



WORKING PAPER

ASSEMBLY — 41ST SESSION

EXECUTIVE COMMITTEE

Agenda Item 28: Other high-level policy issues to be considered by the Executive Committee

**SANCTIONS – A GLOBAL CHALLENGE TO THE SECURITY OF CIVIL AVIATION, IN
BREACH OF THE PROVISIONS OF THE CONVENTION ON CIVIL AVIATION**

(Presented by Belarus)

EXECUTIVE SUMMARY

The Convention on International Civil Aviation (hereinafter referred to as the “Chicago Convention”) and its Annexes provide the legal foundation and operational framework for Contracting States in a global civil aviation safety system based on mutual trust and confidence. Sanctions imposed by certain States on other States override the legal framework established by the Chicago Convention, and they also override the efforts of the international aviation community to create a safe and efficient global aviation system, as well as one of the basic human rights – the right to freedom of movement enshrined in the Universal Declaration of Human Rights adopted by the UN General Assembly in 1948.

Action: The Assembly is invited to consider and adopt the resolution set out in the Appendix to the present document.

<i>Strategic Objectives:</i>	This working paper relates to Strategic Objectives “Safety”, “Air navigation capacity and efficiency”, “Security and facilitation”, “Economic development of air transport” and “Environmental protection”.
<i>Financial implications:</i>	Avoiding irreparable economic harm to the development of the global air transport system, civil aircraft production and environmental protection from the impact of aviation.
<i>References:</i>	Doc 7300/9, <i>Convention on International Civil Aviation</i>

1. INTRODUCTION

1.1 In the imposition of any sanctions or restrictive measures, due account must be taken of the basic principles and approaches of public international law applicable to the adoption and implementation of any decisions. The principles of international law, in their totality and interrelation, are the foundation for just and equitable international relations, forming a space for equal and indivisible security and effective economic interaction.

1.2 As stated in the Preamble to the UN Charter, States declare their determination “to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained”.

1.3 The principle of performance in good faith of international treaties (“pacta sunt servanda”) is affirmed in Article 26 of the *Vienna Convention on the Law of Treaties*:

“Every treaty in force is binding upon the parties to it and must be performed by them in good faith”.

1.4 Any breach, direct or indirect, of these principles is unacceptable. We are appealing, through you, and thereby to the entire international aviation community, to draw attention to the manner in which States, by imposing sanctions, are violating and contravening the fundamental principles of international air law, namely:

The preamble to the Chicago Convention, which states the following:

“... the future development of 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;”

“... it is desirable to avoid friction and to promote that cooperation between nations and peoples upon which the peace of the world depends; ...”.

2. IMPACT OF SANCTIONS ON THE SAFETY OF CIVIL AVIATION AND THE SUSTAINABLE DEVELOPMENT OF INTERNATIONAL CIVIL AVIATION

2.1 Sanctions cannot be of a “targeted” and “one-off” nature. They affect the rights and legitimate interests of any citizen of any State who uses air transport that is not airworthy.

2.2 Sanctions infringe the right of ordinary citizens to freedom of movement regardless of their nationality and State affiliation; they cannot move about the territories of other States without restrictions. Closing the airspace for flights through a State’s airspace is a measure of economic coercion by one State on another State and breaches the human right to freedom of movement, enshrined in the Universal Declaration of Human Rights adopted by the UN General Assembly in 1948.

2.3 Sanctions inflict a blow on the capacity of the entire aviation business community, airlines, airports and air navigation service providers, which have suffered great losses since COVID-19, and, with the imposition of sanctions, are losing any hope of regaining their previous position. This is affecting the work of the International Air Transport Association (IATA).

2.4 The Chicago Convention and its Annexes require all Contracting States, as far as practicable, to fulfil their obligations to implement Standards and Recommended Practices (SARPS) and to exercise appropriate controls over flight safety and aviation security. Today, the very foundation for civil aviation activities – the Chicago Convention and the Standards and Recommended Practices (SARPS) annexed to it – has been overridden by a decision to impose an assortment of restrictive measures: sanctions. The way in which ICAO and the professional aviation community understand the very substance of the SARPS is being called into question. The foundation for our activities in the field of flight safety and aviation security is being flouted and ignored.

2.5 The blockading States are violating and contravening fundamental principles of international air law, namely:

2.6 The requirements of *Articles 4 and 11* of the Chicago Convention, in that the actions of the blockading States are not aimed at ensuring the safety of international air navigation, but at discriminating against aircraft on national grounds and restricting their movement, which is inconsistent with the aims of ICAO and the Chicago Convention;

2.7 They are denying aircraft the right of overflight, in breach of the requirements of *Article 5* of the Chicago Convention, which defines the freedom of international non-scheduled flights;

2.8 The requirements of *Articles 37 and 44 (d), (f), (g) and (h)* of the Chicago Convention that collective action against countries violates the principles of safety, regularity and efficiency of air navigation and air transport;

2.9 Actions taken by the States of Design of aircraft in relation to the airworthiness of legally owned aircraft are unacceptable. The States of Design are not communicating the information necessary for the airworthiness of aircraft, for the remedying of operational deficiencies and the development of necessary airworthiness measures for the safe operation of the aircraft;

2.10 The requirements of *Article 28* of the Chicago Convention, in that aircraft in the territories of blockading States are not being provided the use of airports, radio and meteorological services and other air navigation facilities;

2.11 The requirements of *Article 82* of the Chicago Convention “Abrogation of inconsistent arrangements”, which prohibits contracting States from undertaking any obligations inconsistent with the terms of the Chicago Convention and from entering into such arrangements. The adoption by the European Union of Council Regulation (EU) 2021/907 of 4 June 2021 and Council Decision (CFSP) 2021/908 of 4 June 2021 is contrary to the aforementioned provisions of the Chicago Convention;

2.12 The blockading States are flouting *Resolution A39-15* of the 39th Assembly of ICAO, which urges Member States to avoid adopting unilateral and extraterritorial measures that may negatively affect the orderly, sustainable and harmonious development of international air transport;

2.13 The requirements of *Annexes 9 and 17* of the Chicago Convention relating to the screening of passengers, their hold and cabin baggage, cargo, mail, and also through their refusal to provide channels for the transmission of passenger data, for the purposes of detecting terrorist threats.

APPENDIX

Resolution A41-XX. Sanctions – a global challenge to civil aviation security contrary to the provisions of the Convention on International Civil Aviation

The Assembly,

Bearing in mind that the primary objective of ICAO is to ensure the safety of international civil aviation worldwide;

Recalling that the development of international civil aviation can contribute significantly to the establishment and maintenance of friendship and understanding among the nations and peoples of the world, while its abuse **can endanger universal flight safety**;

Recognizing that the Member States of ICAO have undertaken and agreed to certain principles and measures so that international civil aviation may develop in a safe and orderly manner, and so that international air travel may be established on the basis of equality of opportunity and be operated rationally and economically;

Emphasizing that any restrictions on the use of airspace based on the nationality of aircraft and restrictions on their movement undermine the principles of the Convention on International Civil Aviation and violate one of the fundamental human rights to freedom of movement enshrined in the Universal Declaration of Human Rights, adopted by the UN General Assembly in 1948, and are conducive to lowering the overall safety level of civil aviation;

1. *Calls on* the Member States of ICAO to take measures aimed at halting the imposition and application of sanctions, which are inconsistent with the universally recognized principles and standards of international law, including the UN Charter, and override the legal mechanism established by the Convention on International Civil Aviation;
2. *Calls on* the Member States of ICAO to ensure that civil aviation should be kept out of politics and should serve to forge and maintain friendship and understanding among the nations and peoples of the world, while their failure to comply with the rules of the Convention on International Civil Aviation and the Standards and Recommended Practices (SARPS) poses a threat to the global civil aviation safety system;
3. *Requests* the ICAO Council to include in its programme of work an examination of the impact of sanctions on the development of international civil aviation, flight safety and aviation security, and also on changes in the level of greenhouse gas emissions by international civil aviation;
4. *Requests* the ICAO Council to report to the ICAO Assembly at its 42nd session on the results of the implementation of the present resolution.

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