



WORKING PAPER

ASSEMBLY — 37TH SESSION

LEGAL COMMISSION

Agenda Item 61 : Consolidated statement of continuing ICAO policies in the legal field

**PROPOSED AMENDMENT TO THE CONSOLIDATED STATEMENT OF CONTINUING
ICAO POLICIES IN THE LEGAL FIELD**

(Presented by the Bolivarian Republic of Venezuela)¹

EXECUTIVE SUMMARY

The draft updated resolution contains a proposal for a consolidated statement of continuing ICAO policies in the legal field and the Assembly is invited to consider and adopt the proposed updated resolution.

The proposed resolution urges all Contracting States to enact as soon as possible laws and regulations to deal effectively with the problem of unruly or disruptive passengers and proposes model legislation to that effect for consideration and adoption by the Assembly.

Venezuela, based on the principle of State sovereignty, sees the need for an in-depth analysis and assessment of the draft updated resolution proposed by ICAO, given that the said resolution proposes the introduction into State national legislation of new persons and different types of behaviour which constitute new types of offences. This would ultimately lead to a different regulatory framework adapted to the exclusive interests of other States Parties to the International Civil Aviation Convention, without taking into consideration the prevailing situation in the majority of Contracting States. The following Working Paper is submitted to the ICAO Assembly for its consideration.

Action: The Assembly is invited to consider and adopt the proposed amendment.

<i>Strategic Objectives:</i>	This working paper relates to Strategic Objective F
<i>Financial implications:</i>	No additional resources required.
<i>References:</i>	A37-WP/3 <i>Consolidated statement of continuing ICAO policies in the legal field</i>

¹ Spanish version was provided by the Bolivarian Republic of Venezuela

1. INTRODUCTION

1.1 The State of Venezuela, protector of the public interest, social equality and defender of the principle of State sovereignty, has a number of comments to make on the proposals for adoption put forward by the International Civil Aviation Organization (ICAO) related to the updated resolution in WP/3 given that it proposes to introduce new legal persons into our legal system which would ultimately lead to a different regulatory framework adapted to the exclusive interests of other States parties to the International Civil Aviation Convention without taking into consideration the prevailing situation in the majority of Contracting States and which would run counter to our national legislation.

2. ANALYSIS

2.1 It is important to note that certain behaviours which have been designated as offences in the proposal in WP/3 Appendix E constitute misdemeanours under national aeronautical legislation. Accordingly, the proposed text needs to be amended so as to enable States, based on the principle of State sovereignty which is the governing and underlying principle of the Chicago Convention, to treat as misdemeanours or offences those behaviours which are designated in the consolidated proposed resolution, based on their nature and gravity and the treatment afforded them under the State legislation governing such behaviours.

In the light of the above, Venezuela proposes that the following note be added to Sections 1, 2 and 3 of the *Model Legislation on Certain Offences Committed on Board Civil Aircraft*:

NOTE: *Contracting States shall determine, on the basis of the principle of State sovereignty, whether the behaviours listed above constitute misdemeanours or offences under domestic legislation and shall establish for each one the appropriate sanctions and corresponding attenuating or aggravating circumstances.*

With regard to Section 4 - *Jurisdiction* paragraph 4)b) reads:

“the aircraft commander has delivered the suspected offender to the competent authorities of (Name of State), with the request that the authorities prosecute the suspected offender and with the affirmation that no similar request has been made by the commander or the operator to any other State.”

In this case we feel it would be appropriate to supplement the proposal as follows:

“This shall not limit the authority of Contracting States to request the extradition of the suspected offender when its own nationals are involved or when the act has or was intended to have an impact on the territory of (Name of State).

The proposed draft amendment of Article 4 would then read:

“The aircraft commander has delivered the suspected offender to the competent authorities of (Name of State), with the request that the authorities prosecute the suspected offender and with the affirmation that no similar request has or will be made by the commander or the operator to any other State. This shall not limit the authority of Contracting States to request the extradition of the suspected offender when its own nationals are involved or when the act has or was intended to have an impact on the territory of (Name of State).

3. **CONCLUSION**

3.1 Venezuela invites the delegates at the 37th Session of the Assembly to consider this working paper for adoption.

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