



Brussels, 27 May 2020
(OR. en)

8321/20

AVIATION 97
RELEX 372
CLIMA 100
ICAO 5

WORKING DOCUMENT

From: Presidency
To: Delegations

No. Cion doc.: ST 7794/20 + ADD1

Subject: **Coordination in preparation for the 220th session of the ICAO Council
(Montréal, 8 - 26 June 2020)**
– Presidency compromise

Following the meeting of the AVIA Working Party on 26 May 2020, delegations will find attached a revised draft for the Information note (part A) regarding EU coordination in preparation of the 220th session of the ICAO Council. Changes in comparison to the proposal from the Commission are marked with **bold** and ~~strikethrough~~.

In the absence of comments by delegations **by 17:00 CET on Thursday 28 May 2020¹**, the file will be forwarded to COREPER for endorsement and decision on the use of written procedure.

¹ avia-mar@consilium.europa.eu

INFORMATION NOTE**Coordination in preparation for the 220th Session of the ICAO Council****Part A**

This information note is presented by the Commission's services on the basis of the existing agenda² and currently available relevant information in view of coordinating EU positions for the 220th Session of the ICAO Council³ on the items of EU interest indicated below:

1. In the area of Strategic Objectives

- Various issues related to COVID-19: COVID-19 related activities of the Secretariat; Review of actions proposed to address Assembly Resolutions and Decisions following impact of COVID-19; Progress report on activities of the Council Aviation Recovery Task Force (CART); Changes to SARPs applicability dates due to the COVID-19 Pandemic; Operations of the ICAO Continuous Monitoring Approach (CMA) Audit Programmes during the COVID-19 Crisis.
- Establishment of a high-level body with the industry

2. In the area of Aviation Safety and Air Navigation

- Progress report on work related to conflict zones and the "safer skies" initiative
- High-level Safety Conference 2021 (HLSC 2021)

3. In the area of Aviation Security and Facilitation

- Intersessional Review and Work Programme of the Aviation Security Panel (AVSECP)
- Global Aviation Security Plan (GASeP)
- Progress report on the Universal Security Audit Programme – Continuous Monitoring Approach (USAP-CMA)

² C-WP/14992 Revision No.1 (1/5/20).

³ Dates for the 220th Council Session: Committee phase: 11 – 22 May 2020 and Council phase: 8 – 26 June 2020

4. In the area of Economic Development of Air Transport

- Assistance to passengers in case of airline/airport disruptions

Note that items related to environmental protection will be the subject of a separate Information Note.

It can be noted that through participation and contribution to the associated ICAO work on the different files, as well as the coordinated review and responses to ICAO State Letters, alignment with EU policy, rules and provisions (where relevant) has been sought. ICAO Council deliberations on proposed Annex amendments serve the purpose of facilitating a decision on their eventual incorporation into the respective Annexes. Each ICAO Council decision, once adopted, is subject to the so called ICAO "State Letter" consultation, which concludes the procedure regarding proposed amendments to Annexes. Experience has shown that the ICAO State Letter consultation is unlikely to produce an outcome different from the ICAO Council decision.

Union positions in bodies set up by agreements and called upon to adopt acts having legal effect require a decision under Article 218(9) TFEU by the Council. On 12th January 2018, the Commission adopted a proposal for a Council Decision, based on this provision, on the position to be adopted, on behalf of the European Union, at ICAO. The Commission proposal is still pending before the Council.

In accordance with Article 4(3) TEU, Member States are bound by the duty of sincere cooperation. Hence, even before the adoption of the above mentioned decision by the Council, the Member States cannot take positions unilaterally in areas covered by the Commission proposal.

No item of the present Information Note pertains to a decision (to be adopted by an ICAO body) having legal effects on the Union. The present document is intended to allow a coordinated EU position.

ANNEX

220th ICAO Council Session

Consideration of agenda items of EU interest – suggested Union position

PART I – GENERAL

The impact of the COVID-19 crisis on aviation has important repercussions on the content of and the preparations for the 220th ICAO Council Session. Discussions will focus on COVID-19 related issues (such as the necessary contribution of ICAO to facilitate the recovery of the aviation industry). This also means that some of the originally planned agenda items that are not urgent might be either postponed to the 221st ICAO Council Session or discussed in less detail during the 220th Council Session. Nevertheless, in all areas that are covered by this information note it will be important to ensure consistency and progress in line with the EU positions presented to the 40th ICAO Assembly.

PART II - DETAILS

ITEMS RELATING TO STRATEGIC OBJECTIVES

- **Agenda items related to the impact of COVID-19 on civil aviation**

At the time of drafting this Information Note no input (Working or Information Papers) for these agenda items was available yet.

Background

The single most important contribution to this discussion will come from the recently established *Council Aviation Recovery Task Force* (CART). CART is tasked to provide the Council with strategic guidance to support States and industry to cope with the challenges in the immediate term and to allow for a smooth restart of aviation as soon as possible. CART will take into consideration the evolution of the COVID-19 pandemic and decisions by International and National Public Health Authorities. It is composed of representatives from States, International/Regional Organisations and industry. A key challenge in this work is the development of a coordinated approach by aviation, public health and immigration/border control authorities. CART is tasked to present its conclusions/recommendations to the Council by end-May to allow Council deliberations thereon in June. The Council is then expected to take important decisions and give clear orientations on ICAO's views as to allow for a smooth restart of the industry over the coming months. Besides this more strategic approach, important work is also being undertaken on a technical level.

Besides, it is evident that the COVID-19 crisis requires the reprioritization of certain actions compared to the current ICAO Business Plan.

An important element in the COVID-19 discussion is related to changes of applicability dates for recently adopted Standards and Recommended Practices (SARPs). It is expected that the Secretariat will propose the postponement of the applicability dates of SARPs to November 2021 in order to alleviate the administrative burden for the authorities and industry alike. According to recent information from the ICAO Secretariat, the proposed postponement will not apply to Amendment 28 to Annex 9 (Facilitation), the amendments to Annex 16 (Environmental Protection), Volumes I, II and III as well as to Amendment 17 to Annex 17 (Security). The exclusion of these amendments from the list is welcomed.

Union position

Welcome ICAO's timely, holistic and encompassing approach in bringing together all major stakeholders.

Underline the need for ICAO to provide the necessary political and regulatory framework to facilitate a smooth restart of international aviation, **while respecting the states' need for close coordination with national health authorities concerning measures to hamper the spread of COVID-19.**

Welcome the proposal to postpone the applicability dates of recently adopted SARPs to November 2021 with the notable exception of the above listed SARPs that are related to facilitation, the environment and security.

Refer to similar initiatives that have been taken in parallel in Europe.

- **Establishment of a high-level body with the industry**

At the time of drafting this Information Note the Working Paper was not available yet.

Background

At the 40th Session of the ICAO Assembly (2019) it was agreed to establish a high-level body with the industry to provide strategic advice to the Council concerning innovation in aviation (Assembly Resolution A40-27). Europe strongly supported this. It is for the Council to take the necessary organizational decisions as regards the setting up of this group.

Union position

Underline the importance for ICAO to address the manifold innovation challenges and support the establishment of the high-level body on innovation.

ITEMS RELATING TO AVIATION SAFETY AND AIR NAVIGATION

- **Progress report on work related to conflict zones and the "safer skies" initiative, C-WP/15066**

At the time of drafting this Information Note the Working Paper was not yet available.

Background

The Council will be provided with a report outlining the work to be undertaken in relation to conflict zones and the "safer skies" initiative. This goes back to a Canada-led initiative (supported by European ICAO Council members) following the downing of a Ukrainian aircraft in Teheran with the objective to establish a common set of practices to better protect passengers from the risk of flying in or near conflict zones. To this end, a work plan is proposed to address the identified gaps. This plan mainly consists in developing training material (incl. workshops) for ICAO States and to issue a State Letter in order to raise the awareness among ICAO Member States and to seek input from States. The Secretariat would be invited to report back to the Council on progress made (at the Council's 223rd Session).

Union position

Welcome the progress report and the importance of continued work related to conflict zones and the "safer skies" initiative.

- **High-level Safety Conference 2021 (HLSC 2021)**

At the time of drafting this Information Note the Working Paper was not available yet.

Background

Given the importance of safety-related issues for international aviation, it is standing ICAO practice to organize high-level safety conferences in-between the triennial ICAO Assemblies. Such a conference is also planned for 2021. This agenda item is of a more procedural nature as the main issue is the Council's formal approval of the convening of this meeting. The Council will also take note of its draft agenda and organizational aspects of the Conference. Over the years, Europe has always underlined the importance of having such events and supported them by its active involvement.

Union position

Support the convening of HLSC 2021.

ITEMS RELATING TO AVIATION SECURITY AND FACILITATION

Intersessional Review and Work Programme of the Aviation Security Panel (AVSECP)

At the time of drafting this Information Note the Working Paper was not yet available.

Background

Due to COVID-19, AVSECP/31 (which was scheduled for 20-24 April 2020) had to be cancelled. However, the Panel has discussed some items that were included on the agenda of this meeting, in particular the work completed by its Working Groups, and has conducted an intersessional review of its work programme (written procedure). The results of this exchange will be captured in a Council Working Paper which is not available at the time of drafting this information note. It is expected that the Panel will ask the Council to confirm a new date for an in-person meeting of AVSECP/31 (possibly in December 2020). In addition, as not many activities could be undertaken on the implementation of the “2020 Year of Security Culture” campaign due to COVID-19, the Panel is also expected to recommend that Council consider extending the Year of the Security Culture beyond 2020 by relaunching it at the beginning of 2021. It should be recalled that the Year of Security Culture was a key European initiative at the 40th ICAO Assembly.

Union position

Support the convening of AVSECP/31 in December 2020.

Support extending the Year of Security Culture beyond 2020.

- **Global Aviation Security Plan (GASeP) – C-WP/15050 – Information Paper**

Background

The Global Aviation Security Plan (GASeP) is an important instrument to ensure the implementation of key security measures at a global level. It is common practice that the Council is kept informed about the state of play of GASeP-implementation. The Working Paper states that many States have, unfortunately, not reached the ICAO-objectives to implement ICAO security rules (SARPs) in their national systems. The paper therefore concludes that ICAO's objectives as defined by the ICAO Assembly for 2020 will most likely not be achieved.

Union position

Underline the importance of GAsEP-implementation in order to ensure a secure global aviation system.

Call on States to take the necessary measures to implement the respective SARPs in their national/regional oversight systems.

- **Progress report on the Universal Security Audit Programme – Continuous Monitoring Approach (USAP-CMA) – C-WP/15032 (Information Paper)**

Background

This report provides information on USAP-CMA implementation, including an update on the results of audits that have recently been undertaken (including in Europe) as well as on progress that has been achieved. The report lists a number of challenges (e.g. related to organizational issues such as deferrals of already scheduled audits). The report concludes that - while important progress has been achieved – much remains to be done.

Union position

Underline the importance of USAP-CMA as a tool to ensure that ICAO States implement ICAO security-related standards.

Stress the importance to continue with the implementation of the USAP-CMA programme.

ITEMS RELATING TO THE ECONOMIC DEVELOPMENT OF AIR TRANSPORT

- **Assistance to passengers in case of airline/airport disruptions – C-WP/15052 (Working Paper)**

Background

This dossier has evolved over the last year or so. In May 2019, the Council noted the importance of assistance to passengers in case of massive airport/airline disruptions. This was echoed by the 40th Session of the Assembly which underlined the interest in information/experience sharing of respective measures of States/Regions and good practices on the application of the ICAO core principles on consumer protection. To this end, a survey was undertaken (well before COVID-19 was declared a pandemic). The key findings of this analysis are presented in this paper. The paper

concludes that States find ICAO core principles on consumer protection useful to apply. Moreover, there is only a limited number of States, which have laid down specific definitions of massive disruptions in aviation and have followed a comprehensive approach to address the issue. Efforts could be made to develop a few key recommendations for regulatory and other actions to encourage compatibility among States' approaches in this area with a view to contributing to better assistance to passengers in cases of massive disruptions. Also, efforts should be intensified to encourage States to continue to give regards to and apply the core principles in their policymaking, regulatory and operational practices, including in case of massive disruptions impacting aviation.

Union position

Welcome the information and thank the Secretary General for having undertaken this interesting analysis and support the conclusions, namely in points 4.2 and 4.3.

Stress the importance of following up on the request of the 40th Session of the ICAO Assembly towards the Council to support the exchange of views and good practices on the application of the ICAO core principles on consumer protection.