



WORKING PAPER

ASSEMBLY — 39TH SESSION

LEGAL COMMISSION

Agenda Item 47: Other issues to be considered by the Legal Commission

REMOTELY-PILOTED AIRCRAFT SYSTEMS LEGAL DEFINITION

(Presented by Brazil)

EXECUTIVE SUMMARY

ICAO has published technical documents on RPAS in order to promote discussions and establish some terminologies and guidelines. ICAO's technical documents address some relevant topics related to RPAS operations, such as navigation rules, aircraft nationality, registration marks, aviation accidents and incidents investigations. However, some other aspects of the international regulatory framework are not considered within ICAO's technical documents, like equipment certification, pilot licensing and aircraft operations. Brazil understands that a more comprehensive legal framework explicitly defining RPAS as an aircraft subject to all ICAO SARPS would enable a substantial evolution in the RPAS international regulations.

Action: The Assembly is invited to:

- Take note of the definition of 'aircraft' adopted by the Brazilian legislation;
- Recommend the inclusion of this topic on the Legal Committee's agenda for the next triennium in order to improve and clarify the definition of the concept of the remotely-piloted aircraft system as an aircraft, taking into account the conclusions and developments of the RPAS Panel.

<i>Strategic Objectives:</i>	This working paper relates to all Strategic Objectives.
<i>Financial implications:</i>	No financial implications
<i>References:</i>	Convention on International Civil Aviation and its Annexes 2, 7 and 13 Cir 328/2011 Doc 1001

1. INTRODUCTION

1.1 Taking into account the objective of the International Civil Aviation Organization (ICAO) to provide the fundamental framework of international regulation in the aviation industry and considering ICAO's technical documents on the subject of Remotely-Piloted Aircraft Systems (RPAS), it is understood that there is not yet a definite position from ICAO categorizing RPAS as aircrafts subject to all ICAO standards and recommendations practices.

2. DISCUSSION

2.1 It is recognized that ICAO has published technical documents on the subject, in order to promote discussions and establish some terminologies and guidelines. Some examples of ICAO's RPAS technical documents are Circular 328/2011 and Doc 10019. Among the guidelines established by ICAO on the subject, one of particular relevance is related to RPAS safety operations. The guideline states that RPAS operations will not generate a more significant risk exposure to the people and properties on the ground than the risk generated by manned aircraft.

2.2 Furthermore, ICAO's technical documents also address other topics related to RPAS operations, such as navigation rules, aircrafts nationality and registration marks, aviation accidents and incidents investigations. These topics are respectively addressed on amendments to Annex 2, 7 and 13 of Chicago Convention. Nevertheless, other relevant aspects of the international regulatory framework are not considered within ICAO's technical documents, like equipment certification, pilot licensing, aircraft operations and safety issues. For those topics, it appears to be a regulatory vacuum while RPAS are not yet fully defined as an aircraft by the present regulatory standards.

2.3 On the one hand, it exists a common understanding that further discussions are required to stimulate major developments in the RPAS international regulations; on the other hand, it is recognized that a more comprehensive legal framework explicitly defining RPAS as an aircraft subject to all ICAO SARPS could enable an substantial evolution in these discussions.

2.4 Without a precise definition of RPAS as an aircraft, with the cogency required to do so, there will not be a clearly outlined field for future discussions.

2.5 In Brazil, the legal definition of an aircraft is given by Art. 106 of the Brazilian Aeronautics Code, which states that "*is considered aircraft all maneuverable device in flight, which can sustain up and circulate in the airspace by aerodynamic reactions, able to transport people or things*". From this definition, the Brazilian civil aviation authority issues its regulations based on the assumption that RPAS is an aircraft.

2.6 Therefore, a future SARP stating unequivocally that RPAS is an aircraft would provide a more solid foundation to develop the theme from the standpoint of the State Members

2.7 Presently, there is no clear guidance from ICAO in this respect, which makes it even more difficult to establish the competence of the civil aviation authorities on the subject in their respective countries.

3. CONCLUSION

3.1 Considering the previous discussion, we regard as necessary that the Assembly directly recommend inclusion of this topic on the Legal Committee's agenda for the next triennium in order to improve and clarify the definition of the concept of the remotely-piloted aircraft system as an aircraft, taking into account the conclusions and developments of the RPAS Panel. A more clear and unequivocal definition would allow Member States to develop their own internal regulations based on the normative guidance established by ICAO.

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