

Agenda Item 3: Review of the General Work Programme of the Legal Committee

3:1 In turning to Agenda Item 3, the Chairperson of the Committee recapped that the review of the Work Programme would consider whether the existing work items are to be retained or removed. She highlighted that the outcome of this Agenda Item could be impacted not only by what had transpired thus far under Agenda Item 2 but also by what the Committee would decide under Agenda Item 6 (Any other business).

3:2 The Secretariat introduced LC/39-WP/3-1, which reported on the developments, and some of the work undertaken, including by the Secretariat under the General Work Programme, since the last Session of the Committee.

3:3 With respect to item 8 – *Implementation of Article 21 of the Chicago Convention*, the Chairperson of the Article 21 Task Force informed that the item had been retained in the Work Programme at the last Session mainly for the Task Force to be available to support the technical and other work related to the registration of aircraft in the Organization. However, the Task Force had not been active for a number of years and it could now be concluded that further work would not be necessary. She therefore proposed the deletion of the item from the Work Programme, and it was supported by several other delegations.

3:4 Comments regarding the reprioritization of item 3 - *Processes and procedures for States to fulfil their obligations under Article 12 of the Chicago Convention* and item 1 – *Review of the ICAO Rules for the Settlement of Differences*, were noted by the Committee.

3:5 Some delegations enquired about the need to retain item 6 – *Study of international legal issues relating to global satellite systems and services supporting international air navigation services* on the Committee's Work Programme due to the lack of any concrete work over several years. One of these delegations opined that the continual retention of the item may undeservedly portray a negative image of the Committee. Referring to its working paper LC/39-WP/3-3, one delegation, supported by several others, preferred to retain this item due to the continued importance of space-based air navigation.

3:6 As regards item 7 – *Consideration of guidance on conflicts of interest*, one delegation proposed removing the item from the Work Programme taking into account existing guidance material (which could be updated further as need be) and the fact that no substantive work on this topic had been required from the Committee for quite some time.

3:7 The Secretariat then presented LC/39-WP/3-2 concerning the review of the role of the International Explosives Technical Commission (IETC) established by the *Convention on the Marking of Plastic Explosives for the Purpose of Detection*, done at Montreal on 1 March 1991.

3:8 Several delegations expressed support for the Council's recommendation to include an item on the review of the role of the IETC on the General Work Programme of the Legal Committee. The Committee noted the options outlined by the Secretariat to progress the work on this item through a subcommittee or a rapporteur and a special session of the Legal Committee as well as in conjunction with other ICAO meetings or conferences, on the understanding that the Secretariat will adopt the most flexible and expedient solution.

3:9 One delegation observed that discontinuing the IETC would resolve possible uncertainty about responsibilities in the domain of explosives technology and aviation screening in favor of the ICAO AVSEC Panel. Another delegation outlined the specific mandate as well as the substantive

recommendations made over the years by the IETC in the field of detection of plastic explosives and stated that there was no need to clarify its role, further indicating its preference in retaining the IETC to ensure effective exchange of technical expertise on the matter. The Secretariat clarified that the scope of work of the IETC was relatively narrow and that its functions and expertise were also found in the AVSEC Panel which has a much wider mandate and would replace the IETC as the forum through which technical exchanges would take place.

3:10 Given the support expressed by several delegations, the Chairperson concluded that an item on reviewing the role of the IETC would be included on the General Work Programme of the Legal Committee.

3:11 The Chairperson then invited South Africa to present the paper LC/39-WP/3-3, which noted the risk posed by controlled or uncontrolled re-entry of space objects to aviation safety and made the case that addressing this risk, as well as other aspects of the intersection between air and space law, demonstrated the need for space law to align with aviation law. The paper thus proposed adding the alignment of space law and aviation law to the Work Programme of the Legal Committee.

3:12 One delegation took the floor to support LC/39-WP/3-3. However, another delegation expressed the view that a new legal framework in this regard was premature, after which another delegation questioned whether the Legal Committee had the competence to address the related matters contained in international space law treaties and that were being undertaken in the space-related fora to address space debris. A good number of delegations thereafter took the floor to agree with these two latter delegations, voicing opposition to the proposal to add the alignment of space law and aviation law to the Work Programme.

3:13 The Secretariat intervened to provide additional information to reassure the delegation of South Africa that the concerns expressed in their paper were being addressed, noting that significant technical work relating to the intersection of air and space law was ongoing at ICAO in coordination with the United Nations Committee on the Peaceful Uses of Outer Space (COPUOS) and the United Nations Office for Outer Space Affairs (UNOOSA), and that Secretariat collaboration and exchange of information with UNOOSA on legal issues had occurred and would continue on a regular basis.

3:14 South Africa then took the floor to propose that the alignment of space law and aviation law might be subsumed under item 6 – *Study of international legal issues relating to global satellite systems and services supporting international air navigation services* on the Work Programme.

3:15 There being no further comments on the review of the General Work Programme, the Chairperson of the Committee concluded that further consideration of which work items of the Work Programme would be retained and the priority of the items would be taken up after consideration of the matters that would be raised from the working papers submitted under Agenda Item 6.