



**WORKING PAPER**

**ASSEMBLY — 39TH SESSION**

**EXECUTIVE COMMITTEE**

**Agenda Item 13: Proposal to amend Article 56 of the Chicago Convention so as to increase the membership of the Air Navigation Commission**

**PROPOSAL TO AMEND ARTICLE 56 OF THE CONVENTION ON INTERNATIONAL CIVIL AVIATION SO AS TO INCREASE THE MEMBERSHIP OF THE AIR NAVIGATION COMMISSION**

(Presented by the Council of ICAO)

**EXECUTIVE SUMMARY**

At the ninth Meeting of its 206th Session, on 20 November 2015, the Council considered a proposal made by Bolivia (Plurinational State of), Burkina Faso, Cameroon, Chile, Dominican Republic, Egypt, India, Kenya, Libya, Nicaragua, Nigeria, Saudi Arabia, United Arab Emirates, United Republic of Tanzania and Venezuela (Bolivarian Republic of) (the co-sponsors) to amend Article 56 of the *Convention on International Civil Aviation* to increase the size of the ICAO Air Navigation Commission (ANC) from 19 to 23 seats (C-WP/14348). The Council agreed, in principle, that the size of the ANC should be increased. At the thirteenth meeting of its 207th Session on 11 March 2016 the Council decided to recommend to the Assembly that the membership of the ANC be increased from 19 to 21 members.

**Action:** The Assembly is invited to consider the proposal together with the Council's comments and recommendations thereon, and to approve the two draft Resolutions setting out an amendment to Article 56 of the Convention increasing the membership of the ANC to 21 (Appendix E), and urging Contracting States to ratify such amendment, so that it can come into force as soon as possible (Appendix F).

<i>Strategic Objectives:</i>	This working paper relates to the Strategic Objectives of Safety and Air Navigation Capacity and Efficiency as well as Supporting Implementation Strategies: Programme Support – Legal and External Relations Services; and Management and Administration – Governing Bodies – Administration and Services Management and Administrative Support to the ANC.
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<i>Financial implications:</i>	Some additional resources will be expended delivering services to additional Members of the ANC.
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<i>References:</i>	C-WP/14348 C-DEC 206/9 C-DEC 207/13 Doc 7300, <i>Convention on International Civil Aviation</i> Doc 7600, <i>Standing Rules of Procedure of the Assembly of the International Civil Aviation Organization</i> Doc 10022, <i>Assembly Resolutions in Force (as of 4 October 2013)</i>
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## 1. BACKGROUND

1.1 At the ninth Meeting of the 206th Session of the Council, the co-sponsors presented C-WP/14348, entitled: *Proposal to Increase the Size of the Air Navigation Commission (ANC) from 19 Members to 23 by Amending Article 56 of the Chicago Convention* and as indicated in the summary of the Council's decisions (C-DEC 206/9), the Council "... agreed, in principle, that the size of the ANC be increased in view of the increased membership of ICAO, and the need to draw on the expertise and experience from diverse operational skills and knowledge".

1.2 In C-WP/14348 the co-sponsors summarized their justifications for an increase in the size of the ANC as follows "Since the entry into force of the Convention on International Civil Aviation on 4 April 1947, the size of Air Navigation Commission has been increased two times with the last increase occurring 26 years ago on October 1989, when the ICAO membership stood at 160 States. Since that time, the size, structure and importance of international air transport for the national economies has significantly changed. As a result, more States than before are prepared to participate in the consideration and recommendation of Standards and Recommended Practices (SARPs) and Procedures for Air Navigation Services (PANS) for the safety and efficiency of international civil aviation. It is advisable for the Organization to bring on board significant new players with 'suitable qualifications and experience in the science and practice of aeronautics,' to enable broad consensus on air navigation matters. Given that the ICAO membership now stands at 191 Member States, this paper proposes that in order to ensure appropriate participation of experts with experience from different aeronautical environments, it would be desirable and useful to increase the size of ANC from 19 to 23 members." Additionally, the justifications set forth in C-WP/14348, while acknowledging that ANC Members do not represent the interests of any particular State or region but work in the interest of the entire international civil aviation community, also included that the opportunity for developing States to participate in the work of the ANC would provide a better understanding of the technological capabilities and challenges facing their respective regions which are potentially hindering States from implementing ICAO SARPs fully. Further, adding States to the ANC would enable the body to be made better aware of the economic and social impacts of the ANC work being undertaken and the challenges faced in its implementation in remote regions. The argument was also made that as more international organizations have been invited to participate in the work of the ANC to produce more comprehensive high-quality work, so should more Member States be provided with the opportunity to contribute towards the quality of the ANC work. Excerpts from C-WP/14348 setting forth the full justification offered by the co-sponsors for expanding the ANC are contained in **Appendix A**.

1.3 Fifty-two States were represented at the Chicago Conference in 1944 and 38 States signed the Convention on International Civil Aviation (Chicago Convention) creating ICAO and establishing the ANC with a membership of 12. The Chicago Convention entered into force on 4 April 1947 with ICAO having 26 Member States; in 2016, the number of Member States of the Organization has grown to 191. The first members of the ANC were appointed on 1 February 1949, when the Council appointed the nine candidates that had been nominated by Contracting States at that time. The Commission reached its full membership of twelve in November 1956. Thereafter, the number of members on the ANC increased from 12 to 19 by two successive amendments to Article 56 of the Convention, in 1971 and 1989. The first, adopted by the Assembly during its 18th Session on 5 July 1971, entered into force on 19 December 1974. The second, adopted during the 27th Session of the Assembly on 6 October 1989, entered into force on 18 April 2005. Historical background information on these amendments is contained in **Appendix B**.

**2. PROCEDURAL REQUIREMENTS RELATING  
TO AMENDMENTS TO THE CONVENTION  
ON INTERNATIONAL CIVIL AVIATION**

2.1 Amendments to the Convention are governed by Article 94 of the Convention, by Rule 10 d) of the Standing Rules of Procedure of the Assembly and by Assembly Resolution A4-3.

2.2 According to Resolution A4-3, an amendment of the Convention may be appropriate when any of the following tests is satisfied:

- a) when it is proved necessary by experience; and
- b) when it is demonstrably desirable or useful.

2.3 As to procedure, that Resolution states that “any Contracting State wishing to propose an amendment to the Convention should submit it in writing to the Council at least six months before the opening date of the Assembly to which it is to be presented. The Council shall consider any such proposal and transmit it to the Contracting States together with its comments or recommendations thereon at least three months before the opening date of the Assembly”. Here, the proposal of the co-sponsors was formally presented in C-WP/14348.

2.4 Similarly, Rule 10 d) of the Standing Rules of Procedure of the Assembly states that “Proposals for the amendment of the Convention, together with any comments or recommendations of the Council thereon, shall be communicated to Contracting States so as to reach them at least ninety days before the opening of the Session.”

2.5 According to Article 94 a) of the Chicago Convention, “[a]ny proposed amendment must be approved by a two-thirds vote of the Assembly and shall then come into force in respect of States which have ratified such amendment when ratified by the number of contracting States specified by the Assembly. The number so specified shall not be less than two-thirds of the total number of contracting States.” The two-third vote of the Assembly required under Article 94 a) is to be construed, in accordance with Rule 53 of the Standing Rules of Procedure of the Assembly, as two-thirds of the total number of Contracting States to the Chicago Convention represented at the Assembly and qualified to vote at the time the vote is taken; for the purpose of establishing this total, some exclusions are listed in paragraphs a), b) and c) of that Rule. Since the present number of Contracting States to the Chicago Convention is 191, the two-thirds of the total number of Contracting States to the Chicago Convention required for entry into force of an amendment is 128.

2.6 The Provisional Agenda of the Assembly, as approved by Council, is presented in Attachment A to State Letter SA 39/1 – 15/86, *Invitation to attend the 39th Session of the Assembly, Montréal, 27 September to 7 October 2016*, dated 11 December 2015, including Item 13: *Proposal to amend Article 56 of the Chicago Convention so as to increase the membership of the Air Navigation Commission.*

### 3. COUNCIL DELIBERATIONS AND DECISIONS AT ITS 206TH AND 207TH SESSIONS

3.1 As stated previously, the Council considered C-WP/14348 at the ninth Meeting of its 206th Session. On behalf of the co-sponsors, a Representative presented the justifications given for the proposal to increase the membership of the ANC, as set out in C-WP/14348 (summarized in paragraph 1.2 above). The deliberations indicated that a majority of Representatives supported the proposed increase on the basis of the arguments set out in C-WP/14348. The view was expressed that the ANC should reflect the broadest range of ICAO's membership and it was necessary, in determining the membership of the ANC, to take into account the increasing technical and operational complexities of civil aviation in every region. In this regard it was recalled that in Resolving Clauses 3 and 4 of Resolution A38-13 (*Composition of the Air Navigation Commission and participation in its work*) the Assembly recommended: "that the Council not appoint more than one nominee from any one Member State and that it take full account of the fact that it is desirable for every region of the world to be represented" and "that the Council take steps to provide for and encourage the fullest possible participation by every Member State in the work of the Commission;". The point was made that the needs and circumstances of States and regions differed, as did the challenges they faced in implementing ICAO SARPs. An increase in the size of the ANC would thus lead to a better balance in its membership.

3.2 However, a few Representatives recalled that Members of the ANC, although nominated by specific States, did not represent the interests of any particular State or region but were independent experts who worked in the interest of the entire international civil aviation community. The view was also expressed that the ANC's work was part of an overall process, which was carried out in a systematic manner based notably on the conclusions of panels of experts, the members of which came from all parts of the world. Additionally, the point was made that States also had an opportunity to participate in technical issues dealt with by the ANC through ICAO's State Letter process. Furthermore, a couple of Representatives suggested that the use of regional rotation groups could provide a feasible way to enable broader participation by individual technical experts in the ANC. Concerns were also voiced that increasing the size of the ANC would negatively impact the ability of the ANC to remain effective during its deliberations and the potential effect on the ANC's debates, which had to be fluid and interactive in order to obtain optimal benefit from the Commissioners' expertise.

3.3 Another justification expressed for increasing the membership of the ANC was the growth of international air transport and its forecasted continued growth. It was mentioned that the growth of international air transport was related to actual operations and implementation of ICAO SARPs, both areas of which were dealt with by the ANC. In terms of the impact on the efficiency of the ANC, the view was expressed that the last increase in the size of the ANC from 15 to 19 members had not reduced the efficiency of the ANC.

3.4 The Council "... agreed, in principle, that the size of the ANC be increased in view of the increased membership of ICAO, and the need to draw on the expertise and experience from diverse operational skills and knowledge" and encouraged States to ratify the amendment to the Chicago Convention as soon as possible following its envisaged adoption by the Assembly in order for the increases in the size of the ANC to be enforced as early as feasible. The record of the decision of the Council on C-WP/14348 (paragraphs 8 to 17 of C-DEC 206/9) is contained in **Appendix C**.

3.5 At the thirteenth meeting of its 207th Session on 11 March 2016 the Council decided, by consensus, to recommend to the Assembly that the membership of the ANC be increased from 19 to 21 members. Additionally, the Council requested its Working Group on Governance and Efficiency (WGGE) to undertake a comprehensive review of procedures related to the nomination process and selection criteria of the membership of the ANC, taking into account the provisions in Article 56 of the Convention, Assembly Resolution A38-13, the Council decisions on the deliberations of the increase in the size of the ANC and related issues such as the desire for every region of the world to be represented. The WGGE was requested to report to the Council at a subsequent session on the results of this review. The record of these decisions of the Council are contained in **Appendix D**.

3.6 Two draft Assembly resolutions approving the amendment to Article 56 and urging its ratification are contained in **Appendices E** and **F**, respectively. Subject to the envisaged adoption by the Assembly of those resolutions, a draft Protocol of Amendment to Article 56 of the Convention is set out in **Appendix G**.

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## APPENDIX A

### EXCERPTS FROM COUNCIL WORKING PAPER C-WP/14348: PROPOSAL TO INCREASE THE SIZE OF THE AIR NAVIGATION COMMISSION (ANC) FROM 19 MEMBERS TO 23 BY AMENDING ARTICLE 56 OF THE CHICAGO CONVENTION

1. The justifications offered by the co-sponsors in C-WP/14348 for increasing the size of the ANC are as follows:

#### “1. INTRODUCTION

1.1 The Council is mandated through Article 54 (e) of the *Convention on International Civil Aviation* (Doc 7300), to ‘establish an Air Navigation Commission, in accordance with the provisions of Chapter X’. Moreover, Article 55 (b) allows the Council to ‘Delegate to the Air Navigation Commission duties additional to those set forth in the Convention and revoke or modify such delegations of authority at any time;’ while Article 56 specifies the composition of the members of ANC. Since the inception of ICAO the membership of ANC has been increased twice from the original 12 to 15, and presently 19 members. The last increase was decided by the Assembly in 1989 and entered into force on 18 April 2005. Since 1989, the number of Member States has increased from 160 to 191, an increase of almost 20 per cent. There is therefore a need to increase the number of seats in the ANC to correspond with the large increase of ICAO Member States.

1.2 Further as was previously noted at the 27th Session of the Assembly in 1989, by the Executive Committee, one of the reasons put forward for an increase in the size of the ANC was that there existed an imbalance in the Commission whose members come almost entirely from technically advanced States. This same argument is even more relevant and compelling today than it was when it was first aired in 1989. As the quantity and quality of expertise from different States has developed and matured throughout the world, it is important for ICAO to ensure that the ANC is not only composed of the highest level of expertise and qualification, but also that it reflect the broadest range of the membership in keeping with the developments that have occurred globally in all regions during the past twenty years.

#### 2. CONSIDERATION OF ISSUES

2.1 The same reasoning that has been applied to justify an increase in the size of the ICAO Council over the successive years is equally as relevant to this current proposal for an increase in the number of ANC members from 19 to 23. In view of the growing air transport industry with its consequential challenges offered by technological innovations and changing commercial strategies in international air transport, an increasing number of Member States have a desire and willingness to assume their role and responsibility by participating in the work of the Air Navigation Commission.

2.2 Article 57 of the Chicago Convention outlines the functions to be performed by the ANC. These include a requirement that the ANC recommends to the Council modifications to Annexes; establishes technical subcommissions and advises the Council of all information which the ANC considers necessary and useful for the advancement of air navigation. There has been a growth in experts from all over the world who could provide vital knowledge and expertise to further the work of the ANC. Moreover, the opportunity for developing States to participate in the work of the ANC would provide not only appropriate representation of the different aeronautical environments but also provide a better understanding of the technological capabilities and challenges facing their respective regions which are potentially hindering the States from implementing ICAO SARPs fully.

2.3 As more international organizations are invited to participate in the work of the ANC to produce more comprehensive high-quality work, so should more Member States be provided with the opportunity to contribute towards the quality of the ANC work. The Council (67/6) noted in C-WP/4989, with reference to attendance at ICAO meetings by representatives of other international organizations, that it had issued standing invitations to the International Air Transport Association (IATA) and the Fédération Aéronautique Internationale (FAI) to attend meetings of the ANC and the Air Transport Committee of the Council, and to the International Federation of Air Line Pilots' Associations (IFALPA) to attend meetings of the ANC. The ANC later agreed [176-9 (Closed)] that the number of standing invitations to attend meetings of the ANC should be extended further to the Airports Council International (ACI), Civil Air Navigation Services Organisation (CANSO), International Federation of Air Traffic Controllers' Associations (IFATCA), International Council of Aircraft Owner and Pilot Associations (IAOPA) and International Business Aviation Council (IBAC), and subsequently agreed [179-8 (Closed)] that the International Coordinating Council of Aerospace Industries Associations (ICCAIA) be added.

2.4 Expanding the size of the ANC, bearing in mind that 'Commission Members, although nominated by specific Contracting States, do not represent the interests of any particular State or Region but work in the interest of the entire international civil aviation community' (cf. paragraph 1.1.11 of ANC Procedures and Practices) would provide valuable information regarding regional challenges that could be applied in other areas with similar environmental and technological situations. Further, the ANC does not only deal with technical navigational matters, but it has been agreed that it should not feel constrained from considering the economic, social and legal aspects of the matters it dealt with, and from making recommendations that had an impact on those fields. In this context, adding States to the ANC would enable the body to be made better aware of the economic and social impacts of the ANC work being undertaken and the challenges faced in its implementation in remote regions.

2.5 Since 1989, the size, structure and importance of international air transport for the national economies of ICAO Member States has significantly changed. Liberalized bilateral agreements, in particular Open Skies agreements, have been implemented globally with further assistance from the ICAO Air Services Negotiation Conferences that have been taking place around the world. These agreements have opened up a large number of new gateways, have increased connectivity worldwide, and have spurred air transport growth.

2.6 During the ninth Meeting of the 126th Session of the Council, when discussing the last increase in the size of ANC membership, the Council took into account and noted that there had been a vast development of the technical and operational complexities in the field of civil aviation, the study of which by the Air Navigation Commission required not only representation of all air navigation regions of the world but also appropriate representation of the different aeronautical environments. When considering the two-aspect test as provided within Assembly Resolution A4-3: *'Policy and programme with respect to the amendment of the Convention'*, it is worth noting the requirement that an amendment to the Chicago Convention should be made if: 'i) it is proved necessary by experience' and 'ii) when it is demonstrably desirable or useful'; At that time the Council was in agreement that both parts of this threshold test were met and accordingly justified an increase in the size of the ANC. When considering the current proposal to expand the size the ANC to 23 members, it is clear that in applying the two-test threshold outlined in A4-3, the same conclusion can once again be reached especially given the enormous technological advances that have been made in the period since the last expansion to the ANC and which today underscore the need to include more members of the ANC.

2.7 It is also worth noting that as a result of all the air transport advancements, past and present, as well as the increase in the number of available technical experts, more Member States than ever before are prepared and willing to play a more active role in decisions affecting the global air transport system as well as those directly affecting their national economies, and therefore wish to assume their responsibility by participating in the work of the Air Navigation Commission.

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#### 4. FINANCIAL IMPLICATIONS

4.1 The financial impact of increasing the Air Navigation Commission from 19 to 23 would be insignificant for ICAO. In physical logistical terms, arrangements could easily be made in the ANC Chamber to accommodate four additional Commissioners without any significant changes. The main impact would be for the four additional States from where the new Commissioners were to be appointed to the ANC."

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**APPENDIX B****HISTORICAL BACKGROUND ON PAST AMENDMENTS TO ARTICLE 56****1. AMENDMENT TO ARTICLE 56 BY THE 18TH SESSION  
OF THE ASSEMBLY (VIENNA, 15 JUNE – 7 JULY 1971)**

1.1 In March 1971, the Council considered a proposal made by ten States for an amendment to Article 56 with a view to increasing the membership of the Air Navigation Commission from twelve to fourteen. The matter was then considered by the 18th Session of the Assembly and the main reasons given for an increase were, inter alia, the fact that the organization's membership had more than doubled compared with the number of States participating in the Chicago Conference which had fixed the membership of the Commission at twelve; the fact that in the past the membership of the Council had been increased from 21 to 27 and then to 30; that the imbalance in the Commission, whose members came almost entirely from technically advanced States, could be reduced without displacing some present members, by an increase in the membership; and, finally, the Assembly noted the inadequate geographic distribution on the Commission, with one continent (Africa) not represented at all.

1.2 As a result of its deliberations, the Assembly decided by 87 affirmative votes, without objection and three abstentions to increase the membership of the ANC from twelve to fifteen and Resolution A18-2 was adopted accordingly. At that time, ICAO membership was 120, and when the Amendment entered into force on 19 December 1974, ICAO then had 129 Member States.

**2. AMENDMENT TO ARTICLE 56 BY THE 27TH  
SESSION OF THE ASSEMBLY (6 OCTOBER 1989)**

2.1 At the 20th meeting of its 123rd Session on 31 March 1988, the Council decided to add to the work programme of its 124th Session an item "Study of Article 56 of the Convention on International Civil Aviation" with the aim of a possible increase in the membership of the ANC. The matter was considered by the Council at its 124th and 125th Sessions. At the ninth meeting of its 126th Session there was general consensus in the Council that the size of the ANC should be increased from fifteen to nineteen and that a proposal for the amendment of Article 56 of the Convention should be presented to the Assembly. The matter was then considered by the 27th Session of the Assembly and the main reasons given for an increase were, inter alia, that since the size of the Commission had last been increased in 1971, there had been a 30 per cent increase in the membership of ICAO and that the number of members of the Council had increased on two occasions. Furthermore, there had been a vast development of the technical and operational complexities in the field of civil aviation, the study of which required not only representation in the ANC of all Air Navigation Regions but also appropriate representation of different aeronautical environments.

2.2 As a result of its deliberations, the Assembly decided to increase the membership of the ANC from fifteen to nineteen and Resolution A27-2 was adopted accordingly. At that time, ICAO membership was 161, and when the Amendment entered into force on 18 April 2005, ICAO then had 188 Member States.



## APPENDIX C

### RECORD OF THE DECISION OF THE COUNCIL AT ITS 206TH SESSION

The proposal made by the co-sponsors to amend Article 56 of the Convention, so as to increase the membership of the ANC (C-WP/14348), was considered in concert with a proposal made by Portugal and Saudi Arabia to amend Article 50 a) of the Convention, so as to increase the size of the Council (C-WP/14345). The decisions of the Council at its 206th Session with regard to both of these proposals, set out in paragraphs 8 to 17 of C/DEC 206/9, are as follows:

“8. The Council considered these two related subjects concurrently on the basis of: C-WP/14345 presented by Portugal and Saudi Arabia, which set forth a proposal to increase the size of the Council from 36 to 39 seats by amending Article 50 a) of the *Convention on International Civil Aviation* (Chicago Convention, 1944); and C-WP/14348 presented by 15 co-sponsors [Bolivia (Plurinational State of), Burkina Faso, Cameroon, Chile, the Dominican Republic, Egypt, India, Kenya, Libya, Nicaragua, Nigeria, Saudi Arabia, the United Arab Emirates, the United Republic of Tanzania, and Venezuela (Bolivarian Republic of)], which set forth a proposal to increase the size of the Air Navigation Commission (ANC) from 19 Members to 23 by amending Article 56 of the said Chicago Convention.

9. Both papers were presented in accordance with Resolving Clause 8 of Assembly Resolution A4-3, which specified ‘that any Contracting State wishing to propose an amendment to the Convention should submit it in writing to the Council at least six months before the opening date of the Assembly to which it is to be presented. The Council shall consider any such proposal and transmit it to the Contracting States together with its comments or recommendations thereon at least three months before the opening date of the Assembly.’ It was the co-sponsors’ intention to have their proposals presented to the upcoming 39th Session of the Assembly (Montréal, 27 September – 7 October 2016).

10. It was recalled, in this context, that the 38th Session of the Assembly (Montréal, 24 September – 4 October 2013) had considered an earlier proposal by Saudi Arabia to increase the size of the Council from 36 to 39 but had noted that there was no marked support for the proposal at that time, although there was some support for reconsidering it in the future (cf. A38-WPs/17, /381 and /416).

11. It was further recalled that, in accordance with Resolving Clause 1 of Assembly Resolution A4-3, an amendment to the Chicago Convention ‘may be appropriate when either or both of the following tests is satisfied: i) when it is proved necessary by experience; ii) when it is demonstrably desirable or useful’. The co-sponsors of the two papers affirmed that their proposed amendments to Article 50 a) and Article 56 of the Chicago Convention satisfied those tests.

12. During the ensuing discussion, it was highlighted: that Council Representatives worked on behalf of all ICAO Member States and not solely on behalf of their own States or the States in their regional rotation groups; and that Members of the ANC, although nominated by specific States, did not represent the interests of any particular State or region but worked in the interest of the entire international civil aviation community.

13. The President of the Council observed, from the discussion, that the majority of Representatives were in favour of increasing the size of both the Council and the ANC. Only one Representative was opposed to increasing the size of both bodies, while other Representatives had supported their enlargement, with some caveats. He further noted that the majority of Representatives were also in favour of taking more time to consider the number of seats by which the size of the Council and the ANC should be increased. The President of the Council emphasized that, regardless of whether the ANC was enlarged or not, the qualifications and expertise required of Commissioners should not be diluted. In accordance with Article 56 of the Chicago Convention, individuals nominated to the ANC should have 'suitable qualifications and experience in the science and practice of aeronautics'. It was the Council's responsibility to ensure that such individuals met the established criteria before appointing them as Members of the ANC. The President of the Council underscored that all States could participate in the work of the Council and the ANC through ICAO's State letter process and attendance at the Organization's various meetings, including its high-level conferences and Divisional meetings. Furthermore, they could support the work of the ANC by taking part in its various panels and study groups.

14. The President of the Council also noted that the majority of Representatives was clearly not in favour of fast-tracking the entry into force of either proposed amendment to the Chicago Convention and considered that it was necessary to respect the latter's provisions, in particular, Article 94, according to which the number of ratifications required for the entry into force of any proposed amendment shall not be less than two-thirds of the total number of Contracting States.

15. In then taking the action proposed in the executive summaries of C-WP/14345 and C-WP/14348, as amended by the President of the Council in light of the discussion, the Council:

- a) agreed, in principle, that the size of the Council be increased in view of the increased membership of ICAO, the expansion and increasing importance of international air transport for the national economies in many countries, and the need to ensure adequate representation of ICAO Member States thereon;
- b) agreed, in principle, that the size of the ANC be increased in view of the increased membership of ICAO, and the need to draw on the expertise and experience from diverse operational skills and knowledge;
- c) agreed to further consider and define the size of the increase of the Council and the ANC at the next (207th) session;
- d) requested the Secretary General to submit, for its consideration and approval at that time: a draft Assembly working paper incorporating the comments and views of the Council on the proposal to increase the size of the Council set forth in C-WP/14345, together with a draft Protocol of Amendment relating to Article 50 a) of the Chicago Convention; and a draft Assembly working paper incorporating the comments and views of the Council on the proposal to increase the size of the ANC set forth in C-WP/14348, together with a draft Protocol of Amendment relating to Article 56 of the Chicago Convention;

- e) encouraged States to ratify the said two Protocols of Amendment as soon as possible following their envisaged adoption by the Assembly in order for the increases in the size of the Council and the ANC to be enforced as early as feasible; and
- f) requested the Secretariat to circulate to Representatives the background information it had provided orally on the historical consideration by the Organization of the issue of accelerating the entry into force of Protocols of Amendment of the Chicago Convention.

16. The Secretariat was requested to take into account, in preparing the Assembly working papers referred to in sub-paragraph d) above, that the majority of Representatives supported increasing the size of both the Council and the ANC, as well as the issues raised during the discussion regarding: equitable geographical representation on both bodies; the increasing growth in air transport in each region; giving preference to the use of regional rotation groups as a way to ensure future direct and indirect participation by many more States in the work of the Council and the ANC and thus stemming future requests to enlarge those bodies; the need to ensure efficiency in both the Council and the ANC; and logistics, including how to physically accommodate the envisaged increased number of Representatives and Commissioners in the existing Council and ANC Chambers. It was noted that the Secretariat could consult with the Delegation of Canada, the host State, regarding the latter issue.

17. Representatives and the various Council regional groups were encouraged to consult among themselves regarding the size of the increase of the Council and the ANC during the recess to facilitate discussions thereon during the upcoming session.”

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## APPENDIX D

### RECORD OF THE DECISION OF THE COUNCIL AT ITS 207th SESSION

The proposal to amend Article 56 of the Convention, so as to increase the membership of the ANC, was considered in concert with the proposal to amend Article 50 a) of the Convention, so as to increase the size of the Council. The decisions of the Council at its 207th Session with regard to both of these proposals, set out in paragraphs 14 to 21 of C/DEC 207/13, are as follows:

“14. The Council resumed (207/7 and 207/12) and completed consideration of these two items together. It was recalled that both these items were being presented in response to a request from the Council (C-DEC 206/9 refers) during which the Council agreed, in principle, that the size of both the Council and the ANC be increased, but that a determination on the respective size of the increase for the two bodies would occur during the current session.

15. It was also recalled that during the discussion on these items that took place at the Seventh Meeting of this session (207/7), the Council had agreed to defer further consideration of the items until a subsequent meeting in the current session so that additional consultations could be undertaken among Representatives with the aim of attempting to achieve a consensus position in the Council as to the respective size of the increase for both the Council and the ANC. It was further recalled that at the Twelfth Meeting of this session (207/12), Representatives had indicated that these discussions were still ongoing and that therefore, further consideration on the items should be deferred until this, the final meeting of the current session.

16. In summarizing the conclusion of the consultation process that had been undertaken among Representatives in the intervening period between meetings of the Council, the Representative of the United States informed that in an effort to preserve the principle of action by consensus at the ICAO governing bodies, agreement had been reached among Representatives to provide for an increase in the size of the Council by an additional four seats and an increase in the size of the ANC by an additional two seats, as well as a comprehensive review of procedures related to the nomination process and selection criteria of the membership of the ANC taking into account the provisions in Article 56 of the Convention and Assembly Resolution A38-13.

17. Accordingly, in relation to the draft Assembly working paper concerning a proposal to amend Article 50 a) of the *Convention on International Civil Aviation Organization* so as to increase the membership of the Council (C-WP/14358), the Council decided to recommend to the Assembly that the size of the Council be increased by four seats. The Council also approved the draft Assembly working paper attached to C-WP/14358, for transmission to Member States as documentation for the 39th Session of the Assembly. It was understood that the text of the working paper would be reviewed and updated so as to take account of the discussions that had been undertaken by the Council.

18. Likewise, in relation to the draft Assembly working paper concerning a proposal to amend Article 56 of the *Convention on International Civil Aviation Organization* so as to increase the membership of the ANC (C-WP/14359), the Council decided to recommend to the Assembly that the size of the ANC be increased by two seats. The Council also approved the draft Assembly working paper attached to C-WP/14359, for transmission to Member States as documentation for the 39th Session of the Assembly. It was understood that the text of the working paper would be reviewed and updated so as to take account of the discussions that been undertaken by the Council.

19. In relation to the review and update of both draft Assembly working papers as indicated in the two preceding paragraphs, it was noted that this exercise would be undertaken by the Secretariat under the guidance of the President of the Council, who on behalf of the Council, would seek to ensure that the said update would provide delegates to the Assembly with an adequate summary of the points of view that had been aired in the Council in the course of the deliberations on these two items.

20. The Council requested the Working Group on Governance and Efficiency (WGGE) to undertake a comprehensive review of procedures related to the nomination process and selection criteria of the membership of the ANC, taking into account the provisions in Article 56 of the Convention, Assembly Resolution A38-13, the Council decisions on the deliberations of the increase in the size of the ANC and related issues such as the desire for every region of the world to be represented. The WGGE was requested to report to the Council at a subsequent session on the results of this review.

21. The Council noted with appreciation that the consultation process on these items had been undertaken in a positive spirit of cooperation and in this regard, the efforts of the Representative of the United States and the regional coordinators were especially commended in facilitating the agreement of a consensus position.”

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## APPENDIX E

### RESOLUTION RECOMMENDED FOR ADOPTION BY THE ASSEMBLY

#### RESOLUTION A39-xx:

##### Amendment to Article 56 of the Convention on International Civil Aviation

THE ASSEMBLY,

HAVING NOTED that it is the general desire of Contracting States to enlarge the membership of the Air Navigation Commission,

HAVING CONSIDERED it proper to increase the membership of that body from nineteen to twenty-one, and

HAVING CONSIDERED it necessary to amend, for the purpose aforesaid, the Convention on International Civil Aviation done at Chicago on the seventh day of December 1944,

1. APPROVES, in accordance with the provisions of Article 94 (a) of the Convention aforesaid, the following proposed amendment to the said Convention:

“In Article 56 of the Convention the expression ‘nineteen members’ shall be replaced by ‘twenty-one members’.”

2. SPECIFIES, pursuant to the provisions of the said Article 94 (a) of the said Convention, one-hundred and twenty-eight as the number of Contracting States upon whose ratification the aforesaid amendment shall come into force; and

3. RESOLVES that the Secretary General of the International Civil Aviation Organization shall draw up a protocol, in the Arabic, Chinese, English, French, Russian and Spanish languages, each of which shall be of equal authenticity, embodying the amendment above-mentioned and the matters hereinafter appearing:

- a) the Protocol shall be signed by the President of the Assembly and its Secretary General;
- b) the Protocol shall be open to ratification by any State which has ratified or adhered to the said Convention on International Civil Aviation;
- c) the instruments of ratification shall be deposited with the International Civil Aviation Organization;

- d) the Protocol shall come into force in respect of the States that have ratified it on the date on which the one-hundred and twenty-eighth instrument of ratification is deposited;
- e) the Secretary General shall immediately notify all Contracting States to the said Convention of the date of deposit of each ratification of the Protocol;
- f) the Secretary General shall immediately notify all Contracting States to the said Convention of the date on which the Protocol comes into force;
- g) with respect to any Contracting State ratifying the Protocol after the date aforesaid, the Protocol shall come into force upon deposit of its instrument of ratification with the International Civil Aviation Organization.

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**APPENDIX F**

**RESOLUTION RECOMMENDED FOR ADOPTION BY THE ASSEMBLY**

**RESOLUTION A39-xx:**

**Ratification of the Protocol amending Article 56 of the Convention on International Civil Aviation**

WHEREAS the Assembly has decided to amend Article 56 of the Convention on International Civil Aviation to provide for an increase in the size of the ANC; and

WHEREAS the Assembly is of the opinion that it is highly desirable that the aforesaid amendment should come into force as soon as possible;

THE ASSEMBLY:

- (1) RECOMMENDS to all Contracting States that they ratify urgently the amendment to Article 56 of the Convention on International Civil Aviation; and
- (2) DIRECTS the Secretary General to bring this resolution to the attention of Contracting States as soon as possible.

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**APPENDIX G**

**DRAFT PROTOCOL**

**Relating to an amendment to Article 56  
of the Convention on International Civil Aviation**

**Signed at Montréal, on [date]**

THE ASSEMBLY OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION

HAVING MET in its Thirty-ninth Session at Montréal on [date],

HAVING NOTED that it is the general desire of Contracting States to enlarge the membership of the Air Navigation Commission,

HAVING CONSIDERED it proper to increase the membership of that body from nineteen to twenty-one, and

HAVING CONSIDERED it necessary to amend, for the purpose aforesaid, the Convention on International Civil Aviation done at Chicago on the seventh day of December 1944,

1. APPROVES, in accordance with the provisions of Article 94(a) of the Convention aforesaid, the following proposed amendment to the said Convention:

"In Article 56 of the Convention the expression 'nineteen members' shall be replaced by twenty-one members'."

2. SPECIFIES, pursuant to the provisions of the said Article 94(a) of the said Convention, one hundred and twenty-eight as the number of Contracting States upon whose ratification the aforesaid amendment shall come into force; and
3. RESOLVES that the Secretary General of the International Civil Aviation Organization shall draw up a Protocol, in the Arabic, Chinese, English, French, Russian and Spanish languages, each of which shall be of equal authenticity, embodying the amendment above-mentioned and the matters hereinafter appearing:
  - a) The Protocol shall be signed by the President of the Assembly and its Secretary General.
  - b) The Protocol shall be open to ratification by any State which has ratified or adhered to the said Convention on International Civil Aviation.
  - c) The instruments of ratification shall be deposited with the International Civil Aviation Organization.
  - d) The Protocol shall come into force in respect of the States that have ratified it on the date on which the one hundred and twenty-eighth instrument of ratification is so deposited.

- e) The Secretary General shall immediately notify all Contracting States of the date of deposit of each ratification of the Protocol.
- f) The Secretary General shall immediately notify all Contracting States to the said Convention of the date on which the Protocol comes into force.
- g) With respect to any Contracting State ratifying the Protocol after the date aforesaid, the Protocol shall come into force upon deposit of its instrument of ratification with the International Civil Aviation Organization.

CONSEQUENTLY, pursuant to the aforesaid action of the Assembly,

This Protocol has been drawn up by the Secretary General of the Organization.

IN WITNESS WHEREOF, the President and the Secretary General of the aforesaid thirty-ninth Session of the Assembly of the International Civil Aviation Organization, being authorized thereto by the Assembly, sign this Protocol.

DONE at Montréal on the [date] of the year two thousand and sixteen, in a single document in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic. This Protocol shall remain deposited in the archives of the International Civil Aviation Organization, and certified copies thereof shall be transmitted by the Secretary General of the Organization to all Contracting States to the *Convention on International Civil Aviation* done at Chicago on the seventh day of December 1944.

[ ]  
President of the Thirty-ninth Session  
of the Assembly

F. Liu  
Secretary General

— END —