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ASSEMBLY — 35TH SESSION

REPORT OF THE ADMINISTRATIVE COMMISSION ON AGENDA ITEMS 7, 8, 40.1, 40.2, 41.2, 41.3 AND 41.4

(Presented by the Chairperson of the Administrative Commission)

The attached report on Agenda Items 7, 8, 40.1, 40.2, 41.2, 41.3 and 41.4 has been approved by the Administrative Commission. Resolutions 40.1/1 and 41.3/1 are recommended for adoption by the Plenary.

Note.— After removal of this covering sheet, this paper should be inserted in the appropriate place in the Report Folder.

(10 pages)

Agenda Item 7: Annual Reports of the Council to the Assembly for 2001, 2002 and 2003

7:1 Certain parts of the Annual Reports of the Council to the Assembly for 2001, 2002 and 2003 were referred to the Commission, by the Plenary, for consideration and recommendation.

7:2 At its second meeting, the Commission noted the content and presentation of Chapter X (The Organization) of the Annual Reports, Documents 9786, 9814 and 9826 and Supplement. The Commission recommends to the Plenary that these parts of the Annual Reports be approved.

Agenda Item 8: Programme Budget for 2005, 2006 and 2007

8:1 Certain parts of the Programme Budget for 2005-2007 were referred to the Commission, by the Plenary, for consideration and recommendation.

8:2 At its second meeting, the Commission noted the contents of Major Programmes I (General Policy and Direction), VI (Administrative Support), and VII (Finance, External Relations/Public Information and Programmes Evaluation, Audit and Management Review) of the Programme Budget for 2005-2007, which were referred to the Budget Working Group, to be considered in the context of the budget as a whole.

Agenda Item 40: Apportionment of expenses of ICAO among Contracting States
40.1: Confirmation of Council action in assessing the contributions to the General Fund and determining advances to the Working Capital Fund of States which have adhered to the Convention

40.1:1 At its second meeting, the Commission considered A35-WP/22, AD/4 and endorsed the action taken by the Council in determining the rates of assessment for Saint Kitts and Nevis, which became an ICAO Contracting State subsequent to the 33rd Session of the Assembly.

40.1:2 Draft Resolution 40.1/1 is recommended for adoption.

**RESOLUTION FRAMED BY THE ADMINISTRATIVE COMMISSION
AND RECOMMENDED FOR ADOPTION BY THE ASSEMBLY**

Resolution 40.1/1

Confirmation of Council action in assessing the contributions to the General Fund and determining advances to the Working Capital Fund of States which have adhered to the Convention

The Assembly:

1. *Notes* that:
 - a) Financial Regulations 6.9 and 7.5 provide that the Council shall, if the Assembly is not in session, determine the assessment of contributions and the advance to the Working Capital Fund of a new Contracting State, subject to approval or adjustment at the next session of the Assembly; and
 - b) the Council has acted accordingly in respect of the State which became a member of the International Civil Aviation Organization after the 33rd Session of the Assembly, and assessable, as indicated below;
2. *Confirms* the action of the Council in assessing the contribution and the advance to the Working Capital Fund of the following State at the percentage rate indicated, such assessment rate to apply from the assessable date indicated:

Name of New Contracting State	Date of Membership	Date from which Assessable	Assessment Rate
Saint Kitts and Nevis	20 June 2002	1 July 2002	0.06%

Agenda Item 40: Apportionment of expenses of ICAO among Contracting States
40.2: Arrears of contributions of the former Socialist Federal Republic of Yugoslavia

40.2:1 At its second meeting, the Commission examined A35-WP/23, AD/5, which provides a summary of actions taken to date with respect to the arrears of contributions of the former Socialist Federal Republic of Yugoslavia, and notes that the disposition of the contributions in arrears is being held pending the determination of succession issues at the United Nations.

40.2:2 The Assembly is invited to note A35-WP/23, AD/5, and the status of the arrears of contributions of the former Socialist Federal Republic of Yugoslavia, and that the succession issues at the United Nations remain unresolved.

Agenda Item 41: Financial Questions
41.2: Incentive schemes for settlement of long-outstanding arrears

41.2:1 At its second meeting, the Commission noted A35-WP/25, AD/7, which reports to the Assembly on the action taken pursuant to Assembly Resolution A34-1 with respect to the distribution of funds in the special account wherein receipts of long-outstanding arrears are retained in accordance with Resolving Clause 3 of Assembly Resolution A33-27.

41.2:2 The Assembly is invited to note A35-WP/25, AD/7.

Agenda Item 41: Financial Questions
41.3: Report on the Working Capital Fund

41.3:1 At its second meeting, the Administrative Commission examined A35-WP/26, AD/8, which reports on the adequacy of the level of the Working Capital Fund, the financial position of the Organization, and the financial trends affecting the necessary level of that Fund. The Commission considered the recommendation to maintain the level of the Working Capital Fund at \$ 6.0 million and to grant authority to the Council to review and to increase the level of the Working Capital Fund, to a maximum of \$ 8.0 million, if and when an urgent need arises during the next triennium.

41.3:2 The Commission was informed that the Working Capital Fund had not been used since 1994, and that the accumulated cash surplus has been used in the past to overcome serious delays in receipt of contributions. However, because the accumulated surplus would be distributed or used by the end of 2004, the cash disposition of the Organization is expected to deteriorate in the next triennium. The Commission was asked to note the trend in assessment receipts and expenditure and that the financial experience of the past few years had shown that ICAO needed to have a buffer of funds available to cover expenditures because of delays in receipt of contributions from Contracting States. The continued avoidance by some Contracting States of their financial obligations could therefore necessitate an increase in the level of the Working Capital Fund, and would negatively impact all Contracting States. Because ICAO's budgetary cycle is relatively long, namely three years, and the cash flow remains uncertain, there would be a need for sufficient Working Capital Fund upon which to draw to meet fixed and unavoidable cash commitments such as salary payments.

41.3:3 Regarding the borrowing authority of \$ 3.0 million, the United States questioned the continuation of the authority for borrowing in the next triennium, and requested that the report of the proceedings note that domestic legislation prohibits the United States from paying interest on external borrowing incurred by international organizations.

41.3:4 After due consideration, the Commission agreed to recommend adoption of the following Resolution.

**RESOLUTION FRAMED BY THE ADMINISTRATIVE COMMISSION
AND RECOMMENDED FOR ADOPTION BY THE ASSEMBLY**

Resolution 41.3/1

Working Capital Fund

The Assembly:

1. *Notes that:*
 - a) in accordance with Resolution A33-28, the Council has reported upon, and the Assembly has considered, the adequacy of the level of the Working Capital Fund and the related borrowing authority;
 - b) in recent years, the accumulation of contributions in arrears has constituted, together with the delays in payment of current year contributions, a growing obstacle to the implementation of the work programme while creating financial uncertainty;
 - c) the relatively long budgetary cycle of ICAO, namely three years, has a bearing on the determination of the prudent level of the Working Capital Fund and borrowing authority, as only the Assembly can levy assessments on Contracting States;
 - d) given the number of permanent staff in ICAO, there is an irreducible minimum which the Organization has to pay out each month to meet the staff costs. This amount is not amenable to short term reduction through adjusting the work programme, since permanent staff remain in post and have to be paid in any event;
 - e) on average, by September of each year, the cumulative receipt of assessments was short of estimated disbursement by an average of 17.7 per cent;
 - f) based on past trends, the average annual cash flow shortfall accumulated by the end of September and November could range between \$ 7.5 million and \$ 11.3 million;
 - g) experience has shown that payments are not made at the beginning of the year when contributions are due and that ICAO cannot rely on contributions being paid even by the end of the year to which they relate and that such unacceptable avoidance of their financial obligations under the Convention by some Contracting States is leading to a grave financial crisis within the Organization that could impact all Contracting States;
 - h) as long as the cash flow remains uncertain, ICAO would need the Working Capital Fund as a buffer on which it could draw to meet its unavoidable cash commitments; and
 - i) the Council reviewed the level of the Working Capital Fund in November 2003 and determined that the need for the increase in the level from \$ 6.0 million to \$ 8.0 million was not urgent and immediate for the year 2004.
2. *Resolves that:*

- a) the level of the Working Capital Fund remain at \$ 6.0 million;
- b) the Council shall review the level of the Working Capital Fund each year, and no later than November 2004, 2005, 2006 and 2007, to determine if an increase is urgently needed during that year or for the following year;
- c) if the Council determines that it is warranted, the level of the Working Capital Fund shall be established at a level no higher than \$ 8.0 million, subject to increases resulting from advances paid by new States becoming members of the Organization after approval of the scales. Such adjustment to the Working Capital Fund will be based on the scales of assessment in effect for the year for which the increase in the level of the Working Capital Fund is approved;
- d) the Secretary General be authorized, with the prior approval of the Finance Committee of the Council, to finance regular and supplementary appropriations that cannot be financed from the General Fund and the Working Capital Fund, by borrowing externally amounts needed to meet immediate obligations of the Organization, and that the Secretary General be required to repay such amounts as rapidly as possible; the outstanding total of such indebtedness of the Organization at no time to exceed \$ 3.0 million during the triennium;
- e) the Council shall report to the next ordinary session of the Assembly:
 - i) on the adequacy of the level of the Working Capital Fund in the light of experience during 2004, 2005 and 2006;
 - ii) whether the financial position of the General Fund and the Working Capital Fund would indicate the need for assessing Contracting States for cash deficits caused by arrears of contributions;
 - iii) on the appropriateness of the level of the borrowing authority; and
- f) Resolution A33-28 is no longer effective and is hereby superseded.

3. *Urges:*

- a) all Contracting States to pay their assessments as early as possible in the year in which they fall due in order to lessen the likelihood of the Organization having to draw on the Working Capital Fund and resort to external borrowing; and
- b) the Contracting States in arrears to meet their obligations to the Organization as promptly as possible, as called for by Resolution [].

Agenda Item 41: Financial Questions
41.4: Distribution of cash surplus

41.4:1 At its second meeting, the Administrative Commission examined A35-WP/27, AD/9, dealing with the subject of distribution of cash surplus.

41.4:2 The Commission was informed that the Organization had a cash deficit of U.S. \$ 232 000 as at 31 December 2003, and that, accordingly, there was no surplus available for distribution. The Commission was also advised that the Council was not recommending to assess the amount of the deficit to Contracting States as the cash deficit is not considered significant and could be reduced in the future.

41.4:3 The Assembly is invited to note A35-WP/27, AD/9.

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