Council of the
European Union

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AVIATION 180
ICAO 29
RELEX 746

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL DECISION on the position to be taken on behalf of the European Union within the Council of the International Civil Aviation Organization as regards the adoption of Amendments 39 and 46 to Annex 6, Parts I and II, to the Convention on International Civil Aviation, related to deferral of the future equipage requirement for 25-hour cockpit voice recorder to avoid unintended consequences due to the COVID-19 pandemic

COUNCIL DECISION (EU) 2020/…

of …

on the position to be taken on behalf of the European Union within the Council of the International Civil Aviation Organization as regards the adoption of Amendments 39 and 46 to Annex 6, Parts I and II, to the Convention on International Civil Aviation, related to deferral of the future equipage requirement for 25-hour cockpit voice recorder to avoid unintended consequences due to the COVID-19 pandemic

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 seven 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, and designate them as Annexes to the Chicago Convention.

(4) 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 ICAO Contracting States register their disapproval.

(5) Pursuant to Article 38 of the Chicago Convention, any State which finds it impracticable to comply in all respects with any international standard or procedure as referred to in Article 37 of that Convention 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, is to give immediate notification to the ICAO of the differences between its own practice and that established by the international standard.

(6) The COVID-19 pandemic has negatively impacted aircraft operators, aircraft manufacturers and sub-tier suppliers to equipment manufacturers, and has delayed the development of new systems. Aircraft operators are cancelling or deferring aircraft deliveries, resulting in the delivery of aircraft intended for 2020 to be deferred to 2021. A newly manufactured aircraft configured for a 2020 delivery which has been delayed until 2021 requires reconfiguration to the applicable provisions after 1 January 2021. Aircraft operators and aircraft manufacturers face undue financial burden if those aircraft need to be retrofitted. Therefore, the Commission is in the process of adopting a postponement of that date at Union level, by way of amendments to Regulation (EU) No 965/2012. The cockpit voice recorder ('CVR') is used in support of accident and incident investigation. A delay in implementation of CVR duration from two hours to 25 hours poses no significant safety risk, but does align the safety benefit of a longer duration cockpit voice recording with current realities facing the aviation industry. The Union is a strong supporter of the efforts by ICAO to improve aviation safety. Considering the unprecedented situation caused by the COVID-19 pandemic and the absence of a significant safety risk, the Union should, therefore, support those amendments.

(7) It is appropriate to establish the position to be taken on the Union's behalf in the 221st session of the ICAO Council with regard to the envisaged Amendments 39 and 46 to Annex 6, Parts I and II. That position should be to support those amendments and is to be expressed by the Member States of the Union that are members of the ICAO Council, acting jointly on behalf of the Union.

(8) The position of the Union after the adoption without substantial changes of Amendments 39 and 46 to Annex 6, Parts I and II, by the ICAO Council, to be announced by the ICAO Secretary General via an ICAO State Letter procedure, should be not to register disapproval and to notify compliance with those amendments and is to be expressed by all the Member States of the Union,

HAS ADOPTED THIS DECISION:

Article 1

1. The position to be taken on the Union's behalf in the 221st session of the Council of the International Civil Aviation Organization (ICAO) shall be to support the proposed Amendments 39 and 46 to Annex 6, Parts I and II, to the Convention on International Civil Aviation in their entirety.

2. The position to be taken on the Union's behalf, provided that the ICAO Council adopts without substantial changes the proposed amendments, referred to in paragraph 1, shall be not to register disapproval and to notify compliance with the adopted amendments in reply to the respective ICAO State Letters.

Article 2

1. 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.

2. The position referred to in Article 1(2) shall be expressed by all the Member States of the Union.

Article 3

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

Done at …,

For the Council
The President