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OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council
To: Delegations

No. prev. doc.: 6363/26
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Subject: Proposal for a COUNCIL DECISION on the position to be taken on behalf of the European Union in the 237th session of the Council of the International Civil Aviation Organization (ICAO) as regards the envisaged amendment to Annex 13 - Aircraft Accident and Incident Investigation
- Outcome of Proceedings

Following the Aviation Working Party of 26 February 2026, delegates will find, in annex, an outcome of proceedings on the above-mentioned subject.

Changes compared to the previous Presidency compromised annexed to ST 6363/25 are highlighted in **bold underlined** and ~~strikethrough~~.

In absence of comments by delegations before Friday 27 February 10:00 am, the Presidency will present that compromise to COREPER and then Council for adoption.

Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union in the 237th session of the Council of the International Civil Aviation Organization (ICAO) as regards the envisaged amendment to Annex 13 - *Aircraft Accident and Incident Investigation*

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Convention on International Civil Aviation ('the Chicago Convention') which regulates international air transport, entered into force on 4 April 1947. It established the International Civil Aviation Organization (ICAO).
- (2) The Member States are Contracting States to the Chicago Convention and members of the ICAO, while the Union has observer status in certain ICAO bodies. There are six Member States represented in the ICAO Council.
- (3) Pursuant to Article 54 of the Chicago Convention, the ICAO Council may adopt international Standards and Recommended Practices ('SARPs'), and designate them as Annexes to the Chicago Convention.
- (4) The ICAO Council, at its 237th session, is to adopt amendment 20 to Annex 13 – *Aircraft Accident and Incident Investigation* to the Chicago Convention ('Amendment 20').
- (5) The main purpose of the Amendment 20, included in ICAO State Letter AN 8/3-23/18 and State Letter AN 6/1.2.2, AN 11/1.1.36-25/43, is to improve aviation safety by ensuring a high level of efficiency, expediency, and quality of civil aviation safety investigations.
- (6) The European Network of Civil Aviation Safety Investigation Authorities (ENCASIA) set up by Article 7 of Regulation (EU) No 996/2010¹, which has a duty to advise Union institutions on all aspects of development and implementation of Union policies and rules relating to safety investigations and the prevention of accidents and incidents, has contributed to the development of the related proposal contained in Amendment 20.

¹ Regulation (EU) No 996/2010 of the European Parliament and of the Council of 20 October 2010 on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive 94/56/EC, OJ L 295, 12.11.2010, p. 35, ELI: <http://data.europa.eu/eli/reg/2010/996/oj>

- (7) It is appropriate to establish the position to be taken on the Union's behalf within the ICAO Council as the Amendment 20 to Annex 13 – *Aircraft Accident and Incident Investigation* to the Chicago Convention will be binding under international law in accordance with Article 90(a) of the Chicago Convention and is capable of decisively influence EU law, in particular Regulation (EU) 996/2010. ~~The scope of this Decision should be limited to the content of Amendment 20, insofar as that content falls within an area which is already largely covered by EU common rules.~~ This Decision should not affect the distribution of competences between the Union and the Member States in the field of aviation.
- (8) The position to be taken on behalf of the Union at the 237th session of the ICAO Council or any subsequent session, with regard to the adoption of ~~the proposed amendments to Chapters 5, points 5.4.5 and 5.4.6, Chapter 6 and 7 and to Attachment B, of Annex 13, contained in Amendment 20 of that Annex~~ included in ICAO State Letter AN 6/1.2.2, AN 11/1.1.36-25/43, should be to support ~~those~~ **that** amendment **in its entirety**. That position should be expressed by the Member States of the Union that are members of the ICAO Council, acting jointly in the interest of the Union.
- (9) Pursuant to Article 38 of the Chicago Convention, any State which finds it impracticable to comply in all respects with any such international standard or procedure, or to bring its own regulations or practices into full accord with any such international standard or procedures or which deems it necessary to adopt regulations or practices differing in any particular respect from those established by an international standard, should give immediate notification to the ICAO of the differences between its own practice and that established by the international standard.
- (10) Pursuant to Article 90 of the Chicago Convention, any such Annex or any amendment of an Annex shall become effective within three months after its submission to the ICAO Contracting States, or at the end of such longer period of time as the ICAO Council may prescribe, unless in the meantime a majority of Contracting ICAO States register their disapproval.
- (11) The Union's position after the adoption of Amendment 20 to Annex 13 - *Aircraft Accident and Incident Investigation* to the Chicago Convention by the ICAO Council, to be announced by the ICAO Secretary General via an ICAO State Letter procedure, insofar as that content falls within an area which is already largely covered by EU common rules, should be to not register any disapproval and to comply with the amendments. Where Union legislation would deviate from the newly adopted SARPs after an envisaged date of application of those SARPs, a difference with those particular SARPs should be notified to ICAO. The Union position with respect of such difference should be based on a written document submitted by the Commission to the Council for discussion and approval. That position should be expressed by all the Member States of the Union, acting jointly in the interest of the Union,

HAS ADOPTED THIS DECISION:

Article 1

1. The position to be taken on behalf of the Union at the 237th session of the Council of the International Civil Aviation Organization, or at any subsequent session, shall be to support **the proposed** ~~the proposed amendment to Chapter 5, points 5.4.5 and 5.4.6, Chapters 6 and 7 and to Attachment B, of Annex 13 to the Chicago Convention, contained Amendment 20~~ **in its entirety** ~~to that Annex included in ICAO State Letter AN 6/1.2.2, AN 11/1.1.36 25/43.~~
2. The position to be taken on the Union's behalf, provided the ICAO Council adopts without any substantial change the proposed amendments referred to in paragraph 1, shall be to not register any disapproval and to notify compliance with the adopted amendments in reply to the relevant ICAO State Letter.
3. Where Union law would deviate from the newly adopted international standards after the envisaged date of application of those standards, the position to be taken on behalf of the Union shall be that any difference between Union law and those particular international standards is to be notified to the ICAO, in accordance with Article 38 of the Chicago Convention. In such a case, the Commission shall, in due time and at least two months before any deadline set by the ICAO for the notification of differences, submit to the Council, for discussion and approval, a preparatory document setting out the detailed differences to be notified to the ICAO on behalf of the Union by the Member States.

Article 2

The position referred to in Article 1(1) shall be expressed by the Member States of the Union that are members of the ICAO Council, acting jointly in the interest of the Union.

The position referred to in Article 1(2) and (3) shall be expressed by all the Member States of the Union, acting jointly in the interest of the Union.

Article 3

This Decision shall enter into force on the date of its adoption.

Done at Brussels,

*For the Council
The President*