



WORKING PAPER

LEGAL COMMITTEE – 39TH SESSION

(Montréal, 25 to 28 June 2024)

- Agenda Item 2: Consideration of the General Work Programme of the Legal Committee**
- Agenda Item 2-2: International legal aspects of unmanned (pilotless) aircraft operations and integration into civil aviation**
- Agenda Item 2-3: Processes and procedures for States to fulfil their obligations under Article 12 of the Chicago Convention**
- Agenda Item 2-4: Acts or offences of concern to the international aviation community, including cyber threats, that may not be adequately covered by existing air law instruments**
- Agenda Item 2-6: Study of international legal issues relating to global satellite systems and services supporting international air navigation services**
- Agenda Item 2-7: Consideration of guidance on conflicts of interest**
- Agenda Item 2-8: Implementation of Article 21 of the Chicago Convention**

**CONSIDERATION OF OTHER ITEMS ON THE
GENERAL WORK PROGRAMME OF THE LEGAL COMMITTEE**

(Presented by the Secretariat)

1. INTRODUCTION

1.1 This working paper reports on the work relating to the items 2-2, 2-3, 2-4, 2-6, 2-7 and 2-8 of the General Work Programme of the Legal Committee. This covers the General Work Programme of the Committee, other than the items covered by working papers LC/39-WPs/2-2 and 2-3 respectively.

1.2 At the Fourth Meeting of its 226th Session (30 May 2022), the Council confirmed the items covered under paragraphs 2 to 7 below as, respectively, priority Nos. 2, 3, 4, 6, 7 and 8 in the General Work Programme of the Legal Committee. This decision was subsequently endorsed by the Assembly during its 41st Session (Montréal, 27 September – 7 October 2022).

2. INTERNATIONAL LEGAL ASPECTS OF UNMANNED (PILOTLESS) AIRCRAFT OPERATIONS AND INTEGRATION INTO CIVIL AVIATION

2.1 Following a proposal of the 40th Session of the Assembly (Montréal, 24 September to 4 October 2019) for a Secretariat group to provide an interface between the Organization's legal and technical work on pilotless aircraft, the Secretariat Study Group on Legal Issues related to Pilotless Aircraft (SSG-LIPA) was established in February 2020. The first meeting of the SSG-LIPA, held on 10 August 2021, decided on the establishment of two Subgroups: the Subgroup on Compliance with the Chicago Convention (SSG-LIPA-CCSG) and the Subgroup on Liability & Security (SSG-LIPA-LSSG).

2.2 While the 41st Session of the Assembly (Montréal, 27 September – 7 October 2022) noted that the work of the SSG-LIPA and its Subgroups was ongoing, work continued in 2023 with multiple meetings of the Subgroups. The SSG-LIPA-LSSG considered the application of relevant international instruments to pilotless aircraft operations and, to complete its analysis, discussed potential liability and insurance issues with global insurers and reinsurers. The SSG-LIPA-CCSG continued its consideration on the interpretation and application of certain critical aspects of the Chicago Convention as regards pilotless aircraft operations, such as the requirement to carry the certificate of airworthiness onboard the aircraft and operations over the high seas. There continues to be broad support expressed by States on the need for continued work on the international legal framework applicable to unmanned (pilotless) aircraft operations. Other meetings of the Subgroups are expected to take place in the second half of calendar year 2024.

3. PROCESSES AND PROCEDURES FOR STATES TO FULFIL THEIR OBLIGATIONS UNDER ARTICLE 12 OF THE CHICAGO CONVENTION

3.1 The Article 12 Task Force¹ at its meetings held in 2022 and 2023 considered the scope of Article 12 of the Chicago Convention and legal issues arising from its implementation. The development of a web-based tool for the exchange of compliance and enforcement information with respect to Article 12 was also considered.

3.2 The Task Force decided to establish Subgroups to study the scope of Article 12 and related legal issues (the Scoping Subgroup-SSG) and to consider the development of a web-based tool for the exchange of information among States relating to Article 12 (the Tools Subgroup – TSG).

3.3 A legal survey aimed at better understanding the implementation status, challenges and the needs of States regarding Article 12 was completed in May 2023. The survey, answered by 94 States, was evaluated by the Secretariat and analyzed results reported to the Task Force Subgroups. These survey outcomes will support the continuing study of the related issues by the Task Force.

3.4 The work is currently continuing in the Subgroups to elaborate answers to key questions on the scope and implementation of Article 12 and to consider the format and content of a web-based tool for exchange of information relating to Article 12.

¹ The Article 12 Task Force is composed of the following Members: Australia, Brazil, Canada, Colombia, China, Finland, France, Ghana, Greece, Jordan, the Netherlands, Oman, Qatar, Republic of Korea, Russian Federation, Singapore, United Arab Emirates, United Kingdom, United States, African Civil Aviation Commission (AFCAC), International Air Transport Association (IATA) and International Federation of Air Line Pilots Associations (IFALPA).

4. ACTS OR OFFENCES OF CONCERN TO THE INTERNATIONAL AVIATION COMMUNITY, INCLUDING CYBER THREATS, THAT MAY NOT BE ADEQUATELY COVERED BY EXISTING AIR LAW INSTRUMENTS

4.1 As reported in LC/39-WP/2-3, the Secretariat has focussed on promoting the ratification and implementation of treaties adopted in this field, particularly the Beijing Convention and Beijing Protocol of 2010² which contain provisions applicable to cyber attacks against civil aviation and the Montréal Protocol 2014³ dealing with issue of unruly and disruptive passengers.

4.2 Regarding the continuation of work on the adequacy of existing international air law treaties to address cyber attacks against civil aviation, and to determine future work in that regard, a States' legal survey has been developed to assess the implementation by States of the relevant provisions of international air law treaties into their domestic legislation.

5. STUDY OF INTERNATIONAL LEGAL ISSUES RELATING TO GLOBAL SATELLITE SYSTEMS AND SERVICES SUPPORTING INTERNATIONAL AIR NAVIGATION SERVICES

5.1 During the 41st Session of the Assembly, the Secretariat presented a historical account of the work that had been carried out by the Organization in relation to the subject since it was first included in the Work Programme of the Legal Committee over 30 years ago. In particular, it was indicated that the institutional and legal aspects of future air navigation systems was considered by a panel of legal and technical experts (the "LTEP") established in 1995, that met several times over the course of many years. Legal aspects of Global Navigation Satellite System (GNSS) were also discussed extensively at the World-wide CNS/ATM Systems Implementation Conference of May 1998. It was further explained that the work of the Organization on this subject culminated in the adoption of Assembly Resolutions A32-19, *Charter of the Rights and Obligations of States Relating to GNSS Services*, A32-20, *Development and elaboration of an appropriate long-term legal framework to govern the implementation of GNSS* and Appendix F to A40-28, *A Practical Way Forward on Legal and Institutional Aspects of CNS/ATM Systems*. The Secretariat noted that it had monitored developments in other organizations and entities with a view of identifying substantive work in the field, but had not identified any developments that would necessitate the consideration of legal instruments other than the current Assembly Resolutions.

5.2 Under that item, the Assembly also considered A41-WP/208, presented by South Africa, on behalf of the African Civil Aviation Commission and 54 African States, which highlighted that aspects of the GNSS required additional legal frameworks/instruments to guide: a) the operational services; and b) the introduction of more satellites within the GNSS constellation. The paper further noted that due to the increased application of GNSS as a primary means of navigation support during all phases of flight, it was important to ensure the safety, availability, and continuity of GNSS.

5.3 During the Assembly's deliberations, many delegations expressed concern that the work on this item had not progressed in the past years. In this regard, there was overwhelming support to keep this item on the Work Programme of the Legal Committee. Taking into account the Secretariat's willingness

² *Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation* and the *Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft*, both done at Beijing on 10 September 2010.

³ *Protocol to Amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft*, done at Montréal on 4 April 2014.

to consider concrete proposals from States and the widely supported suggestion to review the work previously done on the item, it was understood that a focus on the substance of the work to be carried out rather than the reprioritization of the item could help clarify the appropriate next steps on this subject going forward.

6. CONSIDERATION OF GUIDANCE ON CONFLICTS OF INTEREST

6.1 Pursuant to Assembly Resolution A39-8, which established the future work of the Organization on the topic of conflicts of interest in civil aviation, the Secretariat developed a compilation of ICAO provisions (ICAO Guidance on Conflicts of Interest in Civil Aviation) which was presented to the 37th Session of the Legal Committee. The compilation consists of ICAO provisions on conflicts of interest (COI) concerning aviation safety, security and accident and incident investigation, as well as air transport policy that are contained in ICAO Annexes 13, 17 and 19 and over a dozen ICAO manuals, and is available in a permanent form since July 2019 in all ICAO working languages.

6.2 The 41st Session of the Assembly noted that the Secretariat will undertake further reviews and updates of the compilation with a view to incorporate any changes to related Annex provisions and guidance material that may have occurred since 2019. A second edition of the compilation is currently in development for publication during 2024-2025. During the Assembly's deliberations on this item, delegations unanimously supported the retention of the item in the Work Programme of the Legal Committee as it requires continuous attention.

7. IMPLEMENTATION OF ARTICLE 21 OF THE CHICAGO CONVENTION

7.1 The 41st Session of the Assembly, noted that the 37th Session of the Legal Committee (Montréal, 4 – 7 September 2018) endorsed in principle the recommendations of the Task Force on the Implementation of Article 21 of the Chicago Convention (A21TF) to include a Model Certificate of De-registration of Aircraft in Annex 7 – *Aircraft Registration and Nationality Marks*. It was also noted that the Secretariat submitted the model certificate of deregistration of aircraft proposed by the A21TF to the Cross-border Transferability Task Force (XBT-TF) and that the Council, at the Eighth Meeting of its 225th Session (7 March 2022), considered the proposed model certificate of deregistration of aircraft and adopted Amendment 7 to Annex 7.

8. ACTION BY THE COMMITTEE

8.1 The Legal Committee is invited to consider this working paper and take any action it deems necessary.

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