Agenda Item 3: Review of the General Work Programme of the Legal Committee

3:1 In turning to Agenda Item 3, the Chairperson of the Committee recapped that the review of the General Work Programme would consider whether the existing work items are to be retained or removed, or whether new items should be added. She highlighted that the outcome of this Agenda Item could be impacted not only by what had transpired thus far under Agenda Item 2 but also by what the Committee would decide under Agenda Item 6 (Any other business).

3:2 The Secretariat introduced LC/40-WP/3-1, which reported on the developments, and some of the work undertaken, including by the Secretariat under the General Work Programme, since the last Session of the Committee.

3:3 The Secretariat then presented LC/40-WP/3-2 containing a historical account of the previous work done in ICAO in relation to Item 6 of the Committee's General Work Programme, presently titled "Study of international legal issues relating to global satellite systems and services supporting international air navigation services". It was recalled that the item had been on the Work Programme of the Committee since 1988 and had led to the adoption of policy and legal guidance, including the 1994 Statement of ICAO Policy on CNS/ATM systems implementation and operation, the Charter on the Rights and Obligations of States Relating to GNSS Services, and Assembly Resolution A35-3 establishing a practical, regionally focused approach. The Secretariat also presented LC/40-WP/3-3, Revision No. 1 (English only) which provided a summary of the outcomes of a legal survey on the need for and scope of further work on the Item to be carried out by the Committee. It was highlighted that 77% of States who had responded to the survey considered that it was necessary for the Committee to undertake further work under this item.

3:4 The Chairperson emphasized that these working papers had been presented to the Committee with a view to facilitating its determination of whether any future work by the Committee was warranted under this item, and if so, which specific area of work should be addressed.

3:5 Several delegations that took the floor expressed support for keeping the item on the General Work Programme of the Committee. One delegation that took the floor mentioned the importance of increasing reliance on satellite-based navigation and stressed that this issue was particularly relevant for the Northern Europe and Mediterranean regions. Another delegation that took the floor mentioned that since a majority of States who responded to the survey had indicated their preference for retaining the Item on the General Work Programme, this suggested that certain gaps may remained in the existing legal and policy framework developed by ICAO over the years. The delegation therefore proposed that the Committee could conduct a gap analysis to map existing legal and policy instruments against current developments to assist in determining where further guidance was needed and where ICAO could provide targeted assistance. The same delegation highlighted the need that further work should be coordinated with the United Nations Office of Outer Space Affairs (UNOOSA) and the United Nations Committee on Peaceful Uses of Outer Space (COPUOS), and take into account their competencies.

3:6 While noting that some respondents to the legal survey had identified space object re-entry and higher altitude operations as potential areas of further work under the item, some delegations who took the floor expressed strong objections against focusing on those subjects. It was emphasized that those subjects are better suited for study by other United Nations bodies such as the Inter-Agency Debris Coordination Committee (IADC), and should therefore not be pursued within ICAO. In this regard, it was suggested that appropriate efforts should be made to support continued coordination and to leverage synergies between ICAO and relevant bodies with a view to avoiding any duplication of efforts. One

delegation that took the floor felt that the outcome of the survey had exonerated its long-held position that the item deserved retention and a higher priority on the General Work Programme than previously assigned. While acknowledging the need to avoid duplication of work, that delegation considered that it would not be prudent at this stage to remove the item from the General Work Programme of the Committee in the hope that other United Nations bodies would address it.

3:7 While acknowledging that Global Navigation Satellite System-Radio Frequency Interference (GNSS-RFI), including spoofing and jamming remained serious safety concerns for many States, one delegation who took the floor emphasized that before undertaking any future legal study under the item, the Committee should obtain new guidance and direction from the Council.

3:8 In summing up the deliberations, the Chairperson indicated that there was a convergence of views among the delegations that took the floor to keep the Item on the General Work Programme of the Committee. The Chairperson expressed appreciation to States who had taken the floor to provided practical guidance on matters that could be addressed by the Committee on the understanding that the Committee would take into consideration the mandate and competencies of other United Nations bodies who are addressing similar issues.

3:9 The Committee then considered LC/40-WP/3-4, Revision No. 1 (English only), presented by the Russian Federation and supported by the Burkina Faso, the Democratic People's Republic of Korea, Islamic Republic of Iran and Nicaragua, concerning the incompatibility of unilateral coercive measures in international civil aviation with the Chicago Convention and its Annexes, and the consequences of applying such measures. The working paper asserted that unilateral coercive measures, which can take the form of discriminatory prohibitions on the use of airspace, prohibitions of the sale of aircraft and spare parts, and prohibitions on aircraft maintenance and insurance, adversely affect the implementation of ICAO Standards and Recommended Practices and undermine the uniform application of the Chicago Convention. The working paper proposed that the Committee draw the attention of all Contracting States to the need for an unwavering observance of the Chicago Convention so that international civil aviation can develop in a safe and orderly manner, and international air travel can be rational, economic and based on equality of opportunity. The working paper also called on the Committee to include in its work programme an item on the legal aspects of unilateral coercive measures and to establish a working group based on equal representation, including members from States affected by such measures, to examine the legal nature and possible legal mechanisms to prevent and address the effects of such measures.

3:10 A clear majority of the delegations that took the floor did not support the actions proposed in the working paper. In the view of those delegations, the action items raised in the working paper could not be supported because the issues at stake were the subject of ongoing proceedings pending before the Council under Article 84 of the Chicago Convention or otherwise fell outside the competence of the Committee. In this regard, several of those delegations made reference to the duties and functions of the Committee as set out in its Constitution (Assembly Resolution A7-5) and expressed the view that the proposals contained in the working paper were not within the Committee's mandate.

3:11 Some delegations who took the floor recognized the importance of ensuring adherence to the principles and objectives of the Chicago Convention and acknowledged that certain unilateral measures could have adverse consequences for international civil aviation. While those delegations voiced support for the call to draw the attention of all Contracting States to the need for an unwavering observance of the Chicago Convention, they were nevertheless of the view that the Committee was not the appropriate forum to consider the specific proposal relating to the inclusion of the legal aspects of unilateral coercive measures in the work programme and the establishment of a working group to study the subject.

3:12 A few delegations that took the floor expressed support for the proposals contained in the working paper underscoring the need to examine the impact of unilateral coercive measures on aviation safety and security as well as on the development of international civil aviation. In this sense, one delegation that took the floor noted, based on the information contained in the working paper, that the application of unilateral sanctions affecting civil aviation extends beyond the State proposing LC/40-WP/3-4, and therefore underscored the relevance of the issue for the wider civil aviation community.

3:13 One delegation who took the floor noted the concerns expressed in LC/40-WP/3-4, Revision No. 1 (English only) regarding the effects of unilateral sanctions on international civil aviation and emphasized the importance of avoiding actions that could adversely affect the safety and the development of international air navigation. The delegation called upon States to adhere to the Chicago Convention, avoid unilateral sanctions and seek solutions through dialogue and cooperation.

3:14 In response to comments made by some delegations, the delegation of the Russian Federation clarified that, considering that the unilateral coercive measures described in the working paper were not exclusively limited to the Russian Federation but equally affected numerous other States, they had no connection to the subject matter of any of the disputes currently pending before the Council under Article 84 of the Chicago Convention. The delegation also considered that the fact that a matter remains pending before the Council under Article 84 did not preclude the Committee from including the item titled "Processes and procedures for States to fulfil the obligations under Article 12 of the Chicago Convention" in its work programme and establishing a Task Force to undertake work on the item. The delegation further questioned assertions that the matter fell outside the competence of the Committee, emphasizing that issues relating to the interpretation and application of the Chicago Convention were central to the Committee's duties and functions.

3:15 In summing up the discussion, the Chairperson noted that a clear majority of the delegations that took the floor neither supported the inclusion of the proposed new item in the General Work Programme of the Committee nor the proposed establishment of a working group to study the item. The Chairperson further noted that, while several delegations had acknowledged the importance of the issue raised by the Russian Federation, they considered that the proposed actions were not within the remit of the Legal Committee, particularly since they involved matters currently pending before the Council under Article 84 of the Chicago Convention.

3:16 The Dominican Republic presented its paper LC/40-WP/3-5 *Data Governance and Artificial Intelligence in Civil Aviation*. The Committee noted the information provided by the Secretariat on the on-going work by ICAO in relation to artificial intelligence (AI), in particular, the State Survey which was conducted by the Secretariat in 2026 on the status of AI governance frameworks in aviation. The survey results indicated that the adoption of AI in aviation may be advancing more rapidly than the development of associated governance frameworks and identified three priority areas for ICAO support to States in AI:

a) global guiding principles,

b) training and capacity-building, and

c) AI risk assessment models.

3:17 A majority of the delegations that took the floor agreed that the legal issues highlighted in LC/40-WP/3-5 merit further consideration by the Committee, and that such work should be coordinated with the work of other ICAO technical bodies, UN organizations and industry stakeholders to avoid duplication of efforts. A few delegations that took the floor were of the view that it was premature for the Committee to consider common legal principles, standards or formal guidance relating to AI which is developing rapidly, that the regulation of AI is a matter for national legislation, and that the work in this area should limit its focus on voluntary sharing of best practices.

3:18 Given the discussion, the Committee agreed to add to the General Work Programme of the Committee a new item titled "Legal elements in artificial intelligence governance in international civil aviation" and leave it to the Council to determine if the work should be left under the purview of the Committee or consolidated with the other work of the Organization with legal expertise included. The Committee agreed to take into consideration the impact and risks of AI in the other items under the General Work Programme of the Committee such as "International legal aspects of unmanned (pilotless) aircraft operations and integration into civil aviation" and "International carriage by air and data protection laws".

3:19 With respect to the current items in the General Work Programme, one delegation suggested removing the items where the Committee considered that the work was complete. A few other delegations that took the floor suggested maintaining the practice of the Committee to retain those items on the Work Programme at a lower priority and defer to the Council to decide whether to remove them.

3:20 Some delegations that took the floor proposed moving the priority of "international legal aspects of unmanned (pilotless) aircraft operations and integration into civil aviation" up from item 3 considering the substantial work underway and the need to align with the work in other technical bodies or panels. Many delegations who took the floor also proposed raising the priority of the item "Study of international legal issues relating to global satellite systems and services supporting international air navigation services" in view of the results of the State survey and the discussions within the Committee with respect to LC/40-WP/3-2 and LC/40-WP/3-3 (English only).

3:21 One delegation highlighted that the *Convention on Compensation for Damage to Third Parties Resulting from Acts of Unlawful Interference Involving Aircraft* (Unlawful Interference Convention) and the *Convention on Compensation of Damage Caused by Aircraft to Third Parties* (General Risks Convention), both signed at Montréal on 2 May 2009, were not ratified by sufficient States to enter into force and suggested that the Committee review the reasons for challenges faced by States with respect to these conventions. It was proposed that the work on the "Promotion of the ratification of international air law instruments" include a potential State survey to understand challenges faced by States with respect to their ratification, and, subject to result of the survey, the Secretariat may determine the further work necessary to encourage ratification.

3:22 As a result of the above-mentioned considerations as well as the discussion under Agenda Item 6, the Chairperson of the Committee proposed, and the Committee unanimously endorsed, that the General Work Programme be established as follows[1]:

1. International legal aspects of unmanned (pilotless) aircraft operations and integration into civil aviation;

[1] The Committee considered to place the last four items of the General Work Programme in square brackets considering that it should be left to the ICAO Council to decide whether they should be retained.

2. Study of international legal issues relating to global satellite systems and services supporting international air navigation services;
3. Promotion of the ratification of international air law instruments;
4. Acts or offences of concern to the international aviation community, including cyber threats, that may not be adequately covered by existing air law instruments;
5. International carriage by air and data protection laws;
6. [Legal elements in artificial intelligence governance in international civil aviation];
7. [Review of the role of the International Explosives Technical Commission under the *Convention on the Marking of Plastic Explosives for the Purpose of Detection*];
8. [Processes and procedures for States to fulfil their obligations under Article 12 of the Chicago Convention]; and
9. [Legal review of the analysis completed by the Air Transport Regulation Panel of the application of Article 15 of the Chicago Convention].