



ASSEMBLY — 42ND SESSION

ECONOMIC COMMISSION

Agenda Item 27: Other issues to be considered by the Economic Commission

UPDATE ON THE ADVERSE EFFECTS OF UNILATERAL EXTRATERRITORIAL MEASURES ON THE ECONOMIC DEVELOPMENT OF AIR TRANSPORT IN CUBA

(Presented by Cuba)

EXECUTIVE SUMMARY

This Working paper presents an update on how the ongoing implementation of unilateral and extraterritorial measures continues to affect the economic and sustainable development of air transport in Cuba, which violates the Convention on International Civil Aviation (Chicago Convention) and hinders the *No Country Left Behind* (NCLB) Initiative by the International Civil Aviation Organization (ICAO).

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

- a) take note of the information presented in this Working paper;
- b) recognize that the extraterritorial implementation of unilateral measures negatively affects the sustainable development of civil aviation, violating the principles and objectives of the Chicago Convention, and that it hinders the development of civil aviation in Cuba, a country that represents a link in the chain of States involved in regional and global 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.

<i>Strategic Goals:</i>	This working paper relates to Strategic Goal: <i>The Economic Development of Air Transport Assures the Delivery of Economic Prosperity and Societal Well-Being for All</i>
<i>Financial implications:</i>	Nil
<i>References:</i>	A39-WP/323-EC/32, <i>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</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, <i>Consolidated statement of continuing ICAO policies in the air transport field</i>

<sup>1</sup> Spanish version provided by Cuba

	<p>A40-WP/622-P/50, <i>Report of the Economic Commission on Agenda Item 36</i> A41-WP/404-EC/28, <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> A41-WP/671-P66, <i>Report of the Economic Commission on Agenda Items 38 and 39</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> Report by CUBA under Resolution 71/5, adopted by the General Assembly of the United Nations in July 2024 – <i>Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba</i></p>
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## 1. INTRODUCTION

1.1 The *Convention on International Civil Aviation* (Chicago Convention) provides the basis upon which States participate in international air transport. Article 44(f) provides that one of the International Civil Aviation Organization's (ICAO) objectives is to "ensure 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 Sixth World 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.

1.3 In the Report presented by Cuba pursuant to Resolution 78/7 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*", dated July 2024, it was highlighted that, between March 2023 and February 2024, the government of the United States maintained a policy of maximum pressure against Cuba and stringent implementation of an economic, commercial and financial embargo as its fundamental axis. Unilateral measures remained unchanged, which continued to reproduce and aggravate the devastating effects of this unilateral coercive system, the longest and most comprehensive in history.

1.4 Some of the most severe measures that continued to be imposed in the last three years have been: the inclusion of Cuba on the United States Department of State's unilateral list of alleged State Sponsors of Terrorism; the possibility to file suit in United States courts pursuant to Title III of the Cuban Liberty and Democratic Solidarity Act (LIBERTAD) Act (Helms-Burton Act); sanctions or threats of sanctions being applied to transportation companies, insurers and reinsurers involved in the provision of fuel to our country; and intense and meticulous persecution in the scrutiny of Cuban financial transactions.

## 2. ANALYSIS

2.1 Cuba reaffirms that unilateral and extraterritorial actions hinder the sustainable economic development of international air transport, with a particularly negative impact on developing countries. This has been discussed at each ICAO Assembly in the last few years, and at this 42nd Session, Cuba reiterates the need for this to be duly considered.

2.2 Aviation, like all other transport sectors in Cuba, has been seriously affected by this embargo over the years. Facing such a predicament while minimizing safety risks to an acceptable level and achieving a score of over 92% effective implementation of the critical elements of a safety oversight system has only been possible thanks to our civil aviation system experts' professionalism and to international cooperation, especially within the framework of the North American, Central American and Caribbean (NACC) and South America (SAM) Regional Offices and their respective regional aviation safety groups.

2.3 The extraterritorial implementation of the embargo has included coercive measures against Cubana de Aviación. To cite just a few examples, the airline has sustained massive financial losses due to the cancellation of aircraft leases, bank accounts and business operations, as well as the lack of access to loans from international banks to maintain and repair its fleet.

2.4 In addition, Cubana de Aviación cannot buy aircraft, as Cuba is precluded from acquiring means and equipment with more than 10 % United States-origin content, which also affects domestic air transport.

2.5 Another illustrative fact took place in April 2024, when the Bureau of Industry and Security of the United States Department of Commerce rejected an export license application submitted by a Spanish company to export an ATR 72-212A airplane to Cuba, which was intended for domestic flight operations.

2.6 During the same period, a purchase of aircraft oil was also affected, as the France-based company Total S.A. canceled the supply because of the embargo.

2.7 In March 2024, the company Yacimientos Petrolíferos Fiscales S.A. (YPF), from Argentina, informed Cubana de Aviación that it would stop supplying fuel to its aircraft in compliance with the United States embargo against Cuba. As a result, Cubana de Aviación has been forced to suspend regular flights between the two countries, after 39 years of uninterrupted service.

2.8 Sustainable development of air transport in Cuba's civil aviation system has worsened over the past three years due to the economic, trade and financial blockade imposed by the United States of America against Cuba. These measures not only affect the airline, but also other service providers, who must make an extra effort and look for much more expensive alternatives to deliver their services.

2.9 The access limitation to platforms that are blocked for Cuba, such as Cisco Webex, Zoom and Cvent, is still ongoing. Unable to access Cvent, the platform selected by ICAO to schedule meetings within the framework of the flagship event for the negotiation of multilateral air agreements, ICAN 2024, Cuba had to turn to the organizing committee for support. The committee kindly served as a mirror of bilateral exchanges until an extensive and fruitful agenda was finally organized, but with less user-friendly tools.

2.10 However, recognizing the importance of the harmonious, orderly and sustainable development of international air transport, Cuba has maintained its collaboration with the civil aviation authorities of all the States in the region, including its professional relationship with the Federal Aviation Administration (FAA), the Transportation Security Administration (TSA) and the National Transportation Security Board (NTSB), among other United States entities, which has proved to be relevant for Cuban civil aviation to develop efficiently and safely in the regional context.

### 3. CONCLUSION

3.1 The economic, commercial and financial embargo imposed by 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; and
- (iii) it 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, as well as on regional and global air transport.

3.2 As the highest decision-making body of ICAO, the Assembly may play a substantive role in upholding principles enshrined in the *Convention on International Civil Aviation*, the Charter of the United Nations and many international legal instruments, such as the sovereign equality of States, non-discrimination, mutual respect, equality of opportunity and the freedom of international trade and navigation, and it is the appropriate forum to discuss the negative impact of unilateral and extraterritorial measures on the development of international air transport. Therefore, the Assembly must take action to address this situation.

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