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ASSEMBLY — 36TH SESSION
ADMINISTRATIVE COMMISSION

DRAFT TEXT FOR THE REPORT
ON
AGENDA ITEMS 52, 56, 57, 58, 59 AND 7

The attached material on Agenda Items 52, 56, 57, 58, 59 and 7 is submitted for consideration by the Administrative Commission.

Agenda Item 52: Contributions in arrears

52.1 At its first meeting, the Commission considered A36-WP/46, EX/12, AD/12, Revision No. 1, and Addenda Nos. 1, 2 and 3, which provide information on the status of contributions in arrears as at 7 September, 17, 18 and 20 September 2007 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, after which the paper was referred to the Commission.

52.2 The Commission, having considered the working paper, recommends for adoption by the Assembly the draft Resolutions contained in Appendix D to the working paper reproduced below.

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

Resolution A22/1

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 2008:

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 Council direct the Secretary General 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 no less than \$ 2 000, such minimum amount to be increased proportionately in cases of States that are assessed at more than the minimum contribution of the ICAO scale; 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 Council direct the Secretary General to monitor and review, during the next triennium, the existing incentives for the payment of long-outstanding arrears and make proposals to the next ordinary Session of the Assembly, as necessary, to reinforce the measures taken to reduce contributions in arrears;

12. the Council direct the Secretary General 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

13. this Resolution supersedes Assembly Resolution A35-26.

Agenda Item 56: Amendment of the Financial Regulations

56.1 The Commission reviewed during its first meeting A36-WP/45, AD/11 that presents amendments to the Financial Regulations.

56.2 The Commission noted that these amendments are needed to update the regulatory framework of the Organization in its initiative to establish a Revenue Generation Fund, to move to a Result-Based Budgeting process and to adopt International Public Sector Accounting Standards (IPSAS), which standards have also been adopted by the United Nations. Some other amendments were made for clarity and to better reflect the modernization of processes. The Commission also noted that additional amendments are foreseen as further developments and initiatives will take place at the UN level during the next triennium.

56.3 The Commission also noted that amendments to Financial Regulation 5.2 are proposed to provide more flexibility to the Council to finance unforeseen and mandatory expenditures and those in support of the Strategic Objectives not included in the Budget. The amendments also take into consideration the establishment of the Ancillary Revenue Generation Fund (ARGF) and the possibility to finance, from its net excess income, expenditure on projects related to the efficient delivery of the Organization's Business Plan.

56.4 The Commission discussed the issue of the monitoring and control of surpluses in the ARGF in excess of what is required to help fund the Regular Programme Budget. The Commission noted that the ARGF is a new Fund, which will take effect on 1 January 2008. One Delegation requested that further review of the Financial Regulations take place, namely 5.2 and 7.3 b) iii) c). On that basis the Commission agreed to amend Financial Regulation 5.2 with the understanding that Financial Regulation 7.3 b) iii) c) would also be reviewed at the 182nd Session of the Council.

56.5 One Delegation requested that an amendment be made to Financial Regulation 6.2 to better reflect the Council's role in the possible uses of cash surpluses. The Commission agreed to the revised wording of Financial Regulation 6.2.

56.6 The Commission has reviewed the proposed amendments to the Financial Regulations as contained in A36-WP/45, AD/11 and Addendum No. 1.

The Commission invites the Assembly to confirm the amendments already approved by the Council, and to approve amendments to Financial Regulation 5.2 as contained in A36-WP/45, AD/11 and Addendum No. 1, as reflected in the following proposed resolution.

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

Resolution 56/1

Amendment of the Financial Regulations

Whereas the Council has approved the establishment of an Ancillary Revenue Generation Fund to provide greater impetus and sustainability of revenue generating activities while, at the same time, increasing transparency and accountability for the operations;

Whereas the Council has approved the principle of Results-Based Budgeting to better align the financial requirements of the Organization to its planned results;

Whereas the Council has approved the adoption of internationally recognized accounting standards approved by the United Nations and the United Nations System's Chief Executive Board for application on or before 1 January 2010 to improve the quality, comparability and credibility of the United Nations system's financial reporting;

Whereas the Council has approved further amendments to the Financial Regulations to improve clarity and to better reflect current and future processes and practices with the implementation of a new financial system;

The Assembly:

1. *resolves* that the amendments as set out below to Financial Regulations 5.2 and 6.2 are approved effective 1 January 2008;
2. *confirms* the Financial Regulations approved by the Council effective 1 January 2008 as set out in the Appendix to A35-WP/45, AD/11;
3. *notes* that this Resolution supersedes, effective 1 January 2008, all previous resolutions on the Financial Regulations (A12-35, A14-54, A14-55, A18-27, A21-35, A24-29, A32-29, A33-29 and A35-25); and
4. *approves* the following changes to A36-WP/45, AD/11:

Financial Regulation 5.2

- i) 5.2 c) irrespective of a) and b) above, up to the amount by which, for one or more financial years not yet submitted to the Assembly, actual miscellaneous income exceeds the amount of income taken into account by the Assembly in approving the appropriations for that year or those years to finance expenditure on projects related to the efficient delivery of the Organization's Business Plan.

Financial Regulation 6.2

- ii) 6.2 A cash surplus is defined as the difference between accumulated surplus shown in the financial statements under the General Fund and assessments receivable from Contracting States. A cash surplus may be used to meet expenditures and to finance deficits in the Revolving Fund established under Financial Regulation 7.8, subject to Council approval except that cash surplus at the end of the year prior to the year in which the Assembly is held shall be disposed of in the manner to be decided by the Assembly.

Agenda Item 57: Review of expenditures, approval of accounts and examination of Audit Reports for the financial years 2004, 2005 and 2006

57.1 At its first meeting, the Commission considered the Audited Financial Statements of the Organization and the corresponding audit reports presented as A36-WP/76, AD/14 and Document 9858 for 2004; A36-WP/77, AD/15 and Document 9875 for 2005; A36-WP/43, AD/10 and Document 9890 for 2006.

57.2 The Commission was informed that each of the reports consisted of:

- a) the Organization's comments on the financial transactions for each financial year;
- b) the financial statements, schedules, notes and annexes for each year for all Funds of the Organization and those Funds managed on behalf of third parties as audited by the Auditor General of Canada;
- c) the Auditor General's report on the audit of the financial statements of each year and the comments by the Secretary General thereon; and
- d) the Secretary General's response to the report of the Auditor General for 2004, 2005 and 2006.

57.3 The Commission was invited to note important changes made to the 2005 and 2006 financial statements compared to 2004 in order to simplify the presentation. The Commission noted that the Auditor General of Canada has issued an audit opinion on the financial statements without reservation.

57.4 The Commission recommends the approval by the Assembly of the Accounts of the Organization and the Financial Statements of UNDP, for the financial years 2004, 2005 and 2006 and the Audit Reports thereon.

57.5 Accordingly, the Draft Resolutions 57/1 and 57/2, which follow, are recommended for adoption by the Assembly.

CONSOLIDATED DRAFT RESOLUTIONS ARISING FROM AGENDA ITEM 57

Resolution 57/1

Approval of the accounts of the Organization for the financial years 2004, 2005 and 2006 and examination of the Audit Reports thereon

Whereas the accounts of the Organization for the financial years 2004, 2005 and 2006 and the Audit Reports thereon, submitted by the Auditor General of Canada - 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 2004 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 2005 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 2006 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 2004;
5. *Approves* the audited accounts for the financial year 2005; and
6. *Approves* the audited accounts for the financial year 2006.

Resolution 57/2

Approval of those accounts with respect to the United Nations Development Programme activities administered by ICAO as Executing Agency for the financial years 2004, 2005 and 2006 and examination of the Audit Reports on the financial statements of the Organization which also cover the United Nations Development Programme accounts.

Whereas those accounts showing the status of funds allocated to ICAO by the Administrator of the United Nations Development Programme and administered by ICAO as Executing Agency for the financial years 2004, 2005 and 2006 as well as the Audit Reports on the financial statements of the Organization which also cover the United Nations Development Programme accounts submitted by the Auditor General of Canada, a member of the 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 review and for submission to the Administrator of the United Nations Development Programme; and

Whereas the Financial Regulations and Rules of the United Nations Development Programme provide that Organizations of the United Nations system entrusted with the execution or implementation of UNDP Programme activities shall transmit to the Administrator for submission to the Executive Board accounts showing the status of funds allocated to them by the Administrator and that such accounts shall

bear audit certificates from the External Auditors of the Organizations and shall be accompanied by their reports.

The Assembly:

1. *Notes* the Report of the External Auditor on the financial statements of the Organization, which also covers those accounts relating to the United Nations Development Programme administered by ICAO as Executing Agency, for the financial year 2004 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 financial statements of the Organization, which also covers those accounts relating to the United Nations Development Programme administered by ICAO as Executing Agency, for the financial year 2005 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 financial statements of the Organization, which also covers those accounts relating to the United Nations Development Programme administered by ICAO as Executing Agency, for the financial year 2006 and the comments by the Secretary General in response to the recommendations in the Audit Report;
4. *Approves* those accounts with respect to the United Nations Development Programme administered by ICAO as Executing Agency for the financial year 2004;
5. *Approves* those accounts with respect to the United Nations Development Programme administered by ICAO as Executing Agency for the financial year 2005;
6. *Approves* those accounts with respect to the United Nations Development Programme administered by ICAO as Executing Agency for the financial year 2006; and
7. *Directs* that the financial statements of the Organization, which also include accounts of the United Nations Development Programme administered by ICAO, and the Audit Reports be transmitted to the Administrator of the United Nations Development Programme for submission to the Executive Board.

Agenda Item 58: Appointment of External Auditor

58.1 At its first meeting, the Commission noted A36-WP/41, 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.

58.2 The Commission noted that, in accordance with procedures defined by Council to be applied to the selection of the External Auditor, nominations were sought from Contracting States for the appointment of the External Auditor for the years 2008, 2009 and 2010. Three nominations were examined in detail by a working group of the Council on the basis of approved criteria. Taking into consideration the quality of services and the cost of the audit, the Council approved the appointment of Mr. Philippe Séguin, the First President of the Cour des comptes of France, as the External Auditor of ICAO for the financial years 2008, 2009 and 2010.

58.3 The Commission took the opportunity to thank Mrs. Sheila Fraser, the Auditor General of Canada, for the high quality of service to the Organization during her tenure of Office and expressed sincere appreciation to her predecessors, also Auditors General of Canada.

58.4 The Commission supports the recommendation of the Council that the Assembly confirm the appointment of Mr. Philippe Séguin as External Auditor of ICAO for the years 2008 through 2010, as stated in A36-WP/41, AD/8, by adopting the draft Resolution in the Appendix to the working paper.

58.5 One Delegation raised the issue of having the External Auditor appointed for a six-year non-renewable term. Several Delegations, while noting that this was a reasonable suggestion, pointed out that such a suggestion should be discussed by the Council.

58.6 Accordingly, the following Draft Resolution 58/1 is recommended for adoption by the Assembly.

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

Resolution 58/1

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 reviewed the nominations submitted by Contracting States in 2007 and approved the appointment of Mr. Philippe Séguin, the First President of the Cour des comptes of France, a member of the Panel of External Auditors of the United Nations and Specialized Agencies, as the External Auditor of ICAO for the financial years 2008, 2009 and 2010 in accordance with Financial Regulation 13.1.
2. *Expresses* its sincere appreciation to Mrs. Sheila Fraser, Auditor General of Canada, for the high quality of her service to the Organization as its External Auditor and for her effective and cooperative assistance to the officials and organs of ICAO during her tenure of office and takes this opportunity to again express sincere appreciation to her predecessors, also Auditors General of Canada; and
3. *Confirms* the action taken by the Council in appointing Mr. Philippe Séguin, the First President of the Cour des comptes of France, as the External Auditor of ICAO for the financial years 2008, 2009 and 2010.

Agenda Item 59: Report on the Use of the Information and Communication Technology (ICT) Fund

59.1 At its first meeting, the Commission noted A36-WP/37, AD/7, which reports to the Assembly on the progress of the projects funded by the ICT Fund.

59.2 The Integrated Resources Information System (IRIS) project manager reported to the Assembly that some delay has been experienced in the implementation of the integrated back-office system as a result of the adoption of the Canadian dollar accounting and budget currency for the Regular Programme. All necessary efforts are being made to ensure that transactions will start to be processed in the new system on 1 January 2008 so as to ensure compliance with International Public Standard Accounting Standards (IPSAS) effective from that date. Accordingly, some functionality will have to be deferred until early 2008 and the full implementation of Phase 1 is only expected to be complete by the first quarter of 2008.

59.3 The Assembly was informed that the estimated implementation costs quoted in the working paper do not include the costs associated with the change of budget and accounting currency to Canadian dollars. External costs are projected at \$500 000 and the internal costs are presently being re-evaluated.

59.4 The Assembly is invited to note A36-WP/37, AD/7.

Agenda Item 7: Annual Reports of the Council to the Assembly for 2004, 2005 and 2006

7.1 Certain parts of the Annual Reports of the Council to the Assembly for 2004, 2005 and 2006 were referred to the Commission, by the Plenary, for consideration and recommendation.

At its first meeting, the Commission noted the content and presentation of Chapter 3 for the year 2004 and Chapter 2 for the years 2005 and 2006 entitled 'The Organization' of the Annual Reports, Documents 9851, 9862 and 9876 and Supplement. The Commission recommends to the Plenary that these parts of the Annual Reports be approved.