



A37-WP/375
P/40
6/10/10

ASSEMBLY — 37TH SESSION

ADMINISTRATIVE COMMISSION

REPORT OF THE ADMINISTRATIVE COMMISSION ON THE GENERAL SECTION OF ITS REPORT AND ON AGENDA ITEMS 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74 AND 75

(Presented by the Chairman of the Administrative Commission)

The attached report on the General Section of its Report and Agenda Items 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74 and 75 has been approved by the Administrative Commission. Resolutions 18/1, 64/1, 68/1, 69/1, 71/1, 72/1, 73/1, and 75/1 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.

**REPORT OF THE ADMINISTRATIVE COMMISSION
TO THE ASSEMBLY**

1. The Administrative Commission held two meetings between 30 September and 5 October 2010.
2. Dr. Nasim Zaidi (India) was elected Chairperson of the Commission at the second Plenary Meeting of the Assembly.
3. The Commission, at its first meeting, elected Mr. P. Pape (France) as its First Vice-Chairperson and Ms. D. Jimenez (Mexico) as its Second Vice-Chairperson.
4. Representatives from 51 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.
6. The Secretary of the Commission was Mr. R. Bhalla, Chief, Finance Branch. Mr. H. O'Donnell, Chief, Accounting Services Section acted as Deputy. Ms. L. Lim, Budget Officer, and Mr. R. Deslauriers, Accounting Officer, acted as Assistant Secretaries. Mrs. P. Romano, Accounting Officer, and Mr. A. Bilaver, Strategic Planning Officer, acted as Liaison Officers.

Working arrangements

7. At its first meeting, the Chairman of the Commission outlined his expectations for the session and indicated that there had been extensive discussion of all items at the Finance Committee and Council meetings. It was therefore anticipated, in the interest of time and efficiency, that the Commission's agenda be dealt with expeditiously, and that the number of meetings be reduced. In particular, a proposal was made by Mr. L. Dupuis (Canada) requesting that the Budget Working Group and Contributions Working Group were not needed and that the items for consideration in these groups be tabled at the Commission instead, without referral to these groups. This proposal was unanimously supported.

Agenda

8. Items referred to the Commission by the Plenary and Executive Committee were considered.

- 63 Annual Reports of the Council to the Assembly for 2007, 2008 and 2009
- 64 Budgets for 2011, 2012 and 2013

- 65 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
- 66 Arrears of contributions of the former Socialist Federal Republic of Yugoslavia
- 67 Contributions in arrears
- 68 Assessments to the General Fund for 2011, 2012 and 2013
- 69 Report on the Working Capital Fund
- 70 Disposition of cash surplus
- 71 Amendment to the Financial Regulations
- 72 Review of expenditures, approval of accounts and examination of Audit Reports for the financial years 2007, 2008 and 2009
- 73 Appointment of External Auditor
- 74 Report on the use of the Information and Communication Technology (ICT) Fund
- 75 Other issues for consideration by the Administrative Commission

9. The documents and working papers considered by the Commission are listed by agenda items in the Appendix to this report (see page 6).

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.

Conclusion

11. The Commission recognized the work done by the Working Group on Efficiency (WGOE) in streamlining several processes and in promoting efficiency both within the Council and the Secretariat.

12. The Commission expressed appreciation of the manner in which the Chairman coordinated the proceedings of the Commission in discussing all Agenda Items in a single session/meeting.

* Will be provided in final edition of the report.

Agenda Item 63: Annual Reports to the Council to the Assembly for 2007, 2008 and 2009

63.1 Certain parts of the Annual Reports of the Council to the Assembly for 2007, 2008 and 2009 and the supplementary report covering the first six months of 2010 falling within the Commission's field of competence were referred by the Plenary, for the Commission's review.

63.2 At its first meeting, the Commission noted the content and presentation of the section entitled 'Financial Statement' for the years 2007, 2008 and 2009 and the supplementary report covering the first six months of 2010 of the Annual Reports (Docs 9898, 9916 and 9921 and Supplement).

63.3 The Commission recommends to the Plenary that the section entitled 'Financial Statement' of the Annual Reports be approved.

Agenda Item 64: Budgets for 2011, 2012 and 2013

64.1 The Administrative Commission had before it working paper A37-WP/43, AD/2 related to the Draft Budget of the Organization for 2011, 2012 and 2013, submitted by the Council.

64.2 At the first meeting of the Administrative Commission, held on 30 September 2010, the President of the Council presented the Draft Budget of the Organization for 2011, 2012 and 2013 (A37-WP/43, AD/2). The President outlined the three major elements that formed the foundation on which the Draft Budget was formulated. Firstly, in order to provide a sharper vision for the activities of the Organization, the Strategic Objectives were reduced from six to three, namely (a) Safety, (b) Security, and (c) Environmental Protection and Sustainable Development of Air Transport. Secondly, the staffing structure was rationalized to be more organized and efficient and to allow for adequate staffing for language services; the integration of the Comprehensive Regional Implementation Plan for Aviation Safety (AFI) in Africa and a full complement of competencies in all Regional Offices. Finally, to better reflect the priorities of the governing body, the budget was a product of an extensive partnership between the Council and the Secretariat.

64.3 In addition, the President emphasized that the Draft Budget of the Organization for 2011, 2012 and 2013, maintains the results-based framework as well as the split assessment and continues to be supplemented by the Ancillary Revenue Generating Fund (ARGF). This is the first budget that is International Public Sector Accounting Standards (IPSAS) compliant. It includes the full integration of the Aviation Security Plan of Action, the introduction of a Continuous Monitoring Approach to Safety and an investment in an Electronic Document and Record Management System (EDRMS) and a Computer-Assisted Translation System (CATS) to improve efficiency.

64.4 A presentation was delivered by the Secretariat on the proposed Budget of CAD273.1 million as presented in paper A37-WP/43, AD/2 and focused on the budget process, methodology, format and content. It was stated that the basis of the budget exercise was the formation of a Business Plan with 52 programmes. The programmes in the Business Plan were then scaled down and presented to the Council as a menu of options. The programmes presented under the Draft Budget of the Organization for 2011, 2012 and 2013 represent those activities selected by the Council after considerable deliberation.

64.5 Many Delegations expressed their support of the adequate funding of language services. It was stated that the importance of interpreting and translating important technical issues that relate to safety and security must be considered a priority by the Organization and must be adequately funded at all times.

64.6 Several Delegations supported the implementation of the recommendations of the Council found in Annex 5 of A37-WP/43, AD/2. These recommendations, Delegations stated, would enhance efficiency and reporting, as well as lead to good governance and should be continuously reported to and monitored by the Council. In addition, several Delegations welcomed the increased transparency in the draft budget which would allow the Council to better monitor on how the budget is disbursed.

64.7 Some Delegations reiterated the need to seek additional resources, possibly through voluntary donations, to supplement the draft budget and fund those activities which may not have available funding.

64.8 The Chairman thanked the Finance Committee for its extensive deliberation of, and somewhat innovative approach to, the preparation of the draft budget and stated that the Finance Committee should be given continuity, if allowable, in order to oversee the initial implementation of this budget.

64.9 The Administrative Commission supports the draft Budget and recommends that the Assembly adopt the following draft Resolution relating to the Indicative Budget Estimates of the Administrative and Operational Services Costs of the Technical Cooperation Programme and the Budget for the Regular Programme of the Organization for 2011, 2012 and 2013.

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

Draft Resolution 64/1:

Budgets for 2011, 2012 and 2013

A. *The Assembly*, with respect to the Budget 2011-2012-2013, *notes* that:

1. in accordance with Article 61 of the Convention, the Council has submitted and the Assembly has considered annual budget estimates [indicative estimates for the Administrative and Operational Services Costs of the Technical Co-operation Programme (AOSC)] for each of the financial years 2011, 2012 and 2013;

2. in accordance with Articles 49 (e) and 61 of the Convention, the Assembly approves the budgets of the Organization.

B. *The Assembly*, with respect to the Technical Co-operation Programme:

Recognizing that the AOSC are mainly financed by fees from implementation of projects assigned to ICAO for execution by external funding sources such as Governments, the United Nations Development Programme and other sources;

Recognizing that the Technical Co-operation Programme cannot be determined with a high degree of precision until such time as the Governments of donor and recipient countries have decided on the relevant projects;

Recognizing that due to the situation cited above, the annual AOSC net budget figures shown below in Canadian dollars (CAD) for the years 2011, 2012 and 2013 represent indicative budget estimates only:

2011	2012	2013
10,700,000	11,000,000	11,600,000

Recognizing that technical co-operation is an important means of fostering the development and safety of civil aviation;

Recognizing the circumstances facing the Technical Co-operation Programme of the Organization and the necessity to take continuing measures; and

Recognizing that in the event that the AOSC operation for any given financial year ends in a financial deficit, such deficit should first be met from the accumulated surplus of the AOSC Fund and a call for support from the Regular Programme Budget would be the last resort.

Resolves that the Indicative Budget Estimates of the Administrative and Operational Services Costs of the Technical Co-operation Programme are hereby approved on the understanding that subsequent adjustments to the Indicative Budget Estimates shall be made within the framework of the annual AOSC Budget Estimates in accordance with the provisions of Article IX of the Financial Regulations.

C. The Assembly, with respect to the Regular Programme:

Resolves that:

1. separately for the financial years 2011, 2012 and 2013, the following amounts in Canadian dollars, requiring an outlay of funds, are hereby authorized for expenditure for the Regular Programme in accordance with the Financial Regulations, and subject to the provisions of this Resolution:

Programme	2011	2012	2013	Total
SAFETY	22,815,000	23,437,000	24,913,000	71,165,000
SECURITY	13,403,000	13,771,000	13,866,000	41,040,000
ENVIRONMENTAL PROTECTION AND SUSTAINABLE DEVELOPMENT OF AIR TRANSPORT	11,431,000	11,843,000	12,311,000	35,585,000
Programme Support	19,748,000	20,714,000	22,143,000	62,605,000
Management & Administration	13,265,000	13,475,000	14,080,000	40,820,000
Management & Administration - Governing Bodies	6,932,000	7,004,000	7,951,000	21,887,000
TOTAL AUTHORIZED APPROPRIATION	87,594,000	90,244,000	95,264,000	273,102,000
Operational	86,555,000	89,554,000	94,681,000	270,790,000
Capital	1,039,000	690,000	583,000	2,312,000

2. the separate annual Total Authorized Appropriation be financed as follows in Canadian dollars, in accordance with the Financial Regulations:

	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>Total</u>
a) Assessments on States	82,024,000	84,256,000	88,727,000	255,007,000
b) Transfer from ARGF Surplus	4,370,000	4,688,000	5,082,000	14,140,000
c) Miscellaneous Income	1,200,000	1,300,000	1,455,000	3,955,000
TOTAL:	<u>87,594,000</u>	<u>90,244,000</u>	<u>95,264,000</u>	<u>273,102,000</u>

3. separately for the financial years 2011, 2012 and 2013, the following additional amounts in Canadian dollars, requiring an outlay of funds, are hereby authorized for expenditure for the Regular Programme in accordance with the Financial Regulations, and subject to the provisions of this Resolution to be financed without increasing Assessment of States through Reimbursement from AOSC fund of \$5,311,500 and by the Transfer from Incentive Scheme for Long-Outstanding Arrears Account of \$2,202,200:

Programme	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>Total</u>
SAFETY	119,000	977,000	888,000	1,984,000
SECURITY	71,000	73,000	76,000	220,000
ENVIRONMENTAL PROTECTION AND SUSTAINABLE DEVELOPMENT OF AIR TRANSPORT	48,000	49,000	51,000	148,000
Programme Support	387,000	399,000	425,000	1,211,000
Management & Administration	1,262,000	1,295,000	1,349,000	3,906,000
Management & Administration - Governing Bodies	14,000	15,000	16,000	45,000
TOTAL AUTHORIZED APPROPRIATION	<u>1,901,000</u>	<u>2,808,000</u>	<u>2,805,000</u>	<u>7,514,000</u>

Agenda Item 65: 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

65.1 At its first meeting, the Commission considered A37-WP/49, AD/6 and noted that subsequent to the 36th Session of the Assembly, no new State adhered to the Convention and became a Contracting State of ICAO. Therefore, the draft Resolution in the Appendix of the working paper was not referred to the Assembly.

65.2 It was noted at the meeting that, in future, the matter should be referred to the Assembly only if a new State has adhered to the Convention.

Agenda Item 66: Arrears of contributions of the former Socialist Federal Republic of Yugoslavia

66.1 At its first meeting, the Commission noted A37-WP/47, AD/4 Revision No. 1, which deals with the arrears of contributions of the former Socialist Federal Republic of Yugoslavia (SFRY) relating to the years 1990 to 1992.

66.2 The Commission agreed that this item should be referred to the Assembly only if there is a significant change in the status of the arrears of contributions of the former Socialist Federal Republic of Yugoslavia.

Agenda Item 67: Contributions in arrears

67.1 At its first meeting, the Commission considered A37-WP/56, AD/13 regarding the application of funds from incentive scheme for the settlement of long-outstanding arrears (Report on Assembly Resolutions A34-1 and A35-27).

67.2 The Commission supported the carryover of the \$0.3 million in the special account for new and unforeseen projects related to aviation safety.

67.3 The Commission also considered A37-WP/62, EX/17, AD/16, Revision No. 1, and Addendum No. 1, which provide information on the financial aspects of the question of contributions in arrears as at 28 September 2010 and those Contracting States that had their voting rights deemed suspended. The working paper had previously been considered by the Executive Committee at its first meeting, during which the Executive Committee approved the draft Resolution in Appendix D through its oral report to the Plenary.

67.4 The Commission recommended the adoption of draft Resolution as set out below.

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

Resolution 18/1: Discharge by Contracting States of financial obligations to the Organization and action to be taken in case of their failure to do so

Whereas Article 62 of the *Convention on International Civil Aviation* provides that the Assembly may suspend the voting power in the Assembly and in the Council of any Contracting State that fails to discharge, within a reasonable period, its financial obligations to the Organization;

The Assembly:

Considering that Article 6.5 of the *ICAO Financial Regulations* provides that contributions from Contracting States shall be considered due and payable in full as of the first day of the financial year to which they relate;

Noting that in recent years the accumulation of contributions in arrears has increased considerably and has constituted, together with the delays in payment of current year contributions, an obstacle to the implementation of the work programme and created serious cash flow difficulties;

Urges that all Contracting States in arrears make suitable arrangements for liquidating their arrears; and

Urges all Contracting States and, in particular, the States elected to the Council, to take all necessary measures to pay their contributions on time;

Resolves that, with effect from 1 January 2011:

1. all Contracting States should recognize the necessity to pay their contributions at the beginning of the year in which they fall due, in order to avoid the need for the Organization to draw on the Working Capital Fund to make good the shortfall;
2. the Secretary General be directed to dispatch to all Contracting States, at least three times in the year, schedules showing the current amounts due for the current year and up to 31 December of the previous year;
3. the Council be authorized to discuss and conclude arrangements with Contracting States, whose contributions are in arrears for three or more years, for the settlement of accumulated arrears to the Organization, any such settlements or arrangements to be reported to the next session of the Assembly;
4. all Contracting States that are three years or more in arrears in the payment of their contributions should:
 - a) effect without delay payment of the amounts outstanding with respect to advances to the Working Capital Fund, the current year contribution, and partial settlement of their arrears in the amount of 5 per cent of the arrears; and
 - b) conclude within six months of the date of the payment referred to in sub-paragraph a) above, if they have not already done so, an agreement with the Organization for the settlement of the balance of their arrears, such agreement to provide for the payment annually, in full, of their current contributions and the balance of the arrears in instalments over a period of no more than ten years, which period may, at the discretion of the Council, be extended, to a maximum of twenty years in respect of special cases, i.e. those Contracting States which are classified by the United Nations as Least Developed Countries;
5. the Council should further intensify the current policy of inviting Contracting States in arrears to make settlement proposals for the liquidation of long-outstanding arrears of contributions in accordance with the provisions of Resolving Clause 4 above, taking full account of the economic position of the States concerned including the possibility of accepting other currencies in accordance with the provisions of Article 6.6 of the Financial Regulations, to the extent that the Secretary General can use these currencies;
6. the voting power in the Assembly and the Council be suspended for those Contracting States in arrears for an amount equal to or in excess of the total assessments for the three preceding financial years and of those Contracting States not in compliance with agreements entered into in accordance with Resolving Clause 4 b) above, such suspension to be revoked immediately upon the settlement of outstanding amounts due under agreements; and
7. the voting power of a Contracting State suspended under Resolving Clause 6 may also be restored by action of the Assembly or the Council provided:

-
- a) it has already concluded with the Council an agreement that provides for the settlement of its outstanding obligations and for the payment of current contributions and has complied with the terms of that agreement; or
 - b) the Assembly is satisfied that the State's willingness to reach an equitable settlement of its financial obligations to the Organization has been demonstrated;
8. any State whose voting power has been suspended by the Assembly under Article 62 of the Convention may have it restored by the Council under the conditions stipulated in Resolving Clause 7 a) above, provided that a willingness on its part to reach an equitable settlement of its financial obligations to the Organization has been demonstrated;
9. the following additional measures be applied to those Contracting States whose voting rights have been suspended under Article 62 of the Convention:
- a) lose eligibility to host meetings, conferences, workshops and seminars which are funded, in whole or in part, by the Regular Programme;
 - b) receive only the same free documentation as that provided to non-Contracting States, including those available in electronic media, and any other documents that are essential for safety, regularity or efficiency of international air navigation;
 - c) Nationals or Representatives lose eligibility for nomination to elected offices;
 - d) for purposes of recruitment to posts in the Secretariat, if all other circumstances are equal, candidates from States in arrears would be considered as having the status of candidates from a State that has already achieved the desired level of representation (under equal geographical representation principles), even if it has not achieved that level; and
 - e) lose the right to participate in the ICAO Familiarization course;
10. only those States which have no outstanding annual assessed contributions except for the current year's assessment will be eligible for election to the Council, Committees, and bodies;
11. the Secretary General be directed to report to Council any voting rights deemed to be suspended and suspension revoked under Clause 6, and to apply measures stipulated in Clause 9 accordingly; and
12. this Resolution supersedes Assembly Resolution A36-33.

Agenda Item 68: Assessments to the General Fund for 2011, 2012 and 2013

68.1 At its first meeting, the Administrative Commission examined A37-WP/42, AD/1, Revision No. 1 on the proposed draft scales of assessment for the triennium 2011, 2012 and 2013.

68.2 It was clarified that there was no change to the Methodology, therefore, the existing assessment principles will be maintained.

68.3 The Administrative Commission recommends that the Plenary adopt draft Resolution 68/1.

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

Resolution 68/1

Assessments to the General Fund for 2011, 2012 and 2013

The Assembly:

1. *resolves* that the amounts to be assessed on Contracting States for 2011, 2012 and 2013 pursuant to Article 61, Chapter XII, of the Convention shall be determined in accordance with the scales set out in the Appendix to A37-WP/42, AD/1, Revision No. 1.

Agenda Item 69: Report on the Working Capital Fund

69.1 At its first meeting, the Administrative Commission examined A37-WP/48, AD/5, 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 USD 6.0 million for the next triennium.

69.2 After consideration, the Commission recommended adoption of the following Resolution.

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

Resolution 69/1

Working Capital Fund

The Assembly:

1. *Notes that:*
 - a) in accordance with Resolution A36-34, 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 10.0 per cent compared to 5.0 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 the foreseeable future;

- 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 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 2009 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 2010, 2011, 2012 and 2013, 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 2010, 2011 and 2012;

- 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 A36-34 is no longer effective and is hereby superseded; and

3. *Urges:*

- a) 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
- b) the Contracting States in arrears to meet their obligations to the Organization as promptly as possible, as called for by Resolution [A37-xx].

Agenda Item 70: Disposition of cash surplus

70.1 At its first meeting, the Commission examined A37-WP/45, AD/3, dealing with the disposition of cash surplus and after service health insurance (ASHI) liability.

70.2 The Commission noted the financial results for the year ended 31 December 2009, showing a cash surplus of \$1.4 million as of the end of December 2009 and the proposal to use this cash surplus to provide the initial funding for staff liabilities arising from the adoption of International Public Sector Accounting Standards (IPSAS), the largest of which, after service health insurance (ASHI), was estimated at \$56.3 million in the latest actuarial valuation completed in March 2010.

70.3 The Commission considered the proposal and agreed to take note of one Delegation's position that the surplus belongs to Member States. After due consideration, the Commission invites the Assembly to approve the initial funding for after service entitlements as proposed in A37-WP/45, AD/3, paragraph 5.1.

Agenda Item 71: Amendment of the Financial Regulations

71.1 The Commission reviewed, during its first meeting, A37-WP/57, AD/14 that presents amendments to the Financial Regulations.

71.2 The Commission noted one Delegation's comment regarding the benefit of seeking other sources of funding for extraordinary events. The Secretary of the Commission emphasized that the changes to Regulation 8.4 were empowering the Council and not the Secretariat and that the authority to exercise the additional limits was retained with the Council.

71.3 The Commission also noted one Delegation's comment that it did not support the changes proposed to Financial Regulations 7.3 and 8.4.

71.4 In concluding the review of the proposed changes to the Financial Regulations, the Commission recommends the adoption by the Assembly of Draft Resolution 71/1 below.

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

Resolution 71/1

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:

1. The amendments as set out in the Appendix of A37-WP/57, AD/14 to Financial Regulation 5.2 are approved effective 1 January 2011 and to other Financial Regulations are confirmed pursuant to Financial Regulation 14.1.

Agenda Item 72: Review of expenditures, approval of accounts and examination of Audit Reports for the financial years 2007, 2008 and 2009

72.1 At its first meeting, the Commission considered the Audited Financial Statements of the Organization and the corresponding audit reports presented as A37-WP/53, AD/10 and Document 9909 for 2007; A37-WP/54, AD/11 and Document 9922 for 2008; A37-WP/55, AD/12 and Document 9942 for 2009 and the consolidated draft Resolutions 72/1 and 72/2 in A37-WP/61, AD/15, Appendix B.

72.2 The Secretary of the Commission reported that after consultation with the United Nations Development Programme (UNDP), there is no longer a need for separate Assembly approval of UNDP Statements. Therefore, Draft Resolution 72/2 was not referred to the Assembly. Accordingly, the following Draft Resolution 72/1 is recommended for adoption by the Assembly.

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

Resolution 72/1: Approval of the accounts of the Organization for the financial years 2007, 2008 and 2009 and examination of the Audit Reports thereon

Whereas the accounts of the Organization for the financial years 2007, 2008 and 2009 and the Audit Reports thereon, submitted by the Auditor General of Canada (2007) and the Cour des comptes of France (2008 and 2009) - a member of the Joint Panel of External Auditors of the United Nations and Specialized Agencies - as the External Auditor of ICAO, have been submitted to the Assembly after being circulated to Contracting States;

Whereas the Council has examined the Audit Reports and submitted them to the Assembly for its review; and

Whereas in accordance with Chapter VIII Article 49 (f) of the Convention, expenditures have been reviewed;

The Assembly:

1. *Notes* the Report of the External Auditor on the audited accounts for the financial year 2007 and the comments by the Secretary General in response to the recommendations in the Audit Report;

2. *Notes* the Report of the External Auditor on the audited accounts for the financial year 2008 and the comments by the Secretary General in response to the recommendations in the Audit Report;

3. *Notes* the Report of the External Auditor on the audited accounts for the financial year 2009 with related comments by the Secretary General in response to the recommendations in the Audit Report, and the report on the status of the implementation of the External Auditor's prior years' recommendations;

4. *Approves* the audited accounts for the financial year 2007;

5. *Approves* the audited accounts for the financial year 2008; and

6. *Approves* the audited accounts for the financial year 2009.

Agenda Item 73: Appointment of External Auditor

73.1 At its first meeting, the Commission noted A37-WP/51, AD/8, reporting on action taken by the Council to appoint an External Auditor to audit the accounts of the Organization for the next triennium and seeks confirmation by the Assembly of the action taken by the Council, in accordance with Article XIII of the Financial Regulations.

73.2 The Commission noted the comment made by the one Delegation regarding its preference for a fixed six-year term to avoid reselection after three years that was supported by another Delegation, adding that the matter should be referred to the Council. The Secretary indicated that in any event, there was an overall term limitation of six years as per the decision of the Council.

73.3 In conclusion, the Commission recommended the extension of the term of the First President of the Cour de Comptes of France, as the External Auditor of ICAO for the financial years 2011, 2012 and 2013.

73.4 Accordingly, the following Draft Resolution 73/1 is recommended for adoption by the Assembly.

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

Resolution 73/1

Appointment of the External Auditor

The Assembly:

1. *Notes that:*
 - a) the Financial Regulations provide that, subject to confirmation by the Assembly, the Council shall appoint an External Auditor to the Organization; and
 - b) the Council approved the extension of appointment to the First President of the Cour des Comptes as External Auditor of ICAO for 2011, 2012 and 2013 for the same fee as charged for the current triennium.
2. *Confirms* the action taken by the Council in appointing Mr. Didier Migaud, First President of the Cour des Comptes, as the External Auditor of ICAO for the financial years 2011, 2012 and 2013.

Agenda Item 74: Report on the Use of the Information and Communication Technology (ICT) Fund

74.1 At its first meeting, the Commission noted A37-WP/50, AD/7 and Corrigendum No. 1, which reports to the Assembly on the progress of the projects funded by the ICT Fund.

74.2 The Commission was informed on the progress in implementing the ICAO Enterprise Resource Planning (ERP) system, Agresso. One Delegation thanked the Secretariat for such a significant achievement with very limited resources.

74.3 The Assembly is invited to note A37-WP/50, AD/7 and Corrigendum No. 1.

Agenda Item 75: Other issues to be considered by the Administrative Commission

75.1: The Establishment of the Safety Fund (SAFE)

75.1.1 At its first meeting, the Commission reviewed A37-WP/239, AD/17, presented by the Council and explaining the decision to establish the Safety Fund (SAFE). The paper proposed a draft Assembly Resolution setting out the objectives and purpose of the Fund and urging all Contracting States, international organizations and public and private parties associated with international civil aviation to make voluntary contributions to the SAFE.

75.1.2 Two Delegations spoke in support of the establishment of the SAFE and expressed their appreciation for the final preambulatory clause in the draft resolution, establishing that the SAFE will not impose any costs on the Regular Programme Budget of the Organization.

75.1.3 The Commission, having reviewed the information provided in A37-WP/239, AD/17, submits the following Draft Resolution 75/1 for adoption by the Plenary:

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

Resolution 75/1

The Safety Fund (SAFE)

Whereas under Article 44 of the *Convention on International Civil Aviation* the aims and objectives of ICAO *inter alia* are to foster planning and development of international air transport so as to ensure the safe and orderly growth of international civil aviation, meet the needs of the people of the world for safe, regular and economical air transport, and promote safety of flight in international air navigation;

Whereas Articles 69 to 76 of the Convention provide that the Council may make arrangements as appropriate with a view to finding means for the improvement of air navigation facilities of Contracting States as required so as to ensure safe, regular, efficient and economical operation of international air services;

Whereas, under Article 70 of the Convention, the Council may, in the circumstances arising under the provision of Article 69, make arrangements with Contracting States relating to the financing of air navigation facilities;

Considering that, in some cases, Contracting States may not have access to the necessary resources for improvements to their air navigation facilities, in particular for the remedy of safety-related deficiencies identified through the ICAO Universal Safety Oversight Audit Programme (USOAP);

Whereas most developing States experience difficulties in gaining access to many financial market sources, particularly foreign capital markets, for funding their airport and air navigation services infrastructure, including safety-related components of that infrastructure;

Whereas the High-level Safety Conference (HLSC) 2010 identified several States and regions of the world that are in need of assistance in the development of sustainable levels of aviation safety, and particularly in the development of funding models that would guarantee sustainability in the provision of infrastructure and services for adequate air transport activity;

Whereas the HLSC 2010 made a recommendation that ICAO should work with States and Regional Organizations requiring assistance to develop appropriate funding models to ensure the sustainable provision of infrastructure and services based on the level of activity for adequate air transport activity;

Whereas the Council decided to establish the Safety Fund (SAFE) with the objective of improving the safety of civil aviation through the use of a performance-based approach which will limit administrative costs and will not impose any costs on the Regular Programme Budget of the Organization, while ensuring that voluntary contributions to the fund are used in a responsible, useful and timely manner;

The Assembly:

1. *Expresses appreciation* to Contracting States and international organizations for their contributions to ICAO Funds associated with improving the safety of civil aviation;
2. *Urges* Contracting States, international organizations and public and private parties associated with international civil aviation to make voluntary contributions to SAFE;
3. *Requests* that the Council support the smooth functioning of the SAFE through consistent monitoring of progress made by the SAFE in funding safety-related projects; and
4. *Requests* that the Council make every effort to attract contributions to the SAFE from States and other contributors.