Agenda Item 6: Any Other Business

6:1 The Chairperson indicated that, at the request in writing of the Islamic Republic of Iran, LC/40-WP/6-1 and LC/40-WP/6-4 had been reclassified as information papers.

6:2 The Committee then considered LC/40-WP/6-2, presented by the Democratic People's Republic of Korea (DPRK), requesting the Committee to undertake a legal analysis of measures unilaterally taken by the Council and the Assembly against a Contracting State of ICAO. The working paper stated that the Council and the Assembly had, on the basis of unilateral assertions by certain Member States, adopted several decisions and resolutions on the issue of unannounced missile launches and Global Navigation Satellite System-Radio Frequency Interference (GNSS-RFI) on the Korean Peninsula, which were considered unacceptable by the DPRK. Eventually, the Council had also adopted a decision to avoid all technical activities with the DPRK. However, when the DPRK had presented working papers to the Council and the Assembly concerning the infiltration of unmanned aircraft into its sovereign territory, these incidents had been dismissed as being of a political nature and not subject to the Chicago Convention. The working paper therefore proposed that the Committee undertake "a review of the provisions of the Convention and Annexes to prevent double standards, establishment of an institutional framework to control acts hindering the safety of international civil aviation and organization of a working group to formulate new rules and regulations to be the legal basis when making decisions on the violation of the Convention and taking corresponding measures out of prejudice and partiality". While requesting the Committee to reconsider the legitimacy of the Council decision to avoid all technical activities with the DPRK, the working paper further proposed that the Legal Committee should elaborate procedural guidelines that could serve as a reference when the Organization adopts decisions or resolutions concerning violations of the Chicago Convention, with a view to preventing double standards among Contracting States.

6:3 A clear majority of the delegations that took the floor indicated that the actions proposed in the working paper fell outside the scope of the Legal Committee's duties and functions, and that the issues raised therein should be addressed in other fora of the Organization, such as the Council or the Assembly. In that context, reference was made to the Constitution of the Legal Committee (Assembly Resolution A7-5), which sets out the duties and functions of the Committee. Some delegations that took the floor also pointed out that the issues contained in the working paper had already been addressed by the Assembly during its 42nd Session and that the Legal Committee should not serve as an appellate body for decisions and resolutions of the Council or the Assembly.

6:4 A few delegations that took the floor expressed support for the action items contained in the working paper. In response to the assertion that the proposed action items fell outside the duties and functions of the Legal Committee, one delegation questioned the scope and relevance of the Committee's competence if it could not consider and address the matter proposed by the DPRK requiring an interpretation of the Chicago Convention. Another delegation that took the floor emphasized the importance of upholding the principles and objectives of the Chicago Convention with a view to advancing the safe and orderly development of civil aviation. That delegation also stressed that the Organization should avoid politicizing legal and technical issues, thereby compromising the safety of civil aviation, and that States should avoid taking unilateral measures and should instead promote the peaceful resolution of issues through dialogue and cooperation.

6:5 In summing up, the Chairperson indicated that a clear majority of the delegations that took the floor did not support the action items contained in the working paper.

6:6 The Committee noted the information presented in LC/40-WP/6-3 by IATA, which contained the ongoing United Nations negotiations on a Framework Convention on International Tax Cooperation and an early protocol on the taxation of income on cross-border services, noting that those negotiations may have implications for the established ICAO policy framework on the taxation of international air transport. The paper highlighted that the continued effectiveness of the framework depends upon emerging international instruments taking proper account of existing ICAO policies and the agreements through which States have implemented it. While the working paper did not request the inclusion of the subject in the Work Programme of the Legal Committee, it proposed actions directed to States and to the Secretariat related to the matter.

6:7 The Secretariat updated the Committee on ICAO's activities and progress relating to this item, noting that ICAO will continue to closely monitor developments under the UN Framework Convention on International Tax Cooperation, as well as support Member States by providing technical expertise and policy guidance.

6:8 The Committee took note of the suggested actions. One delegation expressed the view that the working paper should have been submitted as an information paper. One delegation that took the floor thanked IATA for the presentation of the paper and expressed its view that the subject is relevant and should continue to be monitored by the competent bodies.

6:9 The Committee noted the information in LC/40-WP/6-1 submitted by the Islamic Republic of Iran regarding the interpretation of Article 89 and the rights of Contracting States to the Chicago Convention in time of war, LC/40-WP/6-4 submitted by the Islamic Republic of Iran on the development of a uniform procedure for the identification, determination and reporting of infractions under Article 54 (J) and (K) of the Chicago Convention, LC/40-IP/1 submitted by the Dominican Republic regarding unauthorized signaling or illumination of aircraft and measures to mitigate the impact, LC/40-IP/2 submitted by Nigeria regarding the hosting of the Fifth Civil Aviation Legal Advisers' Forum (CALAF/5), LC/40-IP/3 submitted by the Republic of Korea regarding the 2027 ICAO Legal Seminar in Seoul, Republic of Korea, LC/40-IP/4 submitted by the United Republic of Tanzania on the Outcomes of the Third ICAO International Air Law Treaty Workshop (IAL-TW/3), LC/40-IP/6-5 submitted by IATA on national and regional environmental measures and the Chicago Convention framework and LC/40-IP/6-6 submitted by China on promoting ratification of international air law instruments.