



A36-WP/368
P/66
27/9/07

ASSEMBLY — 36TH SESSION

REPORT OF THE EXECUTIVE COMMITTEE ON AGENDA ITEMS 23 AND 24

(Presented by the Chairman of the Executive Committee)

The attached report on Agenda Items 23 and 24 has been approved by the Executive Committee. Resolution 24/1 is 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.

(8 pages)

Agenda Item 23: Increasing the effectiveness of ICAO

23.1 At its sixth and seventh meetings, the Executive Committee considered eight working papers (A36-WPs/40, 60, 284, 135, 154, 241, 253 and 258) dealing with increasing the effectiveness of ICAO.

23.2 A36-WP/40, presented by the Council, proposed amending Rules 15 a), 15 d), 33, 66 and, by implication, Rules 20 and 47 of the *Standing Rules of Procedure of the Assembly of the International Civil Aviation Organization* (Doc 7600/5) in order to formalize the Assembly practice, since its 32nd Session, of suspending, at the outset of each ordinary Session, those Rules, in whole or in part. Such suspension has enabled the Assembly to streamline its working methods and procedures in accordance with Resolutions A31-2 and A32-1, so as to: deal with initial items such as the election of Assembly Officers and the adoption of the Agenda in order to avoid non-essential duplication of presentation and consideration of the same documents in different bodies; waive the 24-hour requirement between the presentation and circulation of a report of a Commission or Committee and its discussion in Plenary; and forego minutes of Commissions. The Chairman noted the proposed amendments to be mere ratifications of what ICAO has been doing in practice. The Committee agreed to recommend to the Plenary that the *Standing Rules of Procedure of the Assembly* be amended in accordance with the proposals set out in the Appendix to A36-WP/40.

23.3 The Secretary General introduced A36-WP/60 which contained the report of the Council of ICAO on the implementation of Assembly Resolutions A31-2, A32-1 and A33-3 on increasing the effectiveness of the Organization. The 35th Session of the Assembly had considered a report by the Council on the implementation of the above-mentioned resolutions and had taken a decision in relation to increasing the effectiveness and efficiency of the Organization. The decision had requested the Council to continue on a permanent basis to work on the improvement of the effectiveness and efficiency of ICAO, and had focused on the formulation of genuinely strategic objectives for the Organization in the 2005-2007 triennium; business planning and the integration of the Regional Offices with Headquarters; and on the improvements in the working methods and increased use of the ICAO-NET. The paper reported on progress made in implementing the decision of the 35th Session of the Assembly and Council action thereon, as well as on other measures taken since the 35th Session of the Assembly as part of the ongoing process to increase the effectiveness and efficiency of the Organization. The Committee approved and welcomed the report. However, two Delegations underlined that the procedure described in paragraph 9 of WP/60 should not lead to non-adherence to the linguistic regime as defined by the United Nations.

23.4 A36-WP/284, Revision No. 1, presented by Canada on behalf of 22 States, contained a proposal for a study of policy and programme with respect to examining the international governance of civil aviation. It stated that the current governance structures had served international civil aviation for over sixty years and should be examined to identify those areas which continued to be fit for the purpose they had been agreed in 1944, and those which might need modernization. A draft resolution to that effect for adoption by the Assembly was appended to the paper. The Committee noted the contents of the paper. However, most delegations felt it would be premature to change the Chicago Convention that had served the international aviation community so well. Resolution A4-3 was flexible enough to allow a strategic review and it was proposed to refer this matter to the Council for further study.

23.5 A36-WP/135, Revision No. 1, presented by Colombia proposed that ICAO expand the existing “ICAO-NET” secure website to enable Contracting States to post, under their responsibility, current AIP documents for easy accessibility and reference. The value of the proposal in making AIP information easily and globally available was recognized and strongly supported. However, concerns were raised about resource implications and its utility to States with limited internet access. Also, the suitability of the site for posting operational information should be considered. The meeting agreed to direct the Council to study the proposal, taking into account the need to assist some States as well as resource constraints.

23.6 In A36-WP/154, dealing with the restructuring and reorganization of the Secretariat, 12 member States of the Regional Aviation Safety Oversight System (RASOS) proposed a process of decentralization to empower the ICAO Regional Offices to achieve certain Strategic Objectives of the Business Plan. It was noted that the strengthening of and support to the Regional Offices was ongoing work and that the Secretary General had been taking steps in further enhancing their functionality. It was also noted that the Council had established a Working Group for the purpose of reviewing the Regional Offices, their present location, terms of reference, and their effectiveness and efficiency. The Committee noted the contents of the paper.

23.7 A36-WP/241, presented by the member States of the ABIS Group (Austria, Belgium, the Netherlands, Luxembourg, Ireland and Switzerland), reviewed the experience of the existing rotation groups and encouraged States seeking membership on the Council of ICAO to create new or join the existing rotation groups. The Committee noted and agreed with the contents of the paper.

23.8 A36-WP/253, presented by Cameroon on behalf of 53 African States, dealt with the major role played by ICAO Regional Offices in providing assistance to States in the AFI Region and invited the Assembly to support those offices. The Committee noted the paper and highlighted the importance of the allocation of appropriate resources to the Regional Offices located in Africa, as well as in other regions of the world. It was recalled that in earlier discussions, the issue of greater involvement by the ICAO Headquarters’ staff in regional implementation activities had been considered as a way of improving functional integration, as well as enhancing the capacity of the Regional Offices to address local issues.

23.9 A36-WP/258, presented by the Arab Civil Aviation Commission (ACAC) suggested increasing the ICAO Council membership from 36 to 39 seats which could help increase the representation of the Arab States in view of the considerable growth of Arab civil aviation. The Committee noted the importance of a wider participation of Contracting States in all the activities of the Organization, especially those that are not members of the Council, and agreed to refer this matter to the Council for review and action as appropriate.

23.10 Having considered A36-WPs/40, 60, 284, 135, 154, 241, 253 and 258, the Committee proposed that the Assembly adopt the following recommendation in relation to increasing the effectiveness and efficiency of the Organization.

The Assembly:

1. *Recognizes* the progress that has been made and results achieved in the implementation of Assembly Resolutions A31-2, A32-1 and A33-3 and the decision of the 35th Session of the Assembly on increasing the effectiveness of ICAO;
2. *Requests* the Council to continue, as part of the ongoing process to work on the improvement of the effectiveness and efficiency of ICAO, and to present a report to the next ordinary session of the Assembly;
3. *Approves* the amendments of certain rules of the *Standing Rules of Procedure of the Assembly* (Doc 7600/5) as proposed in A36-WP/40;
4. *Requests* the Council to study the proposal in A36-WP/284, Revision No. 1, and consider further steps;
5. *Requests* the Council to study the matter of expanding the use of the ICAO-NET to include more ICAO publications and possibly AIPs in electronic form in the context of the 2008-2010 Budget;
6. *Requests* the Council to study the proposals in A36-WPs/154 and 253 and to consider further steps deemed necessary in recognizing that the Regional Offices should have adequate means and resources to effectively achieve the Strategic Objectives;
7. *Encourages* States seeking membership on the ICAO Council to create new or join the existing rotation groups;
8. *Requests* the Council to review ways and means to widen participation of Contracting States in various activities of the Organization including the Governing Bodies to ensure efficiency; and
9. *Instructs* the Secretary General to ensure that, during the development, consultation and adoption process of SARPs, including “fast-track” adoption, all ICAO languages are used as appropriate.

Agenda Item 24: Term limits for the Offices of Secretary General and President of the Council

24.1 At its seventh and eighth meetings, the Executive Committee considered this Item on the basis of A36-WP/3 presented by the Council and A36-WP/136 presented by the 22 member States of the Latin American Civil Aviation Commission (LACAC).

24.2 A36-WP/3 recalled that United Nations (UN) General Assembly Resolution 51/241, adopted in 1997, recommended that uniform terms of office of four years, renewable once, should be introduced for the executive heads of UN programmes, funds and other bodies of the UN Assembly and the Economic and Social Council. The Resolution encouraged the UN specialized agencies to consider uniform terms and term limits for their executive heads. During its 178th Session, the ICAO Council concluded that it would be desirable and appropriate to formalize term limits for both the Offices of Secretary General and President of the Council. This would help to ensure that ICAO would benefit from an injection of fresh insights and expertise at the top level and would stimulate a greater range of leadership styles and more cultural and geographical diversity in the top two positions. As regards the Office of the Secretary General, A36-WP/3 informed that under Articles 54 h) and 58 of the Chicago Convention, the Council felt that it had a clear mandate to lay down term limits. Consequently, in June 2006, it amended its Rules of Procedure to include a provision that a Secretary General who has served for two terms shall not be appointed for a third term. It also decided to retain the existing flexibility to determine the exact length of the term (from three to four years), although it felt that the current practice of making appointments of three years had served the Organization well. In respect of the Office of the President of the Council, A36-WP/3 stated that the arguments which applied in favour of a term limit to the Office of the Secretary General applied equally to the Office of the President. Article 51 of the Convention explicitly states that the Council shall elect its President for a term of three years and that he may be re-elected but this did not oblige the Council to re-elect him. In fact it could be argued that the Council would be acting within its remit if it decided not to elect anybody more than twice as the Convention was silent about the number of times a President may be re-elected. However, the Assembly was being requested to clarify the operation in practice of Article 51 by establishing a two-term limit. The Council further recommended that the serving out of a predecessor's term should not count towards the two-term limit. A36-WP/3 also proposed that the two-term limit should apply to service in either or both offices. Finally the Assembly was invited to adopt the draft Resolution in the Appendix to A36-WP/3.

24.3 A36-WP/136, citing Article 51, stated that the Convention explicitly did not impose any restrictions on the number of times the President may be re-elected. If the Assembly were to establish a limit of two mandates, it would create a situation in which the President could not be re-elected, thus producing a conflict with the text of the Convention. Therefore, it was not recommended for the Assembly to state its opinion about a matter that could be considered a misinterpretation of the Convention. There were two possible solutions: a) to amend Article 51 of the Convention, limiting the number of times the President may be re-elected, but this process could take several years; or b) for the Assembly to express its political will and request all Contracting States, when nominating and supporting candidates for President, to bear in mind the recommendation in the UN Resolution. This last alternative would not contravene Article 51. The paper therefore invited the Assembly, *inter alia*, to:

- a) support the Council decision concerning the number of mandates for the position of Secretary General;
- b) urge all Contracting States to bear in mind the recommendation in UN General Assembly Resolution 51/241 when nominating and supporting candidates for the Office of the President of the Council;
- c) urge the Contracting States to also bear in mind the recommendation in the UN Resolution to avoid having any one person serve more than two complete mandates by combining the positions of President and Secretary General; and
- d) request the Council to bear in mind the preceding paragraphs when appointing the Secretary General and/or electing the President.

24.4 One delegation believed that for good governance, ICAO should follow the policy expressed in the UN Resolution by adopting term limits for the Offices of the President of the Council and that of the Secretary General. The UN Resolution referred to two-four years terms, but as regards the President, since the Chicago Convention established three-year terms, ICAO should limit the terms of Office of the President to three, which would be closer to the eight year period envisaged in the UN Resolution. Article 51 of the Convention specifically states that the President may be re-elected, so the proposals in A36-WP/3 which could lead to a situation where it was prohibited to elect the President after two terms would be contrary to the Convention. On the other hand, the proposals in A36-WP/136 would have the same substantive effect as those in A36-WP/3, but would protect and preserve the legal structure of ICAO. The delegation wished to place on record its opinion that the proposals in A36-WP/3 represented an amendment of the Chicago Convention.

24.5 Another delegation supporting the above intervention, also stated that States should refrain from nominating or supporting candidates to the Offices of the President and that of the Secretary General; where this would run contrary to the recommendation in the UN Resolution.

24.6 A number of delegations supported A36-WP/3, including the draft Resolution in the Appendix thereto. One of these delegations noted that ICAO operated on a three-year cycle and it would therefore agree to two, three-year terms of office. Another delegation stated that term limitations would present an opportunity to inject new ideas and fresh approaches at the top level of ICAO. One delegation, which also supported these term limitations, expressed the view that a Secretary General, at the end of his or her two-term tenure, should be able to run for the Office of the President as he or she would have acquired useful knowledge and experience in the former post.

24.7 One delegation supported by another, suggested a three-year term for the President renewable once, but a single six-year term for the Office of the Secretary General.

24.8 Two delegations believed that the principle of geographical rotation should be taken into account when these Offices were being filled.

24.9 The Chairman summarized the discussion by stating that there was a broad consensus for two three-year term limits for both the offices of the President of the Council and that of the Secretary General.

24.10 Following an explanation of relevant parts of United Nations Resolution 51/241 by the Secretary, the Committee agreed to recommend for adoption by the Assembly the draft Resolution in the Appendix to A36-WP/3, as amended by the Committee and set out hereunder.

24.11 The Delegation of Argentina reserved its position as regards the draft Resolution.

Resolution 24/1: Term limits for the Offices of Secretary General and the President of the Council

Having regard to the terms of UN Resolution 51/241 “Strengthening the United Nations System”, unanimously adopted by the UN General Assembly in 1997, which recommended that uniform terms of office of four years, renewable once, should be introduced for the executive heads of UN programmes, funds and other bodies of the UN Assembly and the Economic and Social Council; and which encouraged the UN specialized agencies to consider uniform terms and term limits for their executive heads;

Whereas the Assembly, pursuant to Article 58 of the *Convention on International Civil Aviation* (Chicago, 1944), may lay down the rules governing the determination by the Council of the method of appointment and of termination of the appointment of the Secretary General;

Considering that, on 2 and 9 June 2006, the Council decided that the Secretary General shall be appointed for a specified term of three to four years; and that a Secretary General who has served for two terms shall not be appointed for a third term;

Whereas Article 51 does not specify the number of times a President of the Council may be re-elected, leaving it open for a reasonable limit to be applied in practice;

Acknowledging that it would be desirable and appropriate to establish term limits for the offices of Secretary General and of President of the Council because such limits, while giving office holders a reasonable period of time in which to achieve the objectives set by the Council before entering office, will also help to ensure that, periodically, ICAO will benefit from an injection of fresh insights and expertise at top level, and from the greater range of leadership styles and cultural and regional diversity which a regular change in the top office holders will bring; and

Acknowledging that, for similar reasons, it is desirable to apply these term limits so that no more than two full terms may be served in either or both offices of President of the Council or Secretary General:

The Assembly:

1. *Notes* the Council’s decision to introduce a limit of two terms for the office of Secretary General, while maintaining the flexibility to vary the length of such terms between three and four years on the understanding that a four-year term would only apply in exceptional cases;

2. *Requests* the Council to maintain this decision in force;
3. *Urges* Contracting States not to nominate, and *requests* the Council not to admit as a candidate for the office of the President of the Council, anyone who, by the date on which the office is to commence, will have served two full terms as President; and
4. *Urges* Contracting States not to nominate, and *requests* the Council not to admit as a candidate for the office of either President of the Council or Secretary General, anyone who, by the date on which the term of office is to end, would have served for a total of more than two full terms in both offices combined.

— END —