



A36-WP/348
EX/113
26/9/07

ASSEMBLY — 36TH SESSION
EXECUTIVE COMMITTEE

DRAFT TEXT FOR THE REPORT
ON
AGENDA ITEM 24

The attached material on Agenda Item 24 is submitted for consideration by the Executive Committee.

Agenda Item 24: Term limits for the Offices of Secretary General and President of the Council

24.1 At its seventh and eighth meetings, the Executive Committee considered this Item on the basis of A36-WP/3 presented by the Council and A36-WP/136 presented by the 22 member States of the Latin American Civil Aviation Commission (LACAC).

24.2 A36-WP/3 recalled that United Nations (UN) General Assembly Resolution 51/241, adopted in 1997, recommended that uniform terms of office of four years, renewable once, should be introduced for the executive heads of UN programmes, funds and other bodies of the UN Assembly and the Economic and Social Council. The Resolution encouraged the UN specialized agencies to consider uniform terms and term limits for their executive heads. During its 178th Session, the ICAO Council concluded that it would be desirable and appropriate to formalize term limits for both the Offices of Secretary General and President of the Council. This would help to ensure that ICAO would benefit from an injection of fresh insights and expertise at the top level and would stimulate a greater range of leadership styles and more cultural and geographical diversity in the top two positions. As regards the Office of the Secretary General, A36-WP/3 informed that under Articles 54 h) and 58 of the Chicago Convention, the Council felt that it had a clear mandate to lay down term limits. Consequently, in June 2006, it amended its Rules of Procedure to include a provision that a Secretary General who has served for two terms shall not be appointed for a third term. It also decided to retain the existing flexibility to determine the exact length of the term (from three to four years), although it felt that the current practice of making appointments of three years had served the Organization well. In respect of the Office of the President of the Council, A36-WP/3 stated that the arguments which applied in favour of a term limit to the Office of the Secretary General applied equally to the Office of the President. Article 51 of the Convention explicitly states that the Council shall elect its President for a term of three years and that he may be re-elected but this did not oblige the Council to re-elect him. In fact it could be argued that the Council would be acting within its remit if it decided not to elect anybody more than twice as the Convention was silent about the number of times a President may be re-elected. However, the Assembly was being requested to clarify the operation in practice of Article 51 by establishing a two-term limit. The Council further recommended that the serving out of a predecessor's term should not count towards the two-term limit. A36-WP/3 also proposed that the two-term limit should apply to service in either or both offices. Finally the Assembly was invited to adopt the draft Resolution in the Appendix to A36-WP/3.

24.3 A36-WP/136, citing Article 51, stated that the Convention explicitly did not impose any restrictions on the number of times the President may be re-elected. If the Assembly were to establish a limit of two mandates, it would create a situation in which the President could not be re-elected, thus producing a conflict with the text of the Convention. Therefore, it was not recommended for the Assembly to state its opinion about a matter that could be considered a misinterpretation of the Convention. There were two possible solutions: a) to amend Article 51 of the Convention, limiting the number of times the President may be re-elected, but this process could take several years; or b) for the Assembly to express its political will and request all Contracting States, when nominating and supporting candidates for President, to bear in mind the recommendation in the UN Resolution. This last alternative would not contravene Article 51. The paper therefore invited the Assembly, *inter alia*, to:

- a) support the Council decision concerning the number of mandates for the position of Secretary General;
- b) urge all Contracting States to bear in mind the recommendation in UN General Assembly Resolution 51/241 when nominating and supporting candidates for the Office of the President of the Council;
- c) urge the Contracting States to also bear in mind the recommendation in the UN Resolution to avoid having any one person serve more than two complete mandates by combining the positions of President and Secretary General; and
- d) request the Council to bear in mind the preceding paragraphs when appointing the Secretary General and/or electing the President.

24.4 One delegation believed that for good governance, ICAO should follow the policy expressed in the UN Resolution by adopting term limits for the Offices of the President of the Council and that of the Secretary General. The UN Resolution referred to two-four years terms, but as regards the President, since the Chicago Convention established three-year terms, ICAO should limit the terms of Office of the President to three, which would be closer to the eight year period envisaged in the UN Resolution. Article 51 of the Convention specifically states that the President may be re-elected, so the proposals in A36-WP/3 which could lead to a situation where it was prohibited to elect the President after two terms would be contrary to the Convention. On the other hand, the proposals in A36-WP/136 would have the same substantive effect as those in A36-WP/3, but would protect and preserve the legal structure of ICAO. The delegation wished to place on record its opinion that the proposals in A36-WP/3 represented an amendment of the Chicago Convention.

24.5 Another delegation supporting the above intervention, also stated that States should refrain from nominating or supporting candidates to the Offices of the President and that of the Secretary General; where this would run contrary to the recommendation in the UN Resolution.

24.6 A number of delegations supported A36-WP/3, including the draft Resolution in the Appendix thereto. One of these delegations noted that ICAO operated on a three-year cycle and it would therefore agree to two, three-year terms of office. Another delegation stated that term limitations would present an opportunity to inject new ideas and fresh approaches at the top level of ICAO. One delegation, which also supported these term limitations, expressed the view that a Secretary General, at the end of his or her two-term tenure, should be able to run for the Office of the President as he or she would have acquired useful knowledge and experience in the former post.

24.7 One delegation supported by another, suggested a three-year term for the President renewable once, but a single six-year term for the Office of the Secretary General.

24.8 Two delegations believed that the principle of geographical rotation should be taken into account when these Offices were being filled.

24.9 the Chairman summarized the discussion by stating that there was a broad consensus for two three-year term limits for both the offices of the President of the Council and that of the Secretary General.

24.10 Following an explanation of relevant parts of United Nations Resolution 51/241 by the Secretary, the Committee agreed to recommend for adoption by the Assembly the draft Resolution in the Appendix to A36-WP/3, as set out hereunder.

Resolution 24/1: Term limits for the Offices of Secretary General and the President of the Council

Having regard to the terms of UN Resolution 51/241 “Strengthening the United Nations System”, unanimously adopted by the UN General Assembly in 1997, which recommended that uniform terms of office of four years, renewable once, should be introduced for the executive heads of UN programmes, funds and other bodies of the UN Assembly and the Economic and Social Council; and which encouraged the UN specialized agencies to consider uniform terms and term limits for their executive heads;

Whereas the Assembly, pursuant to Article 58 of the *Convention on International Civil Aviation* (Chicago, 1944), may lay down the rules governing the determination by the Council of the method of appointment and of termination of the appointment of the Secretary General;

Considering that, on 2 and 9 June 2006, the Council decided that the Secretary General shall be appointed for a specified term of three to four years; and that a Secretary General who has served for two terms shall not be appointed for a third term;

Whereas Article 51 is silent as to the number of times a President of the Council may be re-elected, leaving it open for a reasonable limit to be applied in practice;

Acknowledging that it would be desirable and appropriate to formalize term limits for the offices of Secretary General and of President of the Council because such limits, while giving office holders a reasonable period of time in which to achieve the objectives set by the Council before entering office, will also help to ensure that, periodically, ICAO will benefit from an injection of fresh insights and expertise at top level, and from the greater range of leadership styles and cultural and regional diversity which a regular change in the top office holders will bring; and

Acknowledging that, for similar reasons, it is desirable to apply these term limits so that no more than two full terms may be served in either or both offices of President of the Council or Secretary General:

The Assembly:

1. *Notes* the Council’s decision to introduce a limit of two terms for the office of Secretary General, while maintaining the flexibility to vary the length of such terms between three and four years on the understanding that a four-year term would only apply in exceptional cases;

2. *Requests* the Council to maintain this decision in force;

3. *Requests* the Council not to admit as a candidate for the office of the President of the Council anyone who, by the date on which the office is to commence, will have served two full terms as President; and

4. *Requests* the Council not to admit as a candidate for the office of either President of the Council or Secretary General anyone who, by the date on which the term of office is to end, would have served for a total of more than two full terms in both offices combined.

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