International Civil Aviation Organization

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WORKING PAPER

LEGAL COMMITTEE – 40TH SESSION

(Montréal, 26 – 30 October 2026)

Agenda Item 2: Consideration of the General Work Programme of the Legal Committee

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

(Presented by the Latin American Association of Air and Space Law – ALADA)

1. INTRODUCTION

1.1 The increasing digitalization and interconnectivity of civil aviation have increased reliance on systems, networks and data for the conduct of air operations and the provision of essential services. This transformation has contributed to improving the efficiency and capacity of air transport, but has also resulted in greater exposure to cyber risks and threats that may affect different components of the aviation system.

1.2 Among the matters under consideration by the Legal Committee, cyber threats are of particular relevance because of their transnational nature and the possibility that the conduct concerned and its effects may involve different States. These characteristics raise issues relating to the application and interpretation of existing instruments, jurisdiction and international cooperation.

1.3 This Working Paper examines the adequacy of the existing international legal framework in addressing cyber threats against civil aviation, taking into account the work carried out in this area and the need to pursue a coherent and harmonized legal response.

2. ANALYSIS

2.1 The Legal Committee has examined the applicability of international air law instruments to various scenarios involving cyber threats and cyberattacks against civil aviation. The study presented at its 38th Session concluded that the existing international legal framework is partially adequate and noted that, although certain issues of interpretation may remain, the 2010 Beijing instruments[2] provide a relevant basis for addressing such conduct through criminal law.

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[1] English, Arabic, Chinese, French, Russian and Spanish versions provided by the Latin American Association of Air and Space Law (ALADA).

[2] The Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation (Doc 9960) and the Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft (Doc 9959) (Beijing, 2010) (Beijing Convention and Protocol 2010);

2.2 The same analysis identified possible gaps arising, inter alia, from the criteria governing the applicability of certain instruments and from the difficulties that may arise in relation to conduct carried out remotely or whose effects extend beyond a single jurisdiction. Furthermore, certain attacks directed against civil aviation systems or data may not directly compromise safety or aviation security within the meaning contemplated by the existing instruments.

2.3 The cross-border nature of such conduct also requires consideration of the sufficiency of the available bases of jurisdiction and the mechanisms for cooperation between States for its investigation and prosecution. The response to cyber threats also requires appropriate coordination, at both the national and international levels, among the authorities responsible for civil aviation, cybersecurity, and criminal investigation and prosecution.

2.4 In this context, the ICAO Strategic Plan 2026–2050 includes among its objectives maintaining an international air law framework capable of responding to current and emerging challenges and provides for its adaptation where necessary. This objective is particularly relevant with respect to threats whose technological evolution may alter both the means by which they are committed and the scope of their effects.

2.5 On this basis, ALADA considers it appropriate to continue promoting the ratification and effective implementation of the applicable international instruments and, in particular, the 2010 Beijing instruments, as well as to further examine their application to cyber threats. This analysis should promote a coherent interpretation of the existing framework, consider issues relating to jurisdiction and international cooperation, and identify those situations that cannot be adequately addressed through the ratification, implementation, interpretation or harmonization of existing instruments.

3. CONCLUSIONS

3.1 The existing international instruments, and in particular the 2010 Beijing instruments, provide a relevant basis for the legal treatment of cyber threats against civil aviation. Their effectiveness requires further progress in their ratification and implementation, as well as continued examination of the issues of interpretation, jurisdiction and cooperation raised by the cross-border nature of such conduct.

3.2 The identification of possible gaps does not in itself determine the need to adopt new international legal measures. A distinction should be made between those issues that can be addressed through the ratification, implementation, interpretation and harmonization of existing instruments and those that, once those possibilities have been exhausted, may require an additional international legal response.

4. ACTION BY THE COMMITTEE

4.1 The Legal Committee is invited to:

a) take note of the considerations set out in this Working Paper;

b) consider the desirability of continuing to promote the ratification and effective implementation of the international instruments applicable to cyber threats and, in particular, the 2010 Beijing Convention and Protocol;

c) consider the desirability of promoting legal guidance that would foster the coherent interpretation and implementation of international air law instruments applicable to cyber threats;

d) consider, within the framework of the ongoing work, the available bases of jurisdiction in situations of a cross-border nature, the mechanisms for cooperation between States for their investigation and prosecution, and coordination among the authorities responsible for civil aviation, cybersecurity, and criminal investigation and prosecution; and

e) consider, on the basis of the results of this work, whether any issues remain that cannot be adequately addressed through the ratification, implementation, interpretation or harmonization of existing instruments and that may justify additional international legal measures.

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