



**WORKING PAPER**

**LEGAL COMMITTEE – 39TH SESSION**

(Montréal, 25 – 28 June 2024)

**Agenda Item 7: Other items**

**UNILATERAL COERCITIVE MEASURES CONSTITUTE A THREAT TO GENERAL SECURITY**

(Presented by the Bolivarian Republic of Venezuela)

**EXECUTIVE SUMMARY**

This Working Paper precisely states the reasons of the Venezuelan State to consider the application of unilateral coercive measures as a threat to general security, since they cause friction between the States parties to the Convention by being contrary to cooperation between the peoples of the world and violate operational safety by directly putting pressure on aeronautical service providers and companies dedicated to the development of the economic and industrial activities of civil aviation, and those that work in the fields of instruction and training, maintenance and certification, as well as the acquisition of aircraft, parts, equipment and spare parts, access to the technical literature dictated by manufacturers; all aspects that influence the safety, order and efficiency of international civil aviation. These measures hinder access to new technologies that guarantee compliance with the Standards and Recommended Practices (SARPs), issued by the International Civil Aviation Organization (ICAO), and put at risk the fulfillment of the strategic objectives of ICAO, since this arbitrary practice is contrary to the Principles advocated by the International Civil Aviation Convention.

**Committee Decision:** The Legal Committee is invited to consider as follows:

- a) Take note and attend to this information.
- b) Request that an investigation be undertaken by the Council based on the content of article 55 literals (c), (d) and (e) of the Chicago Convention.

<i>Strategic objectives:</i>	This working paper relates to the five (05) strategic objectives of ICAO..
<i>Financial implications:</i>	Impacts the growth and economic development of the aeronautical industry.
<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

<sup>1</sup> English and Spanish versions provided by the Bolivarian Republic of Venezuela.

## 1. INTRODUCTION

1.1 The Bolivarian Republic of Venezuela, a Contracting State of the International Civil Aviation Convention (Chicago 1944), is convinced that the principles that govern said Convention develop international civil aviation in a safe and systematic manner, allowing services intended for international air transport to be applied on the basis of equal opportunities for the different airlines of each State, with the aim that they operate in an effective, orderly manner and with the least possible interruptions and obstacles. In this order, the Venezuelan State is committed to compliance with the standards and recommended practices issued by ICAO, which has been demonstrated in the results of the different audits and other activities developed by ICAO in coordination with the Aeronautical Authority of the Bolivarian Republic of Venezuela. However, the provisions, principles and postulates that gave rise to the International Civil Aviation Convention remain in force with the firm purpose of promoting and maintaining peace and friendship among the nations and peoples of the world, and advises avoiding friction and stimulating cooperation between them.

1.2 However, the Venezuelan State and other member states of the Organization are currently subject to a set of coercive measures adopted unilaterally, which contravene the principles established in the Chicago Convention and have a negative impact on the normal coexistence of the States. Such measures have a negative impact on the development and performance of international civil aviation, since they violate operational safety, hinder the capacity and development of air navigation and stop the continuous economic growth of air transport, principles guaranteed by this Organization.

## 2. CONSIDERATIONS RELATED TO COERCITIVE MEASURES OF A UNILATERAL NATURE THAT CONSTITUTE A THREAT TO GENERAL SECURITY

2.1 Below are some considerations that serve as the basis for this Working Paper.

2.1.1 It is necessary that the Legal Committee take into account the importance that the development of international air transport has for civil aviation, especially in growing countries, where Contracting States should compete under equal conditions and opportunities, without further limitations than compliance with the regulations that govern the matter.

2.1.2 In this sense, we inform the Legal Committee that the measures adopted unilaterally against the States affect the development of airlines that operate internationally, and other companies that provide aeronautical services and support to international civil aviation, as it is the case of aeronautical maintenance organizations, airport service operators and aeronautical instruction and training centers. Unilateral coercive measures applied by a contracting State constantly transgress and hinder the relationships of the different companies with aeronautical service providers from other States. These companies feel threatened by the possible imposition of similar measures that can be implemented against them. For this reason, this factor prevents companies that develop aeronautical activities in a sanctioned State from negotiating freely with other companies in the world; this is a conduct that undermines the technical capacity required to provide services to the aeronautical industry both nationally and internationally that operates to and from the territory of a State under the regime imposed by such measures, since it prohibits suppliers to freely negotiate the goods and services and supplies or materials necessary for the ground care of aircraft and maintain operational equipment at its full capacity, in order to guarantee the uninterrupted provision of the international air transport service.

2.1.3 It should be added that the application of unilateral and extraterritorial measures by Contracting States to other members of this Organization violates the operational safety of international civil aviation and largely contravenes the principle enshrined in Article 4 of the Convention, which expressly establishes: *“Each Contracting States 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, which establishes:

*“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.”*

The unilateral measures referred to in this Working Paper deny the airlines of the States and other companies in the aviation sector the possibility of maintaining free commercial relations with companies from other States that manufacture aircraft and suppliers of parts, spare parts, software, technical manuals as well as other goods and services, an issue that has been limiting the ability of companies to participate on equal terms in the international air transport market for passengers, cargo and mail.

Likewise, such measures are used to influence airline companies from other States with the aim of preventing them from flying over, in the case of the Bolivarian Republic of Venezuela, the Maiquetía FIR or on routes that interconnect the cities of their countries directly with Venezuelan cities and vice versa, clearly affecting international air navigation and therefore operational safety and the development of aeronautical activity in the region.

2.1.4 It is evident then that the aforementioned unilateral measures include economic sanctions, which promote the abuse of one State against another and constitute a threat to general security, since they cause friction between States and discourage the exchange or acquisition of technical capabilities on which the development of air navigation and international air transport depends, since they restrict and affect the air operations of air operators and, consequently, restrict the right of States and companies to safely develop the international aeronautical sector, as well as the commercial opportunities of airlines, which generates imbalance and hinders fair competition and equal conditions for air operators, the ultimate goal of the different technical documents emanating from the ICAO Air Transport Directorate.

2.1.5 Within the framework of the previous considerations, the aforementioned unilateral measures, which even prohibit aircraft manufacturers from providing air operators with updated technical literature for air equipment, emanate from the Foreign Assets Control Office of the Department of Treasury (OFAC) of the United States of America (Contracting State), an agency that has established itself as a kind of international judge that imposes measures contrary to International Public Law, which implies in fact and in law a blockage of assets and the prohibition to celebrate any type of transaction, direct or indirect, between companies of the questioned States. Such unilateral measures affect both the exchange of goods and services; Likewise, the

aforementioned regime prohibits any activity that facilitates, in any way, commercial transactions with companies. Therefore, it is advisable that the Committee take note of these considerations and evaluate, based on these arguments, requesting from the Council an investigation based on the functions enshrined in the text of the Chicago Convention as provided for in its Chapter IX, “The Council”, Functions of the Council which expressly establishes the following functions:

*“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 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 plans in relation to 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 the reports as may appear to it desirable.”*

### 3. CONCLUSIONS

3.1 The Legal Committee is requested to consider the impact that such unilateral measures cause to operational safety, to the capacity and efficiency of international air navigation, to the security of civil aviation, to the facilitation and economic development of international air transport, which constitutes a threat to the general security of nations and peoples of the world, as well as to make a decision in line with the content expressed in the summary of the note.

— END —