



C-DEC 233/9
12/11/24

COUNCIL — 233RD SESSION

NINTH MEETING

(COUNCIL CHAMBER, FRIDAY, 8 NOVEMBER 2024 AT 1000 HOURS)

SUMMARY OF DECISIONS

OPEN MEETING

Cost Recovery for the Provision of Space Weather Information Services

1. The Council resumed its consideration of this item on the basis of a proposal from the President of the Council (C-DEC 233/8, refers), which was circulated to all Council Representatives via e-mail dated 7 November 2024.

2. Following consideration, the Council:

- a) took note of the substantive issues identified by the ATC over the course of its consideration of this item, as reflected in its oral report, including the concerns raised by some Members of the ATC in relation to proceeding to consult with Member States on the basis of the proposed Concept Note for Option A, which entailed allocating a charge to States based on the number of international departures of air operators registered in that State;
- b) recalling its previous decisions on this matter, acknowledged the concerns expressed by some Council Members regarding ICAO's accountability to deliver a global charging mechanism for the service providers (C-DEC 225/2 and C-DEC 227/3, refer), and the now urgent need for the Council to take a decision in this regard, given the significant risk that the current arrangements for the continued provision of these services could be negatively affected in the absence of a clear way forward;
- c) further acknowledged the concerns of some Council Members regarding the need for the Council to further consider aspects related to the implementation of ICAO Assembly Resolution A41-27 Appendix C, Section I, operative clause 11, such as the legal basis for establishing a global cost recovery mechanism, the role played by ICAO therein and the economic regulation implications for ICAO in such a mechanism;
- d) taking into account the views expressed over the course of its deliberations, agreed to proceed with the State letter consultation with Member States on the basis of two options; namely Option A, and a second option which had been proposed initially to the Council (*cf.* C-DEC 230/5 and C-WP/15518), it being understood that consistent with Option A, a Concept Note would be elaborated for the latter option, which is a Global User Charge (*cf.* C-DEC 227/3 and C-WP/15447), for the purpose of its inclusion in the State letter, and it being further understood that Member States, could,

in reviewing the two options proposed, also put forward alternative proposals for consideration, should they wish to do so;

- e) underlined that the State letter should also provide sufficient background information on the work that has already been undertaken by ICAO and the Council on this subject, in order to facilitate Member States' understanding and assessment of the two options being proposed, and in this connection, also noted that any specific implications that may arise from the implementation of either option under consideration should also be outlined in the State letter; and
- f) further requested that the Secretariat, following consultation with and review by the Air Transport Committee, proceed to issue the State letter during the next Session, and to subsequently report to the Council on the outcome of the State consultation process and the feedback received from Member States.

Revised Draft Provisional Agenda for the 42nd Session of the ICAO Assembly (2025); site and date; and invitation to observers

3. The Council considered this item on the basis of C-WP/15605 Revision No. 1, which presented the revised draft provisional agenda for the 42nd Session of the ICAO Assembly, as well as an updated proposal concerning the date for the convening of the Assembly, and the list of organizations to be invited as observers. The Council also had for consideration an oral report thereon from the Committee on Governance (COG).

4. Following consideration, the Council:

- a) took note of the information contained in C-WP/15605 Revision No. 1, and in doing so, approved the revised draft provisional agenda as contained in Appendix A to the working paper, and as further amended by the COG and reflected in its oral report, namely:
 - i. to retain the item X9, Innovation in Aviation, under the Executive Committee; and
 - ii. to remove the Next Generation of Aviation Professionals (NGAP) programme from consideration under item A9 of the Administrative Commission (AD), and to instead add an agenda item on NGAP under the EX;
- b) also noted that pursuant to the decision taken by the Council at a previous meeting (C-DEC 233/7, refers), the term “migrant smuggling”, as contained in the description of item X3, Facilitation Programmes, should be replaced with “irregular migration”, in order to ensure consistency in terminology when referring to this matter;
- c) agreed that the revised draft provisional agenda should be circulated to all ICAO Member States, non-Member States and international organizations, as listed in Appendices B and C to this working paper, as well as all other entities listed in C-WP/15576 (C-DEC 232/4, refers), and as may be amended by the President of the Council under delegated authority;

- d) further agreed that the 42nd Session of the Assembly be convened at ICAO Headquarters, in Montréal, Canada, from Tuesday, 23 September to Friday, 3 October 2025;
- e) recalled the decision taken during the 232nd Session in relation to ICAO Assembly Sessions (C-DEC 232/8), including to request that the Secretariat prepare expanded guidance on the preparation of Assembly documentation for incorporation into the guidelines attached to the relevant State letter informing Member States of the arrangements for the 42nd Session of the ICAO Assembly, in order to, *inter alia*:
 - i. underscore the need for working papers submitted to the Assembly to focus on decisions relating to the adoption of amendments to Assembly Resolutions, while refraining from submitting extensive and/or substantive amendments thereon after the established deadlines for the submission of Assembly documentation or indeed during the session itself; and
 - ii. clarify the purpose of the subsidiary bodies of the Assembly, including the Executive Committee and the Commissions, and to highlight that their primary task was to frame proposals for decisions to be presented to the Plenary, it being understood that any voting thereon should in-principle occur in the Plenary and not in the subsidiary bodies;
- f) expressed its sincere appreciation to Mr. Nari Williams-Singh, Chairperson of the Small Group on A41 Lessons Learned, and to the Members of the Small Group for having completed the work of the Small Group in an effective and timely manner, and in that connection, agreed to disband the Small Group on A41 Lessons Learned, accordingly.

Draft Council Resolution to mark the 80th Anniversary of the signing of the *Convention on International Civil Aviation*

5. The Council considered this item on the basis of C-WP/15638, which presented a draft Council Resolution to mark the 80th anniversary of the signing of the *Convention on International Civil Aviation*. The Council also had for consideration an oral report thereon from the Committee on Governance (COG).

6. Following consideration, the Council:

- a) recalled its decision during the 232nd Session to convene an Extraordinary Session of the Council in Chicago, the United States, on 5 December 2024 to celebrate the 80th anniversary of the signing of the Convention on International Civil Aviation (C-DEC 232/10, refers);
- b) took note of the information contained in the COG oral report;
- c) approved for submission to, and adoption at, the above-mentioned Extraordinary Session of the Council, the draft Resolution commemorating the 80th Anniversary set forth in the Appendix to the COG oral report, as further amended by the Council over the course of its deliberations, specifically to replace the term “United Nations 2030 Agenda for Sustainable Development” in operative clause 4 with “relevant United

Nations Sustainable Development Goals (SDGs)”, and to replace, in operative clause 5, the word “urge” with “encourage”; and

- d) took note of the information provided by the Secretariat with respect to the status of preparations for the Extraordinary Council Session to be held in Chicago, United States on 5 December 2024, and in that connection, acknowledged that, as proposed by the President of the Council, Observers of non-Council Member States and industry would also be invited to make interventions during the Extraordinary Council Session.

Appointment of the President of the Air Navigation Commission (ANC)

7. The Council considered this item on the basis of C-WP/15615, which presented the candidature of Mr. Junrong Liang for the post of the President of the Air Navigation Commission (ANC).

8. Taking into account that there was only one candidate for the post, the Council agreed unanimously to waive the requirement set forth in paragraph 1 of Appendix D to the *Rules of Procedure for the Council* (Doc 7559), for a secret ballot to be held for the appointment of President of the ANC. Accordingly, and acting in accordance with Article 56 of the *Convention on International Civil Aviation* and Rule 16 c) of the *Rules of Procedure for the Council*, the Council then agreed to the proposal of the President of the Council to re-appoint Mr. Junrong Liang as President of the ANC for a period of one year, commencing on 1 January 2025.

Programme of ICAO meetings for 2025 and tentative programme of meetings for 2026-2027

9. The Council considered this item on the basis of C-WP/15613, which presented the programme of meetings for the year 2025 and, for planning purposes, the tentative programme of meetings for the years 2026 and 2027. The Council also had for consideration an oral report thereon from the Committee on Governance (COG).

10. Following consideration, the Council:

- a) approved the programme of meetings for 2025 as presented in Appendix A to the working paper, taking into account the changes proposed by the COG thereto as reflected in its oral report;
- b) took note of the revised dates for the 234th Council Session, for which the Committee phase would now take place from 20 January to 7 February 2025, and continue from 17 to 21 February 2025, in order to accommodate the Global Implementation Support Symposium (GISS), which would take place from 10 to 12 February 2025, as well as the revised dates for the 235th Council Session for which the Council phase would now be held over three weeks, from 9 to 13 June 2025, and 23 June to 4 July 2025, it being understood that additional meetings of the Council could be convened as needed throughout the three-week period;
- c) agreed that it may be necessary to consider extending the dates of the proposed ICAO LTAG Stocktaking event to cover the week of 2 to 6 June 2025 for the purpose of addressing other environment-related subjects under a thematic “Climate Week”, on the understanding that a final decision in this regard would be taken during the 234th Session by the Climate and Environment Committee (CEC), following its consideration of the additional information to be presented by the Secretariat regarding this event; and

- d) took note, for planning purposes, of the programme of meetings for the years 2026 and 2027, as presented in Appendices B and C, respectively.

Work Programmes of the Council and its Committees for the 234th Session

11. The Council considered this item on the basis of C-WP/15614, which presented the work programmes of the Council and its Committees for the 234th Session. The Council also had for consideration an oral report thereon from the Committee on Governance (COG).

12. Following consideration, the Council:

- a) approved the work programme of the Council and its Committees for the 234th Session, as contained in C-WP/15614, and as amended by the COG, including the revised dates of the Committee Phase, which would now take place from 20 January to 7 February 2025, and from 17 to 21 February 2025, while also taking into account the additional modifications agreed by the Council over the course of its deliberations, namely, to amend Appendix A, as follows:
- i. add the information paper, *Progress report on the transition plan on integrating the Aviation Security Training Centre (ASTC) network into the TRAINAIR Plus Programme (TPP) network*, which is presently planned for consideration by the Aviation Security Committee (ASC) only;
 - ii. add an ANC oral report, *Review of the Air Navigation Work Programme*, it being understood that this item would no longer be listed among the items shared for information;
 - iii. amend the item 8, *Budget Estimates: AOSC and ARGF for 2025, and 2026-2028 triennium*, to reflect a joint oral report of the TCC and FIC; and
 - iv. defer item 4, *Draft Assembly working paper – Draft scales of assessment for 2026, 2027 and 2028*, to the 235th Session;
- b) also approved the list of proposed informal briefings, as modified by the COG, and reflected in Appendix A of its oral report, and taking into account that an additional informal briefing from the Air Navigation Commission would be organized to provide the Council with an overview of the proposed Annex amendments which would be submitted for adoption by the Council in the 234th Session, while agreeing that informal briefings would be scheduled to the extent possible during the Committee phase;
- c) took note of the proposed list of items to be shared for information, as reflected in Appendix B of the COG oral report; and
- d) recalled that the decisions taken by the Council over the course of the current Session that affect the work programme for the 234th 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/15614, which would be issued in due course.

Any other business

Recent Correspondence from the Russian Federation

13. Pursuant to the Council's consideration of this matter (C-DEC 233/8, refers) and the request

by some Members for clarification as to whether there could be any legal implications arising from the Council's decision on this subject vis-à-vis a pending Article 84 dispute, the Council took note of the information presented by the Secretariat confirming that notwithstanding that the aforementioned correspondence from the Russian Federation had made reference to a pending Article 84 dispute, the Council's consideration of this matter was separate and distinct from any of the proceedings submitted to the Council under Article 84 of the *Convention on International Civil Aviation*. On that basis, the Secretariat affirmed, therefore, that the Council's consideration of this matter would not prejudice the Council's continuing consideration of the dispute under Article 84 between Australia and the Kingdom of the Netherlands and the Russian Federation.

Proposed Revisions to Article 8, International Shipping and Air Transport, of the *United Nations Model Double Taxation Convention between Developed and Developing Countries*

14. The Council resumed its consideration of this item on the basis of a proposal from the Secretary General, circulated to all Council Representatives via e-mail, dated 7 November 2024 (C-DEC 233/7, refers).

15. Following consideration, the Council:

- a) took note of the information presented by the Secretary General and reiterated its concerns regarding the recent decision of the UN Committee of Experts on International Cooperation on Tax Matters to amend Article 8, International Shipping and Air Transport of the *UN Model Double Taxation Convention between Developed and Developing Countries*, in order to allow for source-based taxation of income from both international air transport and shipping, in addition to residence-based taxation which has been the exclusive model applied to international air transport to date;
- b) considering the implications such an amendment could have for international air transport, and the inconsistency brought about by this proposed amendment with *ICAO's Policies on Taxation in the Field of International Air Transport* (Doc 8632), underlined the need for the Secretariat to continue engaging with the UN Committee of Experts and the UN Economic and Social Council (ECOSOC) in order to communicate the views of ICAO on the taxation of international aviation;
- c) requested that the Secretariat issue a State Letter to inform Member States of the matter before the UN Tax Committee with respect to proposed revisions to Article 8 of the UN Model Convention, while recalling the relevant Assembly Resolution A41-27, as well as *ICAO's Policies on Taxation in the Field of International Air Transport* (Doc 8632), and to encourage ICAO Member States to communicate and coordinate among their relevant taxation or finance authorities regarding the use of the residence-based taxation; and
- d) further requested that the Secretariat continue to keep the Council closely apprised of developments in this regard.

New Member from Oman to CAEP

16. In accordance with paragraphs 4.1.5 and 4.2.2 of the CAEP Directives, the Council reviewed the nomination from Oman of a new CAEP Member, on the basis of the e-mail circulated by the President of the Council dated 25 September 2024.

17. Following consideration, the Council appointed, with immediate effect, Ms. Asmahan Khalfan Said Al Rahbi to serve as the new CAEP Member representing Oman to CAEP.

Farewell to an Alternate Representative

18. The Council bade farewell to the Alternate Representative of the United Kingdom (Ms. Tamara Goodwin).

Eleventh Meeting of the Commission of Experts of the Supervisory Authority of the International Registry (CESAIR)

19. It was noted that in the absence of comments by 22 October 2024, to the President's memorandum PRES SS/3670 dated 15 October 2024, and in accordance with Rule 4 of the Rules of Procedure for CESAIR (Doc 9893), the Council had approved the convening of the eleventh meeting of the Commission of Experts of the Supervisory Authority of the International Registry (CESAIR), to be held at ICAO Headquarters from 4 to 6 March 2025.

Information items considered by Council Committees

20. The Council noted that based on the summaries of discussions issued over the course of the current session, the following information items had been considered by the various subsidiary bodies of the Council and that no further action was required therefrom:

- *Environmental Protection – Recent Developments in ICAO and Other United Nations Bodies and International Organizations*
- *Operating Plan for the Capacity Development and Implementation Bureau for the period 2025-2027*
- *Status of implementation of recommendations of the Joint Inspection Unit (JIU)*
- *Evaluation of the Regional Portfolio of Middle East (MID) Office*

Items circulated for information only

21. The Council noted that the following information items had been circulated for information purposes, and had been published on the Council website, accordingly:

- *ICAO Financial Situation Report, January to June 2024*
- *Consolidated Report on Planning and Implementation Regional Groups (PIRGs) and Regional Aviation Safety Groups (RASGs) for 2023-2024*
- *Status of Implementation of the Transformational Objective, including Digital Transformation and the Information Security Roadmap*

— END —