



ASSEMBLY — 39TH SESSION

ECONOMIC COMMISSION

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

**THE REPERCUSSIONS OF THE UNILATERAL COERCIVE MEASURES IMPOSED BY THE UNITED STATES OF AMERICA'S ECONOMIC, COMMERCIAL AND FINANCIAL BLOCKADE ON THE SUSTAINABLE DEVELOPMENT OF CIVIL AVIATION IN THE REPUBLIC OF CUBA**

(Presented by Cuba)

**EXECUTIVE SUMMARY**

The purpose of this working paper is to provide information about the adverse effects on the development of air transport in the Republic of Cuba, in violation of the Chicago Convention, caused by the continuation of the economic, commercial and financial blockade imposed by the Government of the United States of America against the Republic of Cuba through the application of unilateral coercive measures.

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

- a) take note of the information contained in this working paper;
- b) consider that the unilateral coercive measures are hindering the sustainable development of international air transport;
- c) recognize that unilateral coercive measures adversely affect the sustainable development of air transport and constitute a violation of the principles and objectives of the Chicago Convention; and
- d) include in A39-WP/8, *Consolidated statement of continuing ICAO policies in the air transport field*, under Appendix A (Economic Regulation of international air transport), Section I, paragraph 3, the text proposed in 4.1 d).

<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> Spanish version provided by Cuba.

<i>References:</i>	<p>The Convention on International Civil Aviation (Doc. 7300). Resolution A38-14, <i>Consolidated Statement of continuing ICAO policies in the air transport field</i>. A39-WP/8-EC/6, <i>Consolidated Statement of continuing ICAO policies in the air transport field</i>. A38-WP/312, A38-WP/330, A38-WP/379 Conclusions of the following conferences: ATConf/4 (1994), ATConf/5 (2003) and ATConf/6 (2013), which may be consulted at <a href="http://www.icao.int/meetings/atconf6">www.icao.int/meetings/atconf6</a> The Report by Cuba on Resolution 69/5 of the United Nations General Assembly entitled “Necessity of ending the economic, commercial and financial blockade imposed by the United States of America against Cuba”, June 2015.</p>
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## 1. INTRODUCTION

1.1 Participation in international air transport is based on the Convention on International Civil Aviation (The Chicago Convention). Article 44, paragraph f) establishes that one of ICAO's objectives is "to insure that the rights of contracting States are fully respected and that every contracting State has a fair opportunity to operate international airlines".

1.2 The Air Transport Conferences (ATConf/4 of 1994 and ATConf/5 of 2003) recognized that contracting States have many differing regulatory goals and policies but share the fundamental objective of participation through reliable and sustained involvement in the international air transport system (Doc. 9587, Part 1, Section V) and that the interests and needs of developing countries require special consideration.

1.3 The Sixth Worldwide Air Transport Conference (ATConf/6) dealt in depth with concerns about the unilateral coercive measures adopted by certain States or groups of States that adversely affect air transport services in all fields of civil aviation, including the most important ones such as safety, aviation security and economic regulation. It was recognized that unilateral coercive measures may lead to conflicts and adversely affect the sustainable development of international civil aviation. During the aforementioned conference, Cuba presented Working Paper ATConf/6-WP/37, in which it pointed out the adverse effects of these unilateral, coercive and discriminatory measures, which violate the Chicago Convention, on Cuban civil aviation and prevent it from performing and developing properly.

1.4 Since 1960, the government of the United States has imposed an economic, commercial and financial blockade against the Republic of Cuba; this has affected and continues to considerably affect all of the country's economic sectors, with aeronautics being the most affected sector within the field of transportation.

1.5 For another consecutive year, as has been the case since 1992, last year the 70<sup>th</sup> session of the UN General Assembly approved by an overwhelming majority of votes Resolution 69/5 "Necessity of ending the economic, commercial and financial blockade imposed by the United States of America against Cuba", with 191 votes in favour, 2 against, and no abstentions on this occasion.

1.6 As of 17 December 2014, the governments of Cuba and the United States of America initiated negotiations to re-establish diplomatic relations based on mutual respect, acting as sovereign nations.

1.7 To date, progress has been made in various areas, including those related to, or having an impact on civil aviation, such as:

- a) removing Cuba from the "State Sponsors of International Terrorism" list;
- b) re-establishment of diplomatic relations and the re-opening of embassies in both countries;
- c) the organization of high-level and technical visits in both directions, mainly on aviation security matters. Especially worthy of note is the fact that frequent technical meetings have been held between experts from the Cuban Civil Aviation Institute and the US Transport Security Administration (TSA) and it is this agency that has been able to verify the level of security in Cuban airports, as well as the approval or

implementation, by the competent Cuban authorities, of the various TSA security requirements;

- d) resumption of direct postal mail;
- e) the signing of the Memorandum of Understanding for the establishment of scheduled flights between both countries;
- f) Memorandum of Understanding between the Interior Ministry, the General Customs of the Republic of Cuba and the US Department of Homeland Security for cooperation in the field of passenger security and trade;
- g) negotiation of bilateral cooperation related to air traffic control, search and rescue, meteorology, climate and atmospheric pollution, and
- h) in 2015, travel to Cuba by US citizens increased by 76% compared to the previous year. In the first semester of 2016, there was an 80% increase compared to the first semester of 2015.

## 2. DEVELOPMENT

2.1 In spite of the progress described in the preceding section of this working paper, the blockade remains in force and continues to have negative repercussions on Cuban civil aviation.

2.2 Aeronautics is the transportation sector most affected by the blockade's prohibitions and regulations since it makes up 67.5% of the total transportation sector. During the period from April 2013 to April 2016, damages to civil aviation were estimated at \$990 284 384 US dollars (USD).

2.3 Restrictions imposed upon the sector by this policy include the fact that Cuban airline companies have to obtain additional permits and licences over and above those normally required for international air transport operations, in order to fly over US territory.

2.4 The prevalence of laws prohibiting the acquisition of state-of-the-art technology in aircraft, equipment, parts, spare parts and other accessories as well as prohibiting third country companies from selling goods and services to Cuba if their technology contains more than 25% US components, even if their owners are nationals from these third countries, adversely affects the sustainable development of Cuban civil aviation.

2.5 The company *Cubana de Aviación S.A.* is unable to participate in the advantages of the computerized Air Reservations distribution systems since most of these are the property of the United States or respond to US interests.

2.6 Due to financial harassment, the company *Cubana de Aviación S.A.* has not been able to run a bank to process the funds from Visa and MasterCard cards on its own behalf and has therefore had to continue to develop e-commerce using the services of the entity AMF Global Items, incurring high operating and financial costs.

2.7 Generally speaking, and not just with the company *Cubana de Aviación S.A.*, financial transfers involving Cuba continue to be blocked; payments are withheld, including in currencies other

than the US dollar, and services are denied. In terms of financial transfers, up until now, the US government has not issued any political statement, nor any legal document to explain to the world's banks that transactions with Cuba are legal and will not be subject to fines.

### 3. CONCLUSIONS

3.1 The United States of America's economic, commercial and financial blockade against Cuba:

- a) violates the principles contained in the Preamble to the Chicago Convention, which declare that international civil aviation "may be developed in a safe and orderly manner and that international air transport services may be established on the basis of equality of opportunity and operated soundly and economically";
- b) their discriminatory measures also violate the norms and precepts of the Chicago Convention and in particular, the provisions of Article 44, subparagraphs a), c), d), f), g), h) and i), which establish, amongst the purposes and objectives of ICAO, to foster the development of international air transport; to meet the needs of the peoples of the world in this respect; insure that the rights of contracting States are fully respected and avoid discrimination amongst them as well as to promote generally the development of all aspects of international civil aeronautics. These measures also violate Articles 77 and 79, which advocate that nothing should prevent two or more contracting States from constituting joint air transport operating organizations;
- c) it is a unilateral coercive measure that is contrary to the spirit of the Convention on International Civil Aviation and has negative repercussions on the development of civil aviation in Cuba.

3.2 The Assembly, as the highest decision-making body in ICAO, holds the appropriate authority as the Global Intergovernmental Organization in the field of international civil aviation, to harmonize the policies and regulatory regimes related to the economic aspects of international air transport. Moreover, in response to concerns about the unilateral coercive measures that adversely affect international air transport, the Assembly has the duty to urge States to refrain from using this type of measure.

3.3 Coercive unilateral measures are not conducive to the orderly and sustainable development of international civil aviation and should be important elements to be considered by ICAO and States in the *Consolidated Statement of continuing ICAO policies in the air transport field* and be explicitly reflected in Appendix A Economic Regulation of international air transport, Section I, paragraph 3.

4. **PROPOSED MEASURES**

4.1 The Assembly is invited to:

- a) take note of the information contained in this working paper;
- b) consider that the unilateral coercive measures are hindering the sustainable development of international air transport;
- c) recognize that unilateral coercive measures adversely affect the sustainable development of air transport and constitute a violation of the principles and objectives of the Chicago Convention; and
- d) include A39-WP/8, *Consolidated statement of continuing ICAO policies in the air transport field*, under Appendix A (Economic Regulation of international air transport), Section I, paragraph 3:

“Urges the Member States to refrain, in regulatory practices, from adopting unilateral coercive measures that are contrary to International Law and the United Nations Charter, and that would negatively affect the common interest of the aviation community and the efficient and sustainable development of international air transport.

— END —