



WORKING PAPER

ASSEMBLY — 41ST SESSION

ECONOMIC COMMISSION

Agenda Item 39: Other issues to be considered by the Economic Commission

**EFFECTS OF UNILATERAL MEASURES TAKEN AGAINST THE VENEZUELAN STATE
THAT AFFECT THE SAFE, ORDERLY AND EFFICIENT DEVELOPMENT OF
INTERNATIONAL CIVIL AVIATION**

(Presented by Venezuela (Bolivarian Republic of))

EXECUTIVE SUMMARY

This paper describes different unilateral actions taken against the Venezuelan State that affect the safe, orderly and efficient development of international civil aviation, since they hinder access to new technologies that ensure compliance with SARPs (Standards and Recommended Practices) issued by the International Civil Aviation Organization (ICAO), as well as the procurement of air assets, components, parts, spare parts, tools and technical literature, and also affect training and capacity-building for aeronautical personnel, actions that could jeopardize the achievement of the strategic objectives of ICAO, since this arbitrary and unilateral practice is contrary to the Principles that gave rise to the Convention on International Civil Aviation.

Action: The Assembly is invited to:

- a) take note of the information contained herein;
- b) ask that an organ of the Council undertake an investigation based on Article 55, paragraphs (c), (d) and (e), of the Chicago Convention; and
- c) request the Council to conduct an investigation of similar cases that might be occurring and that may affect air transport.

<i>Strategic Objectives:</i>	This working paper relates to Strategic Objective — <i>Economic Development of Air Transport</i> .
<i>Financial implications:</i>	Not applicable
<i>References:</i>	Chicago Convention (Doc 7300) List of the Office of Foreign Assets Control of the Department of the Treasury of the United States of America

¹ Spanish version provided by Venezuela (Bolivarian Republic of)

1. INTRODUCTION

1.1 The Bolivarian Republic of Venezuela, a contracting State of the Convention on International Civil Aviation (Chicago 1944), is confident that the Principles governing that Convention enable the safe and systematic development of international civil aviation by allowing international air transport services to be provided on the basis of equal opportunity by the different airlines of each State, in order to operate in an efficient and orderly manner with as few interruptions and obstacles as possible. In this connection, the Venezuelan State is committed to complying with the Standards and Recommended Practices (SARPs) issued by the International Civil Aviation Organization (ICAO), as has been demonstrated by the findings of the various audits and other activities carried out by ICAO in coordination with the Aeronautical Authority of the Bolivarian Republic of Venezuela; indeed, the provisions, principles and tenets that gave rise to the Convention on International Civil Aviation remain in force with the firm purpose of promoting and maintaining peace and friendship among the nations and peoples of the world, advocating the avoidance of friction and promoting cooperation among them.

1.2 However, the Venezuelan State is currently being subjected to a set of arbitrary measures being taken unilaterally that contravene the Principles established in the Chicago Convention and have a negative impact on the normal operation of Venezuelan civil aviation and are directly affecting international civil aviation, since they are undermining safety, hindering the capacity and development of air navigation, and curtailing the continued economic growth of air transport, principles guaranteed by this Organization.

2. CONSIDERATIONS RELATED TO THE EFFECTS OF UNILATERAL AND EXTRATERRITORIAL MEASURES TAKEN AGAINST THE VENEZUELAN STATE THAT AFFECT THE SAFE, ORDERLY AND EFFICIENT DEVELOPMENT OF INTERNATIONAL CIVIL AVIATION

2.1 Set out below are some considerations that serve as the basis for this Working Paper.

2.1.1 It is necessary for the Economic Commission to take into account the importance for civil aviation of the development of international air transport, especially in growing countries, where contracting States compete on equal terms and with equal opportunities, with no limitations other than compliance with the relevant regulations.

2.1.2 In this regard, we would like to inform the Economic Commission that the measures adopted unilaterally by a contracting State against Venezuelan airlines and other companies that provide aeronautical services in Venezuela, such as Aeronautical Maintenance Organizations and operators of airport services, among others, are constantly transgressing and hindering normal relations between these companies and aeronautical service providers of other States, which feel threatened by the possibility that similar measures might be imposed against them, thereby preventing Venezuelan companies from doing business freely with other companies in the world, conduct that undermines their technical capacity to provide services to the national and international aeronautical industry that operates from and to the Bolivarian Republic of Venezuela, since they are not allowed the freedom or opportunity to contract with suppliers of goods and services for the necessary inputs or materials to maintain operating assets at full operational capacity in order to guarantee the uninterrupted provision of international air transport service.

2.1.3 It should be added that the application of unilateral and extraterritorial measures by contracting States against other Members of this Organization undermines the safety of international aviation and largely contravenes the principle enshrined in article 4 of the Convention, which expressly provides that “*Each contracting State agrees not to use civil aviation for any purpose inconsistent with the*

aims of this Convention”, as well as the Strategic Objectives set by the Organization through the standards enshrined in the Chicago Convention 1944, which are set out below:

“Part II, The International Civil Aviation Organization. Chapter VII, The Organization, Article 44:

Objectives – The aims and objectives of the Organization are to develop the principles and techniques of international air navigation and to foster the planning and development of international air transport so as to:

(a) Insure the safe and orderly growth of international civil aviation throughout the world;

(f) Insure that the rights of contracting States are fully respected and that every contracting State has a fair opportunity to operate international airlines;

(g) Avoid discrimination between contracting States;

(h) Promote safety of flight in international air navigation;

(i) Promote generally the development of all aspects of international civil aeronautics.”

2.1.4 The unilateral measures referred to in this working paper deny Venezuelan airlines and other companies in the air sector the opportunity to maintain free commercial relations with companies from other States that manufacture aircraft and suppliers of parts, spare parts, software, technical manuals and other goods and services, an issue that has been limiting the ability of our companies to participate on a level playing field in the international air transport market for passenger, cargo and mail.

2.1.5 These measures are also used to influence airlines from other States to prevent them from flying over the Maiquetia Flight Information Region (FIR) or on routes that directly connect cities in their countries with Venezuelan cities and vice versa, clearly affecting international air navigation as well as safety and the development of aeronautical activity in the region.

2.1.6 It is clear, therefore, that the aforementioned unilateral measures include economic sanctions, which promote the abuse of one State by another and constitute a threat to safety, since they cause friction and discourage the exchange or procurement of the technical capabilities on which the normal development of air navigation and air transport depends, as they restrict and affect the air operations of operators of Venezuelan nationality and consequently restrict the right of the Venezuelan State and national companies to safely develop the aeronautical sector and national and international civil aviation, as well as the commercial opportunities of international airlines, thereby creating inequality and hindering fair and equal competition of air operators, the ultimate goal of the various technical documents issued by the ICAO Air Transport Bureau.

2.1.7 In the context of the considerations set out above, the aforementioned unilateral measures, which even prohibit aircraft manufacturers from providing air operators with up-to-date technical literature for air assets, are being imposed by the Office of Foreign Assets Control of the Department of the Treasury (OFAC) of the United States of America (Contracting State), an organ that is acting as a kind of international judge that imposes measures contrary to Public International Law, which involve a de facto and de jure freezing of assets and prohibition of entering into any type of transaction, direct or indirect, with Venezuelan companies; such unilateral measures affect the exchange of both goods and services; the

aforementioned regime also prohibits any activity that facilitates, in any way, commercial transactions with Venezuelan companies, and for that reason it is desirable for the Commission to take note of these considerations and determine that it is appropriate, based on these arguments, to request the Council to conduct an investigation based on the functions set out in the Chicago Convention, in Chapter IX, “The Council”, which are expressly set forth as follows:

“Article 54: The Council shall:

(n) Consider any matter relating to the Convention which any contracting State refers to it”.

“Article 55: Permissive functions of the Council

The Council may:

(...)

(c) Conduct research into all aspects of air transport and air navigation which are of international importance, communicate the results of its research to the contracting States, and facilitate the exchange of information between contracting States on air transport and air navigation matters;

(d) Study any matters affecting the organization and operation of international air transport, including the international ownership and operation of international air services on trunk routes, and submit to the Assembly plans in relation thereto;

(e) Investigate, at the request of any contracting State, any situation which may appear to present avoidable obstacles to the development of international air navigation; and, after such investigation, issue such reports as may appear to it desirable.”

3. CONCLUSIONS

3.1 The Economic Commission is requested, in view of the impact of such unilateral measures on the safety, capacity and efficiency of international air navigation, and on aviation security and the facilitation and economic development of international air transport, to take a decision as set out in the summary of this paper.

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