



Brussels, 26 September 2016
(OR. en)

12429/16

Interinstitutional File:
2016/0301 (NLE)

AVIATION 186
RELEX 771

'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. Cion doc.:	12423/16 AVIATION 184 RELEX 769
Subject:	DRAFT COUNCIL DECISION on the position to be taken by the European Union within the EU-ICAO Joint Committee, concerning the Decision on the adoption of an Annex on Air Traffic Management to the Memorandum of Cooperation between the European Union and the International Civil Aviation Organisation providing a framework for enhanced cooperation – Adoption

1. On 15 June 2009, the Commission submitted to the Council a Recommendation in order to authorise it to open negotiations on a Memorandum of Cooperation between the European Community and the International Civil Aviation Organisation (ICAO), providing a general framework for enhanced cooperation (doc. 11021/09 RESTREINT UE).
2. On 17-18 December 2009, the EU Transport Ministers adopted a Decision authorising the Commission to negotiate on behalf of the Union a Memorandum of Cooperation between the European Union and the International Civil Aviation Organisation (ICAO), providing a general framework for enhanced cooperation (doc. 16021/1/09 REV 1 RESTREINT UE).

3. On the basis of this mandate, the Commission conducted negotiations with ICAO and the Memorandum of Cooperation (MOC), together with a safety annex, was initialled on 27 September 2010, during the opening of the 37th ICAO General Assembly, at the ICAO Headquarters in Montreal.
4. The Commission presented to the Council a proposal for a Council Decision on the signature and provisional application of the MOC on 10 March 2011 (doc. 7660/11). The Council Decision concerning the signature and provisional application of the MOC¹ was adopted by the Council on 31 March 2011 (doc. 7702/11).
5. The MOC was signed on 28 April 2011 in Montreal by the ICAO President and on 4 May 2011 in Brussels (by the EU). The MOC has been provisionally applied as from the date of signature.
6. The European Parliament gave its consent to the draft Council Decision on the conclusion of the MOC on 19 January 2012.
7. The Council adopted the Council Decision on the conclusion of the MOC² on 31 March 2012 (doc. 9138/11).
8. Article 3 of the Council Decision on the conclusion of the MOC establishes that the Council shall determine the position to be taken by the Union in the Joint Committee established under paragraph 7.1 of the MOC as regards the adoption of new annexes to the Memorandum and amendments thereto, as referred to in point (c) of paragraph 7.3 of the Memorandum.
9. Therefore, on 14 August 2012, the Commission presented to the Council a proposal for a Council Decision on the position to be taken by the European Union within the EU-ICAO Joint Committee, concerning the Decision on the adoption of an annex on aviation security to the Memorandum of Cooperation between the European Union and the International Civil Aviation Organization providing a framework for enhanced cooperation (doc. 12872/12). The above-mentioned Council Decision on the security annex was adopted by the Council on 24 September 2012 (doc 13335/12).

¹ OJ L 232, 9.09.2011, p.1

² OJ L 121, 8.05.2012, p.16

10. On 22 September 2016, the Commission presented to the Council a proposal on the position to be taken by the European Union within the EU-ICAO Joint Committee on the Decision on the adoption of an annex on Air Traffic Management to the Memorandum of Cooperation between the European Union and the International Civil Aviation Organization providing a framework for enhanced cooperation (doc. 12423/16 + ADD1).
11. On 26 September 2016, the Aviation Working Party examined the above-mentioned proposal. Delegations expressed overall support for the Commission proposal, made some comments and asked for clarifications. On the basis of these comments, the Presidency proposed a compromise text (doc. 12424/16) which was eventually accepted by all delegations with the exception of DE that indicated that it could not support the Presidency compromise text.
12. Therefore, with a view to preparing the adoption of the ATM annex to the MOC by the EU-ICAO Joint Committee, COREPER is invited to suggest that the Council, in part "A" of the agenda of one of its forthcoming meetings, decides to adopt the above-mentioned Council Decision as set out in document J/L 12430/16 AVIATION 187 RELEX 772.
