



ASSEMBLY — 42ND SESSION

EXECUTIVE COMMITTEE

Agenda Item 22: Other high-level policy issues to be considered by the Executive Committee

INCOMPATIBILITY OF UNILATERAL COERCIVE MEASURES WITH THE PROVISIONS OF THE CONVENTION ON INTERNATIONAL CIVIL AVIATION, THEIR IMPACT ON INTERNATIONAL CIVIL AVIATION AND THE CONSEQUENCES OF THEIR APPLICATION

(Presented by the Russian Federation)

EXECUTIVE SUMMARY

This working paper presents to the Assembly the factors of extremely negative impact on the sustainability and development of international civil aviation of the restrictive policies applied by some States based on the politicization of norms and principles of international air law, and provides a proposal for future work.

Action: The Assembly is invited to:

a) note the facts and information on the influence of politicized coercive measures imposed by some States against others in the field of civil aviation, and the negative impact of such measures on the global aviation industry as a whole; and

b) review and approve the proposal for amendment to Resolution A41-4 in elaboration to the content of ICAO policies in the legal field as detailed in the **Appendix** to this working paper.

<i>Strategic Goals:</i>	This working paper relates to the following Strategic Goals: “Every Flight is Safe and Secure” “The Economic Development of Air Transport Assures the Delivery of Economic Prosperity and Societal Well-Being for All” “The International Civil Aviation Convention and other Treaties, Laws and Regulations address all Challenges”.
<i>Financial implications:</i>	The ICAO activities described in this working paper are expected to be carried out within the available budget of the Organization for 2026-2028.
<i>References:</i>	Doc 7300/9, <i>Convention on International Civil Aviation</i> (1944) (the Chicago Convention) A41-4 Consolidated statement of continuing ICAO policies in the legal field

¹ English and Russian versions were provided by the Russian Federation.

1. INTRODUCTION

1.1 The well-known unilateral coercive measures imposed by a number of Contracting States against the fundamental tenets of the Chicago Convention, compromise the international civil aviation flight safety and the mutual trust of the peoples of the world which form the basis of the international aviation system. Unilateral coercive measures arbitrarily applied by some States against other States directly affect the operations of international civil aviation and undermine the foundations of the Chicago Convention, as well as the efforts of the international aviation community to create a safe and cost-effective global aviation system.

1.2 Prohibition to use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind is part of the obligation provided for in the UN Charter not to intervene in the affairs of any other State (The Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States adopted by the United Nations General Assembly Resolution 2625 (XXV) on 24 October 1970. The UN General Assembly Resolution No. 78/135 of 19 December 2023 confirms that such unilateral actions are a blatant violation of the principles of international law enshrined in the UN Charter.

1.3 With regard to the Russian Federation, starting from 24 February 2022, a number of ICAO Member States colluded to violate a number of provisions of the Chicago Convention and its annexes by applying unlawful unilateral coercive measures of a discriminatory nature. To date, the airspaces of at least 37 States have been closed for scheduled and charter flight operations of Russian airlines. The validity of certificates of airworthiness of aircraft operated by Russian airlines has been unreasonably suspended, bans on aircraft and spare parts sale, aircraft maintenance and insurance have been imposed. There have been cases of Russian air carriers' aircraft detentions and arrests at airports of several States. Access of the Russian Federation and its users to meteorological information for international air navigation has been restricted.

1.4 The coercive measures mentioned as an example are not new in the international civil aviation. Similar economic restrictions are known to have been imposed on a number of other ICAO Member States and have become a permanent deterrent². In such circumstances, ICAO Member States are forced to find alternative ways to address the challenges and threats that have arisen despite the principle of equality of all Contracting States proclaimed in the Chicago Convention

2. IMPACT OF UNILATERAL COERCIVE MEASURES ON THE POLICY AND SUSTAINABLE DEVELOPMENT OF INTERNATIONAL CIVIL AVIATION

2.1 Unlawful coercive measures violate the human right to freedom of movement regardless of nationality and citizenship. A ban on the use of airspace to operate overflights is a measure of economic pressure imposed by one State on another State, it violates the human right to freedom of movement, included in the Universal Declaration of Human Rights adopted by the UN General Assembly in 1948.

2.2 The introduction of unilateral coercive measures forces to rebuild the fundamental and stable system of the international air transportation market functioning and positioning, which negatively affects both legal entities and individuals, and, in particular, socially and economically vulnerable

² Republic of Belarus, Islamic Republic of Iran, Bolivarian Republic of Venezuela, Democratic People's Republic of Korea

population groups. Unilateral coercive measures introduced against Russia by a number of States in February – March 2022 led to an additional flying time between destinations in Asia and Europe resulting in extra costs for fuel, logistics and operations. Such changes imposed substantial additional costs significantly impacting the demand for air transport services.

2.3 As a whole, the current unilateral coercive measures have already resulted in cessation of international air traffic in the airspace of over 50 million square kilometers, which is 10% of the global airspace or 37.5% of the total national airspaces of all States in the world.

2.4 Politically motivated unilateral restrictions imposed on other States in a discriminatory manner based on nationality ruin the Chicago Convention regime in all ICAO Member States and devalue the efforts of the international aviation community to create a safe and efficient global air transport system. Current situation is destructive for ICAO Global Air Navigation Plan and seamless air navigation principles, it demotivates from further discussing long-term goals aimed at effectively reducing CO2 emissions of international civil aviation.

2.5 The ICAO Assembly has repeatedly called on Member States to refrain from taking unilateral and extraterritorial measures that would have negative consequences for the common interests of the aviation community and the orderly, sustainable, harmonious development of international air transport (ICAO Assembly Resolutions A38-14, Appendix A, section I, paragraph 3 and A41-27, Appendix A, section I, paragraph 3).

Impact of Unavailability of the Airspace of the Russian Federation on Foreign Airlines

2.6 From February 2022, according to mass media, the average weekly operating costs of European air carriers started to exceed \$39 million. Due to bypassing Russian airspace, the average distance flown increased by 2-4 thousand km and the average flight time – by 3 hours, this led to a rise in airfare prices and a fall in the seat occupancy rates, routine maintenance and ground handling costs, including those for aviation fuels, water and special liquids, also increased.

2.7 The States that have not joined the unlawful coercive measures, continue to use the airspace of the Russian Federation strengthening their positions on the air transport services global market. The airline costs are lower than those of their Western counterparts by about 30%. These air carriers also have lower operating expenses. The direct round-trip flights between Asia and Europe are cheaper by 5-35% than those of European air carriers. The number of scheduled flights operated to the UK, Spain and Italy by the airlines from the States that had not joined the coercive measures, increased by 25-45% in the first nine months of 2024 compared to the same pre-pandemic period in 2019.

3. CONCLUSION

3.1 Unilateral discriminatory coercive measures introduced by States in the field of international civil aviation in violation of the fundamental principles and norms of international air law against politically undesirable States, entail an increasing risk of undermining the fundamental activities of the international aviation community within the framework of a unified, safe and economically efficient global aviation system.

3.2 ICAO is required to take all practical measures to prevent States from applying politically biased discriminatory coercive measures in the field of international civil aviation.

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APPENDIX

Extract from Doc 10184
“Assembly Resolutions in Force”
(as of 7 October 2022), page V-1

PART V. LEGAL MATTERS

A41-4	Consolidated statement of continuing ICAO policies in the legal field
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Whereas it is considered desirable to consolidate Assembly resolutions on the Organization’s policies in the legal field in order to facilitate their implementation and practical application by making their texts more readily available, understandable and logically organized:

The Assembly:

1. *Resolves* that the Appendices attached to this resolution constitute the consolidated statement of continuing ICAO policies in the legal field, up to date as these policies exist at the close of the 41st Session of the Assembly;
2. *Resolves* to continue to adopt at each ordinary session a consolidated statement of continuing ICAO policies in the legal field; and
3. *Declares* that this resolution supersedes Resolution A40-28.

APPENDIX A

General Policy

Whereas international civil aviation can greatly help to create and preserve friendship and understanding among the nations and peoples of the world, yet its abuse can become a threat to the general security; and

Whereas it is desirable to avoid friction and to promote that cooperation between nations and peoples upon which the peace of the world depends:

The Assembly:

Reaffirms the important role of law in the avoidance and resolution of conflicts and disputes among the nations and peoples of the world and, in particular, in the achievement by the Organization of its aims and objectives.

Directs the Council and the Secretary General to take all practical measures to prevent the use of legal instruments for political purposes including through the introduction by States of unilateral operational restrictions in the field of flight operations.

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