



ASSEMBLY — 39TH SESSION

ECONOMIC COMMISSION

Agenda Item 43: Other issues to be considered by the Economic Commission

IMPACT OF UNILATERAL COERCIVE MEASURES ON  
THE CIVIL AVIATION SECTOR IN SUDAN

(Presented by Sudan)

EXECUTIVE SUMMARY

This paper provides information to the international civil aviation community on certain impacts of the economic measures imposed unilaterally by the United States of America on Sudan since 1997. The paper invites the international civil aviation community, represented by ICAO Assembly, to take decisions and actions that would prevent such unilateral measures, which directly impact the ICAO policy to “leave no country behind” in terms of development and progress in the field of international civil aviation.

**Action:** The Assembly is invited to:

- a) take note of this paper on the impacts of unilateral measures on civil aviation in Sudan, and particularly the development of the civil aviation sector in the country;
- b) consider updating resolution A38-14 (*Consolidated statement of continuing ICAO policies in the air transport field*) to ensure that States refrain from taking any measures that would negatively affect the rights of other Contracting States or limit their abilities to achieve sustainable development of their air transport sector; and
- c) direct the Council to examine all aspects relating to this subject and report its conclusions and recommendations to the Assembly at its next 40th Session.

<i>Strategic Objectives:</i>	This working paper relates to Strategic Objective D <i>Economic Development of Air Transport</i> .
<i>Financial implications:</i>	Not applicable.

<sup>1</sup> Arabic version provided by Sudan.

<i>References:</i>	<i>Doc 7300, Convention on International Civil Aviation (1944 Chicago Convention)</i> <i>Doc 10022, Assembly Resolutions in Force (as of 4 October 2013)</i> <i>Resolution A38-14, Consolidated statement of continuing ICAO policies in the air transport field</i> <i>Report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, submitted to the UN General Assembly on 10 August 2015.</i> <i>UN General Assembly Resolution A/RES/41/128 on the Declaration on the Right to Development adopted on 4 December 1986</i>
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## 1. INTRODUCTION

1.1 Sudan is suffering from the impact of a stifling economic embargo affecting the economic, social and financial situation in the country, and hindering efforts towards sustainable development, in general, and in the air transport sector, in particular. In 1997, the U.S Administration issued Executive Order 13067, which enforces a blocking of all assets of Sudan in the United States and a “comprehensive” economic embargo with respect to any trade transactions, including exchanges of goods and commodities, and the export of any products of US origin, including information technology, to any party (individual or entity) in Sudan or who is a Sudanese national. In 2006, the scope of these measures was extended and further expanded by virtue of Executive Order 13400. In the same year, the then-province of Southern Sudan was exempted from the application of such measures by virtue of Executive Order 13412.

## 2. LEGAL CONSIDERATIONS

2.1 In accordance with Resolution 27/21 of the Human Rights Council, unilateral coercive measures include, but are not limited to, economic and political measures imposed by States or groups of States to force another State to subordinate the exercise of its sovereign rights with a view to compelling some specific change in its policy. For legal purposes, measures other than those taken by the Security Council under article 41 of the Charter of the United Nations shall be considered unilateral measures.

2.2 While recognizing that the comprehensive measures taken by the United States target the entire economic and financial system of the country, it must be emphasised that they run counter to the Declaration on the Right to Development of 1986, and in particular to its Article 3, which stipulates that “States have the duty to co-operate with each other in ensuring development and eliminating obstacles to development”. They also contravene the Preamble of the Charter of the United Nations, which calls for observance of the fundamental rights of States and individuals and the administration of justice by respecting rights and obligations arising from the conventions and the rules of international law. They also contravene Article 55 (c) of that Charter.

2.3 These measures constitute an undeniably clear and blatant breach of the fundamental principles of the Convention on International Civil Aviation. As parties to this Convention, Sudan and the United States have the duty to respect the rights of other Contracting States, including the right to the future development of civil aviation in a safe and orderly manner and the fair opportunity for every Contracting State to effectively participate in the international air transport system and to soundly and economically operate international air transport services.

2.4 In addition, these measures are, by nature, discriminatory against Sudan and run contrary to the provisions of paragraphs a), c), d), f), g), h) and i) of Article 44 of the Convention. These measures clearly violate the inherent right of Sudan as a Contracting State within the international civil aviation system, which ICAO must protect. They are also inconsistent with ICAO’s policy aiming at ensuring the sustainability of international air transport for all Contracting States, as provided for in the preamble to the Chicago Convention.

## 3. IMPACT OF SUCH MEASURES ON SAFETY SUSTAINABILITY

3.1 It is a well-known fact that the achievement of an acceptable level of aviation safety relies on the full compliance with several elements regarded by the international civil aviation community

as necessary and critical. Overall, the coercive measures have an obvious and serious impact on the effective implementation of the safety critical elements, both directly and indirectly, as reflected by the conclusions of the audits conducted by ICAO over the period from 2000 to 2012.

3.2 The embargo has clearly affected the State's ability to obtain navigational equipment and related information technology. The State has to seek alternative means, which may not support its strategic plan to reinforce and enhance aviation safety. Moreover, Sudan could not obtain advanced navigational and security equipment, as well as search and rescue equipment, as almost all available systems contain an American component or part in their manufacturing process. The embargo also impacted safety performance enablers, namely access to technical support, exchange of safety-related information, qualified human resources and technical expertise. This has impaired the State's ability to meet the objectives of its strategy for continuous improvement in accordance with the Global Aviation Safety Plan.

3.3 The embargo had an impact on the condition and average age of aircraft operating in Sudan. While there are multiple and varied aircraft in the Sudanese Register, the fact that only few types of them are operated caused a lost opportunity to reduce costs and benefit from other economic advantages. The average age of aircraft exceeds 20 years, which negatively impacts insurance costs, the availability of crews and maintenance engineers, and makes it difficult to provide adequate maintenance. Most of the Sudanese airlines aircraft (8 aircraft) are now out of service, due to the difficulty to obtain spare parts.

3.4 As for the environmental aspects, the embargo directly contributed to the increase of emissions and noise, due to the types and age of aircraft operated in the Sudanese airspace, which consume more fuel, and thus affect oxygen in the air and increase the levels of noise during take-offs and landings. This has also impacted the local air quality in the vicinity of aerodromes and contributed to the release of greenhouse gas emissions. The embargo also undermined the State's ability to import equipment to control and abate the levels of noise.

#### **4. IMPACT ON THE ECONOMIC DEVELOPMENT OF AIR TRANSPORT**

4.1 The additional burden in the cost of operating national aircraft, due to the direct and indirect impact of the embargo, is estimated at USD 2 million per year. As a result, civil aviation organizations have become less competitive, owing to the difficulty of obtaining cost-effective modern aircraft and spare parts, and the increase of their operating costs. The share of national carriers in the Sudanese aviation market dropped to 2%, compared with 90% in the years that preceded the embargo. As a consequence, foreign carriers dominate the sector, which upsets the trade balance of Sudan in favor of the countries of such foreign carriers. The same impact was also felt in terms of air navigation equipment and services, which affects the fees designed to recover their costs. Available data clearly indicates that there is a decrease in transiting traffic in the airspace as a consequence of that situation.

4.2 The Sudanese national airlines face many complications in computer reservation systems and ticketing operations. They also face difficult issues with respect to the increasing costs of training for crews, maintenance engineers and technical staff, in addition to the difficulty of making money transfers to settle foreign obligations and pay insurance premiums. The embargo has also been the main reason behind the withdrawal of some major foreign airlines from the Sudanese market, as they faced the problem of accumulated net revenues in freely-traded currencies and the difficulty to make international transfers. Examples of airlines which left the Sudanese market include British Airways, KLM, Lufthansa

and others. Moreover, the remaining airlines have reduced the number of their flights. More airlines further intend to withdraw from the Sudanese market due to the difficulties they are facing.

4.3 Overall, these unilateral measures have had a direct adverse impact on the Sudanese economy as a whole, and undermined the sustainability of air transport and reduced its potential to contribute to a higher per capita income and improved living conditions and welfare for the Sudanese people. It also had a direct impact on the Government's macro-economic policies, which led to more stringent measures in terms of taxation and fees on air transport services. This, in turn, discouraged national and foreign investors from investing in the Sudanese air transport sector.

## 5. ASPECTS RELATING TO THE SECURITY OF INTERNATIONAL AIR TRANSPORT

5.1 These measures affected the State's ability to obtain security equipment, including those used in the screening of passengers, baggage, goods and mail, as well as X-ray detection equipment, metal and plastic explosive detection devices, security simulators, liquid testing equipment, security portals, surveillance cameras, electronic data exchange equipment, which all help to address security threats not only to Sudan but also to the world. All this has increased the level of risk indicators for acts of unlawful interference in civil aviation activities.

## 6. RECOMMENDATIONS

6.1 In light of the above, Sudan invites the Assembly to:

- a) support and endorse this paper so as to prohibit unilateral measures and protect the interests of Contracting States in accordance with the international civil aviation system and the No Country Left Behind initiative;
- b) consider updating resolution A38-14 (*Consolidated statement of continuing ICAO policies in the air transport field*) to ensure that it reflects the need for States to refrain from taking any actions that would negatively affect the rights of other Contracting States or limit their abilities to achieve sustainable development in their air transport sector; and
- c) direct the Council to examine all aspects relating to this subject and report its conclusions and recommendations to the Assembly at its next 40th Session

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