



A36-WP/331
P/42
26/9/07

ASSEMBLY — 36TH SESSION

PLENARY

REPORT TEXT FOR THE GENERAL SECTION OF THE ADMINISTRATIVE COMMISSION'S REPORT AND THE REPORT ON AGENDA ITEMS 50, 51, 54, 55, 60 AND 61

(Presented by the Chairman of the Administrative Commission)

The attached material on the General Section and the report on Agenda Items 50, 51, 54, 55, 60 and 61 have been approved by the Administrative Commission. Resolutions 50/1, 54/1 and 61/1 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.

(11 pages)

REPORT OF THE ADMINISTRATIVE COMMISSION TO THE ASSEMBLY

General

1. The Administrative Commission held [REDACTED] meetings between 20 September and [REDACTED] 2007.
2. Dr. E. Chiavarelli (Italy) was elected Chairperson of the Commission at the fourth Plenary Meeting of the Assembly.
3. The Commission, at its first meeting, elected Ms. G.-M. Burns (New Zealand) as its First Vice-Chairman and Mr. C. Kabalika (Zambia) as its Second Vice-Chairman.
4. Representatives from 65 Contracting States attended one or more meetings of the Commission.
5. The President of the Council, Mr. Roberto Kobeh González, was present at the first meeting of the Commission, while the Secretary General, Dr. Taïeb Chérif, attended * meetings. The Director, Bureau of Administration and Services, Mr. A. Singh, also attended.
6. The Secretary of the Commission was Mr. R. Barr, Chief, Finance Branch. Mr. A. Parson's, Acting Chief, Accounting Services Section, and Mr. C. Reitano, Chief, Financial Services Section acted as Deputies. Ms. L. Lim, Budget Officer, and Mr. Y. Jobe, Accounting Officer, acted as Assistant Secretaries. Mrs. P. Romano, Accounting Officer, and Mr. R. Deslauriers, Accounting Officer, acted as Liaison Officers.

Working arrangements

7. The Commission carried out its work in full session. A Budget Working Group was established to consider Items 8 and 49. A Contributions Working Group was established to consider Item 53. The membership of the two working groups and their terms of reference appear at Appendix A to this report (see page *).

Agenda

8. Items referred to the Commission by the Plenary and Executive Committee were considered.
 - 7 Annual Reports of the Council to the Assembly for 2004, 2005 and 2006
 - 8 Programme Budget for 2008, 2009 and 2010
 - 14 International Financial Facility for Aviation Safety (IFFAS)
 - 49 Budgets for 2008, 2009 and 2010

* Will be provided in final edition of the report.

- 50 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
- 51 Arrears of contributions of the former Socialist Federal Republic of Yugoslavia
- 52 Contributions in arrears
- 53 Assessments to the General Fund for 2008, 2009 and 2010
- 54 Report on the Working Capital Fund
- 55 Disposition of cash surplus
- 56 Amendment to the Financial Regulations
- 57 Review of expenditures, approval of accounts and examination of Audit Reports for the financial years 2004, 2005 and 2006
- 58 Appointment of External Auditor
- 59 Report on the use of the Information and Communication Technology (ICT) Fund
- 60 Assembly resolutions to be consolidated or to be declared no longer in force
- 61 Other financial matters for consideration by the Administrative Commission

9. The documents and working papers considered by the Commission are listed by agenda items at Appendix B to this report (see page ^{*}).

10. The action taken by the Commission in respect of each item is reported on separately in the paragraphs that follow. The material is arranged according to the numerical sequence of the agenda items considered by the Commission.

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* Will be provided in final edition of the report.

Agenda Item 50: 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

50.1 At its second meeting, the Commission considered A36-WP/33, AD/5 and endorsed the action taken by the Council in determining the rates of assessment for Timor-Leste and Montenegro, which became ICAO Contracting States subsequent to the 35th Session of the Assembly.

50.2 Draft Resolution 50/1 is recommended for adoption.

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

Resolution 50/1

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 States which became a member of the International Civil Aviation Organization after the 35th 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 States at the percentage rate indicated, such assessment rates to apply from the assessable date indicated:

Name of New Contracting State	Date of Membership	Date from which Assessable	Assessment Rate
Timor-Leste	3 September 2005	1 October 2005	0.06%
Montenegro	14 March 2007	1 April 2007	0.06%

Agenda Item 51: Arrears of contributions of the former Socialist Federal Republic of Yugoslavia

51.1 At its second meeting, the Commission examined A36-WP/31, AD/3, 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.

51.2 The Assembly is invited to note 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 54: Report on the Working Capital Fund

54.1 At its second meeting, the Administrative Commission examined A36-WP/32, AD/4, 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.

54.2 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 is no longer available and there was a cash deficit at the end of the financial year 2006, the cash position of the Organization will deteriorate in the next triennium if contributions are not paid on time. 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 a sufficient Working Capital Fund upon which to draw to meet fixed and unavoidable cash commitments such as salary payments.

54.3 It was also outlined by a Delegation that the Joint Inspection Unit (JIU) recommended that a percentage of 8.3 per cent of a total annual budget be used as a guideline in setting the level of the Working Capital Fund. It was pointed out that ICAO's needs were quite in line with the JIU guidelines.

54.4 It was also recognized that the borrowing authority of \$ 3.0 million is useful and should be maintained as a last resort during the next triennium.

54.5 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 54/1

Working Capital Fund

The Assembly:

1. *Notes that:*
 - a) in accordance with Resolution A35-28, 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 only 5.0 per cent compared to 17.7 per cent for the last triennium;
- f) based on past trends, there is only a limited risk that the level of the Working Capital Fund may not be sufficient to cover the needs in 2007;
- 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 2006 and determined that the need for the increase in the level of \$ 6.0 million was not needed for the present time.

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 no later than November 2007, 2008, 2009 and 2010, 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 2007, 2008 and 2009;
 - 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; and
 - iii) on the appropriateness of the level of the borrowing authority; and
- f) Resolution A35-28 is no longer effective and is hereby superseded; and

3. *Urges:*

- 1) 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
- 2) the Contracting States in arrears to meet their obligations to the Organization as promptly as possible, as called for by Resolution [A36/].

Agenda Item 55: Disposition of cash surplus

55.1 At its second meeting, the Administrative Commission examined A36-WP/30, AD/2 dealing with the distribution of cash surplus/deficit.

55.2 The Commission was informed that the Organization had a cash deficit of U.S. \$ 3 million as at 31 December 2006, 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, although significant, was temporary and payments were received in early 2007 to eliminate the deficit.

55.3 The Assembly is invited to note A36-WP/30, AD/2.

Agenda Item 60: Assembly Resolutions to be consolidated or to be declared no longer in force

60.1 Certain resolutions, which were proposed be declared no longer in force, were referred to the Commission for consideration and recommendation to the Plenary. Those resolutions were listed in A36-WP/28, P/5, Appendix E.

60.2 At its second meeting, the Commission examined those resolutions and noted that action had been completed on each resolution. The Commission was satisfied that the proposed action was in order and recommends to the Assembly that these resolutions be declared no longer in force.

60.3 The Commission also noted that action is completed with regard to Resolution A33-24. This Resolution was added to the list of resolutions to be declared no longer in force.

RESOLUTIONS TO BE DECLARED NO LONGER IN FORCE

Doc 9848 - Assembly Resolutions in Force

Part X - Finance

Resolution*	Subject	No longer in force because
A 33-24 (X-20)	Information and Communication Technology (ICT) Fund	Action completed
A 33-26 (X-7)	Assessments to the General Fund for 2002, 2003 and 2004	Action completed
A 35-23 (X-11)	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	Action completed
A 35-23 (X-11)	Budgets 2002, 2003 and 2004	Action completed
A 35-29 (X-18)	Approval of the accounts of the Organization for the financial years 2001, 2002 and 2003 and examination of the Audit Reports thereon	Action completed
A 35-30 (X-19)	Approval of those financial statements with respect to the United Nations Development Programme administered by ICAO as Executing Agency for the financial years 2001, 2002 and 2003 and examination of the Audit Reports thereon	Action completed

*The number in brackets refers to the page on which the relevant resolution will be found in Doc 9848

Agenda Item 61: Other financial matters for consideration by the Administrative Commission

61.1 At its second meeting, the Commission considered A36-WP/42, AD/9 which reports on actions taken by Council following its review of the apportionment of costs between the Technical Co-operation Administrative and Operational Services Cost (AOSC) Fund and the Regular Programme Budget.

61.2 The Commission noted that a study was conducted in 2005, on the basis of which the Council recommended a progressive allocation of identifiable costs, with the aim of minimizing the existing level of cross-funding. It was also noted that the Council approved a transfer of funds from the Regular Programme Budget to the AOSC Fund for 2005 expenditure and a transfer of funds for 2006 subject to the approval of a new policy favouring a more transparent and efficient manner of cost recovery.

61.3 The Commission supported the Council's recommendation to have the Secretariat undertake a two-year pilot project study with the aim of developing a long-term harmonized policy on cost recovery for all extra-budgetary activity. Following extensive discussion as to the Council's oversight role with respect to this study, where several delegations voiced concern over the implementation of previous Assembly Resolutions on this matter, Draft Resolution 61/1, which follows, is recommended for adoption by the Assembly.

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

Resolution 61/1

Study on the apportionment of costs between the Administrative and Operational Service Cost (AOSC) Fund and the Regular Programme Budget

The Assembly requests the Council to consider and approve a cost-recovery policy and work with the Secretariat to ensure the pilot project provides accurate and timely information for the Council's decision.