



WORKING PAPER

LEGAL COMMITTEE – 40TH SESSION

(Montréal, 26 – 30 October 2026)

Agenda Item 6 Any other business

**LEGAL ANALYSIS ON MEASURES UNILATERALLY TAKEN
AGAINST A CONTRACTING STATE OF ICAO**

(Presented by the Democratic People's Republic of Korea)

1. INTRODUCTION

1.1 This document describes an analysis on the legitimacy of certain decisions and resolutions of the International Civil Aviation Organization (ICAO) that were adopted targeting its Member State in the past, and recommends subsequent measures.

1.2 Some Member States of ICAO pressed for the adoption of numerous decisions and resolutions respectively by the ICAO Council and Assembly on the issue of “unannounced missile launches” by the Democratic People's Republic of Korea (DPRK), and eventually, the adoption of the Council decision to avoid all technical activities with DPRK. (Refer to C-DEC 223/4, C-MIN 212/1)

1.3 The Republic of Korea (ROK) has infiltrated Unmanned Aircraft (UA) into DPRK and the critical infiltration incidents have occurred since 2024. In connection with these incidents, DPRK presented the working papers clarifying its position to the Council and the Assembly. However, it was dismissed in the ICAO Council by some Council Member States' allegation that UA were not the subject of the Convention as it was of a political nature. (Refer to C-WP/15688, C-MIN 234/13)

1.4 The Council has adopted several decisions which were unacceptable to the DPRK, being based on the unilateral assertion of a certain Member State who had submitted provocative documents forcibly linking the incidents of GNSS interference on the Korean Peninsula with DPRK. (Refer to C-MIN 196/4, C-MIN 208/9, C-MIN 232/5, C-MIN 233/7, C-MIN 234/11)

1.5 Since 2016, services such as SITA, SADIS, and Collins etc. which are indispensable for international air navigation have been cut off or suspended against DPRK, thus creating risks to the safety of international flight operations in DPRK. (Refer to AN-Conf/13-WP/72, Doc 10115 para. 7.24, C-WP/15026 para 7, C-WP/15410 para 1.1)

1.6 Therefore, DPRK is unable to participate in COSCAP-NA and other cooperative projects including CRV and CAPSCA etc. due to the decision to avoid all technical activities with the DPRK.

2. ANALYSIS

2.1 The ICAO Council's decision to avoid all technical activities with the DPRK brings difficulties to adhere to provisions of the *Convention on International Civil Aviation* (Chicago, 1944 - the "Chicago Convention"), especially the Preamble, Articles 44 and 37.

2.2 The Legal Committee is invited to interpret clearly Article 54(n) of the Chicago Convention on whether it can be the alleged legal basis to authorize the ICAO Council to adopt such decision to avoid all technical activities with a contracting State. (Refer to letter of the Director of LEB dated 27 August 2025 Ref: LE4/3).

2.3 The DPRK's missile launches were just, self-defensive measures and one of the series of military counter-measures in response to the consecutive anti-DPRK war exercises on the Korean Peninsula which is technically at war in a state of cease-fire, and full consideration was given to the safety of neighboring States. (Refer to letter of Administrator of NAA, DPRK dated April 8, 2022)

2.4 Article 89 of the Chicago Convention stipulates that, in case of war, the provisions of the Convention shall not affect the freedom of action of any Contracting State concerned, whether as belligerents or as neutrals. As above, the Convention does not apply to missile launch itself.

2.5 The ROK's UA infiltration is clearly in violation of Articles 1, 3 and 8 of the Convention as well as the applicable Standards and Recommended Practices (SARPs) of Annex 2 and Annex 11. However, some Member States defended ROK with the allegation that military UA were not subject to the Convention and there was not enough evidence showing that UA in question posed threats to aviation safety, and that it was a political matter. Regrettably, ICAO did not take any action concerning this matter. Then, if the same logic is to be applied to the issue of missile launch, no actions should be taken to the issue of missile launch, because the issue is virtually a politico-military matter. Literally, it is a typical demonstration of double standards, which requires legal review and amending measures.

2.6 Regarding the issue of GNSS interference, the ROK asserted that the signal source of GNSS interference originated from the DPRK and several Member States took sides with ROK and brought up the issue to the Council and the Assembly, although the objectivity and creditability of the assertion was not scientifically proved. And they pressed the Council to adopt relevant decisions. This sets an example that any decision could be adopted by one-sided allegation of a certain Member State. If a legal review and amending measures are not provided in connection with such a practice, it would damage the future work and image of ICAO. (Refer to A42-WP/557)

2.7 Soon after ICAO scheduled the USAP on DPRK in 2024, it could not help but gave up the plan due to the decision taken by itself.

2.8 The suspension of air navigation services necessary for ensuring international air operations such as SITA, SADIS and CRV and the prevention of an ICAO Member State from participating in various cooperative development programmes including COSCAP-NA and CAPSCA etc. are the very acts of disregarding the Preamble and Articles 4 and 37 of the Convention. These violations can hardly be legally defended even under the domestic laws of other Member States. This would certainly affect the safety of international operation and civil aviation.

2.9 Eventually, the above measures taken in ICAO aiming at its Member State would obstruct the member state to implement the Convention and its Annexes, which runs counter to ICAO's initiative "No country left behind", and would not guarantee the safety of international flight operations directly related to the safety of passengers from many countries around the globe.

3. ACTION BY THE COMMITTEE

3.1 The Legal Committee should conduct a thorough legal review on whether the decisions or resolutions related to sensitive political and military issues of a relevant contracting State to the Chicago Convention have been adopted in full consideration of their impact on safety of international flight operations or without consideration of technical attributes, and whether there is any ambivalence surrounding the articles and SARPs of the Convention and its Annexes allowing room for double standards when interpreting those as legal basis authorising the Council to take actions against a certain Member State.

3.2 The Legal Committee should reconsider the legitimacy of the decision to avoid all technical activities with its Member State, and acknowledge that such decisions cannot guarantee the safety of international flight operations.

3.3 The Legal Committee should bring up to the Council those matters concerning the establishment of new legal foundations and institutional framework that can legally control the acts hindering the guarantee of safety of international flight operations including the unilateral suspension of air navigation services by certain Member States.

3.4 The Legal Committee, as necessary, should consider organizing an expert group to work out a procedural guideline or similar document containing definitions, judgments, interpretations, recommendations and solutions which should be used as norms to refer to when adopting decisions and resolutions in relation with violations of the Chicago Convention, and submit them to the Council or the Assembly for deliberation.

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