

Agenda Item 2: Consideration of the General Work Programme of the Legal Committee**Agenda Item 2-1: Study of legal issues relating to remotely piloted aircraft**

2:1 The Secretariat presented LC/37-WP/2-1, to which was appended a summary of the results of the State responses to the Remotely Piloted Aircraft Systems (RPAS) Legal Survey distributed to Member States on 29 August 2016, the aim of which was to gather information on national RPAS legislation, and to identify potentially relevant international legal issues. The paper concluded that based on the analysis of the results of the Survey, it appeared to the Secretariat that there were currently no international legal issues that urgently needed to be addressed through the development of new treaties or protocols, although the Legal Committee was invited to evaluate whether there were other legal issues that needed to be considered. The paper also drew attention to work by the Secretariat on a proposal to amend Annex 2 to give a blanket authorization with a view to bringing unmanned aircraft systems (UAS) operations legally and, safely within the ambit of the Convention.

2:2 China introduced LC/37-WP/2-2 co-sponsored by Italy, Israel and Turkey, which invited the Committee to establish an Unmanned Aircraft System Task Force or Working Group to address legal challenges related to the international operation of UAS/RPAS. The Committee then turned to LC/37-WP/2-5, which was presented by the Czech Republic and co-sponsored by France, Hungary and Poland concerning the applicability of the Chicago Convention and Standards and Recommended Practices (SARPs) with respect to smaller RPAS/UAS as well as with respect to the nature of the authorization required under Article 8 of the Chicago Convention.

2:3 The United States presented LC/37-WP/2-8 which recommended an approach for ICAO and States to enable expanded UAS operations over the high seas, in order to accommodate their continued integration into the aviation sector. The United Arab Emirates introduced LC/37-IP/4 which discussed some legal implications with respect to the introduction of unmanned aerial taxis and called for their inclusion in the study relating to UAS.

2:4 The Committee also benefitted from a Secretariat presentation on the technical work of ICAO related to RPAS, including that of the Remotely Piloted Aircraft Systems Panel (RPASP) and its working groups.

2:5 In the ensuing discussions, while there was acknowledgment that the analysis of the Survey results by the Secretariat had been thorough and informative, there was a strong expression of interest by many States in identifying potentially relevant international legal issues related to unmanned (pilotless) aircraft, as well as concerns raised by some States about the ambit of the Chicago Convention and other international air law instruments in this regard. On the scope of future work, a number of delegations expressed the view that it should not entail amendment of the Chicago Convention or other international air law instruments, including the existing definition of “aircraft” contained in Annex 7 to the Convention. Other delegations, however, expressed support for consideration of the interpretation or applicability of certain provisions of current international air law Conventions with regard to RPAS, more specifically Article 8 of the Chicago Convention and the Annex 7 definition of “aircraft”. Other areas proposed for consideration included the application of the concept of nationality to RPAS, the use of RPAS for transporting cargo and passengers insurance, and regulatory oversight.

2:6 Many delegations mentioned the very rapid of development of RPAS and the need, as far as possible, for the Committee's work to keep pace with those developments. There were varying views as to what form the body tasked with this further legal work should take. A number of delegations proposed the establishment of a working group or task force that would have clear and defined deliverables and a specific time-frame; the formation of a study group that would have more flexibility to address emerging issues was also proposed.

2:7 Several delegations drew the Committee's attention to ICAO's on-going work in this area and, in particular, that of the RPAS Panel (RPASP), and emphasized the need for the Committee's efforts to compliment this on-going work, with a few delegations going further and proposing that the proposed working group should align and coordinate its work with that of the RPASP. A further suggestion was made that the working or study group could be composed of both legal and technical experts.

2:8 In summarizing the discussion, the Chairman took note that this item had generated interest from a large number of delegations and that the discussions had covered a wide range of subjects. He further noted that all delegations had highlighted the need for the Committee's future legal work related to RPAS to be closely coordinated with other ICAO bodies working on this topic, such as ANB and LEB, in order to avoid the duplication of efforts. He stressed that this method will allow for a synergy between the technical work and the legal approach. The Chairman also emphasized that, at this stage, a significant number of delegations did not foresee the need for any amendment to the Chicago Convention, nor for the development of a new international air law instrument with respect to RPAS.

2:9 In order to advance the Committee's work under this item, and as proposed by several delegations, the Chairman suggested that the Committee establish a 'body which will have the mandate to examine legal issues related to RPAS, including those discussed in the papers presented under this item. The Chairman proposed that a small group be established to develop the terms of reference of the working group, for their approval by the Plenary. There being no objections with respect to this proposed approach, a small group made up of nine States (Argentina, China, Czech Republic, France, Indonesia, Nigeria, Russian Federation, United States of America and United Arab Emirates) was established, taking into account geographical representation.