



**ASSEMBLY — 41ST SESSION**

**ECONOMIC COMMISSION**

**Agenda Item 39: Other issues to be considered by the Economic Commission**

**ADVERSE EFFECTS ON THE SUSTAINABILITY OF THE ECONOMIC DEVELOPMENT OF AIR TRANSPORT IN CUBA DUE TO THE IMPOSITION OF UNILATERAL AND EXTRATERRITORIAL MEASURES**

(Presented by Cuba)

**EXECUTIVE SUMMARY**

This information paper informs the international civil aviation community of the unilateral and extraterritorial measures, which impede the sustainable economic development of air transport, violate the Convention on International Civil Aviation and hamper the International Civil Aviation Organization (ICAO) No Country Left Behind (NCLB) initiative.

<i>Strategic Objectives:</i>	This information paper relates to Strategic Objective — <i>Economic Development of Air Transport</i> .
<i>Financial implications:</i>	None.
<i>References:</i>	A40-WP/469-EC/38, <i>Adverse effects on the sustainability of the economic development of air transport in Cuba due to the imposition of unilateral and extraterritorial measures</i> . Resolution A40-9, Consolidated statement of continuing ICAO policies in the air transport field. A40-WP/622-P/50, <i>Report of the Economic Commission on Agenda Item 36</i> . Note verbale from the Embassy of Cuba in Canada to the President of the ICAO Council and to the Secretary General, dated 26 April 2019. Doc 7300, <i>Convention on International Civil Aviation</i> (Chicago Convention). Doc 9587, <i>Policy and Guidance Material on the Economic Regulation of International Air Transport</i> . Update to the Report of the Secretary General (A/75/81) on Resolution 74/7 of the United Nations General Assembly, entitled “Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba”, presented in 2021.

<sup>1</sup> English and Spanish versions provided by Cuba

## 1. INTRODUCTION

1.1 The Convention on International Civil Aviation (Chicago Convention) is the basis on which States participate in international air transport. Article 44(f) provides 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 Each year, the Secretary-General of the United Nations requests the organs and agencies of the United Nations system to draw up report on the implementation of the resolution on the necessity of ending the economic, commercial, and financial embargo imposed by the United States of America against Cuba in the light of the purposes and principles of the Charter and international law and to submit it to the session.

1.3 In the update to the Report of the Secretary General (A/75/81) on Resolution 74/7 of the United Nations General Assembly, entitled "Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba", presented in 2021, it was meant that the embargo continued to be the central axis of the United States Government's policy regarding Cuba, which opportunistically intensified in the context of the COVID-19 pandemic.

## 2. ANALYSIS

2.1 In each ICAO Assembly in recent years, Cuba asks to reaffirm that unilateral and extraterritorial actions impede the sustainable economic development of international air transport and, in particular, have a great impact on developing countries. This necessity is reiterated in this 41st period of sessions. The substantial damage to Cuban aviation in the period between January 2020 and February 2022 amounted to 174 million dollars. In the current context and in moments of vulnerability due to the COVID-19 pandemic, the actions of the embargo have intensified, making it impossible to avoid its negative consequences, despite the immeasurable effort of Cuban civil aviation workers.

2.2 The decision of the United States Government to activate Title III of the Helms-Burton Act has adversely affect the development of civil aviation in Cuba, in particular foreign firms that intending to establish businesses connected with investments in the modernization of Cuban airports and the operations of various countries' airlines that link Cuba to the world, among other effects.

2.3 Even today, it remains impossible to acquire aircraft, whether by purchasing or leasing, components or spare parts, technology, and know-how, if more than 10 per cent of the components originate in the United States of America, regardless of the country of origin or production of the aircraft. The obstacles imposed to the opening of accounts and to bank transactions, and the withholding of payments, even in currencies other than the United States dollar, have constrained to the extreme the performance of Cuban airlines and firms that provide aviation services. Only the professionalism of the experts of the Cuban civil aviation system and international cooperation, especially within the framework of the ICAO North America, Central American and Caribbean (NACC) and South American (SAM) regional offices and its regional safety groups, have made it possible to face such a situation and minimize the risks of operational safety, achieving acceptable levels and an effective implementation of the critical oversight elements greater than 92 per cent.

2.4 Travel continues to be a recurring target of attack. As of December 2019, the restriction of regular flights from the United States to airports in the interior of the country was established, and from March 2020 this prohibition was extended to charter flights. This condition for flights from the United States remains until June 2022, the date on which it was revoked. Other limitations also impend the presence

of United States airlines in the program organized within the framework of the International Tourism Fair of Cuba, FITCUBA 2022.

2.5 During the pandemic, alternatives had to be sought, with the support of ICAO and other organizations, so that representatives of the Cuban aeronautics could participate in virtual courses and events, due to the fact that several videoconference sites used regularly are blocked for Cuba.

2.6 In correspondence with the Report on Agenda Item 36 of the Economic Commission approved by the Plenary of the 40th period of session of the General Assembly, Cuba has appealed to the “good offices” of the President of the Council, sending official communications on the effects induced by the application of extraterritorial measures by the United States Government, among which the communication of October 2019 is meant, with the effects on the operations of Cubana de Aviación S.A. from the application of the new measures by the Donald Trump administration, which caused the cancellation of flights due to the revocation of licenses to airlines with lease contracts established with the Cuban airline, among others.

2.7 The adverse effects remain. In the extraterritorial application of the embargo, coercive measures have recently been put into practice against the airline Cubana de Aviación, such as:

- a) cancellation of cooperation agreements with third-country airlines in respect of code sharing and inter-line and multilateral proration because Cubana has been placed on the Specially Designated Nationals and Blocked Persons List of the United States Office of Foreign Assets Control (OFAC); and
- b) it remains the suspension in Italy, France, Mexico, and Spain, last incorporated, of services used internationally to sell and issue airline tickets owing to adverse implications for their associated clearing banks. There is also a corporate image affectation from the campaign through social networks carried out at the time of closure by the International Air Transport Association (IATA) of said operations.

2.8 The situation of sustainable development of air transport of the Cuban civil aviation system has been aggravated in the last three years due to the economic, commercial, and financial embargo imposed by the United States of America against Cuba. However, in other aeronautical matters, Cuba has had the support of the civil aviation authorities of all the States of the region, including the professional relationship maintained with the Federal Aviation Administration (FAA), the Transportation Security Administration (TSA), among other United States entities, which has been important for the non-deterioration of the efficient and safe development of Cuban civil aviation in the regional context.

### 3. CONCLUSIONS

3.1 ICAO has an important role to play in upholding principles such as the sovereign equality of States, non-discrimination, mutual respect, equality of opportunity and the freedom of international trade and navigation, enshrined in the Convention on International Civil Aviation, the Charter of the United Nations and many international legal instruments, and Cuba continues to consider it is the appropriate forum for analysing the effects caused by the application of unilateral and extraterritorial measures that violate those principles and for taking measures to address this situation.

3.2 Cuba reiterates to the ICAO Assembly its exhortation to:

- a) reaffirm that the economic, commercial, and financial embargo of the Government of the United States of America against Cuba:

- i) violates the principles contained in the Preamble to the Chicago Convention, which provides 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”;
  - ii) its discriminatory measures violate the standards and precepts of the Chicago Convention, in particular the provisions of Article 44 (a), (c), (d), (f), (g), (h) and (i) setting out ICAO’s aims and objectives, which are to foster the development of international air transport; to meet the needs of the peoples of the world in this respect; to ensure that the rights of contracting States are fully respected; to avoid discrimination among them; and generally to promote the development of all aspects of international civil aeronautics;
  - iii) is a unilateral decision of an extraterritorial nature that is contrary to the spirit of the Convention on International Civil Aviation, the Charter of the United Nations and international law, and it has adverse effects on the development of civil aviation in Cuba, which is a link in the chain of States that take part in regional and global air transport.
- b) reaffirm that unilateral and extraterritorial actions have a great impact on developing countries, and, in particular, impede the international air transport; and
- c) urge all States to abstain from enacting and applying laws and measures with extraterritorial effects that affect the sovereignty of other States, the legitimate interests of entities or persons under its jurisdiction and the freedom of trade and navigation, in accordance with their obligations under the Convention on International Civil Aviation, the Charter of the United Nations and International Law.

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