

13 March 2018

**FIRST ENDORSEMENT:**

To: Director General of the Specialized Unit for Civil Aviation Security (**CESAC**)

From: Director of Intelligence  
Director of Operations  
Legal Director of **CESAC**

Re: **ICAO** State letter

Attachments:

- a) Your letter No. 2207 of 12/3/2018 and attachment;
- b) Copy of the Conviction Ruling/Sentence No. **369-2016-SSEN-00274** of 22/2/2017 for use of a laser issued by the Second Chamber of the Criminal Court of First Instance Judicial District [*Segunda Sala Cámara Penal del Juzgado de Primera Instancia Distrito Judicial*], Santiago;
- c) Statistical summary of aircraft illuminated with a laser light in the period 2012-2017, from IDAC.

1. In response to the official request from the Office of the Director General of CESAC in attachment (a) and having conducted an exhaustive analysis of the substance of the ICAO letters set forth in the attachment, we the undersigned respectfully offer the following opinions.

1.1 As concerns the legal provisions for laser attacks against civilian aircraft, the State of the Dominican Republic has passed the following laws applicable to perpetrators of laser light attacks on domestic and international civil aviation:

a) Law 188-11 - **Civil Aviation and Airport Security**, Official Gazette No. 10628 passed in the Dominican Republic on 22 July of the year 2011:

**Article 1 – Purpose**

The purpose of this law is to prevent and sanction acts of unlawful interference and other acts that endanger the safety of passengers, crew, persons on the ground and the general public, aircraft, airports and aerodromes, infrastructure and facilities providing services to civil aviation, in the interest of the safety, regularity and efficiency of flights;

**Article 2 – Scope of Application**

This law governs the security, protection and safeguarding of civil aviation from acts of unlawful interference and other acts that endanger the safety of civil aviation together with its implementing regulations and the provisions of international agreements and treaties on the subject as ratified by the Dominican Republic;

**Article 6 – Creation**

The Specialized Unit for Civil Aviation and Airport Security (**CESAC**), a body under the Ministry of the Armed Forces, is hereby created. It is the competent authority for civil aviation security with the power to enforce this law and the Standards and Recommended Practices of Annex 17 to the Convention on International Civil Aviation;

- b) Law 491-06 - **Civil Aviation Law of the Dominican Republic**, Official Gazette No. 10399 passed in the Dominican Republic on 28 December of the year 2006;
  - c) **Implementing Regulation of Law 188-11**, Decree No. 376-16, Official Gazette No. 10868 of 28 December and Official Gazette No. 10399 passed in the Dominican Republic on 28 December 2016;
  - d) **Dominican Aviation Regulation RAD-11, IDAC, “Air Traffic Services”** brought into force by Decision of the Director General of IDAC on 10 June of the year 2008.
- 1.1.1. The provisions of Law 188-11 - Civil Aviation and Airport Security, Article 76, stipulate: **Penalty for causing the crash, loss, burning or landing of an aircraft. Anyone who, from the air, ground or sea, by whatever means, causes the crash, loss, burning or landing of an aircraft for the purpose of seizing it or of attacking the persons and objects on board, shall be sentenced to a 30 year mandatory jail term [reclusión mayor].**
  - 1.1.2. The provisions of Law 188-11 - Civil Aviation and Airport Security, Article 13 Paragraph 18, stipulate: **Respond quickly and effectively to any emerging threat to the security of civil aviation.**
  - 1.1.3. The provisions of Law 188-11 - Civil Aviation and Airport Security, Article 13 Paragraph 16, stipulate: **Ensure the implementation, maintenance, efficient management and upgrade of standards, methods and procedures for civil aviation security in order to protect life and property and respond quickly to any emerging threat.**
  - 1.1.4. The provisions of Law 188-11 - Civil Aviation and Airport Security Article 13 Paragraph 17, stipulate: **Protect the safety of passengers, crew, persons on the ground and the general public in all matters relating to the safeguarding of civil aviation from acts of unlawful interference and other acts that endanger the safety of aviation.**
  - 1.1.5. The provisions of Law 491-06 – Civil Aviation Law of the Dominican Republic, Article 319, stipulate: **Any person intentionally committing an act of unlawful interference against air navigation shall be considered to have committed an offense and shall be sentenced to 2 to 5 years imprisonment.**
  - 1.1.6. The provisions of Dominican Aviation Regulation **RAD-11** on Air Traffic Services of 10 June 2008, Section 11.31(d), stipulate: **IDAC shall take appropriate measures to ensure that laser illuminations do not adversely affect flight operations.**
- 1.2 Regarding the progress achieved in enforcing existing laws and sanctions as well as newly developed legal provisions, we offer the following elements for consideration:
    - 1.2.1. On 8/9/2015, the Dominican Civil Aviation Institute (**IDAC**) filed a complaint with the Public Prosecutor of the National District against unknown individuals for unlawful interference with aircraft on approach to landing as notified by the Air Traffic Management Department following a number of reports from pilots of several United States airlines. The reports prompted immediate action by State Security Forces, namely the Specialized Unit for Civil Aviation and Airport Security (**CESAC**), the National Department of Investigations (**DNI**), and Interpol in coordination with the Public Prosecutor of Santiago. Said action resulted, on 29 December 2015, in the capture and subsequent trial of Mr. **DIEGO DAVID MARTE GARCÍA** for having pointed a laser light at a number of aircraft flying in the vicinity of Cibao International Airport

(AICI). The individual is serving a sentence of five (5) years in detention [*prisión preventiva*] at the request of the Attorney General [*Ministerio Público*], as stipulated in Conviction Ruling/Sentence No. **369-2016-SSEN-00274** of 22/2/2017 for use of a laser issued by the Second Chamber of the Criminal Court of First Instance Judicial District, Santiago (see attachment **b**).

1.2.2 On 14 December 2015, the Dominican Republic, through the Dominican Civil Aviation Institute (IDAC), created a public awareness advertising campaign on the wrongful use of these devices in the targeting of aircraft in flight (<http://www.idac.gob.do/direccion-del-idac-denuncia-interferencias-en-aeronaves-usando-rayos-laser/>).

1.2.3 From 2012 to December 2017, the Dominican Republic has, through **CESAC** and **IDAC**, recorded **one hundred ninety-nine (199)** laser illuminations at various airport terminals throughout the country on the basis of statistics gathered from reports by pilots on board aircraft and airlines (see attachment c).

2. In view of the foregoing, we are of the opinion that the Dominican Republic, represented by its government and aviation authorities in charge of domestic and international civil aviation security, has strengthened the aviation legal system of the country with **Law 188-11 - Civil Aviation and Airport Security, Law 491-06 - Civil Aviation Law of the Dominican Republic** and **Implementing Regulations** that are intended to put a stop to such acts which endanger domestic and international civil aviation and the country as a whole.

2.1 The State of the Dominican Republic has jurisprudence in domestic and international civil aviation security allowing it to counter these acts of unlawful interference that endanger air navigation safety to the detriment of the State of the Dominican Republic, as specified in paragraph 1.2.1.

2.2 To prevent such acts, the aviation authorities of this country have raised awareness among the citizenry by means of TV, radio and internet advertising campaigns for the purpose of ensuring the safety of domestic and international civil aviation. The statistics in attachment (c) show that from the end of 2016 to date, there has been a considerable decrease in the number of laser illuminations of civilian aircraft in the country. The following table refers:

**STATISTICS ON ILLUMINATIONS BASED ON REPORTS OF LASER INCIDENTS BY PILOTS FROM 2012 TO DECEMBER 2017**

YEAR	NUMBER OF EVENTS
2012	2
2013	3
2014	11
2015	45
2016	146
2017	92
<b>TOTAL</b>	<b>199</b>

**[Graph: Events Reported/Events Reported per Year]**

**Note:** Statistical graphs produced by the Air Navigation Statistical Department of the Dominican Republic, by IDAC (see study in attachment c)

3. In light of the foregoing, and having described the general legal situation as regards these acts of unlawful interference against air navigation in the Dominican Republic (**laser illuminations**), we find that the State of the Dominican Republic has reduced these reprehensible laser attacks against aircraft by enforcing our existing laws and penalising perpetrators who attempt to commit such violations which pose a threat and a risk to life, aircraft and property throughout the Dominican Republic and to the safety of domestic and international civil aviation.