



WORKING PAPER

ASSEMBLY — 38TH SESSION

ADMINISTRATIVE COMMISSION

Agenda Item 57: Amendment of the Financial Regulations

AMENDMENT TO THE ICAO FINANCIAL REGULATIONS

(Presented by the Council of ICAO)

EXECUTIVE SUMMARY

This working paper proposes amendments to the Financial Regulations for confirmation by the Assembly as follows:

- Financial Regulation 5.6: the period between normal triennium sessions of the Assembly is removed to facilitate the application of the Regulations and to improve clarity (paragraph 2.1); and
- Financial Regulation 7.6: to enable the Organization to keep the revenue earned from investment and bank interest on Technical Co-operation funds when agreed by the contributor (paragraph 2.2).

Action: The Assembly is invited to:

- a) confirm the amendments to Financial Regulations 5.6 and 7.6 as outlined in Appendix A; and
- b) adopt the Assembly Resolution proposed in Appendix B.

<i>Strategic Objectives:</i>	This working paper relates to SIS - Management and Administration - Budget and Financial Management
<i>Financial implications:</i>	Not applicable.
<i>References:</i>	Doc 7515, <i>The ICAO Financial Regulations</i>

1. INTRODUCTION

1.1 The Council has approved two amendments to the Financial Regulations and proposes that the Assembly confirm their application as described below and outlined in Appendix A.

1.2 The proposed amendments to the Financial Regulations are presented in the Draft Assembly Resolution presented in the Appendix B.

2. PROPOSED AMENDMENTS

2.1 Financial Regulation 5.6

2.1.1 The existing Financial Regulation 5.6 allows the Secretary General to carry over up to 10 per cent of each appropriation to the following year. Beyond this percentage, the authority is conferred upon the Council. However, a reading of Regulation 5.6 suggests that this authority, both to the Secretary General and to the Council, can only be exercised 'during the period between normal triennial sessions of the Assembly'. The insertion of the phrase limiting the authority of the Council and the Secretary General to a period between sessions of the Assembly gives rise to ambiguity. The carry over balance of the last year of a triennium is determined just after an Assembly session; therefore, it may be argued that it falls within two Assembly sessions and is thus within the authority of both the Secretary General and the Council.

2.1.2 On the other hand, if the intention is for the Assembly to approve any carry over from one triennium to the next, the Regulation becomes difficult to implement. Since, as pointed out in the paragraph above, the carry over for that year is not known when the Assembly meets (usually in September-October), the approval of the Assembly can only be obtained three years later. Thus, for instance, the unspent appropriation for 2010 is determined only at the end of 2010 and just after the Assembly has concluded. Approval to carry over the unspent 2010 appropriations can only be obtained at the next session of the Assembly i.e. in 2013.

2.1.3 Accordingly, Financial Regulation 5.6 is proposed to be amended by removing the phrase 'during the period between normal triennial sessions of the Assembly'. The suggested amendment is shown in the Appendix A.

2.2 Financial Regulation 7.6

2.2.1 The Organization generally requires contributors to the Technical Co-operation Programme (TCP) to make advances to ICAO before funds are committed by the Organization for TC projects. The funds are kept in ICAO's bank accounts and funds not expected to be disbursed shortly are invested in term deposits.

2.2.2 Considering the low administrative fees charged to technical co-operation projects and the need to further contribute to the financing of administrative costs, including treasury costs, of the TC programme, negotiations with TC contributors have been undertaken by the Technical Co-operation Bureau to allow ICAO to retain income from investments and bank interest earned on payments received in advance from contributors. This policy is also applied by several United Nations organizations.

2.2.3 It is therefore proposed to amend Financial Regulation 7.6 to allow the Secretary General to finance a part of the administrative costs of the Administrative and Operational Services Cost (AOSC) Fund by using investment income and bank interest earned on TCP Funds. It is understood that this policy should not prevent or compromise the development of the TCP and that any revenue from investments and bank interest that would be credited to the AOSC Fund under this Financial Regulation would be subject to cautious negotiations with contributors.

APPENDIX A

PROPOSED AMENDMENT TO FINANCIAL REGULATIONS 5.6 AND 7.6

Reg. No.	Existing Text	Edited changes	New Complete Text	Comments/Justification
5.6	The Secretary General up to 10 per cent per appropriation for each Strategic Objective or Supporting Strategy and, above this percentage, the Council, irrespective of its authority under Regulation 5.9 to effect transfers between Strategic Objectives or Supporting Strategies, may determine that any unspent balance of appropriations in any financial year during the period between normal triennial sessions of the Assembly be carried over to the following year. The total of expended and carried over appropriations shall not exceed the Total Authorized Appropriation plus amounts carried over from the previous year. Any balance of unspent appropriations and appropriations not carried over to the following year shall be cancelled.	The Secretary General up to 10 per cent per appropriation for each Strategic Objective or Supporting Strategy and, above this percentage, the Council, irrespective of its authority under Regulation 5.9 to effect transfers between Strategic Objectives or Supporting Strategies, may determine that any unspent balance of appropriations in any financial year during the period between normal triennial sessions of the Assembly be carried over to the following year. The total of expended and carried over appropriations shall not exceed the Total Authorized Appropriation plus amounts carried over from the previous year. Any balance of unspent appropriations and appropriations not carried over to the following year shall be cancelled.	The Secretary General up to 10 per cent per appropriation for each Strategic Objective or Supporting Strategy and, above this percentage, the Council, irrespective of its authority under Regulation 5.9 to effect transfers between Strategic Objectives or Supporting Strategies, may determine that any unspent balance of appropriations in any financial year be carried over to the following year. The total of expended and carried over appropriations shall not exceed the Total Authorized Appropriation plus amounts carried over from the previous year. Any balance of unspent appropriations and appropriations not carried over to the following year shall be cancelled.	Since the carry-over at the end of the triennium is not known when the Assembly meets (usually in September-October) the approval of the Assembly for a carry-over would only be obtained three years later. Thus the practical application of this Regulation becomes difficult to implement. Also removing the period between normal triennial sessions of the Assembly from the Regulation would improve clarity since there would be consistency in the formulation of the Financial Regulation 5.6 for application between and within a triennium.
7.6	Income from investments of, and bank interest earned on, the Working Capital Fund and the General Fund shall be credited to the General Fund as Miscellaneous Income. Income and interest on any other Fund shall be credited to that other Fund.	Income including from investments of, and bank interest earned on, the Working Capital by a Fund and the General Fund shall be credited to the General that Fund except: a) as Miscellaneous Income. Income from investments and bank interest on any other earned by the General Fund and Working Capital Fund shall be credited to that other the General Fund as	Income including bank interest earned by a Fund shall be credited to that Fund except: a) Income from investments and bank interest earned by the General Fund and Working Capital Fund shall be credited to the General Fund as miscellaneous income; and b) Income from investments and bank interest earned by Funds established in support of the	It is proposed to credit the Administrative and Operational Services Cost (AOSC) Fund income from investments and bank interest earned on funds received from Technical Co-operation Programme contributors to further contribute to the financing of administrative costs, including treasury costs, of the AOSC Fund in accordance with the agreement with the Contributors.

Reg. No.	Existing Text	Edited changes	New Complete Text	Comments/Justification
		miscellaneous income; and b) Income from investments and bank interest earned by Funds established in support of the Technical Co-operation Programme shall be credited to the Administrative and Operational Services Cost Fund (AOSC) or to the Contributor as specified under the Agreement with the Contributor.	Technical Co-operation Programme shall be credited to the Administrative and Operational Services Cost Fund (AOSC) or to the Contributor as specified under the Agreement with the Contributor.	

APPENDIX B

DRAFT RESOLUTION FOR ADOPTION BY THE 38TH SESSION OF THE ASSEMBLY

Resolution 57/1

Amendment of the Financial Regulations

Whereas the Council is respectful of the position of the Assembly in approving the Budgets and Appropriations of the Organization;

Whereas the Council is able to meet on a regular basis to deal with exigencies and developments affecting the amounts appropriated;

Whereas the Council requires the flexibility between Assembly sessions to accommodate changes in the financing needs;

The Assembly resolves that the amendments as set out below to Financial Regulations 5.6 and 7.6 are confirmed pursuant to Financial Regulation 14.1.

Reg. No.	Edited changes	New revised text
5.6	The Secretary General up to 10 per cent per appropriation for each Strategic Objective or Supporting Strategy and, above this percentage, the Council, irrespective of its authority under Regulation 5.9 to effect transfers between Strategic Objectives or Supporting Strategies, may determine that any unspent balance of appropriations in any financial year during the period between normal triennial sessions of the Assembly be carried over to the following year. The total of expended and carried over appropriations shall not exceed the Total Authorized Appropriation plus amounts carried over from the previous year. Any balance of unspent appropriations and appropriations not carried over to the following year shall be cancelled.	The Secretary General up to 10 per cent per appropriation for each Strategic Objective or Supporting Strategy and, above this percentage, the Council, irrespective of its authority under Regulation 5.9 to effect transfers between Strategic Objectives or Supporting Strategies, may determine that any unspent balance of appropriations in any financial year be carried over to the following year. The total of expended and carried over appropriations shall not exceed the Total Authorized Appropriation plus amounts carried over from the previous year. Any balance of unspent appropriations and appropriations not carried over to the following year shall be cancelled.
7.6	Income including from investments of, and bank interest earned on, the Working Capital by a Fund and the General Fund shall be credited to the General that Fund except: a) as Miscellaneous Income. Income from investments and bank interest on any other earned by the General Fund and Working Capital Fund shall be credited to that other the General Fund as miscellaneous income; and b) Income from investments and bank interest earned by Funds established in support of the Technical Co-operation Programme shall be credited to the Administrative and Operational Services Cost Fund (AOSC) or to the Contributor as specified under the Agreement with the Contributor.	Income including bank interest earned by a Fund shall be credited to that Fund except: a) Income from investments and bank interest earned by the General Fund and Working Capital Fund shall be credited to the General Fund as miscellaneous income; and b) Income from investments and bank interest earned by Funds established in support of the Technical Co-operation Programme shall be credited to the Administrative and Operational Services Cost Fund (AOSC) or to the Contributor as specified under the Agreement with the Contributor.