistent in how it had handled such matters. Although the Council might have determined that Belarus was culpable on one issue, the Council had not determined any culpability on the part of the airline operators of Belarus. The latter had not committed an act of unlawful interference and yet they were being punished. He did not consider this to be justified. If the restrictions were being imposed on the state owned and operated aircraft of Belarus, then he would have understood the basis for those restrictions. However, he considered that in this instance, restrictions were being imposed on civil air operators who had nothing to do with that act of unlawful interference that had led the Council to taking the decision it had taken under the previous item. In that context, he perceived a certain inconsistency by the Council.

104. On a separate matter, the Representative recalled that during the earlier intervention by the United States under this item, a reference had been made to the "Lukashenko regime". In this regard, he wondered whether such language was appropriate to refer to governments of different countries by referencing the Head of State or Government in such a manner. The Representative suggested that the Council should take a decision on whether Representatives should be permitted to use such terms.

105. The Representative of Spain stated that the paper presented by Belarus did not merit any consideration and nor was the Council obligated to take any actions thereon.

106. Associating herself with the preceding interventions of the United States, France, United Kingdom, Greece, and Spain, the Representative of Italy agreed that there was no merit in the paper presented by Belarus and that there was no basis for further action to be taken by the Council.

107. Without wishing to express any position on the merit or otherwise of the paper, the Representative of Brazil urged all Member States to take actions that were consistent with the Chicago Convention and related international aviation law instruments.

108. The Representative of the Russian Federation suggested that the focus of the discussion should not be on Belarus, but rather on those countries that had unilaterally introduced measures against

Belarus. In his opinion, the restrictive measures that had been imposed against Belarus warranted a criminal investigation. Indeed, he considered that those countries that had imposed sanctions against Belarus were in violation of Article 9 of the Chicago Convention. It seemed to him that the Council was engaging in double standards, where on the one hand under the previous item it had claimed to be consistent with the aims of the Chicago Convention, but on this item, it appeared to be going against the same principles.

109. Referring to the sanctions that had been imposed against his country, the Representative of Belarus (Observer) stated that although the intended aim was to target the Government, in the end the effect was to punish the people. This was because the people of Belarus were now denied their right to freedom of movement. In his view, no good results ever derived from the imposition of sanctions. Indeed, they created only problems for ordinary people. He appealed to the Council to uphold the principles of the Chicago Convention.

110. Associating herself with the preceding interventions of Brazil and South Africa, the Representative of India agreed that the imposition of restrictions on airspace undermined the safety of air operations and the growth of the aviation sector. She considered it important that the Council was consistent in how it dealt with perceived violations of the Chicago Convention.

111. The Representative of Zambia associated himself with the interventions of Brazil and South Africa.

112. In closing the discussion, the President of the Council acknowledged that it was not a simple topic when dealing with the closure of airspace by Member States. He observed that in the past when dealing with similar situations, the Council had perhaps not always responded in the same way. Indeed, he recalled the case of Morocco and Algeria, as well as other cases that had been submitted to the Council under Article 84 of the Chicago Convention and had been resolved differently.

113. In terms of the current item, the President had taken note that some interventions had suggested that there was no basis for the Council to discuss the paper presented by Belarus, while others such as Belarus and supported by the Russian Federation, had requested the Council to take the actions outlined in the paper. There had also been a certain number of interventions, including by Brazil, India, and South Africa, proposing a wider approach in requesting the Council to be objective and consistent in its response on such issues and to refrain from engaging in any political dimensions.

114. Overall, his assessment was that there was insufficient support for the actions proposed in the paper. In the circumstances, his proposal to the Council was that the matter be referred to the Legal Affairs and External Relations Bureau (LEB) of the Secretariat for them to undertake a more comprehensive analysis of past practices in similar situations and how the Council had dealt with any precedent cases, if any. This would mean that the Council could return to this issue at a future date and to continue the discussion, but with a more technical rather than political focus.

115. The Representative of Nigeria agreed with the conclusion of the President and specifically the proposal that the Legal Affairs and External Relations Bureau (LEB) be invited to undertake a more detailed assessment of the issues arising. In this connection, he suggested that this analysis also explore the distinction between state owned airlines and commercial air operators.

116. The Representative of China also agreed with the proposed decision of the President. He indicated that an analysis of the issues from a legal perspective would be helpful for the Council.

117. The Representative of South Africa also agreed with the proposed decision of the President. He suggested that while the Council awaited the outcome of the additional analysis to be undertaken by the

Legal Affairs and External Relations Bureau (LEB), the President use his good offices to try to explore options for narrowing the differences between the parties in this matter. He did not consider that this would be inappropriate and could help to avoid similar situations arising.

118. The Representative of Côte d'Ivoire welcomed the proposed decision outlined by the President and expressed his full support for proceeding on this basis.

119. The Representative of the Russian Federation indicated that he too agreed with the proposal of the President to request the Legal Affairs and External Relations Bureau (LEB) to undertake legal analysis of issues related to whether civil aviation could be used for purposes inconsistent with the Chicago Convention. In this regard, he hoped that it would not be too long before the Council could return to this subject.

120. Returning to an issue that he had raised in his earlier intervention, the Representative of South Africa wondered whether as part of the analysis to be undertaken by LEB, an assessment could not also be carried out on the use of words and appropriate language in the course of discussions held in the Council. He recalled that one intervention had referred to the "Lukashenko regime" when referring to Belarus and in this regard, he suggested that LEB could advise whether such terminology was correct or diplomatic. He considered that it would be helpful for the Council to be provided with some guidance in this regard.

121. The President of the Council agreed that LEB should also consider that issue when undertaking their broader legal analysis

122. In concluding its consideration of this item, the Council:

- a) agreed to suspend further consideration of this item; and
- b) requested the Secretariat to undertake a comprehensive analysis of previous decisions that had been taken by the Council pursuant to its consideration of similar or related items, and to prepare a paper thereon that would be presented at a subsequent session, on the understanding that the paper would also take into account comments made in the course of the consideration of this item, including in relation to the need to distinguish between State and civil aircraft, in such circumstances.

#### **Draft Assembly Working Paper — Report on the Comprehensive Regional Implementation Plan for Aviation Safety in Africa (AFI Plan)**

123. The Council agreed to a proposal by the President of the Council that the necessary authority be delegated to him in order to finalize and approve the draft Assembly working paper for subsequent transmission to the Assembly. In this regard, the President of the Council invited Representatives to provide any comments to him in writing.

## **Any other business**

### **Order of Business**

124. It was recalled by the President of the Council that the Seventeenth Meeting of the current session would be scheduled at 1000 hours on Wednesday, 24 August 2022.

125. In this regard, the Representative of the Russian Federation proposed that the remaining items on the Order of Business be re-ordered so that the paper to be presented by his delegation (C-WP/15429), should take precedence. He stated that this it was necessary for this paper to be considered first since the paper to be presented by the Secretariat (C-WP/15427), omitted important information regarding the infractions of the Chicago Convention that had been committed by a number of Member States against the Russian Federation. However, these infractions were detailed in the paper by the Russian Federation (C-WP/15429), which was why he considered that this paper should take precedence over all other items.

126. The President of the Council indicated that due to time constraints, it would be difficult to hold a substantive discussion on these points within the limited time remaining in the current meeting. Accordingly, he invited delegations to provide him with written comments outlining their views in relation to the draft Assembly working paper that was part of the Secretariat paper (C-WP/15427). He indicated that this would be helpful to have in advance of the next meeting when this paper would be considered.

127. The Representative of the Russian Federation stressed that in his view, it was important for the Council to decide in advance of the next meeting what it wished to present to the Assembly on the issues raised in the working paper presented by the Russian Federation (C-WP/15429). This paper referred to violations of the Chicago Convention committed by a group of Member States aimed at the Russian Federation. The problem was that in contrast, the Secretariat paper (C-WP/15427), referred to violations of the Chicago Convention by the Russian Federation. He considered that it was important for the Russian position, which was outlined in C-WP/15249, to be presented to the Assembly. The Representative also considered that the issues referred to in this paper were urgent and should be discussed now by the Council, especially given the deadline for the submission of working papers in advance of the Assembly session.

128. Acknowledging the concerns raised, the President of the Council explained that the difficulty related to a question of time. There was simply no time to continue this meeting of the Council.

129. The Representative of France underscored the need to avoid any confusion on the remaining items before the Council. He recalled that at an earlier meeting of the current session, the Council had determined that the Russian Federation had committed a number of violations against the Chicago Convention. That decision was the basis for the draft Assembly paper that was contained in C-WP/15427. In contrast, the paper to be presented by the Russian Federation (C-WP/15429), had not yet been discussed by the Council and it would require very careful consideration before any decision could be taken.

130. Agreeing with the preceding intervention by France, the Representative of Spain indicated that he was uncomfortable with the Council considering and endorsing a paper presented by a Member State (C-WP/15429) without the proper scrutiny. At the same time, he observed that nothing prevented the Delegation of the Russian Federation from submitting its own paper direct to the Assembly if it so desired.

131. Associating himself with the two preceding interventions by France and Spain, the Representative of the United Kingdom underscored that the Council should not re-open discussions and decisions that it had already taken at previous meetings. In this connection, the Council had already agreed that the draft Assembly working paper contained in C-WP/15427 should be presented to the Assembly.

**Assembly working paper – Measures towards gender equality at ICAO and the global aviation sector by 2030**

132. Pursuant to the Council's approval of this Assembly working paper at a previous meeting of the current session (C-DEC 226/9, refers), the Council agreed that the draft Assembly Resolution attached to this working paper be further revised in order to incorporate an additional preambular clause that would make reference to the recent decision by the United Nations General Assembly to adopt a Resolution declaring 24 June as the annual "International Day of Women in Diplomacy".

**Migration of e-mail accounts**

133. The Council took note of a statement by the Director, Bureau of Administration and Services (D/ADB) in which he provided supplementary information pertaining to the migration of Delegation e-mail accounts. It was understood that further details in this regard would be circulated.

**Appointment of Observers to the Committee on Aviation Environmental Protection (CAEP)**

134. It was noted that in the absence of comments by 11 July 2022 to the President of the Council's email dated 23 June 2022, Mr. Daniel Chereau had been appointed as an Observer from IATA to CAEP, replacing Mr. Jes Nauckhoff, with effect from 12 July 2022. It was further noted that in the absence of comments by 22 June 2022 to the President of the Council's email dated 9 June 2022, Mr. Bernd Hackmann had been appointed as an Observer from UNFCCC to CAEP, replacing Mr. Conor Barry, with effect from 23 June 2022.

135. The meeting adjourned at 1310 hours.



**COUNCIL — 226TH SESSION**

**SUMMARY MINUTES OF THE SEVENTEENTH MEETING**

**(HYBRID MEETING, WEDNESDAY, 24 AUGUST 2022, AT 1000 HOURS AND  
THURSDAY, 25 AUGUST AT 1000 HOURS)**

President of the Council: Mr. Salvatore Sciacchitano

Secretary: Mr. Juan Carlos Salazar, Secretary General

**PRESENT:**

Argentina	— Mr. G.E. Bompadre	Malaysia	— Mrs. F. Chin
Australia	— Mr. R. Adams	Mexico	— Mr. D. Méndez Mayora
Brazil	— Mr. N. Moretti	Netherlands	— Mr. R. Ossendorp
Canada	— Mr. C. Hurley	Nigeria	— Mr. M.S.B. Tukur
China	— Mr. J. Liang (Alt.)	Paraguay	— Mr. C.D. Urquhart Cáceres
Colombia	— Mr. M. Ramírez Koppel	Peru	— Mr. A. Freyre Layzequilla
Costa Rica	— Mr. G. Hoppe Pacheco	Republic of Korea	— Mr. S. Kim
Côte d'Ivoire	— Mr. C.A. Djibril	Russian Federation	— Mr. A. Novgorodov
Dominican Republic	— Mr. J. Peña Guzmán	Saudi Arabia	— Mr. B. Al-Sagri
Egypt	— Mr. S. Elhefny	Singapore	— Ms. E. Poh
Equatorial Guinea	— Mr. E. Esono Anguesomo	South Africa	— Mr. L. Mabaso
Finland	— Mr. S. Vuokila	Spain	— Mr. V.M. Aguado
France	— Mr. L. Pic	Sudan	— Mr. I.M. Elhag
Germany	— Mr. U. Schwierczinski	Tunisia	— Mr. M.I. Torjemane
Greece	— Ms. M. Saranti	United Arab Emirates	— Mr. M. Salem (Alt.)
India	— Mrs. S. Juneja	United Kingdom	— Mr. A. O'Henley
Italy	— Ms. S. Costantini	United States	— Mr. W. Christensen (Alt.)
Japan	— Mr. I. Fukushima	Zambia	— Mr. M. Waniwa (Alt.)

**ALSO PRESENT:**

Mr. P. Kelleher	— President, ANC
Ms. C. Fitzgerald (Alt.)	— Australia
Ms. I. de Melo Maciel (Alt.)	— Brazil
Mr. M. Lima (Alt.)	— Brazil
Mr. M. Cavalcante (Alt.)	— Brazil
Mr. A. Bertolino (Alt.)	— Brazil
Mr. R. Arruda (Alt.)	— Brazil
Ms. A. Barbosa (Alt.)	— Brazil
Mr. D. Calçado (Alt.)	— Brazil
Ms. M. Anselmi (Alt.)	— Brazil
Mr. D. Santos (Alt.)	— Brazil
Mr. P. Langlais (Alt.)	— Canada

**SECRETARIAT:**

Mr. M. Vreedenburgh	— SPO/OSG
Mr. S. Creamer	— D/ANB
Mr. J. Vargas	— D/TCB
Mr. M. Rahma	— D/ATB
Mr. A. Mishra	— D/ADB
Mr. M. Gill	— D/LEB
Mr. N. Rallo	— RD/EURNAT
Ms. J. Hupe	— DD/ENV
Mr. S. Lefoyer	— DD/ASF
Mr. C. Ding	— DD/LEB
Mr. M. Marin	— A/DD/SAF
Mr. C. Dalton	— A/DD/AN
Mr. J. Lamosa	— C/ASA

*Mr. Urs Ziegler, Chairperson of the Committee on Aviation Environmental Protection*

*Mr. Kåre Clemmesen, Deputy Director General of Civil Aviation, Denmark*

*Ms. Erika Varga, Legal Advisor to the Director General of Civil Aviation, General Directorate of Civil Aviation, Hungary*

*Mr. Phil O'Flaherty, Director, Aviation Safety and Security Division, Department of Transport, Ireland*

*Ms. Veti Gjorgjieska Atanasoska, Director, Legal Affairs Division, National Civil Aviation Administration, North Macedonia*

*Ms. Erina Andonova, Director, International Affairs Division, National Civil Aviation Administration, North Macedonia*

**ALSO PRESENT: (Cont'd)**

Ms. A. Jiménez (Alt.) — Costa Rica  
 Mr. C. Kanga (Alt.) — Côte d'Ivoire  
 Ms. C. Moya (Alt.) — Dominican Republic  
 Ms. V. Adalsteinsdottir (Alt.) — Finland  
 Mr. T. Liabastres (Alt.) — France  
 Mr. N. Naoumi (Alt.) — Germany  
 Mr. A. Kalognomis (Alt.) — Greece  
 Ms. V. Betchava (Alt.) — Greece  
 Mr. M. Silanos (Alt.) — Italy  
 Mr. A. Joshi (TE) — India  
 Mr. S. Oshima (Alt.) — Japan  
 Mr. S. Sugiyama (Alt.) — Japan  
 Mr. N. Amitani (Alt.) — Japan  
 Mr. H. Katsuma (Alt.) — Japan  
 Mr. S. Togami (Alt.) — Japan  
 Mr. T. Oka (Alt.) — Japan  
 Mr. M. Loustaunau (Alt.) — Mexico  
 Mr. C. Schleifer (Alt.) — Netherlands  
 Mr. A. Coutinho (Alt.) — Netherlands  
 Mr. J. Van Manen (Alt.) — Netherlands  
 Mr. W. Linares (Alt.) — Peru  
 Mr. J. W. Kim (Alt.) — Republic of Korea  
 Mr. A. Batalov (Alt.) — Russian Federation  
 Ms. O. Mozolina (Alt.) — Russian Federation  
 Mr. M. Habib (Alt.) — Saudi Arabia  
 Ms. D. AlKurdi (Alt.) — Saudi Arabia  
 Mr. A. Alaufi (Alt.) — Saudi Arabia  
 Mr. F. A. A. Alsuhabani (Alt.) — Saudi Arabia  
 Ms. E. Ang (TE) — Singapore  
 Mr. Y. K. Koh (TE) — Singapore  
 Ms. S. Toh (TE) — Singapore  
 Mr. I. Pacheco (Alt.) — Spain  
 Ms. T. Goodwin (Alt.) — United Kingdom  
 Mr. A. Tampio (Alt.) — United States  
 Mr. A. Veprek (Alt.) — United States  
 Ms. C. Petsonk (Alt.) — United States

**SECRETARIAT: (Cont'd)**

Mr. A. Larcos — C/ACS  
 Ms. V. Muraca — Précis-writer

**Representatives to ICAO**

Cameroon  
 Chile  
 Congo  
 Cuba  
 Cyprus  
 Ethiopia  
 Ghana  
 Indonesia  
 Iran (Islamic Republic of)  
 Kenya  
 Oman  
 Poland  
 Qatar  
 Romania  
 Serbia

Turkey  
 Ukraine  
 Uruguay

Civil Air Navigation Services Organization (CANSO)  
 European Union (EU)  
 International Air Transport Association (IATA)  
 International Business Aviation Council (IBAC)  
 International Coordinating Council of Aerospace  
 Industries Associations (ICCAIA)  
 International Federation of Air Line Pilots'  
 Associations (IFALPA)

### **Welcome to a new Alternate Representative**

1. The Council warmly welcomed the newly appointed Chargé d’Affaires and Alternate Representative of the United States (Mr. William Brent Christensen).

### **Draft Assembly working paper – Climate Change**

2. Following an introduction by the Director, Air Transport Bureau (D/ATB), the Council considered this item on the basis of C-WP/15391 Revision No.1, which pursuant to C-DEC 226/7, presented an updated draft Assembly working paper which reported on the progress made by ICAO since the 40th Session of the Assembly relating to international aviation and climate change, including the outcome of the of the ICAO High-level Meeting on the Feasibility of a Long-term Aspirational Goal for International Aviation CO<sub>2</sub> Emissions Reductions (HLM-LTAG), which was held from 19 to 21 July 2022.

3. In commending the ICAO Secretariat for its significant efforts in successfully convening the HLM-LTAG, and acknowledging the positive outcome achieved by the meeting, the President of the Council invited the Chairperson of the Small ad hoc Group on the High-level Meeting on LTAG (SGHLM) to provide an overview of the work undertaken by the Small Group in preparing for the HLM, and which had enabled such a successful conclusion.

4. The Chairperson of the SGHLM (Representative of Equatorial Guinea) recalled that the SGHLM had been tasked with identifying potential outcomes for the HLM-LTAG, with a view to ensuring that the conclusions drawn by the HLM-LTAG would be the inclusive of all the diverse views that had been expressed regarding the long-term aspirational goal. With that objective in mind, the SGHLM had established a series of building blocks to facilitate discussion and identify possible recommendations in each key area, which were further underpinned by technical analyses, including on the level of ambition for the LTAG, the means of implementation, and the means for monitoring progress toward this goal. The Chairperson underscored that the SGHLM would not have been in a position to complete its work had it not been for the collaborative engagement and spirit of compromise amongst its Members, nor the support of the Secretariat. In this connection, he noted that in general, the Small Group format appeared to provide a useful model for progressing complex topics, by allowing an opportunity for Members to work collaboratively and analytically toward greater convergence on these issues.

5. Considering that the work on the LTAG would need to continue during the next triennium, the Representative of the Russian Federation suggested that action a) of the Executive Summary of the draft Assembly working paper be amended to read as follows: “recognize progress made by the Organization since the 40th session of the Assembly on the feasibility of a long-term global aspirational goal (LTAG) for international aviation, including the conclusions of the ICAO High-level Meeting on this issue, and continue research to develop more objective scenarios for a real reduction in CO<sub>2</sub> emissions in the international civil aviation sector and to identify possible sources of funding for the projected activities”.

6. The Representative of France agreed with the Chairperson of the SGHLM that having reached a satisfactory and balanced conclusion in the Small Group, had in turn enabled the successful outcome of the HLM-LTAG. The Representative therefore supported the draft Assembly working paper as proposed, as it appropriately and aptly reflected the deliberations of the HLM-LTAG.

7. In emphasizing that his State had always actively promoted emissions reductions from international aviation, and had achieved outstanding results to this end, the Alternate Representative of China reiterated his Delegation’s position in this regard, making the following statement:

*“First, China together with the international community believes that achieving ambitious emission reduction by international aviation and promoting sustainable development constitute urgent demands of the entire industry. At the same time we also maintain that international aviation emission reduction should*

*be guided by the relevant principles of the UNFCCC and its Paris Agreement, in particular equity, CBDR, and respective capabilities and advance in the manner of self-determining contributions. Everyone does its best in a win-win cooperation.*

*Second, China believes that a scientific and comprehensive feasibility analysis is the premise and basis to formulate long-term emission reduction goals and implementation programmes especially the cost and impact analysis for developing countries. This was specifically requested in the A40 resolution related to LTAG. We note with much regret that in the absence of a robust and comprehensive state-level analysis, the HLM failed to discuss LTAG feasibility fully and the meeting conclusions were unbalanced and incomplete, to which China expresses its concern. This is also why China has registered its reservation on the meeting's conclusions.*

*Third, China re-emphasizes that due to the differences amongst States in terms of historical carbon emissions and their international aviation industry, the pace and status of their industry and market development, as well as the resources and conditions each state boasts, the responsibilities assumed by each state vary greatly. Meanwhile adequate funding and technical assistance to developing countries are an essential condition to international aviation's realization of ambitious emission reduction in ICAO's long-term emission reduction goals. Previously, China has expressed concerns about the original content of this paper including its paragraph 3.1, and comments by CAEP/12 on the LTAG report and the GLADs activities.*

*We ask that our reservation be recorded towards this paper.*

*In addition, I have some editorial amendments to several documents including C-WP/15391, Doc 10178, and HLM-LTAG webpage. First of all the list of Chinese participants provided in Doc 10178 is incomplete. After the meeting China will provide a complete list of Chinese participants. At the same time, China requests to follow the approach of HLCC to add the Chinese reservation statement in the corresponding place on the HLM-LTAG webpage. In relation to C-WP/15391, Doc 10178 and the HLM-LTAG webpage, it is requested that a link to the footnote referring to the Chinese reservation statement be added on the HLM-LTAG webpage. The Chinese Delegation has made the above request to the Secretariat by e-mail".*

8. The Representative of the United Kingdom welcomed the outcome of the HLM-LTAG, which had been approved by the overwhelming majority of the Member States in attendance, and which in turn, would facilitate the Assembly's deliberations on this subject. As such, he supported the proposed draft Assembly working paper, without modification.

9. The Representative of Mexico was also inclined to maintain the draft Assembly working paper as drafted, noting that the proposed text reflected the agreement of the HLM-LTAG. In particular, he highlighted that the working paper addressed the work to be undertaken by the Organization over the next triennium on several key issues, including sources of funding and means of implementation for the LTAG, and therefore, already captured the proposal of the Representative of the Russian Federation in this regard. Similarly, he did not consider the development of more objective scenarios relevant in this context, as doing so would appear to discredit the analyses carried out by the Committee on Aviation Environmental Protection (CAEP) in relation to the LTAG, which he noted had also been endorsed by the HLM.

10. Noting that the outcome of the HLM-LTAG represented a balanced compromise amongst Member States, the Representative of Greece underscored that it would be important to preserve the integrity and level of ambition of that agreement, and as such, supported the proposed draft Assembly working paper, as presented.

11. Asserting that he could not support the amendment as proposed by the Representative of the Russian Federation, the Alternate Representative of the United States echoed the comments of the Representatives of France, Greece, Mexico and the United Kingdom, and agreed that the draft Assembly working paper should remain unchanged.

12. The Representatives of Equatorial Guinea, Germany, Italy, the Netherlands and Peru also joined in expressing their support for the draft Assembly working paper, as presented.

13. The Representative of Spain also expressed his preference for the working paper to remain unchanged, and in doing so, pointed out that it was already from the text that the work on the LTAG would be ongoing to 2050, and that the impacts of the LTAG would continue to be assessed over this period. Likewise, with respect to possible sources of funding, the Representative maintained that this issue had already been duly accounted for in the conclusions of the HLM. On the basis of this explanation, the Representative maintained that he saw no reason to modify the text as had been suggested by the Representative of the Russian Federation.

14. Following consideration, the Council, by a majority decision:

- a) took note of the information presented in C-WP/15391 Revision No.1, and in doing so, acknowledged the efforts and commitment of the Secretariat to ensure the success of the HLM-LTAG as the Organization's first such hybrid event;
- b) welcomed the positive results achieved by the HLM-LTAG and the progress made toward fostering greater consensus amongst Member States with respect to an LTAG for the aviation sector, and expressed its appreciation to both the Chairperson of the HLM-LTAG as well as the Chairperson of the Small ad hoc Group on the HLM-LTAG (SGHLM) for their significant contributions in this regard; and
- c) approved the draft Assembly working paper attached to C-WP/15391 Revision No.1, while noting that the draft Assembly working paper would be published as soon as possible in order to allow Member States sufficient time to submit any comments or views thereon under cover of their own respective working papers to the Assembly, by the deadline of 31 August 2022.

15. It was recorded that one Delegation had expressed a reservation to this decision of the Council (C-MIN 226/17, paragraph 7, refers).

**Draft Assembly working paper – Consolidated statement of continuing ICAO policies and practices related to environmental protection – Climate change**

16. The Council considered this item on the basis of C-WP/15392 Revision No.1, which pursuant to C-DEC 226/7, presented an updated draft Assembly working paper containing proposed revisions to Assembly Resolution A40-18: *Consolidated statement of continuing ICAO policies and practices related to environmental protection – Climate change*.

17. Referring to his previous intervention on this working paper and recalling his Delegation's proposed amendments thereto as had been communicated during a previous Council meeting, the Representative of China affirmed that his position remain unchanged with respect to the revised working paper, and registered his Delegation's reservation to the proposed draft Assembly Resolution.

18. The Representative of the Russian Federation proceeded to propose a series of amendments to the text of the draft Assembly working paper and associated Assembly Resolution. First, noting that it

was unlikely that all the activities identified in the working paper could be covered by extra-budgetary resources alone, the Representative suggested deleting “/or” from the *Financial Implications* section of the working paper’s Executive Summary. Second, with respect to the twelfth preambular clause of the Resolution, the Representative requested that the deleted text, “as well as the work being...”, be retained. Third, the Representative suggested adding “as expected” to the 32nd preambular clause, to read, “...and such fuels as expected will have the largest impact on aviation CO<sub>2</sub> emissions reduction by 2050...”. Fourth, the Representative requested that the text “...a global annual average fuel efficiency improvement of 2 per cent until 2020 and...” in Operative Clause 4 be deleted, and in doing so, noted that a consequential amendment would be required to Operative Clause 5 to use the singular “goal”, rather than “goals”. Fifth, the Representative was strongly opposed to Operative Clause 17 *bis*, sub-paragraph a), and asserted that the Council should not be involved in facilitating access to private, out-of-sector investments by developing States, as from his perspective, this type of funding could create debt dependence within these States, thereby threatening their sovereignty. Sixth, the Representative suggested that the wording of Operative Clause 19 *ter*. be modified in order to improve understanding of the text. Seventh, in relation to Operative Clause 20, sub-paragraph b), the Representative proposed deleting “with zero CO<sub>2</sub> emissions”, opining that this was not a realistic goal. Eighth, the Representative suggested that the Annex to the Resolution containing the guiding principles for the design and implementation of market-based measures (MBMs), be deleted, and appended instead to the *Consolidated Statement of continuing ICAO policies and practices related to environmental protection - Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA)*. In then turning to the Russian language version of the working paper, the Representative noted a typographical error in Operative Clause 25, sub-paragraph a), and requested that the term “sustainable” be deleted, consistent with the English language text.

19. Finally, the Representative expressed his support for the intervention of the Representative of China, and their previously proposed amendments to the Resolution.

20. The Representative of Mexico indicated that while he had no objections to the content of the revised draft Assembly working paper in principle, a more fulsome explanation was needed from the Secretariat on their rationale for including a new Operative Clause 9 *bis* in the Resolution.

21. In response to the Representative of Mexico, the Director, Air Transport Bureau (D/ATB) clarified that Operative Clause 9 *bis* aimed to outline a process for the transition from the medium-term to long-term global aspirational goals described in Operative Clauses 6 and 7, respectively. He noted however, that 9 *bis* had not made reference to specific dates or timelines for the Council’s work in this regard, nor had it included any particular modality for making this transition. On this basis, he noted that 9 *bis* was simply a suggestion by the Secretariat, with a view to highlighting the role of the Council in considering possible means for moving from one goal to the next.

22. Supplementing this explanation, the Deputy Director, Environment (DD/ENV) pointed out that following the HLM-LTAG, the Secretariat had the responsibility to ensure not only that the outcome of the meeting was incorporated into the text of the Assembly Resolution, but that the conclusions were reflected in a manner that was coherent and consistent with the existing text. In doing so, the Secretariat had noted that while the HLM-LTAG had come to a decision on a long-term goal, it had not specifically addressed how the transition from the medium-term goal would happen. DD/ENV underlined that as Operative Clause 9 already established that the Council would need to monitor the progress toward the achievement of the LTAG, the inclusion of 9 *bis* aimed to complement this text in affirming the Council’s role in providing the necessary policy guidance and decisions that would facilitate the transition between these goals.

23. While the Representative of Saudi Arabia understood the intention for having including Operative Clause 9 *bis*, considering that the Council would continue to work on the LTAG and bearing in mind that the agreement reached by the HLM-LTAG represented a delicate balance of views, he proposed

deleting the new Operative Clause 9 *bis*, and cautioned against making such changes in order to preserve the integrity of the HLM agreement.

24. In also commenting on Operative Clause 9 *bis*, the Representative of Spain remarked that although the concept of establishing a pathway between the goals had not been clear to him at the outset, the explanation by D/ATB and DD/ENV had provided a convincing argument for including this new clause. He acknowledged that inevitably, the Council would need to consolidate these goals and develop a coherent strategy for moving forward in advance of the 42nd Assembly, and on that understanding, regardless of whether 9 *bis* was retained in the Resolution, its inclusion would not ultimately change the outcome of the 41st Assembly on this aspect, nor affect the work to be undertaken by the Council in this regard. In addition, with reference to the 20th preambular clause, and specifically the use of a small “s” in the phrase “evolution of standards”, the Representative suggested that for the purpose of consistency, and to avoid any misunderstanding on the meaning of the text, the acronym “SARPs” should be used instead. On Operative Clause 17 *bis*, sub-paragraph a), the Representative suggested deleting the text “initiate specific measures or mechanisms”, as the meaning of this text was not sufficiently clear in that context, and considering that these “mechanisms” had been well-defined elsewhere in the Resolution.

25. The Representative of Brazil agreed with the Representative of Saudi Arabia that it was important for the Council to avoid giving the impression that it would reopen any aspects of the existing Council decision (C-DEC 226/7) or the agreement reached by the HLM-LTAG, and as such, strongly recommended that the draft Resolution text remain consistent with these existing decisions. Accordingly, and notwithstanding the rationale provided by the Secretariat regarding the inclusion of 9 *bis*, the Representative averred that this additional text should be deleted from the Resolution. At the same time, in highlighting that Operative Clause 9 already tasked the Council with monitoring the progress toward the achievement of the LTAG and with considering the necessary methodologies for that purpose, he suggested that the once the Council had initiated its work in that regard, it would be in a better position to devise a means to link the two goals, if needed. In light of the foregoing, the Representative conferred his conditional assent to the draft Assembly working paper and Resolution, noting that he would only be in a position to affirm his agreement subject to the outcome of the Council’s forthcoming discussion on C-WP/15394 Revision No. 1, *Consolidated Statement of continuing ICAO policies and practices related to environmental protection - Carbon Offsetting and Reduction Scheme for International Aviation (CORSA)*.

26. Commenting on the draft Resolution, the Representative of India drew attention to the first preambular clause on page A-4 regarding the need to update the *2050 ICAO Vision for Sustainable Aviation Fuels (SAF)* to include a quantified proportion of such fuels, and in doing so, expressed concern over referring to a “quantified proportion” in the Resolution text at this stage, as its inclusion would confer a certain obligation on Member States. In this respect, she noted that while the Council had considered the need for SAF to be used, the specific quantity was to be determined at the discretion of Member States, on the basis of their national capabilities and available resources. She therefore sought more precise information regarding the quantities of SAF that were being considered. Furthermore, with respect to Operative Clause 9, the Representative underscored the need to continue to study the impact of the LTAG on both cost and growth, and in this regard, requested that reference to the impacts on growth also be included in Operative Clause 9, which presently only mentioned the cost impacts. In terms of 9 *bis*, the Representative shared the views of the Representatives of Saudi Arabia and Brazil, and agreed that it should be deleted from the draft Resolution. Turning to Operative Clause 17, the Representative expressed her concern that the text as drafted appeared to indicate that the level of financing would be commensurate with the level of ambition, which from her understanding, would potentially result in those States that are likely to take longer to reach the LTAG to not be provided with sufficient funding. She therefore suggested including text on the need to support developing States in their efforts to achieve the LTAG, and that this process be transparent and equitable, adding that similar wording should also be reflected in Operative 17 *bis*, sub-paragraph a), with respect to those mechanisms which may be developed to facilitate access to funding sources.

27. The Representative of China supported the interventions of the Representatives of Brazil, India and Saudi Arabia.

28. In having heard the Secretariat's clarifications on Operative Clause 9 *bis*, the Representative of Mexico concurred that this new clause might facilitate the work of the Council and obviate possible complex discussions on interpretation, as the Assembly will have already provided a clear mandate to the Council on how to proceed with this work. Likewise, with respect to Operative Clause 17 *bis*, while he agreed with the Representative of Spain that there were references throughout the Resolution to specific mechanisms and measures, including mechanisms to facilitate access to funding for transitioning to sustainable energy sources, he considered that 17 *bis* was sufficiently clear and well-balanced, as drafted. The Representative reaffirmed his support for the draft Assembly working paper and Resolution as presented, adding that the text was a clear reflection not only of the consensus achieved by the HLM-LTAG, but the Council decisions and Assembly Resolutions on this issue as well

29. Although the Representative of France agreed that the aim of the Council at this stage should be to adhere as much as possible to the balance struck by the HLM-LTAG in order to ensure that the working paper presented an accurate reflection of the agreement reached at the HLM to the Assembly, he acknowledged that certain editorial modifications would be necessary. In this regard, he noted typographical errors in both the second preambular clause on page A-4, whereby "the large impact beyond 2050" should have read "a large impact beyond 2050", as well as Operative Clause 19 *ter.*, in which the extra "to" indicated in the first sentence should be deleted. With regard to Operative Clause 10, the Representative questioned why the text from paragraph 12 of the Conclusions of the HLM-LTAG (Doc 10178, *Report of the High-Level Meeting on the Feasibility of a Long-Term Aspirational Goal for International Aviation CO<sub>2</sub> Emissions Reductions*) reading "with a view to achieving the LTAG" had not been incorporated into the Resolution text.

30. Addressing the preceding comments, D/ATB noted the various perspectives regarding Operative Clause 9 *bis*, and reiterated that while the Secretariat had included the new text as a means to clarify the role of the Council in shepherding the transition from one goal to the next, it could also be removed to better align with the agreement reached by the HLM-LTAG, if agreed by the Council. He assured that the suggested editorial amendments would be duly incorporated into the working paper, including to ensure greater consistency in the use of the terms "SARPs" and "Standards" in the Resolution text. At the same time, D/ATB highlighted that those comments that could substantively affect the text and cause it to deviate from the agreement of the HLM-LTAG, would be carefully reviewed in order to determine whether the text could be modified as suggested.

31. On this latter point, DD/ENV underscored that it would also be important to have guidance on the degree of latitude that could be afforded to the Secretariat to move away from the agreement of the HLM-LTAG, as in some instances, although the final wording may not have been ideal, it reflected a delicate compromise. DD/ENV noted that for this reason, the Secretariat had tried to avoid introducing changes to the text, including in particular to the financing-related aspects, given the complexity of the negotiations on this topic during the HLM-LTAG. On that basis, while noting the number of comments raised on the financial elements of the Resolution during the foregoing discussion, DD/ENV conveyed some concern over re-opening the text for further consideration at this point. With respect to 9 *bis*, DD/ENV expanded on the additional clarification provided by D/ATB, in suggesting that rather than a pathway, the clause might be better considered as providing the Council with next steps for moving from one goal to the other. In then responding to the Representative of India with respect to the quantified proportion of SAF as referred to in the preamble, DD/ENV explained that the Second Conference on Aviation and Alternative Fuels (CAAF/2) had concluded that the 2050 ICAO Vision for SAF would need to be updated in order to include a quantified proportion of SAF, prior to 2025, and to this end, noted that the CAAF/3 was expected to be convened in 2023. DD/ENV added that the CAAF/2 conclusions had also been endorsed by the Council. Regarding the query of the Representative of France on Operative Clause 10, DD/ENV clarified



that the text referring expressly to the LTAG had not been included because the State Action Plans were voluntary in nature, and were not necessarily aimed toward the achievement of the LTAG specifically.

32. On the question of latitude raised by DD/ENV, the President of the Council remarked that while the Council possessed as much freedom as ascribed to it by the Chicago Convention to continue to negotiate this text, it lacked the time to re-open the negotiations undertaken by the HLM-LTAG, given that the Assembly was fast-approaching. Therefore, and in light of the current deliberations, the President of the Council recommended that the Council stick closely to the conclusion of the HLM-LTAG, notwithstanding any editorial amendments that may be required to clarify the text, where appropriate. Accordingly, and on light of the comments thus far, he suggested that it would be preferable to remove Operative Clause 9 *bis* from the Resolution text, despite the good intentions of the Secretariat for its inclusion. The Representatives of Côte d'Ivoire, Equatorial Guinea, Nigeria and Zambia supported this proposal by the President of the Council.

33. Recognizing that the agreement by the HLM-LTAG represented an impressive step forward, the Alternate Representative of the United States underscored that it was now up to the Council to transform the conclusions of the HLM into an Assembly Resolution, and reinforce ICAO's climate leadership. On Operative Clause 9 *bis*, while the Alternate Representative would have supported retaining the new text, given the concerns raised, he could agree to delete 9 *bis*, with a view to aligning the Resolution text to the extent possible with the conclusions of the HLM-LTAG.

34. In line with the comments of the Representatives of Mexico and the United States, the Representative of Italy strongly supported the recommendation to adhere to the conclusion of the HLM-LTAG, notwithstanding any editorial amendments that may be needed.

35. In expressing his support for the comments of the Representatives of Brazil, China, India and Saudi Arabia, the Representative of the Russian Federation supplemented his earlier intervention concerning Operative Clause 17 *bis*, in recalling that the United Nations policy on voluntary contributions required that all such contributions be made on behalf of Member States, and not by private organizations. He therefore reiterated that by no means should the Council or ICAO be implicated in the sovereign decision of Member States on whether to pursue private investments, as suggested in 17 *bis*.

36. The Representative of Australia welcomed the outcome of the HLM-LTAG, as well as the efforts made by the meeting to take decisive, ambitious actions to reduce international aviation emissions, while respecting the unique circumstances and capabilities of Member States, and the pace at which they can achieve such reductions. While the Representative considered the draft working paper to have accurately reflected the conclusions of the HLM-LTAG, he also agreed that as an overarching principle, the Council should avoid deviating from the agreement achieved by the HLM as much as possible. In this respect, though he appreciated the logic provided by the Secretariat for having included 9 *bis*, he considered that the addition of this text may have come at too late a stage in the discussion. He could therefore accept the proposal to delete 9 *bis*, on the understanding that the Council would need to continue to work to facilitate the development of a pathway between the medium and long-term goals.

37. The Representative of the United Kingdom averred that the priority for the Council in the present discussion should be to preserve the careful balance and compromises reflected in the HLM-LTAG outcome document, and to bring these forward intact to the Assembly. Though he understood the rationale for including Operative Clause 9 *bis*, he also considered it sensible to remove this text from the. Yet, given its relevance to the future work of the Council in this area, he encouraged the Secretariat to explore other opportunities to bring this concept forward.

38. The Representative of Singapore also lent her support to the updated draft Assembly Resolution on climate change noting that the substantive changes that had been made to the text were clearly drawn from the conclusions of the HLM-LTAG, as well as the Council's previous decision on this subject.

She recalled that the agreement reached by the HLM-LTAG had been the result of extensive negotiations and compromise by Member States, and that there had been wide support for ensuring that the LTAG was inclusive of the respective capabilities and needs of Member States, with a view to allowing each State to contribute to the achievement of the goal within its own national timeframe. With this in mind, the Representative concurred that the Assembly Resolution should be consistent with the agreement of the HLM-LTAG to the extent possible, and to this effect, supported the removal of Operative Clause 9 *bis*, which had not been fully considered by either the Council or the HLM-LTAG. However, in recognizing that there would need to be a transition between the existing aspirational goals and the LTAG, the Representative suggested that this concept be reflected in the Council's decision, in order to highlight the need for further work in this regard.

39. Aligning himself with the comments of the Representatives of Australia, Singapore and the United Kingdom, the Representative of the Netherlands welcomed the positive outcome achieved by the HLM-LTAG, and in so doing, agreed that it made sense to stick closely to the HLM's agreement when reporting to the Assembly on this subject. Thus, although he was amenable to the text of the Resolution as proposed, including 9 *bis*, in light of the discussions, he acknowledged that deleting this new Clause was likely the most suitable approach. At the same time, he agreed with the suggestion by the Representative of Singapore that the Council decision should include reference to the need for further work by the Council on the transition from the medium to long-term goal. The Representative also supported the editorial modifications proposed, insofar as they did not affect the substance of the Resolution. The Representative of Germany agreed with these remarks.

40. Recalling that the current working paper was a product of the extensive efforts by Member States, the Council and the Secretariat, in the lead up to, during and after the HLM-LTAG, the Representative of Canada stressed that the outcome of the HLM represented a delicate compromise, and acknowledged that while the language may not have been ideal for most States, it nevertheless had been acceptable to the vast majority. He cautioned that seeking a full consensus could result in inaction on the long-term aspirational goal, which would be unacceptable from his perspective. As such, while he recognized that some of the comments raised appeared reasonable, he maintained that introducing even editorial changes at this stage could risk unbalancing the hard-earned compromise on language, and therefore agreed that the Council should avoid modifying the working paper as much as possible.

41. Appreciative of the hard work that had enabled the HLM-LTAG to achieve an almost full consensus on the LTAG, the Representative of Colombia agreed on the need to limit the number of changes made to the draft Resolution, given the importance of maintaining the delicate balance that had reached by the HLM. On this note, although he supported the inclusion of Operative Clause 9 *bis*, he was also willing to accept its removal.

42. While the Representative of India shared the view that the Council must aim to preserve the balance that had been struck in the HLM-LTAG agreement, she suggested that the HLM appeared to have inadvertently overlooked that the impact of the LTAG on both growth and costs would be evaluated by the Council, with the technical support of CAEP. In drawing specific attention to Operative Clause 7 of the draft Resolution, the Representative pointed out that the text to be deleted therefrom included the pertinent reference to the impact on growth, which had been contained originally in Resolution A40-18, Operative Clause 9. Accordingly, the Representative reiterated that Operative Clause 9 of the updated draft Resolution should not only refer to cost impacts, but to the impacts on growth as well, particularly as this element had been included in the previous iteration of this Assembly resolution, following significant effort and negotiation by Member States.

43. With respect to Operative Clause 9 *bis*, the Representative of France supported the approach proposed by the Representative of Singapore, adding that including this text in Council decision would be useful in following-up the discussions on this subject. Returning to his earlier intervention on Operative Clause 10, the Representative acknowledged that while the State Action Plans initiative was not

directed to the achievement of the LTAG alone, the Action Plans were nevertheless one of the key means for monitoring the implementation of the LTAG. In order to retain the reference to the LTAG in this context, the Representative suggested adding, “with a view to achieving the LTAG”, at the end of the Clause. In this way, the State Action Plans initiative would continue to have a broader scope, while still retaining the reference to the objective of the LTAG, in accordance with the agreement by the HLM.

44. In response to the proposal of the Representative of France regarding Operative Clause 10, DD/ENV reiterated that the State Action Plans were predicated on the understanding that each Member State would be able to work toward the achievement of the global aspirational goals in line with their own needs and timelines, and that qualifying the Action Plans on the basis of a single goal, such as the LTAG, would not be consistent with this principle. As an alternative, she proposed that a more general wording referring to the ICAO global aspirational goals, rather than the LTAG specifically, could be more appropriate.

45. The Representative of Finland echoed those remarks in favour of moving forward on the basis of the balance achieved by the HLM-LTAG, and in support of the working paper.

46. Following consideration, the Council, by a majority decision:

- a) took note of the information presented in C-WP/15392, Revision No.1;
- b) approved the draft Assembly working paper attached to C-WP/15392 Revision No.1, subject to the changes agreed on by the Council in the course of its consideration of this item, including to delete paragraph 9 *bis*, and other amendments of an editorial nature, on the understanding that the text of the draft Resolution should adhere closely to the agreement reached by the HLM-LTAG, and in doing so, delegated authority to the President to thereafter approve the revised working paper on its behalf for subsequent submission to the Assembly;
- c) noted that the draft Assembly working paper would be published as soon as possible in order to allow Member States sufficient time to submit any comments or views thereon under cover of their own respective working papers to the Assembly, by the deadline of 31 August 2022.

47. It was recorded that one Delegation had expressed a reservation to this decision of the Council (C-MIN 226/17, paragraph 17, refers).

**Draft Assembly working paper – Consolidated statement of continuing ICAO policies and practices related to environmental protection – Carbon Offsetting and Reduction Scheme for International Aviation (CORSA)**

48. The Council considered this item on the basis of C-WP/15394 Revision No.1, which pursuant to C-DEC 226/13, presented an updated draft Assembly working paper containing proposed revisions to Assembly Resolution A40-19: *Consolidated statement of continuing ICAO policies and practices related to environmental protection – Carbon Offsetting and Reduction Scheme for International Aviation (CORSA)*. The Council also had for consideration a PowerPoint presentation by the Chairperson of the Committee on Aviation Environmental Protection (CAEP) which outlined the key outcomes of the updated analysis undertaken by the CAEP in response to the Council’s request (C-DEC 226/13, refers), as well as the related summary of discussions from the Climate and Environment Committee’s (CEC) informal meeting of 9 August 2022, as presented by the Chairperson of the CEC (Representative of Colombia).

49. Introducing the working paper, the Secretary General recalled the Council's previous discussion with respect to C-WP/15394, and noted in particular that the Council had concluded its deliberations thereon in having tasked the CAEP to undertake additional analyses, including with respect to the CORSIA baseline beyond the pilot phase. In this connection, he noted that the completed CAEP analysis had been circulated to the Council by e-mail on 7 July 2022, and had subsequently been considered by the CEC during an informal meeting on 9 August 2022. The Secretary General underlined that the objective of the CEC informal meeting had been to make progress toward greater convergence on any outstanding elements, with a view to facilitating the Council's consideration of these issues. He highlighted that additional consultations amongst Delegations had also been held for this purpose. On this basis, the Secretary General emphasised that it would be important for the Council to provide a clear, consensus-based recommendation to the Assembly on these key aspects, in order to reinforce the Organization's leadership on this issue.

50. The CAEP Chairperson provided an overview of the results of the additional analyses which had been conducted by the CAEP in line with C-DEC 226/13. For context, the Chairperson noted that the COVID-19 pandemic had a substantial impact on international aviation operations, having led to a 60 per cent reduction in CO<sub>2</sub> emissions, when compared to emissions in 2019. However, he pointed out that these impacts had not been experienced equally across all airline operators, with some operators having emissions reductions of 80 per cent or more, and others incurring even higher rates of emissions. Given this range, the Chairperson explained that using an average of 2019 and 2020 emissions as a baseline beyond the pilot phase would impact individual operators' offsetting requirements once CORSIA transitioned to an individual share of offsetting requirements in 2030. It was based on this understanding that the Council had requested the CAEP to not only undertake further analyses to estimate the offsetting requirements and the regional breakdown, using the average of 2019 and 2020 emissions as the agreed baseline, but to also analyse three additional baseline options which were 2019 emissions only, a percentage of 2019 emissions which reflected an equivalent level to the average 2019-2020 emissions, and the midpoint between these two baseline scenarios (C-DEC 226/13, sub-paragraph e), refers).

51. The CAEP analyses had shown that for all operators, the combined equivalent of 70 per cent of 2019 emissions fell very close to the average of 2019 and 2020 emissions, and resulted in a similar distribution and overall quantity of offsetting requirements. Alternatively, 85 per cent of the 2019 baseline represented a midpoint between the 70 per cent of 2019, and the 2019 only baseline options, and would result in lower offsetting requirements than the other baseline scenarios. In terms of the regional breakdown of offsetting requirements, the results of the analysis demonstrated that all regions were expected to be affected by the COVID-19 pandemic in a similar manner. Likewise, as the per cent of CO<sub>2</sub> emissions to be offset was driven by the level of Member States' participation in CORSIA, this figure was also similar across all regions, with the exception of those regions where there was a relatively high number of Member States exempted from offsetting requirements and not voluntarily participating in the scheme. The Chairperson underlined that the new baseline options of 70 per cent of 2019 emissions, and 85 per cent of 2019 emissions, had not altered these observations.

52. Emphasising the value of multilateralism in the work of ICAO, and in underscoring the importance of negotiation and compromise in bridging the divergent views and priorities of Member States toward greater consensus, the Chairperson of the CEC (Representative of Colombia) expressed his appreciation to all the Members of the CEC and Council Delegations for having engaging in constructive and meaningful discussions in this spirit. In this respect, the Chairperson of the CEC noted that the CEC had met informally on 9 August 2022 to consider the results of the additional CAEP analyses on the CORSIA baseline, on the basis of a detailed presentation by the CAEP Chairperson and relevant CAEP experts. Subsequently, he and the CEC Vice-Chairperson (Representative of Singapore) had continued to consult with CEC Members and other Council delegations with a view to identifying a compromise proposal that would take into account the different perspectives and address the concerns raised over the course of the Council and CEC deliberations, in relation to the impacts of the COVID-19 pandemic on CORSIA and the 2022 CORSIA period review. Based on the outcome of this consultation process, the CEC

Chairperson proposed additional modifications to the revised draft Assembly Resolution appended to C-WP/15394, Revision No. 1, as follows:

- i. to establish that the CORSIA baseline would use 85 per cent of 2019 emissions, after the pilot phase (2024 to 2035);
- ii. to replace the sectoral and individual growth factors for the period 2030 through 2032, as contained in Operative Clause 11, sub-paragraph e), iv) with 100 per cent sectoral and 0 per cent individual, noting that 100 per cent sectoral and 0 per cent individual already identified for the periods covering 2024 through 2026, and 2027 through 2029, would continue to apply;
- iii. to replace the sectoral and individual growth factors for the period 2033 through 2035, as contained in Operative Clause 11, sub-paragraph e), v) with 85 per cent sectoral and 15 per cent individual; and
- iv. to amend Operative Clauses 11 and 12, in light of the modifications indicated in i. to iii., above.

53. In concluding his intervention, the Chairperson of the CEC echoed the sentiments of the Secretary General in underscoring the importance of the Council reaching an agreement on the text of the Resolution, in order to clearly demonstrate ICAO's commitment to advancing this issue. On this note, the Chairperson of the CEC remarked that while the text may not have left everyone completely satisfied, it represented a reasonable compromise that could nevertheless be accepted by most.

54. The Representative of Mexico averred that a number of key issues were at stake, and that just as it would be important for the Organization to continue to exhibit leadership on CORSIA, it would be equally necessary to ensure that the level of ambition of the scheme as originally envisaged would be maintained, while not adversely impacting the growth of the aviation sector. As such, he concurred that a consensus-based agreement would be ideal in demonstrating that the Organization was serious in its efforts to address climate change. To this end, the Representative supported the revised working paper, together with the modifications proposed by the Chairperson of the CEC. Particularly with regard to the CORSIA baseline, the Representative stressed that it would be important for the Council to reach a conclusion in principle on this question, as this was a fundamental issue for many Member States, and in this connection, agreed to the proposal to use the mid-point scenario of 85 per cent of 2019 emissions as the CORSIA baseline beyond the pilot phase. From his perspective, this option was consistent with the level of ambition over the long-term, and represented a positive starting point for future work in this regard.

55. Recalling that CORSIA remained the only global scheme for addressing sectoral emissions and climate change, the Representative of Spain underlined the importance of maintaining its integrity and effectiveness, and reaffirmed his Delegation's commitment to reaching an agreement. In this connection, he highlighted that three fundamental principles would need to be taken into consideration. First, the level of ambition for CORSIA could not fall below the level agreed for the scheme in 2016 and 2019. He asserted that although under the design of CORSIA various operators from Member States had taken on certain obligations, which were then significantly affected by the pandemic, the same level of ambition was still needed in view of the future increase in air traffic, including in developing States. For that reason, the Representative averred that 2020 could not be used as a baseline, as had been explained by the CAEP Chairperson, and questioned whether the option of 85 per cent of 2019 emissions would be sufficient to preserve the original level of ambition. Second, the Representative of Spain pointed out that while a decision could be taken this year in relation to a mechanism for the CORSIA periodic review, doing so did not mean that this mechanism would not be reviewed in the future. Rather, the Representative was of the view that as global air traffic continued to evolve, this review process would need to be undertaken at regular intervals, and in this respect, considered it essential that the review process be maintained for each triennium. Third, with respect to the individual and sectoral growth factors, while the Representative of Spain was prepared to consider the proposal at hand, he would have preferred for CAEP to have analysed the potential impacts of these specific changes beforehand. As a result, it did not make sense to him to take a decision without

the appropriate analysis to justify these amendments, so close to the Assembly, and considering that a recommendation from the Council on these aspects was only expected in 2028.

56. In noting that the CORSIA baseline which had originally been agreed for the period following the pilot phase used the average of 2019 and 2020 emissions, the Representative of South Africa reminded that it had been widely assumed at the time that there would have been an increase in global air traffic for 2020 over 2019. However, air traffic in 2020 had been seriously disrupted due to the COVID-19 pandemic, which resulted in lower levels than anticipated. The Representative therefore inquired as to the rationale for CAEP's recommendation of a baseline lower than 2019, when the expectation was that the baseline would have been the average of 2019 and 2020 emissions, and thus, set at a level higher than 2019 alone.

57. Referring to the 14th, 15th and 16th preambular clauses of the draft Assembly Resolution, the Representative of the Russian Federation sought confirmation on whether it was intended to continue to maintain the European Union Emissions Trading System (EU ETS) and the United Kingdom Emissions Trading Scheme (UK ETS), despite the Resolution affirming CORSIA as a single global scheme, as opposed to a patchwork of State and regional MBMs. At the same time, he questioned whether the concern expressed in the 17th preambular clause regarding the use of international civil aviation as a potential source for the mobilization of revenue for climate finance to the other sectors paragraph might be considered to be at odds with the purchase of emissions credits generated from outside aviation sector.

58. In terms of the CORSIA baseline, the Representative of the Russian Federation contended that any reduction in the baseline would result in an increase in offsetting requirements, thereby becoming a barrier to the sustainable growth of civil aviation, particularly in developing States. As such, while the Representative conveyed his preference for the individual growth factor to be excluded entirely from the calculation of States' offsetting requirements, he could support the proposal of the CEC Chairperson in this regard, on the understanding that another periodic review of CORSIA would be undertaken in the next triennium. Concluding, the Representative reiterated that the guiding principles for the design and implementation of MBMs for international aviation, as currently appended to the Resolution on climate change (A40-18, and C-WP/15392, Revision No. 1, refer), should be annexed to the Resolution on CORSIA instead.

59. Responding to the Representative of South Africa, the CAEP Chairperson affirmed that although it had indeed been expected for 2020 emissions to have been higher than in 2019, the COVID-19 pandemic had altered these underlying assumptions. He clarified however, that CAEP had only presented the results of its analysis, as requested by the Council, and had made no recommendation as to any of the scenarios examined. On the contrary, he noted that CAEP had only observed that should 2019 emissions be decided as the CORSIA baseline, then the offsetting requirements would also remain below the level of 2019 emissions, which had in turn been used as a proxy for 2020 emissions as well. On the points raised by the Representative of Spain on the absence of an analysis of the proposed amendments to the individual and sectoral growth factors, the CAEP Chairperson confirmed that CAEP had not analysed the impact of the proposed changes to the individual growth factor.

60. It being clear that the COVID-19 pandemic had impacted the intended balance within CORSIA and the offsetting requirements over the course of the scheme's implementation, the Representative of Australia agreed that it would be sensible to take a decision on the CORSIA baseline that started earlier than under its current trajectory, while ensuring that the effects of increasing offsetting requirements was fair, and borne largely by those best positioned to manage these impacts. In this respect, the Representative considered that the compromise proposal put forward by the Chairperson of the CEC struck such a balance, whereby the impact of increased offsetting requirements was tempered by the changes to the growth factor, in order to ensure that higher growth operators were not disproportionately affected. Though he acknowledged that not all the elements of the compromise proposal were his

Delegation's preference, he nonetheless joined in supporting the proposal as outlined by the CEC Chairperson.

61. The Representative of South Africa agreed on the need to maintain the current level of ambition for CORSIA, and for that reason, supported the proposal to extend the use of 2019 emissions for the CORSIA baseline after the pilot phase, as reflected in Option D under Operative Clause 5 of the draft revised draft Resolution. Regarding the individual growth factor, the Representative suggested that this element be completely removed, as in his view, it would function to the detriment of the operators in the African region. On the CORSIA periodic review, the Representative was of the opinion that the review process should not be limited to the design elements only, and should instead be expanded to address the scheme's underlying assumptions, which had been based on predictions that had not materialized as expected. To the point made by the Representative of the Russian Federation regarding the status of the EU ETS and UK ETS, the Representative concurred that further clarification was needed in this regard, with a view to facilitating future negotiations and discussions on this issue, in an atmosphere of trust and good-faith.

62. Addressing the preceding comments on the individual and sectoral growth factors, the Deputy Director, Environment (DD/ENV) recalled that this element had been included within CORSIA in light of what was an essentially political discussion during the Assembly on how the Special Circumstances and Respective Capabilities (SCRC) of Member States participating in the scheme could be accommodated. In this respect, the phased approach to CORSIA implementation, as well as the provision of exemptions, where applicable, had been incorporated into the scheme as a means of operationalizing the SCRC principle. Similarly, the individual and sectoral growth factors had been conceived as an opportunity to bring greater balance to the scheme, by providing compensation to those operators who were expected to experience higher growth, by those that were already operating in a more mature market. At the same time, DD/ENV highlighted that should a higher level of ambition be agreed, the individual and sectoral growth factors might provide a useful means for balancing the resultant impacts. However, like the CAEP Chairperson, she acknowledged that there had been no specific assessment of the individual and sectoral growth factors prior to the present deliberations, nor the Assembly that had taken the initial decision on CORSIA.

63. The Representative of France observed that had it not been for the pandemic, not only would the average of 2019 and 2020 emissions been higher than 2019 emissions levels, but the level of emissions in 2021 would have been even higher than that average, as air traffic would have continued to grow, and offsetting under CORSIA would have already begun. The Representative also noted that the CAEP analysis had clearly shown that if 2019 emissions only were used as the CORSIA baseline, then the medium-term goal of carbon-neutral aviation could not be met. To the contrary, emissions would actually increase beyond the level that was originally intended. Given this context, and keeping in mind the overarching objectives of the scheme, the Representative asserted that the level of ambition remained an essential aspect of the deliberations, and suggested that the level of ambition could even go beyond the level proposed under the 85 per cent mid-point scenario. In this regard, he pointed out that although the CAEP assessment had indicated that the level of ambition could be maintained using 2019 emissions only insofar as there was a strong recovery by the aviation sector from the effects of the pandemic, the rate of the sector's recovery was yet uncertain. However, in the spirit of compromise, the Representative was prepared to support the proposal put forward by the Chairperson of the CEC, on the assurance that the level of ambition would be upheld. Accordingly, the Representative suggested including a specific reference in the Resolution regarding the need to closely monitor the impact of the new baseline on CORSIA's performance, and to this effect, proposed the following text: "decides that the impact of this new baseline on the performance of CORSIA will be kept under close monitoring with a view to ensuring the level of ambition of the scheme as initially envisaged."

64. With regard to the individual growth factor, the Representative of France was of the understanding that the compromise proposal in this regard would lead to a distribution of efforts, to the detriment of operators with less growth. Though he could accept that this compromise would result in

operators in some Member States, such as his own, making significant contributions, he stressed that the issue of equity, as had been raised consistently by many Delegations, also needed to be taken into account when introducing these changes to the individual growth factor. On this point, he joined the Representative of Spain in highlighting that no studies or impact assessments had been conducted to inform the Council's decision-making on this significant issue, as would have been desirable. Considering that the compromise proposal formed part of an integrated approach to addressing this issue, he could agree to move forward, with the understanding that all the elements of this package would be respected and supported. With this in mind, the Representative reaffirmed that support for multilateralism and the global framework were of paramount importance.

65. The Representative of Peru viewed the efforts to build consensus on the level of ambition as a living process, noting that the matter would be referred to the Assembly as part of an overall package, for further consideration. He therefore supported the compromise proposal in relation to the baseline, as well as the amendment suggested by the Representative of France, and the comments of the Representative of Spain.

66. On the basis of the proposal made by the Chairperson of the CEC, the Alternate Representative of the Dominican Republic expressed his support for using 85 per cent of 2019 emissions as the CORSIA baseline beyond the pilot phase, as did the Representative of Costa Rica, who also aligned himself with the interventions of the Representatives of Spain and Mexico on the need to maintain the level of ambition.

67. The Representative of the United Kingdom recalled that the use of 2019 emissions had only been agreed on an exceptional and temporary basis to assist the aviation industry overcome the immediate effects of the global crisis caused by the COVID-19 pandemic, and as such, averred that it would be important that the baseline from 2024 be set in a manner consistent with the Assembly's original vision and ambition for CORSIA. Based on the CAEP analysis, this meant that the baseline should be established at a level closer to 70 per cent of 2019 emissions going forward. Although he also would have preferred to see a higher level of ambition in this agreement, in the interest of compromise, he could support the proposal put forward by the Chairperson of the CEC. From his perspective, a package deal on the key components of the text offered a fair and balanced approach that could expand support for CORSIA, which in turn would place the scheme on a stronger footing for the future. In this connection, he reiterated that the Council would need to continue to monitor the effectiveness and implementation of the scheme through the periodic review process, and in this vein, agreed with the proposal of the Representative of France regarding the baseline. At the same time, the Representative underlined that the conclusions drawn from present discussion should be considered as one element of a comprehensive package, which also included the decisions taken on preceding item (C-WP/15392 Revision No. 1), as well as the compromise achieved during the HLM-LTAG.

68. Recognizing that all Delegations had made concessions and were willing to accept a degree of dissatisfaction in order to reach a consensus, the Representative of Brazil lent his full support to the proposal presented by the Chairperson of the CEC, and stood firmly convinced that this proposal was the best possible solution at this stage. The Representative also agreed that this was one element of an entire package, and expressed confidence that the whole package would be fully implemented and respected. On the subject raised by the Representative of South Africa, the Representative of Brazil underlined that the spirit and culture of multilateralism had been evident in the collective efforts of the Council and the HLM-LTAG to reaching an agreement, and cautioned that adopting unilateral solutions in this context would not be the right approach.

69. The Alternate Representative of the United States joined in fully supporting the CEC Chairperson's proposal as a reasonable compromise. He clarified, however, that although he could accept the proposal, doing so did not necessarily mean that his Delegation had preferred all the elements therein. Rather, he acknowledged that the text aimed to strike a balance amongst the different views and perspectives, and provided a way forward that could be widely supported. With respect to the CORSIA



baseline, the Representative noted that due to the changed circumstances, primarily as a result of the disruption caused by COVID-19 pandemic to the aviation industry and to the sector's future growth, changes to CORSIA also needed to be considered in order to take these effects into account. In this regard, he acknowledged the challenge of reconciling the various preferences that had been expressed on where to best set the baseline, given the merits of each. He remarked that his own Delegation was of the view that the goal set by both ICAO and the industry of carbon-neutral growth from 2020 was not tied to a particular level of emissions and should therefore maintain its original agreed baseline. At the same time, he considered that the alternative scenario of using 85 per cent of 2019 emissions could serve as an appropriate middle-ground amongst the different options. Likewise, he noted that while some Delegations viewed the individual growth factor as problematic or unfair to small, fast-growing operators and had requested that it no longer be included in CORSIA, his Delegation, as others, did not agree with this approach. Instead, the latter considered the individual growth factor as an important component of CORSIA's design, which appropriately links compliance with CORSIA to operator behaviour. Yet, while the Representative preferred to avoid introducing any substantial adjustments to the individual growth factor, he was also mindful of the opportunity to strengthen support for CORSIA in doing so. As such, and with the caveat that the individual growth factor would not be eliminated, the Representative accepted the proposal of the Chairperson of the CEC to defer the introduction of the individual growth factor by three years, especially if it meant securing a strong outcome on CORSIA and the LTAG.

70. Recognizing that CORSIA was a well-regarded example of constructive collaboration by ICAO in addressing climate change-related issues, the Representative of the Republic of Korea aligned himself with the interventions of the Representatives of Brazil and the United States, which he believed had clearly explained the rationale for the compromise proposal, and the need for agreement thereon. Accordingly, the Representative affirmed his support to the proposal presented by the CEC Chairperson.

71. The Representative of Finland stressed that Regardless of the decision ultimately taken by the Council, it was critical that the original level of ambition for CORSIA not be diminished. To the contrary, he contended that the level of ambition should be increased, particularly bearing in mind the growing severity of the effects of climate change and the urgency to act on this issue. Given this context, the Representative agreed that the implementation of CORSIA would need to be closely monitored, and in this respect, supported the proposal of the Representative of France. It was also his assertion that insofar as this was to be considered a package agreement, then the CORSIA baseline and the individual growth factors should not be addressed in isolation, but as working together with the other parts of the wider process. On this basis, the Representative agreed with the proposal of the Chairperson of the CEC, while noting that the way forward was a significant compromise on the desired level of ambition.

72. With a view to ensuring that CORSIA remained robust and effective, the Representative of Japan considered the use of 85 per cent of 2019 emissions, as proposed by the CEC Chairperson, to be an acceptable compromise that appropriately balanced the level of ambition of the scheme, with the impacts of the COVID-19 pandemic on operators. In terms of the individual growth factor, the Representative expressed concern on the unpredictability of this component given the variability across the sector, and stressed the importance of maintaining stability and predictability in CORSIA, especially for market players. In view of these concerns, and in the interest of moving forward, the Representative expressed his willingness to proceed on the basis of the CEC Chairperson's compromise proposal.

73. It was also in the spirit of collaboration that the Representatives of Germany, Greece and Italy supported the CEC Chairperson's compromise proposal, as well as the amendment put forward by the Representative of France.

74. In having been involved in the extensive bilateral and multilateral consultations in her capacity as the Vice-Chairperson of the CEC, the Representative of Singapore noted that these negotiations had sought to accommodate the concerns that had been raised in relation to the impact of the pandemic on the aviation industry and the implementation of CORSIA, as well as on other issues arising from the 2022

CORSIA periodic review, including the CORSIA safeguard provisions. In this connection, she recalled that C-DEC 220/13 had established the need to examine the impact of COVID-19 on CORSIA, including *inter alia* its impact on the baseline beyond the pilot phase on the different phases of CORSIA implementation and on the individual and sectoral growth factors. Moreover, it had been determined by the Council that actual 2020 emissions level should not be used for the CORSIA design features, which had not envisioned such exceptional circumstances, such as those deriving from the impact of COVID-19. Rather, it had been agreed that the 2019 emissions levels should continue to be used as a proxy for the pre-COVID-19 emissions level. In turn, the adjustment to a more ambitious baseline had the effect of frontloading offsets to those States that were expected to begin offsetting earlier in the scheme to start doing so. At the same time, the reduction in the individual growth factor aimed to address the uneven recovery of the aviation sector from the pandemic, particularly in the Asia Pacific region, as well as other concerns raised in this regard during the periodic review. Likewise, adjusting the individual growth factor as proposed would place the burden of shouldering the more ambitious baseline on those States and operators who were better positioned to do so, while allowing others time to mature their industry. With this in mind, although the Representative had strongly preferred the use of 2019 emissions as the baseline, taking into consideration the broad willingness to accept the CEC Chairperson's proposal as a fair and inclusive balance of interests, she was prepared to accept the compromise, with a view to reinforcing the Member States' commitment to CORSIA, as the only global MBM for international aviation.

75. Notwithstanding his preference for Option D as reflected in Operative Clause 5 of the revised draft Resolution, the Representative of Argentina indicated that he could also agree to the proposal of the CEC Chairperson, which from his perspective, would lead to a more equitable scheme overall.

76. The Representative of the Netherlands asserted that it was clear from the CAEP analysis that retaining the actual data from 2020 as the basis for the CORSIA baseline would not be appropriate, and that using a 2019-only baseline for the remainder of the scheme was insufficient to achieve the level of ambition originally foreseen when the scheme was agreed. In his view, the preferred baseline option would be closer to 70 per cent, rather than the 85 per cent currently under consideration. However, in drawing on the introductory remarks of the Secretary General, he agreed that it would be important for the Council to show leadership on this issue, and to work toward finalizing a consensus-based recommendation to the Assembly. In this spirit, the Representative conveyed his willingness to accede to this package agreement, which included the decisions on LTAG, as a basis for further discussion and decision by the Assembly. In addition, he agreed with the proposal of the Representative of France, noting that as the CAEP analysis had been predicated on three different recovery scenarios, it would be sensible to continue to monitor the consequences of that rate of recovery on the implementation of CORSIA, in view of the desired level of ambition.

77. In also acknowledging that the present discussion on CORSIA was part of a wider package of agreements and decisions that required a certain level of ambition, the Representative of Equatorial Guinea agreed to the compromise put forward by the Chairperson of the CEC, on the understanding that the implementation of the scheme would continue to be monitored in the future, as had been suggested by the Representative of France, and others.

78. Recalling his Delegation's previous interventions on this working paper during the Council's earlier discussion (C-MIN 226/12 and 226/13, refer), the Alternative Representative of China reaffirmed that these earlier comments remained unchanged with respect to the Revision No. 1. At the same time, he reiterated his Delegation's position on the design of CORSIA and its implementation, and expressed several concerns in this respect. First, in relation to the guiding principles for the design and implementation of MBMs for international aviation, as annexed to the Assembly Resolution on climate change, and which had been agreed by consensus, the Representative noted with regret that CORSIA appeared to have deviated from these principles. He further noted that the first periodic review of the scheme carried out by the CAEP had suggested that there were elements of the CORSIA's design and implementation that would lead to inequitable or distortive effects, including both the baseline and the

methodology used to allocate offsetting requirements. As a result, he asserted that remedial measures were needed immediately to amend CORSIA in a comprehensive manner, so as to re-calibrate the scheme in line with original objective, and to foster greater consensus and unity in this regard. Second, in welcoming the proposal of the CEC Chairperson, the Representative insisted that an additional baseline option be included, whereby each State could self-determine the baseline, in accordance with its own national circumstances. The Representative also supported deleting the individual growth factor from the methodology for calculating offsetting responsibilities. Third, he maintained that carbon-neutral growth from 2020 had only taken into account the international aviation emissions of those States for whom such emissions had peaked, or would peak by 2020. Conversely, it was now projected that more States would see an increase in international aviation emissions, at a faster pace and for much longer into the future, as living standards continued to improve globally and in light of economic growth. For that reason, the Representative averred that a nationally-determined approach to CORSIA implementation, as had been previously proposed by his Delegation and submitted to the Secretariat in writing, could serve as a constructive means of improving the scheme. Fourth, he reiterated that in order to conduct the next CORSIA periodic review effectively in 2025, and all such reviews thereafter, it would be important for the CAEP to formulate a methodology for this purpose, consistent with the guiding principle for MBMs. To this end, he recommended that a specific task should be included in the CAEP/13 work programme, and in noting that China had made a proposal in this regard to the CAEP, pledged the support of the Chinese experts to actively take part in this work.

79. The Representative of India noted that it would be important to keep in mind that while CORSIA had been expected to be in effect over a 15-period, due to the COVID-19 pandemic, this period had now been reduced to only 12 years. Recalling that previous CAEP analyses had demonstrated that the introduction of the individual growth factor would lead to market imbalance, the Representative underscored the need to review the individual growth factor, and in doing so, expressed her satisfaction that the proposal of the CEC Chairperson had duly addressed her concerns in this regard. With respect to the baseline, the Representative reiterated her Delegation's long-standing position that the baseline should be closer to the mandatory phase, and as such, the use of 2019 emissions remained the preferred baseline option. However, recognizing the need to work collaboratively on these issues, the Representative noted that while she was not fully satisfied with the outcome, she could nevertheless accept to move forward on the basis of the compromise proposed by the CEC Chairperson.

80. Turning to Operative Clause 17 a) of the draft Resolution, the Representative of India concurred that a specific methodology was needed to facilitate the CORSIA periodic review process, and suggested that the Council would need to be involved in the development of such a methodology. She averred therefore, that it would be important that this be clearly indicated in the context of how future periodic reviews may be carried out. In addition, she recalled that many Member States had expressed concerns on the need for safeguard provisions in CORSIA, given the unprecedented and unforeseen impacts of the pandemic. It was therefore important to the Representative that the text also include an indication that the question of safeguards would be further examined by the Council, as had been requested by Member States. On the point raised by the Representative of France regarding the level of ambition, the Representative of India requested clarification on whether the level ambition referred to had taken into account that the implementation of CORSIA had been reduced to 12 years, from an originally envisaged 15 years, or the emissions savings that had already been accrued as a result of the pandemic. The Representative requested that the text of Resolution be modified to take these concerns into consideration.

81. The Representative of South Africa fully supported the preceding intervention of the Representative of India, and shared her hesitation in relation to the proposal of the Representative of France, as from his understanding, the proposed wording seemed to introduce an element of ambiguity to the scheme. In this regard, he noted that terminology or language that could be misinterpreted was best avoided in this context.

82. In drawing attention to the serious impacts of the COVID-19 operators around the world, and noting that some regions had yet to fully recover, both in terms of passenger growth and revenue, the

Representative of Saudi Arabia affirmed his preference to maintain 2019 as the baseline, and for the individual growth factor to be removed. However, considering the growing consensus in favour of the compromise presented by the CEC Chairperson, the Representative informed that he would consult his capital on the new proposal, and would revert to the Council with his final position, in due course. At the same time, the Representative stressed that the CORSIA level of ambition was not tied to a specific amount of offsetting requirements, but instead, aimed to achieve the goal of carbon-neutral growth and to maintain net emissions at the baseline level, whatever that level may be. Thus, he did not consider that offsetting expectations being lower than those originally envisaged when CORSIA was adopted constituted a diminution in level of the ambition of the scheme. With respect to the proposal of the Representative of France, the Representative of Saudi Arabia concurred that it was best to avoid including this text in the Resolution at this stage, particularly as the proposed wording was unclear to him, and bearing in mind that Operative Clauses 9 g) and 17 already addressed all the elements required in performing such a review of CORSIA and its implementation.

83. The Alternate Representative of the United Arab Emirates was also in favour of maintaining 2019 as the CORSIA baseline and for removing the individual growth factor, and indicated that he would refer the compromise proposal of the CEC Chairperson to his capital, for further consultation, as did the Representative of Côte d'Ivoire.

84. The Representative of Malaysia recalled that in June 2020, her Delegation had supported the use of 2019 emissions for the CORSIA baseline during the pilot phase in order to safeguard against an inappropriate economic burden on airplane operators. On this basis, Malaysia maintained its preference for the use 2019 emissions for the pilot phase and thereafter, as indicated under Option D of Operative Clause 5 of the revised draft Resolution. However, she joined the Representatives of Saudi Arabia, Côte d'Ivoire, and the United Arab Emirates in noting that she would need to further consult her capital with respect to the compromise proposal.

85. The Representative of Egypt also supported extending the use of 2019 as the baseline, adding that doing so would also ensure the continued growth of the sector. In this respect, he pointed out that this option had similarly been favoured by the air operators, as had been communicated previously to the Council by the International Air Transport Association (IATA). Nevertheless, he acknowledged that he would convey the proposal of the CEC Chairperson to his national experts for further coordination, and would keep the Council apprised in this regard.

86. The Representative of the Russian Federation shared the concerns raised by the Alternate Representative of China, and expressed his support for the comments of the Representative of South Africa with respect to the EU ETS and UK ETS. On the latter, the Representative maintained that the EU ETS and UK ETS, as regional schemes, were inconsistent with the aims of the 14th, 15th and 16th preambular clauses, and as such considered it disingenuous to claim to support CORSIA as the single global system for offsetting emissions from the aviation sector, while seemingly taking actions to the contrary.

87. The Representative of France assured that his Delegation, together with his European colleagues, remained dedicated to the principle of multilateralism, and reaffirmed their full and continued support to the preamble of the Resolution, as had been the case since its adoption. Turning to address the comments raised with respect to his proposal, the Representative clarified that the level of ambition was a clearly defined concept in the context of CORSIA, in that it represented the contribution of the aviation sector to addressing climate change. As such, it would be important to monitor the impacts of the newly agreed baseline on CORSIA's performance. In reiterating that this was an important point in terms of generating political support for this compromise in the European capitals, the Representative noted that he was open to considering alternative wording to assuage any concerns regarding ambiguity or interpretation.

88. Taking into account the clarification provided by the Representative of France, and with a view to addressing some of the concerns raised by the European colleagues on this issue, the Representative

of Mexico suggested that this point could be reflected in the Council decision, as an alternative to the Resolution.

89. Responding to the question raised by the Representative of South Africa on whether a response would be forthcoming regarding the EU ETS and UK ETS, the President of the Council indicated that it was his understanding that the Representative of France had offered a reply in this respect, in his most recent intervention. While appreciative of the clarification provided by the President, the Representative of South Africa insisted that a more direct response was needed, in order to ensure that there was a clear and common understanding of the intentions of all those involved, and to avoid drawing conclusions on the basis of inferences.

90. Summarizing the discussion, the President of the Council noted that broad support had been expressed for the compromise proposal presented by the Chairperson of the CEC, though he recognized that not all had done so enthusiastically. In this respect, he acknowledged while not everyone's expectations had been met entirely to their satisfaction, progress had nevertheless been made toward a compromise that could be agreed by a wide majority. Bearing in mind the short timeframe before the Assembly, and considering that the Assembly working paper would need to be finalized quickly in order to allow Member States sufficient time to submit their own papers by the deadline of 31 August 2022, the President of the Council invited the Secretariat to present the text of the draft Resolution, as modified to reflect the proposal of CEC Chairperson, with a view to facilitating a decision by the Council.

91. DD/ENV proceeded to outline the additional amendments to the draft Resolution. On the changes which had originally been proposed to Operative Clauses 5 and 17, DD/ENV noted that as the proposal of the CEC Chairperson had recommended a single baseline option, there was no longer a need to modify either of these, as the corresponding amendments would need only be reflected in Operative Clauses 11 and 12. She explained that given the newly established baseline, and the changes to be made to the individual and sectoral growth factors, the calculations for each of these elements would need to be updated accordingly, in Operative Clause 11. DD/ENV also noted that Operative Clause 12 would require modification to replace "2020" with 2019, in accordance with the Council's decision not to use 2020 as the baseline, with 2019 to act as the surrogate instead. At the same time, DD/ENV suggested that if agreed by the Council, the proposal of the Representative of France could best be incorporated within Operative Clause 17, as a new possible sub-paragraph b).

92. The Representative of Saudi Arabia agreed with the proposed revisions to the Resolution as conveyed by DD/ENV, with the exception of the proposal by the Representative of France. In this connection, he cautioned that introducing a new concept in the Assembly Resolution at this late a stage could potentially re-open the compromise that had been reached on CORSIA and LTAG. However, he welcomed the solution put forward by the Representative of Mexico to resolve this issue, and expressed his readiness to work together with the Representative of France to further refine this concept.

93. Similarly, while the Representative of Brazil noted that he had no objections to the proposal of the Secretariat, he preferred that the suggestion of the Representative of France be retained in the C-DEC, rather than the Resolution. Though he acknowledged that the inclusion of this text in the Resolution would provide some assurances to those that may be reluctant to support this agreement on CORSIA, in his view, the current wording risked undoing the current agreement, even if unintentionally. On this note, the Representative conveyed his willingness to collaborate with the Representative of France on possible changes to the text in order to eliminate any ambiguity.

94. The Representative of India echoed the concerns raised by the Representatives of Saudi Arabia and Brazil, adding that it would be important to avoid upsetting the delicate balance achieved by leaving open the possibility for the continuous review of CORSIA and the baseline.

95. In also supporting the comments of the Representative of Saudi Arabia, Brazil and India, the Alternative Representative of China did not consider that the current working paper reflected all the views and concerns raised, and as such, lacked the basis for submission to the Assembly. He therefore registered his Delegation's reservation to the decision of the Council in this regard, and in doing so, reiterated that a nationally-determined baseline should be among the options put forward for consideration, as a constructive approach to improving CORSIA. The Representative concluded in assuring that his Delegation was prepared to join the international community in adopting fair and effective measures, and would do its best to reduce emissions and promote the sustainable development of international air transport.

96. The Representative of France agreed that he could accept the inclusion of his proposed text in the Council decision, in lieu of the Resolution, as doing so would still be helpful in addressing his concerns. Nevertheless, he reminded that the Resolution already provided for monitoring to take place, and in that respect, his proposal in no way would have affected how periodic reviews might be conducted in the future. For him, the text was a means to expressly link the baseline to this review process, in order to have made an already challenging agreement more palatable to his national authorities.

97. On the suggestion of the Representative of the Russian Federation that the proposed text be circulated in writing, in order to provide more time to the Council to consider the proposal, and allow those Delegations that had yet to consult with their capitals sufficient time to do so, the President of the Council reiterated that the Assembly working paper needed to be issued as soon as possible. In this regard, he noted that the proposal of the Representative of France would not be incorporated in the Resolution text, but would instead be reflected in the final Council decision.

98. Recalling that his agreement in relation to the C-WP/13292 Revision No. 1 had been conditional pending the outcome of the Council's consideration of C-WP/15394 Revision No. 1, in light of the foregoing discussions, the Representative of Brazil confirmed his full support for the preceding item.

99. Following consideration, the Council, by a majority decision:

- a) took note of the information presented in C-WP/15394, Revision No.1, and in doing so, reiterated its appreciation to the CAEP for having completed the additional analyses requested by the Council in a timely manner, and for consistently delivering a high standard of work to support the Council's discussions in relation to CORSIA, and other environment-related issues;
- b) approved the draft Assembly working paper attached to C-WP/15394 Revision No.1, subject to the changes agreed on by the Council in the course of its consideration of this item, including the final agreed text of Operative Clauses 5, 11, 12 and 17 of the draft Assembly Resolution, as reflected in the attachment to this C-DEC;
- c) further noted that the approved draft Assembly working paper would be published as soon as possible in order to allow Member States sufficient time to submit any comments or views thereon under cover of their own respective working papers to the Assembly, by the deadline of 31 August 2022;
- d) acknowledged that the impact of the adjusted CORSIA baseline on the performance of CORSIA would need to be monitored closely; and
- e) recalled that pursuant to C-DEC 226/12, C-WP/15393, *Draft Assembly working paper – Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA)*, would be adjusted by the Secretariat to take into account the outcome of the Council's consideration of the CORSIA baseline beyond the pilot phase.

100. It was recorded that one Delegation had expressed a reservation to this decision of the Council (C-MIN 226/17, paragraph 95, refers).

**Information pursuant to Article 54 j) of the Chicago Convention on infractions of the Convention by a group of ICAO Member States**

101. The Council considered this item on the basis of C-WP/15429, Revision No.1, presented by the Russian Federation, which referred to provisions of the *Convention on International Civil Aviation* (Chicago Convention), and requested the ICAO Council to take action accordingly.

102. In opening the discussion, the President of the Council recalled that it had commenced consideration of this subject during the 15th meeting of the current session on the basis of a letter from Mr. Alexander Neradko, Head of the Russian Federal Air Transport Agency, which had been circulated to all Delegations via e-mail on 5 April 2022. The President further recalled that during that previous meeting of the current session, the Council noted the intention of the Russian Federation to submit the present working paper, as a result of which, it had been agreed at the time to defer further consideration of this item.

103. The President also informed the Council that in accordance with Article 53 of the Chicago Convention and rule 31 of the *Rules of Procedure for the Council*, the States mentioned in the paper of the Russian Federation, as well as the European Union, had been invited to attend this meeting given their special interest in the subject matter. He noted that the Council had no objection in this regard.

104. Introducing the item, the Representative of the Russian Federation explained that in the paper presented, his delegation had deliberately mirrored the structure of the paper that the European Union had used in its paper, *Registration and Operation of Aircraft in the Russian Federation* (C-WP/15425), which had been considered by the Council during the fourteenth meeting of the current session (C226/14). This was in order to emphasize a focus on infringements of the Chicago Convention that other States were responsible for. In some ways, the paper presented by the Russian Federation helped to better understand the reasons that had forced the Russian Federation to infringe Article 18 of the Chicago Convention. However, this was the only violation of the Convention. All the subsequent actions taken by the Russian Federation were in strict accordance with the other articles of the Chicago Convention.

105. The Representative recalled that during the earlier consideration of the European Union paper, he had posed a series of questions, none of which had been answered. Accordingly, he intended at this meeting to pose the same questions to the Member States of the European Union. One of these related to the comments of Mr. Henrik Hololei, Director-General for Transport and Mobility of the European Commission, who had said that the purpose of the sanctions imposed by the EU, was to destroy the civil aviation of the Russian Federation. If so, the Representative wanted to know from the 19 Member States that had sponsored the paper (C-WP/15425), if this was also their intention. During the previous meeting, the Representative had observed that the President of the Council had not reacted when he had posed this question, but he nonetheless hoped that the President was acting in accordance with the provisions of paragraphs 6 and 8 of Appendix I of the *Rules of Procedure for the ICAO Council*.

106. Considering the recent results of ICAO audits conducted under the USOAP programme, the Representative highlighted that the Russian Federation was among industry leaders. Likewise, according to the results of the last audit conducted under the USAP programme, his country had achieved an almost record result among all ICAO Member States. Yet despite these outstanding results, the Representative thought it odd that the Russian Federation was now deemed to be at fault and a Significant Safety Concern (SSC) had been applied against his country. Indeed, it was on the basis of the SSC that the ICAO Secretariat had demanded that the Russian Federation immediately cease flights of most of its aircraft.

107. Paragraph 2.7 of the paper presented by the Russian Federation (C-WP/15429) drew attention to the circumstances outlining the seizure of the Russian Antonov 124 cargo aircraft in Toronto, Canada, which had been delivering medical supplies on 27 February 2022, under an arrangement with the Government of Canada. At the same time, the Representative did not wish to reproach the Delegation of Canada to ICAO, which had been providing all possible support to his delegation and in helping him personally to obtain a Canadian entry visa, although he did note that he had been waiting for this visa for three and a half months. The Delegation of Canada was also assisting in unlocking the accounts of the Russian Mission to ICAO, access to which had been restricted by the Government of Canada. This meant that his delegation had been unable to pay its assessed contribution to the Organization or to make a voluntary contribution to the Safe Fund. Nor had his delegation been able to pay for the office space that was rented in the ICAO building. Given this context, the Representative wondered if this meant that restrictions would be placed on the Delegation of the Russian Federation to limit its ability to attend and participate in the 41st Session of the ICAO Assembly.

108. The Representative emphasized that all the infringements of the Chicago Convention that the States of the European Union and others were responsible for, posed a real threat to the future of ICAO. He hoped that ICAO would not meet the same fate as the League of Nations, but it was nevertheless not too late to rectify the situation. He recalled that when considering the EU paper at its previous meeting, he had indicated that the Russian Federation was prepared to initiate measures to remedy the violations of the Chicago Convention for which his country was responsible for, provided that the same EU States immediately cease their actions that constituted infringements of the Chicago Convention. For its part, the Russian Federation stood ready to negotiate in order to find mutually acceptable solutions in a spirit of cooperation and mutual respect as called for by the Chicago Convention.

109. Referring to the imposition of restrictive measures by a number of European airlines against the Russian Federation, the Representative claimed that a number of these airlines were experiencing serious economic difficulties and were on the verge of bankruptcy. In contrast, the Russian Federation had never set itself the goal of destroying the civil aviation of any other country. Indeed, his country had consistently sought to preserve the Organization and to strengthen the confidence of the global aviation community in ICAO. In the circumstances, the Representative hoped that the Council would avoid double standards. He invited the Council to support the actions outlined in his delegation's paper, although he acknowledged that some of these might be painful for some States, including the possibility that Mr. Hololei might well become the second person in the history of ICAO against whom a recommendation be made that he never set foot within the walls of the Organization ever again.

110. The Representative of the United States recalled that during a previous meeting of the current session, the Representative of the Russian Federation had openly acknowledged that Russia's actions violated key articles of the Convention. He considered that Russia's attempts to justify its own illegal actions by creating a false equivalency with the conduct of other countries was unacceptable. Therefore, he urged the Council to reject any further consideration of the paper that had been presented by the Russian Federation. He considered that the latter had submitted a paper that amounted to an improper application of Article 54 of the Chicago Convention. Indeed, the historical record was clear in that prior bilateral disputes relating to airspace closures bore no relevance to Article 54. He urged that the Chicago Convention should not be misused in the way that the Russian Federation had attempted.

111. Reminding the Council that today was the 31st Anniversary of the Ukrainian Declaration of Independence, the Representative of the United Kingdom observed that this marked six months of conflict for that country following the unprovoked and illegal invasion of Ukrainian territory by Russia in February 2022. In this connection, he considered that Russia's actions represented an egregious breach of international law and the United Nations Charter. Likewise, the paper that the Russian Federation had presented to the Council was simply designed to distract the Council. Indeed, the paper contained



unsubstantiated allegations particularly in the context of Article 1 of the Chicago Convention, which set out the principle of a state's sovereignty over its own airspace. In its own actions, the United Kingdom had acted proportionally and lawfully consistent with its international obligations. In contrast to the Russian Federation, the United Kingdom remained committed to upholding the Chicago Convention and preserving the safety and security of international civil aviation and protecting the travelling public. The Representative urged the Russian Federation to cease immediately its unlawful activities and to respect its international obligations.

112. The Representative of France reminded the Council that the item under consideration was the paper presented by the Russian Federation. Therefore, there should be no attempt to try to re-open discussions that had already taken place pertaining to the violations of the Chicago Convention that Russia had committed. These had been thoroughly discussed at the preceding meetings of the Council, during which clear decisions had been taken. Moreover, the Russian Federation has also violated Article 1 of the Convention following its invasion of Ukraine. In the circumstances, he was not surprised that the Representative of the Russian Federation was now attempting to muddy the waters and distract the Council from the reality that the Russian Federation was violating its international obligations.

113. Turning to the substance of the paper that the Russian Federation had presented, the Representative had observed that it contained a number of allegations that were simply false, unfounded and unproven. His conclusion was that the Russian Federation was merely making false allegations in an attempt to divert attention away from its own violations. The restrictive measures adopted by the European Union did not pose a threat to general aviation safety and the EU was certainly not threatening the safety of other states. Many of the allegations contained in the paper attempted to link the measures adopted by the EU to the articles of the Chicago Convention, but the Representative had noted that in each of the instances cited in the paper from the Russian Federation, not one was actually relevant or applicable. It was also remarkable that the paper referred to the principle of equal opportunity at the same time when the Russian Federation was engaged in actions that were in violation of the principles of the United Nations Charter through its invasion of the Ukraine. As a result of these actions, the Ukraine was currently unable to have normal air operations. The Representative underscored that the paper presented by the Russian Federation bore no semblance to reality and the allegations contained therein should just be thrown out.

114. Referring to the intervention by the Russian Federation, the Representative of Spain gave an assurance that there was no intention to destroy the civil aviation infrastructure of any country. Rather, it was *in everyone's interest* to preserve the objectives of international civil aviation and to have an Organization in ICAO in which all Member States felt that they could contribute, including the Russian Federation. At the same time however, the Representative underscored the need to ensure that the principles and obligations of the Chicago Convention were upheld.

115. The Representative recalled that events currently taking place in Europe were occurring against a historical context in which the European order was established in the 17th century with the Treaty of Westphalia in 1648 following the Thirty Years' War. At that time, countries in Europe had agreed, *inter alia*, that they should not interfere in the territory of another country. The current events in Ukraine constituted a break in this world order, but there could be no equivalence between the invasion of one country by another, and then somehow implying that this was equivalent to the imposition of restrictions by another set of countries. These were two completely different things. In closing, the Representative requested the Secretariat to elaborate on whether Article 84 of the Chicago Convention was applicable in these circumstances and also on how previous cases involving the imposition of restrictions on airspace had been dealt with.

116. The Representative of Greece emphasized that any violation of the territorial integrity and sovereignty of a Member State of the United Nations constituted risks for the safety and security of civil

aviation, but also represented a grave violation of the Chicago Convention. In relation to the actions taken by other countries in response, she recalled that Article 1 of the Convention clearly indicated that every country had exclusive sovereignty to take decisions in relation to its own airspace. In the circumstances, her delegation found no merit in the paper presented by the Russian Federation.

117. The Representative of Finland described the actions of the Russian Federation against the Ukraine as unjustified aggression. This had already been clearly articulated as such in other fora, including at the United Nations. In the circumstances, he considered that there no basis for the Council to consider the paper presented by the Russian Federation.

118. Associating himself with the preceding interventions, the Representative of the Netherlands characterised many of the claims made in the paper presented by the Russian Federation as simply unfounded. The Russian Federation had clearly violated its own international obligations under the Chicago Convention, which cast doubt on the commitment of that country towards the principle of multilateralism and the United Nations, including ICAO. In the circumstances, the Representative did not believe that the Council should consider the paper presented by the Russian Federation.

119. The Representative of Canada noted that an attack by one State on another State represented an assault on the multilateral system. The Russian Federation was guilty of multiple infractions of the Chicago Convention, including violations of Articles 1, 18, 19, 29 and 31. In contrast, Canada had at all times acted consistent with the Chicago Convention and had taken only such measures as were permitted by its provisions in response to the multiple egregious infractions committed by the Russian Federation. As a result of its actions, the Russian Federation had disrupted the global civil aviation order and undermined the mutual trust that had formed the bedrock of the international civil aviation system for more than 70 years. The Representative urged the Russian Federation to immediately stop all its infractions of the Convention and its Annexes.

120. Associating himself with the preceding interventions of the United States, France, United Kingdom, Greece, Netherlands, and Canada, the Representative of Germany indicated that the measures taken by his country and others in response to the unprovoked and unjustified military aggression by the Russian Federation against the Ukraine were fully in line with the decisions of the United Nations General Assembly and the ICAO Council. Indeed, the Russian aggression towards the Ukraine represented a clear violation of the territorial integrity and sovereignty of the Ukraine, including its airspace, and this was inconsistent with the principles of the UN Charter as well as the articles of the Chicago Convention.

121. The Representative recalled that the Council had previously decided on this matter on 25 February 2022, at which time the Russian Federation had been urged to cease its unlawful activities, to ensure the safety and security of civil aviation in all affected areas, and to respect its obligations under the Chicago Convention as well as other relevant international air law treaties. The paper presented by the Russian Federation had no merit since the sanctions imposed by some countries against the Russian Federation represented a legitimate reaction to the illegal and unlawful actions by the Russian Federation. In that context, the measures introduced by Germany and other countries against the Russian Federation were fully justified and permissible under international law.

122. The Representative of Mexico characterised the paper presented by the Russian Federation as containing inaccurate and biased information. The Representative was perturbed that in its paper, the Russian Federation had named Mexico as one of the countries that had adopted restrictive measures. However, he highlighted that Mexico had always sought to act in accordance with the requirements and obligations of international law as well as to adhere to the decisions of the Council in respect to violations committed by other states within the context of the Chicago Convention. It was important to recall that through its actions, the Russian Federation was endangering safety and posing a risk to international civil

aviation. Therefore, he urged the Russian Federation to cease immediately its actions because otherwise, there was no basis for the Council to consider the paper that the Russian Federation had presented.

123. Having taken careful note of the concerns expressed by the Russian Federation in its paper, the Representative of China stated that his country had always sought to uphold the purpose and the principles of the Chicago Convention and to support ICAO under the guidance of the Convention to promote the safe and orderly development of international civil aviation. Against that background, the Representative was of the view that when it came to aviation safety, all Member States should act prudently and avoid any negative impact on the international civil aviation system. The Representative encouraged the Council to avoid political interference. He also called upon all parties to act in the spirit of the Convention and to seek solutions and a way forward through negotiations and consultations.

124. Referring to the preceding interventions and the criticisms that had been levelled at his country, the Representative of the Russian Federation stated that many of these had been addressed in the paper that his delegation had presented. In relation to the intervention of France, the Representative indicated that although he did not agree with what had been said, he respected the views and hoped that the same respect would be afforded to his delegation as well. In relation to the intervention of Spain, the Representative had especially welcomed the assurance that there was no intention to destroy the civil aviation industry of his country, but he was disturbed that no other delegation had provided the same assurance. However, the Representative was grateful to those delegations that had urged a resolution of the issues through negotiations.

125. Recalling the previous discussion of the Council on this item during the fourteenth meeting of the current session, the Representative underscored that in the decision taken during that meeting, no blame had been apportioned to the Russian Federation. Indeed, much of the discussion that the Council had in that meeting as well as the present one had been beyond the mandate of the Organization. ICAO was a specialized agency dealing with international civil aviation and in that sense, the ICAO Council should not seek to take on the function of the UN Security Council. The Representative explained that his country was not at war with the Ukraine and nor was his country at war with the people of the Ukraine. However, that discussion should not be taking place in ICAO, but rather at the UN Security Council.

126. In concluding, the Representative acknowledged that the paper that had been presented by his delegation was unlikely to be accepted by the Council. Therefore, in accordance with rules 40, 41 and 45 of the *Rules of Procedure for the Council*, he wished to move a motion that the Council cease further consideration of this item and instead a secret ballot be held in relation to the paper.

127. In response, the President of the Council explained that in view of the logistics associated with conducting a secret ballot vote, it might prove somewhat challenging to proceed on this basis within the time remaining in the current meeting. He recalled that in the guidelines adopted by the Council for the conduct of hybrid meetings, there certainly was provision for the conduct of secret ballot votes, but there were certain specific and detailed procedures that had to be followed. This would mean that it would be extremely complicated to conduct a secret ballot vote at the current time. It would perhaps have been possible for the Council to proceed to a roll-call vote but the motion presented had to be clear in this regard. The President also noted that in accordance with the *Rules of Procedure for the Council*, all motions moved require a seconder.

128. The President proposed that in the circumstances, an alternative approach might be for the Council to conclude that based on the preceding discussion and interventions, there was insufficient support for the paper that had been presented by the Russian Federation. In addition, the Council could request the Secretariat to undertake some analysis of the issues raised, including the applicable legal principles and the

role of the ICAO Council vis-à-vis the imposition of sanctions by Member States. That would then allow the Council to reconsider the item at a subsequent session.

129. In response, the Representative of the Russian Federation insisted that in accordance with the *Rules of Procedure for the Council*, he wished to move a procedural motion in relation to the paper that his delegation had presented.

130. The President of the Council acknowledged the procedural motion moved by the Representative of the Russian Federation, but he reiterated that it was important for the Council to understand that taking into account the guidelines that had been adopted for the conduct of hybrid meetings, it simply would not be possible to conduct a secret ballot vote within the time remaining in today's meeting. In any case, the President recalled that the procedural motion moved by the Russian Federation would still need to be seconded.

131. By way of supplementary information, the Chief, Assembly and Council Secretariat (C/ACS) explained that since meetings of the Council were currently being convened in a hybrid setting, it was necessary to recall the guidelines that had been adopted by the Council for that purpose. Specifically in relation to the conduct of secret ballot votes, there was simply no provision for secret ballot votes to be conducted immediately and that the guidelines required some advance notice to be provided especially given that a number of Representatives were not physically present.

132. In response to a question from the President of the Council pertaining to motions, C/ACS clarified that in accordance with the *Rules of Procedure for the Council*, any motion moved by a Representative had to have a seconder before the question could be put to a vote. In the circumstances that were under consideration, he had understood that in effect, two motions would be required. In the first instance, there was a procedural motion in which the Council would need to decide whether it agreed with the request to conduct a secret ballot vote. That procedural question would need to be put in a roll-call vote. C/ACS explained that if the motion was agreed to in the affirmative, then the second motion, which was substantive in nature and related to the paper that had been presented by the Russian Federation, could then be proceeded to with a secret ballot vote.

133. The Representative of Spain indicated that aside from the complications associated with the conduct of a secret ballot vote, any substantive motion that would be considered by the Council would need to be clear and should be submitted in writing in advance of the meeting of the Council. The latter element was important because all the delegations represented on the Council would need to know what the motion was and then to undertake consultations with their home ministries. This meant that a certain timeframe ought to be respected before the conduct of any secret ballot vote.

134. The Representative of the Russian Federation indicated that he wished to pursue his motion for a secret ballot vote to be conducted on the paper that his delegation had presented.

135. In response, the President of the Council explained that in view of the time with it being 1730 hours, he proposed that the meeting be suspended and that the Council resume its proceedings at 1000 hours on the next day. In the interim, he invited the Representative of the Russian Federation to submit to him in writing the text of the substantive motion that he wished to move so that this could be shared with the Council in advance of when the meeting resumed.

*At this point of the proceedings, it being 1730 hours on Wednesday, 24 August 2022, the Council agreed to suspend further consideration of the item on the understanding that the meeting would resume at 1000 hours on Thursday, 25 August 2022.*

136. Resuming its consideration of this item, the President of the Council recalled that due to time constraints, the meeting had been suspended on the previous day just as the Representative of the Russian Federation had indicated his intention to move a motion pertaining to the paper that his delegation had presented. In this connection, the Representative of Russian Federation had since submitted the text of the motion in which the Council was being asked to terminate the debate on C-WP/15429 and to then take a decision on the approval of the working paper on the basis of a secret ballot.

137. In relation to the secret ballot procedures that would be applicable in these circumstances, the President recalled that since the Council had been presented with a motion, the first requirement would be for that motion to be seconded in accordance with rule 40 of the *Rules of Procedure for the Council*. Thereafter, rule 50 was applicable in that it stated that “unless opposed by a majority of the Members of the Council, the vote shall be taken by secret ballot if a request to that effect is supported, if made by a Member of the Council, by one other Member”. The President explained that this was a procedural requirement that would first need to be satisfied and in this instance the outcome would be determined by way of a roll-call vote.

138. The President further explained that if the outcome of the roll-call vote was that a majority of the Council opposed the conduct of a secret ballot vote on the substantive motion, then the latter would lapse in the absence of a majority. However, if a majority of the Council agreed to a conduct of a secret ballot vote on the substantive motion, then he would proceed to conduct that ballot in accordance with Appendix A of the *Guidelines for virtual meetings*. In this regard, the President recalled that during the fifth meeting of the 225th Session, the Council had agreed that these would be the applicable procedures in such circumstances when the Council was required to proceed to the conduct of a secret ballot vote during a period when the Council was meeting in a hybrid setting.

139. Turning to Appendix A of the guidelines, the President indicated that paragraph 2.1 required that Council Representatives be informed, inter alia, of the question or the motion before the Council, as well as the date and time and venue for the conduct of the vote. In addition, paragraph 2.2 required that in relation to the conduct of a secret ballot vote, all relevant information had to be conveyed to Council Representatives at least 48 hours in advance of any vote, unless otherwise decided by the Council. In this regard, the President recalled that on previous occasions when a secret ballot vote had been required, the venue had been Council Chamber.

140. In response to a question from the Representative of Egypt, the President of the Council explained that in accordance with *Guidelines for virtual meetings*, the conduct of secret ballot votes required the in-person presence of Representatives or an accredited Alternate to exercise the vote on behalf of a Representative who might be absent. In the absence of both the Representative and an Alternate, the President noted that the guidelines also provided for the delegation to appoint a proxy to vote. He recalled that these procedures had recently been applied in the case of the secret ballot vote that was conducted for the election of the ICAO Secretary General as well as for the President of the Air Navigation Commission.

141. In response to a question from the Representative of the United States (Alternate), the President of the Council explained that for the conduct of roll-call votes, it should be the Representative who exercised the vote on behalf of a particular delegation, and in this instance it did not matter whether the Representative was present in-person or attending virtually. In the absence of a Representative, then it was understood that an Alternate could vote on his or her behalf.

142. At this point, the President of the Council invited the Representative of the Russian Federation to confirm the wording of the substantive motion that he was proposing. The latter explained that the terms of the motion were simply that the Council be invited to agree to the recommendations and

actions contained in section 4 of the paper that the Russian Federation had presented (C-WP/15429), and for this motion to be determined by way of secret ballot.

143. The Representative of China (Alternate) indicated that he would second the motion that had been moved by the Russian Federation.

144. The President of the Council reminded the Council of the wording of rule 50 of the *Rules of Procedure for the Council*, which stated: “unless opposed by a majority of the Members of the Council, the vote shall be taken by secret ballot if a request to that effect is supported, if made by a Member of the Council, by one other Member”. This being the case, the President explained that the first step, which was procedural, would be for the Council to determine whether it agreed to the conduct of a secret ballot vote.

145. The Representative of France indicated that he was opposed to the conduct of a secret ballot vote on the substantive motion that had been moved by the Russian Federation.

146. The Director, Legal Affairs and External Relations Bureau summarised that a motion had now been moved by the Russian Federation for the conduct of a secret ballot vote on the substance of the working paper that the delegation had presented. Given that this motion had now been seconded by China, the *Rules of Procedure for the Council* required the Council to decide whether a majority were opposed to the request for a secret ballot vote. He further explained that this was a procedural question and given that one Representative (France) had already indicated their opposition, then the outcome of the question would have to be determined by way of roll-call vote.

147. The Representatives of Japan and the United States indicated that they were opposed to the conduct of a secret ballot on the substantive motion moved by the Russian Federation.

148. In supporting the proposal to conduct a secret ballot on the substantive motion moved by the Russian Federation, the Representative of South Africa opined that there were good reasons why the rules of procedure provided for a secret ballot vote process. For instance, in relation to ballots for the selection of individuals to fill roles such as President of the Council or President of the Air Navigation Commission, he noted that because of the political ramifications, particularly for smaller countries such as his own, the outcome in such situations was best determined only by way of secret ballot.

149. Acknowledging the preceding intervention, the President of the Council reiterated that the first part in the process at this point would be a procedural step to determine, in accordance with rule 50 of the *Rules of Procedure for the Council*, on whether or not the Council was in opposition to the conduct of a secret ballot. The outcome of this first procedural question would need to be determined by way of roll-call vote.

150. Before proceeding to the conduct of the roll-call, the Chief, Assembly and Council Secretariat reaffirmed that rule 50 required Representatives to declare themselves on whether or not they were opposed to the conduct of a secret ballot vote. This meant that those opposed to the conduct of a secret ballot vote would vote “yes”, while those in favour of a secret ballot vote would vote “no”. He explained that Representatives also had the option to abstain if they so chose.

151. By way of roll-call vote, the Council, acting in accordance with Rule 50 of the *Rules of Procedure for the Council*, then decided against proceeding to a secret ballot vote. The outcome of the roll-call vote was that 22 Representatives declared themselves opposed to the conduct of a secret ballot vote, 4 Representatives declared themselves in favour of a secret ballot vote, and 8 Representatives abstained (2 Representatives being absent).

152. In accordance with rule 40 a) of the *Rules of Procedure for the Council*, a subsequent motion proposed by the Representative of the Russian Federation to undertake a roll-call vote on the question of whether to approve the actions outlined in paragraph 4 of C-WP/15429, lapsed due to the lack of a seconder.

153. In concluding its consideration of this item, the President of the Council summarised that on the basis of the Council's preceding deliberations, it was apparent that there was a lack of consensus among the Council to proceed with the working paper that the Russian Federation had presented. Therefore, he proposed that the Council instead request the Secretariat to undertake an analysis of the issues raised, including the legal principles and the role of the ICAO Council vis-à-vis the imposition of sanctions by Member States on another country. He explained that thereafter, the Council could revisit this issue at a subsequent session.

154. Agreeing with the President's proposed summary, the Council:

- a) acknowledging that there was a lack of consensus amongst the Council Representatives to proceed with the working paper in its current form, decided to forego submitting a working paper to the 41st Assembly; and
- b) requested the Secretariat to undertake a comprehensive analysis of previous decisions that had been taken by the Council pursuant to its consideration of similar or related items, including with reference to applicable legal principles, and to prepare a paper thereon that would be presented at a subsequent session.

155. In response to a question from the Representative of the Russian Federation, the President of the Council gave an assurance that both the summary of the decision on this item (C-DEC 226/17), as well as the summary record of the proceedings (C-MIN 226/17), would be issued and be available before the opening of the forthcoming 41st Session of the Assembly.

#### **Draft Assembly working paper — Infractions of the Convention on International Civil Aviation by the Russian Federation**

156. The Council considered this item on the basis of C-WP/15427. Pursuant to C-DEC 226/14, the draft Assembly working paper reported on infractions of the *Convention on International Civil Aviation* (Chicago Convention) by the Russian Federation. This included with respect to the violation by the Russian Federation of the exclusive sovereignty of Ukrainian airspace, as well as the dual registration of aircraft and permitting aircraft to fly without the required documents on board.

157. Introducing the item, the Secretary General indicated that the working paper reported on infractions of the *Convention of International Civil Aviation* that had been committed by the Russian Federation. He explained that the paper had been prepared following the decision taken by the Council during an earlier meeting of the current session to report these matters to the Assembly as infractions to the Chicago Convention, pursuant to Article 54 k) of the Convention.

158. The Secretary General further explained that the draft Assembly working paper outlined the actions that the Organization had undertaken since the Council first discussed these matters during the fourth meeting of the 225th Session on 25 February 2022. In particular, section 4 of the paper elaborated on Article 54 k) of the Chicago Convention, which set out the mandatory function of the Council to report infractions of the Convention to the Assembly. The Appendices to the paper also contained the supporting documentation that had been submitted by 19 Members of the ICAO Council, while a draft Assembly

Resolution on “Infractions of the Convention on International Civil Aviation by the Russian Federation” was presented for consideration in Appendix C to the paper.

159. Recalling that he had invited Council Representatives to submit to him in writing their comments on the proposed draft Assembly working paper, the President of the Council informed that he had received two comments from delegations: one from the United States and one from Mexico.

160. The Representative of the Russian Federation delivered the following statement, which he requested be replicated in full in these minutes:

*“Taking into consideration C-WP/15429 presented by the Russian Federation with regard to infractions of the Chicago Convention by the group of states referred to therein, it was difficult to argue that the draft Assembly working paper C-WP/15427 presents the real picture of events or offers realistic ways to resolve the crisis. I would truly like to believe that neither you Mr. President nor the 19 states that submitted C-WP/15425 aim to destroy Russian civil aviation. We do not understand what kind of violation of airspace sovereignty is referred to in this working paper.*

*I must once again repeat what I said during the 14th meeting of the 226th Session of the Council. Once again I want to ask all the members of the Council and specifically the US Delegation whether Article 1 of the Convention was violated in Viet Nam where for eight years American troops carried out carpet bombing and poured 72 million litres of the defoliant agent orange on the heads of Viet Nam’s defenders, or when in 1999 without the approval of the United Nations Security Council, NATO forces launched airstrikes on Yugoslavia for 78 days, or during the military operation in Iraq in 2003, where more than 500,000 civilians died, or in the course of the military operation in Syria against the Islamic State in 2014, and in other military operations involving individual states on whose behalf C-WP/15425 has been presented. I would like to remind you Mr. President that this question has not been answered. I know that the answer will not be received today either but we will also demand an answer to this question Mr. President during the Assembly.*

*I do not wish to go beyond the organization’s mandate, but the political demands included in the text of the draft working paper and the draft Assembly resolution leave me no choice. In this regard, I want to ask everyone who is ready to accept this paper as it is, where were you when for eight years the regime in Ukraine, which came to power through a bloody coup d’état literally was wiping out the Russian-speaking population of Ukraine resulting in the deaths of more than 14,000 civilians?. Think about that number; 14,000 civilians. In Donetsk there’s a place called Angel’s Alley where children were killed by the nationalists and then buried there. This sorrowful list of crimes is not yet done. There are already more than 200 children buried there who like your children wanted to live but they were killed in their homes, kindergartens, schools, playgrounds, hospitals, and maternity hospitals by weapons that western countries generously supplied to Ukraine.*

*Yesterday, the mayor of Zaporizhzhia, Ivan Sushko, was killed by a planned detonation of a bomb in his car as he was taking his daughter to kindergarten. The day before yesterday, Russian journalist and political analyst Darya Dugin, was killed by a planned detonation of a bomb in her car. She was 28 years old. The assassination was perpetrated by a member of the Asov battalion, who is now hiding in Estonia, the homeland of Mr. Hololei. Ukrainian nationalists continue firing on residential districts of Donetsk, Gorlovka, and other liberated communities on Ukrainian territory. Yesterday, the armed forces of Ukraine delivered strikes on the Zaporizhzhia nuclear plant using American artillery shells, which exploded within several dozen meters of the functioning reactors.*

*I want to ask my European colleagues: Are you not afraid for your families and for the future of your children in a radioactive Europe? The Delegation of the Russian Federation strongly affirms the*



*inadmissibility of this paper whose sole aim is to vilify Russia. In response to all objections in this regard, I recall that only the United States and Ukraine traditionally vote against the annual United Nations General Assembly Resolution against the glorification of Nazism.*

*Seeking to preserve the integrity of the Organization and its reputation, the Russian Federation expresses its readiness to provide the necessary assistance to the Secretary General of ICAO in preparing a new version of the draft Assembly working paper, which will present an objective picture of the crisis caused by the infringement of the Convention by the group of states, and the Assembly will be invited to urge all affected states to enter into negotiations without delay to discuss flight safety issues through the mediation of the President of the ICAO Council. The Council may consider this new version of the draft Assembly working paper at a meeting convened by the President of the Council for that purpose”.*

161. In response to the preceding statement, the President of the Council indicated that he had never advocated or supported the destruction of the civil aviation infrastructure of any Member State. Indeed, as President of the ICAO Council he felt duty bound to condemn any destruction of civil aviation infrastructure, including the air navigation systems of any country. Notwithstanding this however, he wished to recalled the context for the current discussion when during the 14th meeting of the current session, the Council considered a proposal by 19 Member States, the conclusion of which was to request the Secretariat to prepare the current draft Assembly working paper (C-WP/15427). In that sense, the draft Assembly working paper that had been presented for consideration at the current meeting represented the outcome of the fulfilment of a decision taken during the 14th meeting of the current session.

162. The Representative of the United States (Alternate) recalled that the draft Assembly working paper that had been presented concerning Russia’s infractions of the Chicago Convention was prepared as a result of a prior decision of the Council. He emphasized that the infractions committed by the Russian Federation affected the integrity and trustworthiness of the international civil aviation system as a whole. In taking the decision to operate dual registered aircraft, the Russian Federation was blatantly violating the Convention by flying with invalid certificates of airworthiness and placing all transited and destination countries and passengers at risk. In these circumstances, he surmised that urgent action was required under Article 54 of the Convention to address the risks to the international aviation system posed by these infractions.

163. In relation to the text of the draft Assembly resolution, the Representative of Mexico proposed that an additional preambular clause be added that directly related to the text of the second operative clause. In this instance, the proposed text of the additional preambular clause would be along the lines to note: “that the Russian Federation failed to take appropriate action within a reasonable time after notice of the infractions despite strong condemnations by the Council and it calls for compliance with the Convention on International Civil Aviation”. The Representative proposed that this new text be inserted as the new seventh preambular clause of the Resolution.

164. The Representative of France recalled that on 22 June 2022, during the 14th meeting of the current session, the Council took a decision to request the preparation of the draft Assembly working paper that had been presented (C-WP/15427). Against that background, he welcomed both the paper and the draft Assembly Resolution that it contained. In relation to the latter, the Representative also welcomed the additional text proposed by Mexico, which in his view served to underscore the problem associated with an infraction by a Contracting State of the Chicago Convention. The issue before the Council was not meant to be political, but rather arose as a result of concern for civil aviation when a Member State took actions that represented infractions of the Chicago Convention.

165. Expressing support for the additional text proposed by Mexico, the Representative of Peru averred that it was important for ICAO to focus on three distinct areas. One was to work on the economics

and recovery of aviation. The second was the environment and the third was policy actions that were required to be taken to uphold and strengthen the Chicago Convention. In that connection, he supported the draft Assembly working paper that had been presented.

166. The Representatives of Australia, Canada, Colombia, Côte d'Ivoire, Dominican Republic, Equatorial Guinea, Greece, Italy, Japan, Netherlands, Spain, and the United Kingdom, all indicated that they supported both the draft Assembly working paper as well as the additional text that had been proposed by Mexico. In doing so, the Representatives also underscored the importance of the Council taking action to uphold the Chicago Convention.

167. The Representative of the Russian Federation stated that the draft Assembly working paper that had been presented was merely an attempt to vilify his country. In accordance with rule 40 a) of the *Rules of Procedure for the Council*, he therefore proposed a motion that the working paper be withdrawn and re-drafted.

168. The Representative explained that if the Council agreed to his motion, it would enable the paper to be redrafted in such a way as to reflect what he considered the reality of the situation. His country was interested only in solving the crisis that had arisen and in that vein, the Russian Federation wanted that all parties enter into negotiations in order for the dispute to be mediated. He regretted what he perceived as an absence of goodwill in the Council to have this dispute resolved. A number of other countries had imposed unilateral restrictions against the Russian Federation that had threatened his country's national security and prevented the country from operating its aircraft. Those countries that had imposed restrictive measures against the Russian Federation had themselves violated the Chicago Convention, including when they had terminated their obligations under the aircraft leasing agreements.

*The motion proposed by the Russian Federation lapsed due to the lack of a seconder.*

169. Accordingly, the Council by a majority decision, approved the draft Assembly working paper attached thereto. The approval was subject to the amendment proposed by the Representative of Mexico to include a new preambular clause in the draft Resolution being reflected, and delegated authority to the President to thereafter approve the revised working paper on its behalf for subsequent submission to the 41st Session of the Assembly.

170. It was recorded that one Delegation had expressed a reservation to this decision of the Council.

### **Draft Assembly Working Paper – Infractions of the Convention on International Civil Aviation by the Republic of Belarus**

171. The Council considered this item on the basis of C-WP/15430, which pursuant to C-DEC 226/16, presented a draft Assembly working paper on an infraction of the *Convention on International Civil Aviation* (Chicago Convention) by the Republic of Belarus in connection with the event involving Ryanair Flight FR4978 in Belarus airspace on 23 May 2021.

172. In his opening remarks, the President of the Council informed the Council that pursuant to Article 53 of the Chicago Convention and rule 31 of the *Rules of Procedure for the Council*, a number of non-Council Member States, including Belarus as well as the European Union had been invited to attend the discussion on the basis of their special interest in the item.

173. Introducing the item, the Secretary General recalled that during the 16th meeting of the current session, the Council, pursuant to Article 54 k) of the Chicago Convention, had taken a decision to

submit a working paper to the Assembly concerning infractions of the Convention that the Republic of Belarus was responsible for in relation to the events involving Ryanair flight FR4978 on 23 May 2021. In this connection, the Secretary General further recalled that this item had been discussed by the Council in the context of the report of the Fact Finding Investigation Team (FFIT), a copy of which he noted had now been published on the ICAO public website.

174. The Representative of the Russian Federation delivered the following statement, which he requested be replicated in full in these minutes:

*“The Russian Federation states that such papers undermine ICAO’s longstanding impeccable reputation. I think the President emeritus of the ICAO Council, Dr. Assad Kotaite, would be horrified by this paper. The FFIT which did not even have terms of reference or a clear legal status actually concocted an accusation against the government of a sovereign state under pressure from a number of states. It is very painful for me to say this to experts who are part of this group whom I knew personally and respected as true professionals, but in life from time to time you have to choose between honor and disgrace.*

*The Delegation of the Russian Federation strongly objects to the submission of this draft working paper for consideration by the Assembly. It is based on inaccurate information that goes beyond the mandate of the Organization and tarnishes ICAO’s longstanding impeccable reputation. I think that in future the ICAO Council should initiate a similar investigation into the incident with the landing and search of the aircraft of the President of Bolivia, Mr. Evo Morales, at the Vienna Airport on 1 July 2013, in order to detain former CIA Agent Edward Snowden”.*

175. The Representative of the United Kingdom averred that his delegation was in full support of the draft Assembly working paper, which he considered accurately and fairly reflected the Council discussions and decision on this item.

176. Recalling the Council’s initial consideration of the incident involving Ryanair flight FR4978, which took place in 2021, the Representative of France indicated that he would have preferred the draft Assembly working paper to have made reference to that previous decision taken by the Council given the important and substantive elements that were contained in that decision. In this connection, he emphasized that the rerouting of the aircraft in such circumstances was completely unacceptable and inconsistent with the principles of the Chicago Convention. Accordingly, it was important that Contracting States be reminded that this type of action should never happen again in the future.

177. The Representative of Canada expressed his support for the draft Assembly working paper. His delegation strongly supported the Resolution that was contained therein and the proposed censure of Belarus for its unlawful interference with international civil aviation, as identified in the FFIT report. He underscored that this infraction should be condemned in the strongest terms and that the message had to be conveyed that civil aviation should never be used for a purpose inconsistent with the aims of the Chicago Convention.

178. Agreeing that the incident involving Ryanair flight FR4978 was something that should never be allowed to happen again, the Representative of Spain emphasized the need to uphold the Chicago Convention and the role that the ICAO Council should play as the custodian of the Convention. In relation to the preceding intervention of the Russian Federation, the Representative pointed out that the incident involving the flight of the former President of Bolivia, Evo Morales, wherein his plane was forced to land in Vienna in July 2013, was not at all comparable to the actions of Belarus vis-à-vis Ryanair flight FR4978 in May 2021. He observed that in the case of the former, the flight was not diverted, but rather the aircraft had not been authorized to fly over certain states.

179. The Representatives of Australia, Greece, Italy, Japan, the Netherlands, and the United States, all expressed their support for the draft Assembly working paper.

180. In response to the preceding interventions, the Director, Legal Affairs and External Relations Bureau (D/LEB) indicated that in relation to the intervention by France, he agreed that the text of the draft Assembly working paper could be revised to incorporate additional references to the discussions and decisions that the Council had taken during its previous sessions when discussing this item. By way of supplementary information, he also explained that Article 54 k) of the Chicago Convention did not actually provide for a remedy in situations such as these. The article merely referred to a Contracting State having failed to take appropriate action. D/LEB noted that what constituted “appropriate action” however was not defined in the Convention and it therefore fell to the Council to consider whether or not appropriate action had been taken in this regard. He recalled that in its previous decision on this item, the Council had taken a view that there had not been appropriate action on the part of Belarus in respect of the infractions and therefore, this was the basis for submitting a report to the Assembly in accordance with Article 54 k) of the Chicago Convention. He further noted however that it remain up to the Council to consider what would constitute “appropriate action” in this case and in this regard, one option might be to call upon Belarus to take responsibility for its actions and for it to provide a commitment to respect the provisions of Article 4 of the Convention going forward.

181. Before closing its consideration of the item, the Secretary General acknowledged the professionalism and dedication of the staff members who had served as part of the FFIT. He underscored the excellent work that had been done by the team and indicated that it would be appropriate for the Council to recognize this in the decision that it would take on this item. The Representative of the United States (Alternate) endorsed these sentiments.

182. In closing its consideration of this item, the Council:

- a) reiterated its appreciation to the members of the ICAO Fact Finding Investigation Team (FFIT) for their professionalism and the high quality of the report that they had produced as a result of their investigative efforts in this matter; and
- b) approved the draft Assembly working paper attached to C-WP/15430, subject to the amendment proposed by the Representative of France in relation to paragraph 2 of the working paper being reflected, and delegated authority to the President to thereafter approve the revised working paper on its behalf for subsequent submission to the 41st Session of the Assembly.

183. It was recorded that the Delegation of the Russian Federation expressed a strong objection to this decision of the Council. In doing so, the Representative of the Russian Federation explained that in his view, the Council had exceeded its mandate in taking this decision on this item. He stated that the ICAO Council was not the UN Security Council, which would have been the more appropriate body to have held the preceding discussion. The Representative urged the Council not to exceed its mandate, because otherwise it would meet the same fate as the League of Nations. The focus in the Council should be on strengthening cooperation for the benefit of the development of the aviation industry in accordance with the principles of the Chicago Convention. He expressed concern with what he perceived to be the politicization of the Organization.

184. The Representative of France indicated that he disagreed with the preceding statement by the Russian Federation. He underscored the necessity of upholding the principles of the Chicago Convention and he deemed it to be paradoxical that the Russian Federation would attempt to lecture the

ICAO Council especially given the highly charged language and terminology that the Representative of the Russian Federation had just used during his earlier interventions.

185. On a separate matter, the Representative of South Africa recalled that during the previous consideration of this item in the 16th meeting of the current session, he had raised the issue of what would constitute appropriate language to be used by Representatives during discussions on such items, and specifically in relation to how a Head of State or Government should be referred to. In response, the President of the Council explained that he had understood that this subject was still under consideration within the Secretariat and that he anticipated that the Council would return to this at a subsequent meeting.

#### **Any other business**

#### **Request from ICCAIA to be represented as an Observer at meetings of the 227th Session**

186. Referring to the request from ICCAIA to be represented as an Observer at the meetings of the 227th Session, the President of the Council recalled that in keeping with normal practice, this request had been circulated under written procedure on the understanding that it would be approved unless objected to by a Member State. The President explained that since the Russian Federation had objected to the request from ICCAIA, he had listed this item on the Order of Business for this meeting so that the Council could take a decision one way or the other on the request from ICCAIA. He also reminded Representatives that both the letter of objection from the Russian Federation, as well as the letter from ICCAIA outlining its position had been circulated in advance of the meeting. The President indicated that in its letter, the delegation of the Russian Federation had specifically objected to ICCAIA being permitted to participate in closed meetings of the 227th Session. Therefore, he proposed that the Council focus its deliberations on this question and then determine whether or not it wished to approve the participation of ICCAIA in closed meetings during the 227th Session.

187. The Representative of South Africa pointed out that the more general question of who should be permitted to attend closed meetings of the Council was something that deserved due consideration. In this connection, he was of the view that when Council meetings were closed, attendance at those meetings should be as restricted as possible. On the specific matter before the Council, he had understood that the Russian Federation had objected to ICCAIA because the latter had removed from their membership the representative entity from the Russian Federation. In his view, this was an entirely political matter and therefore, he wondered whether the Council should permit an international organization that took political decisions to then be permitted to attend closed meetings of the Council. He questioned the value that ICCAIA would bring to the Council if it was an organization that based its decisions on political considerations.

188. The Representative had also recalled a number of instances where the staff of the Secretariat had been excluded from meetings of the Council, and in this context, he declared that he would find it odd if the Council perceived that an international organization should be permitted to attend closed meetings of the Council, while the staff were not. Indeed, he considered that it was even more unacceptable, because he was aware of instances where the staff of the Secretariat had been prevented from attending open meetings of the Council.

189. The Representative of the Russian Federation explained that the objection of his delegation to the participation of ICCAIA had been clearly outlined in the letter that had been circulated on behalf of his delegation. In this connection, it was necessary to understand why ICCAIA had excluded technical experts from the Russian Federation from being part of its membership. He stressed that the experts from his country that had been now excluded by ICCAIA were not associated with any government agency in the Russian Federation. They simply represented the aviation industry of the Russian Federation. Therefore,

it was important for ICCAIA to explain why it had taken its decision. The onus was on ICCAIA to explain why it took a decision to exclude the Russian representatives from its membership. In his view, the only conclusion that could be drawn was that ICCAIA had taken a decision that was based solely on political considerations and this was something that was to be regretted.

190. The Representative also took the opportunity to remind the Council that ICAO was a specialized agency of the United Nations whose mandate was to focus on technical issues related to the development of the aviation sector. As such, all political issues were outside the scope of the Organization and should instead be left to the UN Security Council to consider, since this was the more appropriate forum for issues of a political nature.

191. The Representative of ICCAIA (Observer) indicated that the accusation that had been levelled at the International Coordinating Council of Aerospace Industries Associations (ICCAIA) that its decisions were based on political considerations was wholly incorrect. The reality was that ICCAIA had a strict membership policy that had to be adhered to. In this connection, ICCAIA membership was drawn from associations that focused on aerospace manufacturing and/or services sector on the understanding that there was only one association per country or region. Each member association also had to demonstrate that it was not under government influence. This particular requirement was specifically designed to prevent political influence from being part of ICCAIA considerations.

192. He explained that ICCAIA was a not-for-profit association legally registered in Canada and was therefore obliged to obey Canadian law in this regard. This required that ICCAIA had to comply with sanctions requirements, which meant that ICCAIA had been forced to expel its Russian member, the UAI, due to the aforementioned sanctions that had been imposed. He noted that the sanctions that Canada had imposed had been applied to a number of individuals and entities working for members of the UAI. As a result, ICCAIA would potentially have been exposed to legal consequences if data or information were transferred from ICCAIA to those entities associated with the UAI.

193. He further explained that the UAI had failed to pay its membership fees to ICCAIA on time and since Russian banks had been sanctioned, there was now no prospect for the UAI doing so for the foreseeable future. It was also the case that as a result of the sanctions that had been imposed, there were a great many corporations that would have been unable to participate in internal ICCAIA meetings while UAI continued to be a member association due to the potential legal risk.

194. Since the economic sanctions had been imposed in February 2022, ICCAIA had sought to identify options that would have enabled it to continue to work with UAI. Ultimately however, ICCAIA had concluded that there had been no other option but to expel UAI as a member association. In the end, ICCAIA was legally obligated to comply with Canadian, as well as international law. In closing, the Representative assured the Council that ICCAIA valued its relationship with ICAO, which it considered to be one that was mutually beneficial. He therefore hoped that both ICAO and ICCAIA could continue to work together in the same vein.

195. The Representatives of Australia, Canada, Equatorial Guinea, Finland, France, Germany, Greece, Italy, Netherlands, Republic of Korea, Spain, United Kingdom, and the United States all expressed their support for ICCAIA being permitted to attend closed meetings of the Council.

196. Notwithstanding the objection raised by one Delegation in response to the e-mail circulated by the President of the Council on 5 August 2022, the Council, in accordance with Rule 32 a) of the *Rules of Procedure for the Council*, approved, by a majority decision, the request of ICCAIA to participate as an Observer during the 227th Session of the Council's consideration in closed session, of items related to aviation safety and security, as appropriate.

### **Requests by international organizations to be invited to the 41st ICAO Assembly**

197. The Council took note of an oral report from the President of the Council concerning a request from the Air Transport Action Group (ATAG), to be included in the *List of international organizations that may be invited to attend ICAO meetings*. In this connection, it was noted that the request was pending in light of the current refinement of the process and criteria for the assessment of such requests from international organizations (C-DEC 225/3 refers). Notwithstanding the preceding and without prejudice to any future decision by the Council on the request from ATAG, the Council agreed that ATAG would be added to the *List of International Organizations to be invited to attend the 41st Session of the Assembly*.

### **Supplementary Agreement between ICAO and the Government of Canada regarding the Headquarters of ICAO**

198. The Council took note of the information provided by Secretary General indicating that the Government of Canada, as the Host State, had agreed to ICAO's request to defer cost recovery for repair projects of a non-capital nature at ICAO Headquarters, by exempting ICAO from reimbursing its portion of these costs to the end of the next budgetary triennium. The Council noted that in light of these developments, among others, the Secretariat would review the regular budget for the next triennium, and would continue to keep the Council apprised in this regard.

### **227th Session of the Council**

199. On the basis of a proposal of the President of the Council, the Council agreed in-principle, that with the exception of all meetings to be held during the Committee phase, meetings of the Council during the 227th Session would be convened in-person in the Council Chamber. It was also understood that the Secretariat would continue to explore solutions to ensure the availability of all operational features of the hybrid meeting option in the Council Chamber.

### **Farewells to Council Representatives**

200. The Council bade farewell to the Representatives of Colombia, Costa Rica, Côte d'Ivoire, Dominican Republic, Finland, Germany, Greece, the Netherlands, Paraguay, Peru, Tunisia and Zambia.

### **Settlement of Differences: Australia and the Kingdom of the Netherlands and the Russian Federation (2022)**

201. In the absence of comments by 11 August 2022 to the PRES memorandum SS/3359, dated 4 August 2022, the Council noted that a time-limit of 6 weeks had been granted to the Applicants (Australia and the Kingdom of the Netherlands) to submit written comments, if any to the Respondent's (Russian Federation) preliminary objection, and that consistent with its previous decision in this matter (C-DEC 226/5, paragraph 6 d) refers), the 6-week time limit would only begin to run from the date on which an English translation of the preliminary objection was provided to the Applicants.

202. The meeting adjourned at 1400 hours.





## SUBJECT INDEX TO THE SUMMARY MINUTES OF THE 226TH SESSION

### **AFI Plan SC/25**

Report (123)

### **AFI SECFAL Plan SC/11**

Report (116)

### **Air and Space Academy**

Invitation to the 41st Session of the Assembly (140)

### **Air Navigation Commission (ANC)**

ANC Work Programme for the 221st Session (92)

Appointment of Members and Alternates on the Air Navigation Commission (ANC) (11, 130)

Approval of Amendment 10 to the Procedures for Air Navigation Services – Aircraft Operations, Vol. I, and Amendment 2 to Vol. III – Aircraft Operating Procedures (PANS-OPS, Doc 8168) (47)

Consolidated report on PIRGs and RASGs for 2021 (128)

Draft State letter inviting nominations to the Air Navigation Commission (ANC) (45)

Expectations for and qualities of the President of the ANC for the 2023-2025 ANC mandate (46)

### **Air transport**

Fundamental Rights of Passengers at International Airports (21)

ICAO leadership on economic matters (129)

Report of the Eleventh Session of the Statistics Division (STA/11) (23)

Update by the Chairperson (47)

### **Ancillary Revenue Generation Fund (ARGF)**

Report on the performance (95)

### **Annex Amendment**

Adoption of Amendment 48 to Annex 6, Part I (157, 203)

### **Article 54 j) of the Chicago Convention**

Information pursuant to Article 54 j) of the Chicago Convention on infractions of the Convention by a group of ICAO Member States (247)

Notes on Articles 54 j), 54 k), 54 n) and 84 of the Chicago Convention (218)

Request of the Republic of Belarus to the ICAO Council for its consideration under Article 54 j) of the Chicago Convention (218)

### **Assembly, 41st Assembly**

Assistance to Aircraft Accident Victims and their Families (8)

Carbon Offsetting and Reduction Scheme for International Aviation (CORSA) (145)

Civil Aviation and the Environment (79)

Climate Change (81, 227)

Consolidated statement of continuing ICAO policies in the legal field (44)

Consolidated statement of continuing ICAO policies related to:

- Aviation Security (29)

- Facilitation (125)

Consolidated statement of continuing ICAO policies and practices related to environmental protection:

- Carbon Offsetting and Reduction Scheme for International Aviation (CORSA) (148, 161, 235)

- Climate change (84, 229)

- General provisions, noise and local air quality (80)

Cybersecurity (86)

Developments Pertaining to Annex 9 – *Facilitation* (10)

Disposition of cash surplus/deficit (34)

Endorsement of the updated GANP (89)

Endorsement of the updated GASP (90)

Financial aspects of the question of contributions in arrears and Incentive Scheme for the settlement of long-outstanding arrears (35)

Fundamental Rights of Passengers at International Airports (177)

Human resources management (41)

ICAO Civil Aviation Training and Capacity Building (32)

ICAO's Technical Assistance Programme (31)

ICAO's Technical Cooperation Programme – Policy and Activities (32)

Increasing the efficiency and effectiveness of ICAO (180)

Infractions of the Convention on International Civil Aviation by the:

- Russian Federation (255)

- Republic of Belarus (259)

Level of the Working Capital Fund (34)

Measures towards gender equality at ICAO and the global aviation sector by 2030 (113, 224)

Multilingualism at ICAO (6)

Outcome of the Facilitation Stream of the High-level Conference on COVID-19 (126)

Outcome of the Ministerial Plenary of the High-level Conference on COVID-19 (9)

Proposed Draft Budget of the Organization for 2023, 2024 and 2025 (136)

Report on the Comprehensive Regional Implementation Plan for:

- Aviation Safety in Africa (AFI Plan) (222)

- Aviation Security and Facilitation in Africa (AFI SECFAL Plan) (24)

Report on the Evolution of the USOAP CMA and post implementation review (91)

Report on the ICAO Year of Security Culture (YOSC) 2021 (23)

Report on the Implementation of Assembly Resolution A40-27 – Innovation in Aviation (97)

Resource Mobilization and Voluntary Funds (42)

Status of the ICAO Workforce (7)

The ICAO Ethics Framework and Establishment of Rules of Procedures regarding the Secretary General and the President of the Council (63)

The Implementation of Resolutions A39-24 and

- A40-14 and the role of the ICAO CAPSCA Programme (171)
- Unannounced missile launches (195)
- United Nations 2030 Agenda – Sustainable Development Goals (SDGs) (15)
- Work Programme of the Organization in the legal field (43)
- Committee on Aviation Environmental Protection (CAEP)**
  - Appointment of Observers (224)
  - Review of CAEP/12 report (73)
- Council**
  - Amendments to the Work Programme for the 226th Session (3)
  - Council President Certificates (129, 140)
  - Council working papers presented for information (12)
  - Informal meetings – Mobilizing capital towards a green transition of the aviation sector (119)
  - Missions by the President of the Council during the recess (3)
  - Oral report on international organizations that may be invited to attend suitable ICAO meetings (130)
  - Request from Observers to participate in closed meetings of the Council (11)
  - Requests by international organizations to be invited to the 41st ICAO Assembly (263)
  - Work Programmes of the Council and its Committees for the 227th Session (199)
- Council Representatives – Farewell**  
(200, 264)
- Council Representatives - Welcome**  
(3, 177, 227)
- Democratic People’s Republic of Korea**
  - Unannounced missile launches (51)
- Environment**
  - Deadline for the submission of environment-related working papers to the Assembly (200)
  - ICAO High-level Meeting (HLM-LTAG) (63)
  - Update of work on the feasibility of a long-term aspirational goal for international aviation (LTAG) (4)
  - World Environment Day (79)
- EUR/NAT Regional office**
  - Update (96)
- External Auditor**
  - Financial Statements and report (109)
- Finance**
  - Draft ICAO Business Plan for 2023-2024-2025 (133)
  - Financial and in-kind contributions from Member States (140)
  - Financial Year 2021 – Report on the Carry Over (33)
- Flight Safety Foundation Award** (76)
- Her Majesty Queen Elizabeth II** (76)
- ICCAIA**
  - Request to be represented as an Observer at meetings of the 227th Session (261)
- Innovation**
  - Report of the Small Group (98)
- Joint Inspection Unit (JIU)**
  - Report entitled “Blockchain applications in the United Nations system: towards a state of readiness” (37)
  - Report for 2021 and Work Programme for 2022 (36)
- Joint Support Committee**
  - Recommendations (23)
- Legal Committee**
  - Report on the 38th Session (129, 169)
- Relations with the Host Country Committee**
  - Progress (10)
- Russian Federation**
  - Issues concerning the Convention on International Civil Aviation raised by the Russian Federation (195)
  - Registration and Operation of Aircraft (181)
- Ryanair Flight FR4978**
  - Report (205)
  - Update on the work of the FFIT (157)
- Saudi Arabia**
  - Financial contribution (200)
- Secretary General**
  - Amendments to the *ICAO Policy on Secondment* (16)
  - ICT Strategy and Action Plan 2022-2025 (99)
  - Migration of e-mail accounts (224)
  - New Understanding between ICAO and the Government of Quebec (200)
  - Performance Audit on IT Governance and Strategic IT Management (99)
  - Sessional progress report (63, 67)
  - Supplementary Agreement between ICAO and the Government of Canada regarding the Headquarters of ICAO (263)
  - Update on information security and information, communications and technology management at ICAO (101)
- Settlement of Differences: Australia and the Kingdom of the Netherlands and the Russian Federation (2022)**  
(57, 264)
- Settlement of Differences: Brazil and the United States**
  - Progress report (56)
- Technical Cooperation**
  - Performance Audit on Project Management “NAM19801” of the ICAO Technical Cooperation Programme (110)
  - Report and update for 2022 (30)
  - Transfer of the Revenue and Product Management (RPM) Section to the Technical Cooperation Bureau (TCB) (69)

## LIST OF WORKING PAPERS CONSIDERED

**C-WP/15351**

Draft Assembly Working Paper - Increasing the Efficiency and Effectiveness of ICAO (180)

**C-WP/15352**

Report on Technical Cooperation Programme Development for 2021 and Update of Administrative and Operational Services Cost (AOSC) Income and Expenditures for 2022 (30)

**C-WP/15354**

Draft Assembly Working Paper - ICAO's Technical Assistance Programme (31)

**C-WP/15355 Corrigendum No. 1**

Draft Assembly Working Paper - ICAO's Technical Cooperation Programme - Policy and Activities (32)

**C-WP/15356**

Draft Assembly Working Paper - ICAO Civil Aviation Training and Capacity Building (32)

**C-WP/15357**

Draft Assembly Working Paper - United Nations 2030 Agenda - Sustainable Development Goals (SDGs) (15)

**C-WP/15358**

Draft Assembly Working Paper - Report on Resource Mobilization and Voluntary Funds (42)

**C-WP/15359**

Report on the Implementation of Assembly Resolution A40-27 - Innovation in Aviation (97)

**C-WP/15360**

Draft Assembly Working Paper - Proposed Draft Budget of the Organization for 2023, 2024 and 2025 (136)

**C-WP/15361**

Financial Year 2021 - Report on the Carry-Over (33)

**C-WP/15362 Addendum No. 1 & No. 2, Corrigendum No. 1 to Addendum No. 1 (FR only),  
Corrigendum No. 2 to Addendum No. 2 (FR only)**

Financial Statements and Report of the External Auditor for the Financial Year 2021 (109)

**C-WP/15364**

Draft Assembly Working Paper - Disposition of Cash Surplus/Deficit (34)

**C-WP/15365**

Draft Assembly Working Paper - Level of the Working Capital Fund (34)

**C-WP/15366**

Draft Assembly Working Paper - Financial Aspects of the Question of Contributions in Arrears and Incentive Scheme for the Settlement of Long-Outstanding Arrears (35)

**C-WP/15369 Revision No. 1, Addendum & Corrigendum No.1**

Work Programmes of the Council and its Committees for the 227th Session (199)

**C-WP/15370**

Consolidated Report on Planning and Implementation Regional Groups (PIRGs) and Regional Aviation Safety Groups (RASGs) for 2021 (128)

**C-WP/15371**

Report by the Air Navigation Commission on the Expectations for and Qualities of the President of the Air Navigation Commission for the 2023 - 2025 ANC Mandate (46)

**C-WP/15372**

Draft Assembly Working Paper - Report on the Evolution of the Universal Safety Oversight Audit Programme (USOAP) Continuous Monitoring Approach (CMA) and Post Implementation Review (91)

**C-WP/15373 Blue Rider (AR, CH, FR, SP, RU)**

Proposed Updates to the GASP and a Related Draft Assembly Working Paper (90)

**C-WP/15374**

Draft Assembly Working Paper under Agenda Item 30 of the Technical Commission Relating to a Comprehensive Strategy for Air Navigation: Endorsement of the Updated Global Air Navigation Plan (GANP) (89)

**C-WP/15375**

ANC Work Programme for the 221st Session (92)

**C-WP/15376**

Draft Assembly Working Paper - Consolidated Statement of Continuing ICAO Policies Related to Facilitation (125)

**C-WP/15377**

Draft Assembly Working Paper - Developments Pertaining To Annex 9 –Facilitation (10)

**C-WP/15378**

Draft Assembly Working Paper - Report on the Comprehensive Regional Implementation Plan for Aviation Security and Facilitation in Africa (AFI SECFAL Plan) (24)

**C-WP/15379**

Draft Assembly Working Paper – Cybersecurity (86)

**C-WP/15380**

Draft Assembly Working Paper - Consolidated Statement on Continuing ICAO Policies Related to Aviation Security (29)

**C-WP/15381**

Draft Assembly Working Paper - Report on the ICAO Year of Security Culture (YOSC) 2021 (23)

**C-WP/15382**

Draft Assembly Working Paper - Outcomes of the Facilitation Stream of the High-Level Conference on COVID-19 (126)

**C-WP/15383**

Draft Assembly Working Paper - Outcome of the Ministerial Plenary of the High-Level Conference on COVID-19 (9)

**C-WP/15384**

Report of the Eleventh Session of the Statistics Division (STA/11) (23)

**C-WP/15385**

Recommendations of the Joint Support Committee Related to Items under the Danish and Icelandic Joint Financing Agreements Reviewed during the 226th Session (23)

**C-WP/15386**

Review of the Report of the Twelfth Meeting of the Committee on Aviation Environmental Protection (CAEP/12) (73)

**C-WP/15388**

Update of Work on the Feasibility of a Long-Term Global Aspirational Goal for International Aviation (LTAG) (4)

**C-WP/15389**

Draft Assembly Working Paper - Civil Aviation and the Environment (79)

**C-WP/15390**

Draft Assembly Working Paper - Consolidated Statement of Continuing ICAO Policies and Practices Related to Environmental Protection - General Provisions, Noise and Local Air Quality (80)

**C-WP/15391 Revision No. 1**

Draft Assembly Working Paper- Climate Change (81, 227)

**C-WP/15392 Revision No. 1**

Draft Assembly Working Paper - Consolidated Statement of Continuing ICAO Policies and Practices Related to Environmental Protection - Climate Change (84, 229)

**C-WP/15393**

Draft Assembly Working Paper - Carbon Offsetting and Reduction Scheme for International Aviation (CORSA) (145)

**C-WP/15394 Revision No. 1**

Draft Assembly Working Paper - Consolidated Statement of Continuing ICAO Policies and Practices Related to Environmental Protection - Carbon Offsetting and Reduction Scheme for International Aviation (CORSA) (148, 161, 235)

**C-WP/15395**

Draft Assembly Working Paper - Measures towards Gender Equality at ICAO and the Global Aviation Sector by 2030 (113)

**C-WP/15396**

Draft Assembly Working Paper - Status of the ICAO Workforce (7)

**C-WP/15397**

Draft Assembly Working Paper - Multilingualism at ICAO (6)

**C-WP/15398**

Performance Audit 2021 on IT Governance & Strategic IT Management (99)

**C-WP/15399**

Draft Assembly Working Paper - The ICAO Ethics Framework and Establishment of Rules of Procedures Regarding the Secretary General and the President of the Council (63)

**C-WP/15400**

Draft Assembly Working Paper - Work Programme of the Organization in the Legal Field (43)

**C-WP/15401**

Draft Assembly Working Paper - Consolidated Statement of Continuing ICAO Policies in the Legal Field (44)

**C-WP/15402**

Report on the 38th Session of the Legal Committee (169)

**C-WP/15403**

Financial Situation of the Organization and Level of the Working Capital Fund (WCF) (12)

**C-WP/15404**

Report on Publications for 2021 (12)

**C-WP/15405**

Report of the Joint Inspection Unit (JIU) For 2021 and Programme of Work For 2022 (36)

**C-WP/15406**

Report of the Joint Inspection Unit (JIU) Entitled "Blockchain Applications in the United Nations System: Towards a State of Readiness" (37)

**C-WP/15407**

Draft Assembly Working Paper - The Implementation of Resolutions A39-24, A40-14 and the Role of the ICAO CAPSCA Programme (171)

**C-WP/15409**

Amendments to the ICAO Policy on Secondment (16)

**C-WP/15410**

Update on Developments to Address Risks Posed By Unannounced Missile Launches (51)

**C-WP/15411**

Draft State Letter Inviting Nominations to the Air Navigation Commission (ANC) (45)

**C-WP/15412**

Draft ICAO Business Plan for 2023-2024-2025 (133)

**C-WP/15414**

Draft Assembly Working Paper - Human Resources Management (41)

**C-WP/15415**

Draft Assembly Working Paper - Assistance to Aircraft Accident Victims and their Families (8)

**C-WP/15416**

Notes on Articles 54 J), 54 K), 54 N) and 84 of the Chicago Convention (218)

**C-WP/15418**

Request of the Republic of Belarus to the ICAO Council for its Consideration under Article 54 (J) of the Chicago Convention (218)

**C-WP/15419**

Report into the Incident Involving Ryanair Flight Fr4978 in Belarus Airspace on 23 May 2021 (205)

**C-WP/15420**

Fundamental Rights of Passengers at International Airports (21)

**C-WP/15421 Restricted**

Settlement of Differences: Australia and the Kingdom of the Netherlands and the Russian Federation (2022) (57)

**C-WP/15422**

Adoption of Amendment 48 to Annex 6, Part I (157, 203)

**C-WP/15423**

Performance Audit on Project Management "NAM19801" of the ICAO Technical Cooperation Programme (110)

**C-WP/15424**

Draft Assembly Working Paper - Fundamental Rights of Passengers at International Airports (177)

**C-WP/15425 Revision No. 1**

Infractions of the Convention under Article 54(J) of the Chicago Convention by the Russian Federation (181)

**C-WP/15426**

Draft Assembly Working Paper - Unannounced Missile Launches (195)

**C-WP/15427 Revision No. 1, FR only**

Draft Assembly Working Paper - Infractions of the Convention on International Civil Aviation by the Russian Federation (255)

**C-WP/15428**

Draft Assembly Working Paper - Report on the Comprehensive Regional Implementation Plan for Aviation Safety in Africa (AFI PLAN) (222)

**C-WP/15429 Revision No. 1**

Information Pursuant to Article 54(J) of the Chicago Convention on Infractions of the Convention by a Group of ICAO Member States (247)

**C-WP/15430**

Draft Assembly Working Paper - Infractions of the Convention on International Civil Aviation by the Republic of Belarus (259)

— END —



NOT FOR SALE Printed  
in ICAO