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From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	6 October 2025
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
Subject:	Proposal for a COUNCIL DECISION amending Decision (EU) 2023/746 as regards the extension of its scope and period of application and the position to be taken on behalf of the Union in the International Civil Aviation Organization

Delegations will find attached document COM(2025) 622 final.

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EUROPEAN
COMMISSION

Brussels, 6.10.2025
COM(2025) 622 final

2025/0314 (NLE)

Proposal for a

COUNCIL DECISION

amending Decision (EU) 2023/746 as regards the extension of its scope and period of application and the position to be taken on behalf of the Union in the International Civil Aviation Organization

EXPLANATORY MEMORANDUM

1. SUBJECT-MATTER OF THE PROPOSAL

The present proposal concerns an amendment to Council Decision (EU) 2023/746¹ pursuant to its Article 7, paragraph 3, as regards:

- extension of its application until 31 December 2028.
- amending the list of covered Annexes of the Convention on International Civil Aviation (‘the Chicago Convention’) by adding Annex 13 – *Aircraft Accident and Incident Investigation*;
- amending the scope by adding the notification of differences pertaining to Recommended Practices in the areas of the Annexes of the Chicago Convention pursuant to Article 38 of the Chicago Convention and in light of ICAO Assembly resolution A39-22 within the remit of the Council Decision, in response to the State Letters sent by ICAO, inviting its Contracting States to notify any differences with the adopted Standards and Recommended Practices (‘SARPs’);
- amending the scope to cover the establishment of positions to be taken when the ICAO Council approves new Procedures for Air Navigation Services (PANS) or amendments thereof, which are likely to decisively influence the content of Union law;
- amending the scope to cover the establishment of positions to be taken in relation to the approval, by the ICAO Council, of amendments to or new editions of Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Doc 9284) referred to under Annex 18 - *Safe Transport of Dangerous Goods by Air* to the Chicago Convention.

2. CONTEXT OF THE PROPOSAL

2.1. The Chicago Convention

The International Civil Aviation Organization (ICAO) was established by the Chicago Convention (the “Chicago Convention” or the “Convention”), signed in 1944 and which entered into force on 4 April 1947. All Member States of the European Union (the “EU Member States”) are contracting parties to that Convention and therefore members of ICAO. The Union has an observer status in certain ICAO bodies and concluded a Memorandum of Cooperation with ICAO that provides a framework for enhanced cooperation in the fields of aviation safety, aviation security, air traffic management, environmental protection and capacity building, technical assistance, and implementation support.²

¹ Council Decision (EU) 2023/746 of 28 March 2023 establishing the criteria and the procedure for establishing the position to be taken on the European Union’s behalf within the International Civil Aviation Organization as regards the adoption of, or amendments to, international standards and recommended practices, and the notification of differences with respect to adopted international standards (OJ L 99, 12.4.2023, p. 7).

² Council Decision (EU) 2011/530 of 31 March 2011 on the signing, on behalf of the Union, and provisional application of a Memorandum of Cooperation between the European Union and the International Civil Aviation Organization providing a framework for enhanced cooperation (OJ L 232, 9.9.2011, p. 1).

The Chicago Convention contains 96 articles laying down the rules and principles governing ICAO. It is supported by 19 Annexes containing Standards and Recommended Practices, which are amended regularly.

2.2. The International Civil Aviation Organization

ICAO adopts international standards for civil aviation, in particular on aviation safety, air navigation and air traffic management, environment, aviation security, economic development in air transport, passenger rights and facilitation. These subjects are covered by the provisions adopted on the basis of the Treaty on the Functioning of the European Union (TFEU) and fall within an area of law covered to a large extent by Union rules. The Union aims to ensure consistency with international standards in the area of civil aviation

2.3. The envisaged acts by the ICAO Council having legal effects in the Union

As one of the two governing bodies of ICAO, the ICAO Council gives continuing direction to the work of ICAO. It convenes several times per year.

According to Article 54(l) of the Chicago Convention, the ICAO Council adopts international Standards and Recommended Practices, designates these as Annexes to the Chicago Convention, and notifies all Contracting States of the action taken. The ICAO Council shall also consider recommendations of the Air Navigation Commission for amendment of the Annexes according to Article 54(m) of the Chicago Convention. According to Article 90 of the Chicago Convention, the adoption by the Council of Annexes or any amendment of an Annex shall require the vote of two-thirds of the ICAO Council.

Furthermore, according to Article 37 of the Chicago Convention, ICAO shall adopt and amend from time to time, as may be necessary, international Standards and Recommended Practices and Procedures dealing with for instance communication systems and air navigation aids, and rules of the air and air traffic control practices and such other matters concerned with the safety, regularity, and efficiency of air navigation as may from time to time appear appropriate.

3. POSITION TO BE ADOPTED ON BEHALF OF THE UNION

It is proposed that the position to be adopted on behalf of the Union at the ICAO Council sessions in relation to adoption of new Standards and Recommended Practices, approval of Procedures for Air Navigation Services and Technical Instructions or amendments thereof be established according to a two-tier approach. First, Council Decision (EU) 2023/746, as amended, sets up the criteria and the procedure for establishing the Union position in the Council. In a second step, the detailed position for each session of the ICAO Council will be transmitted by the Commission to the Council, in the form of a written document, for discussion and approval. The Commission will propose the detailed position in the written document based on the guiding principles and orientations laid out in the Annex to the amended Decision.

Council Decision (EU) 2023/746 expires on 31 December 2025. Therefore, pursuant to Article 7 paragraph 3, the Commission submits a proposal to the Council for an extension of the application thereof and propose to amend it to ensure continuity and ensure that the relevant issues under the Chicago Convention are treated coherently at Union level.

In particular, the internal rules of ICAO allow between ten days and 24 hours before the ICAO Council session (depending on the nature of the documents) for the submission of

documents. It is only at that point that all submissions are available and that the Commission can analyse the documents with a view to preparing the Union position on the topics of EU competence for discussion and decision at the ICAO Council. The timeframe between the availability of documents and the beginning of the ICAO Council session can put at risk the timely preparation and adoption of a Union position to be established by Council Decision as required by Article 218(9) TFEU.

To ensure that the Union is able to contribute with more flexibility to the ICAO adoption process, the exercised two-tier process should apply equally to the notification of disapproval according to Article 90 and to the notification of differences according to Article 38 of the Chicago Convention. By the proposed amendment, the Council Decision shall be extended as to cover notification of differences to Recommended Practices in aviation safety and air navigation.

Notification of differences to Recommended Practices in aviation safety and air navigation

All ICAO Contracting States, including the EU Member States, adopted Assembly Resolution A39-22 in the area of aviation safety and air navigation. The ICAO Assembly has resolved that the Council should urge Member States to notify ICAO of any differences that exist between their national regulations and practices and the provisions of SARPs. This is further detailed in the ICAO Manual on notification of differences (ICAO Doc 10055).

ICAO considers notification of differences in relation to Recommended Practices important due to the fact that knowledge of differences from Recommended Practices may also be important for the safety, regularity and efficiency of air navigation and have urged States to notify differences from Recommended Practices pursuant to Article 38 of the Chicago Convention³. It shall be noted that within the framework of the ICAO Universal Safety Oversight Audit Programme (USOAP) audit of the European Union Aviation Safety Agency performed in February and March 2025, a lack of notification of differences pertaining to Recommended Practices in the area of aviation safety and air navigation was found as non-compliance with the international standards and recommended practices and obligations stemming from the Convention on International Civil Aviation.

It is therefore proposed to amend Council Decision (EU) 2023/746 to establish the Union position also as regards the notification of differences to Recommended Practices. According to ICAO, the need for such notification arises notably in the following cases:

- (a) in response to the ICAO State Letter requesting notification of difference pursuant to Article 38 of the Chicago Convention and also in the light of the Assembly Resolution A39-22;
- (b) due to changes of the Union acquis.

Annex 13 – Aircraft Accident and Incident Investigation

In order to provide an overarching and consistent approach when addressing matters being dealt at and subject to vote by the ICAO Council in the area of aviation safety and air navigation, the amendment proposes to include Annex 13 – *Aircraft Accident and Investigation* in the scope of Council Decision. Annex 13 falls under the Union competence as it regulates aspects which fall within the scope of several pieces of EU legislation. It is opportune to enlarge the scope of Council Decision (EU) 2023/746 to cover all Chicago Convention Annexes in the field of aviation safety and air navigation and which are contained

³ Doc 10055 -Manual on Notification and Publication of Differences, page (v) and section 1.3.

in the Union civil aviation safety rules, i.e. not only in Regulation 2018/1139⁴, but also in other aviation safety regulations such as Regulation 376/2014⁵ on Occurrence Reporting, Regulation 996/2010⁶ on Accident Investigation, and Regulation 2111/2005⁷ on the EU's Air Safety List.

Procedures for Air Navigation Services (PANS)

Furthermore, Procedures for Air Navigation Services (PANS) are in some instances directly referred to in Union legislation. Therefore, changes to PANS may, in some cases, decisively influence the content of Union legislation. The ICAO Council, on a proposal of the ICAO Air Navigation Commission, approves new PANS or their amendments pursuant to Article 37 of the ICAO Convention. In cases when PANS are likely to have a decisive influence on the content of Union law, an EU position shall be established by a procedure established in accordance with Council Decision (EU) 2023/746. An amendment is therefore proposed in this regard.

Technical Instructions for the Safe Transport of Dangerous Goods

Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Doc 9284) under Annex 18 - *The Safe Transport of Dangerous Goods by Air* are the subject of a direct reference under Annex IV section CAT.GEN.MPA.200 "Transport of dangerous goods" of Regulation 965/2012⁸. Consequently, a change to the ICAO Technical Instructions is likely to have a decisive influence on the content of EU legislation for transport of dangerous goods. In such cases, an EU position shall be established by a procedure established in Council Decision (EU) 2023/746. An appropriate amendment is therefore proposed in this regard.

Pursuant to Article 7, paragraph 2, the Report on the application of Council Decision (EU) 2023/746 and, in particular of its effectiveness and the frequency of its use, was submitted to the Council⁹. It provided an evidence-based assessment with a view to further improve Union

⁴ Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91, OJ L 212, 22.8.2018

⁵ Regulation (EU) No 376/2014 of the European Parliament and of the Council of 3 April 2014 on the reporting, analysis and follow-up of occurrences in civil aviation, amending Regulation (EU) No 996/2010 of the European Parliament and of the Council and repealing Directive 2003/42/EC of the European Parliament and of the Council and Commission Regulations (EC) No 1321/2007 and (EC) No 1330/2007 (OJ L 122, 24.4.2014).

⁶ 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).

⁷ Regulation (EC) No 2111/2005 of the European Parliament and of the Council of 14 December 2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier, and repealing Article 9 of Directive 2004/36/EC (OJ L 344, 27.12.2015).

⁸ Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 296, 25.10.2012).

⁹ Report from the Commission on the application of the Council Decision (EU) 2023/746, WK 9372 2025

processes for the establishment of Union position ahead of Member States deliberating at the Council of the International Civil Aviation Organization. The proposal reflects this analysis.

4. LEGAL BASIS

4.1. Procedural legal basis

4.1.1. Principles

Article 218(9) TFEU provides for Decisions establishing ‘the positions to be adopted on the Union’s behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement.’

Article 218(9) TFEU applies regardless of whether the Union is a member of the body or a party to the agreement at issue.¹⁰

The notion of ‘*acts having legal effects*’ includes acts that have legal effects by virtue of the rules of international law governing the body in question. It also includes instruments that do not have a binding effect under international law, but that are ‘*capable of decisively influencing the content of the legislation adopted by the EU legislature*’.¹¹

4.1.2. Application to the present case

ICAO is a body set up by an agreement, namely the Chicago Convention.

The acts which ICAO is called upon to adopt constitute acts having legal effects. This is because the Standards and Recommended Practices (SARPs) adopted by ICAO are binding under the Chicago Convention unless the majority of the Contracting States register disapproval to the ICAO Council (Article 90 of the Chicago Convention). Further, to the extent possible, SARPs are incorporated in Union law and therefore amendments to these Standards and Recommended Practices are capable of decisively influencing the content of Union legislation in the area of civil aviation.

Furthermore, the ICAO Council, on a proposal of the ICAO Air Navigation Commission, approves new PANS or their amendments pursuant to Article 37 of the ICAO Convention. In some instances, changes to PANS are likely to have a decisive influence the content of Union legislation. This is because PANS are directly referred to in Union legislation, namely in Commission Implementing Regulation (EU) 2017/373¹².

An approval by the ICAO Council of Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Doc 9284) under Annex 18 - *The Safe Transport of Dangerous Goods by Air*, in accordance with Article 37 of the Chicago Convention, is likely to have a decisive influence on the content of EU legislation for transport of dangerous goods. This is due to the fact that these Technical Instructions are the subject of a direct reference

¹⁰ Case C-399/12 Germany v Council (OIV), ECLI:EU:C:2014:2258, paragraph 64.

¹¹ Case C-399/12 Germany v Council (OIV), ECLI:EU:C:2014:2258, paragraphs 61-64.

¹² Commission Implementing Regulation (EU) 2017/373 of 1 March 2017 laying down common requirements for providers of air traffic management/air navigation services and other air traffic management network functions and their oversight, repealing Regulation (EC) No 482/2008, Implementing Regulations (EU) No 1034/2011, (EU) No 1035/2011 and (EU) 2016/1377 and amending Regulation (EU) No 677/2011, OJ L 62, 8.3.2017

under Annex IV section CAT.GEN.MPA.200 “Transport of dangerous goods” of Regulation 965/2012¹³.

The envisaged acts do not supplement or amend the institutional framework of the agreement.

The procedural legal basis for the proposed Decision, therefore, is Article 218(9) TFEU.

4.2. Substantive legal basis

4.2.1. Principles

The substantive legal basis for a Decision under Article 218(9) TFEU depends primarily on the objective and content of the envisaged act in respect of which a position is adopted on behalf of the Union. If the envisaged act pursues two aims or has two components and if one of those aims or components is identifiable as the main one, whereas the other is merely incidental, the Decision under Article 218(9) TFEU must be founded on a single substantive legal basis, namely that required by the main or predominant aim or component.

4.2.2. Application to the present case

The envisaged acts pursue objectives and have components in the area of common transport policy.

The substantive legal basis of the proposed Decision, therefore, is Article 100(2) TFEU.

4.3. Conclusion

The legal basis of the proposed Council Decision is Article 100(2) TFEU in conjunction with Article 218(9) TFEU.

¹³ Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council, (OJ L 296, 25.10.2012).

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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. Six Member States are currently represented in the ICAO Council.
- (3) Pursuant to Article 37 of the Chicago Convention, ICAO is to adopt and amend international standards and recommended practices and procedures dealing for instance with communication systems and air navigation aids, rules of the air and air traffic control practices and such other matters concerned with the safety, regularity, and efficiency of air navigation as may from time to time appear appropriate.
- (4) Pursuant to Article 38 of the Chicago Convention, any ICAO Contracting State which finds it impracticable to comply in all respects with any standard or to bring its own regulations or practices into full accord with any standard after amendment of the latter, or which deems it necessary to adopt regulations or practices differing in any particular respect from those established by a standard, is to give immediate notification to ICAO of the differences between its own regulations or practices and those established by the standard. Any State which does not make the appropriate amendments to its own regulations or practices is to give notice to the ICAO Council within sixty days of the adoption of the amendment to the standard or indicate the action which it proposes to take.
- (5) Pursuant to Article 54 of the Chicago Convention, the ICAO Council is to adopt international Standards and Recommended Practices ('SARPs'), and designate them as Annexes to the Chicago Convention.
- (6) The acts which ICAO is called upon to adopt constitute acts having legal effects.
- (7) It is therefore necessary to establish the criteria and procedures for the positions to be taken on the Union's behalf in the ICAO Council until 31 December 2028.
- (8) It follows from the application of The Rules of Procedure for ICAO Council (Doc 7559) that documents to be adopted by the ICAO Council are to be made available

shortly before each of its sessions. It is only at the point when all submissions are made available by the ICAO Council, that the Commission can thoroughly analyse the documents with a view to preparing the Union position, in the area of Union competence, for discussion and approval by the Council before an ICAO Council session. This leads to a situation where the timely preparation and adoption of a Council Decision required under Article 218(9) of the Treaty on the Functioning of the European Union (TFEU) may be put at risk.

- (9) In that regard, the procedure established by Decision (EU) 2023/746¹⁴ resulted in a more efficient process and offered more time being spent on substance. Therefore, the period of application of that Decision should be extended for another ICAO triennial cycle, namely until 31 December 2028.
- (10) The experience from applying Decision (EU) 2023/746 has discovered some inconsistencies and gaps as regards approval of new Procedures for Air Navigation Services (PANS), in several cases directly stemming from amendments of certain Standards and Recommended Practices falling within the Decision scope; non-inclusion of notification of differences from Recommended Practices or narrowing the scope not to include Annex 13 - *Aircraft Accident and Investigation* - to the Chicago Convention that has been amended as a consequence of amendment to Annex 6 falling under the Decision. In order to provide an overarching and consistent approach to the Union decision making process ahead of ICAO Council deliberations or when notifying differences to ICAO, Decision (EU) 2023/746 should be amended.
- (11) The procedure established by Decision (EU) 2023/746 should be extended to amendments to Annex 13 to the Chicago Convention – *Aircraft Accident and Investigation*, subject to certain safeguards. It is opportune to enlarge the scope of Decision (EU) 2023/746 to cover all Chicago Convention Annexes in the field of aviation safety and air navigation. This, in particular, concerns the Chicago Convention's Annexes that are reflected in the Union civil aviation safety rules and not only in Regulation 2018/1139 of the European Parliament and of the Council¹⁵, but also in other aviation safety regulations such as Regulation 376/2014 of the European

¹⁴ Council Decision (EU) 2023/746 of 28 March 2023 establishing the criteria and the procedure for establishing the position to be taken on the European Union's behalf within the International Civil Aviation Organization as regards the adoption of, or amendments to, international standards and recommended practices, and the notification of differences with respect to adopted international standards (OJ L 99, 12.4.2023, p. 7, ELI: <http://data.europa.eu/eli/dec/2023/746/oj>).

¹⁵ Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91 (OJ L 212, 22.8.2018, p. 1, ELI: <http://data.europa.eu/eli/reg/2018/1139/oj>).

Parliament and of the Council¹⁶, Regulation 996/2010 of the European Parliament and of the Council¹⁷ and Regulation 2111/2005.

- (12) The procedure established by Decision (EU) 2023/746 should be extended to new Procedures for Air Navigation Services (PANS), which are likely to have a decisive influence on the content of the Union law due to their explicit references in Union legislation, in order to ensure a consistent approach towards rules addressing area of air navigation.
- (13) The procedure established by Decision (EU) 2023/746 should also be extended to cases where the ICAO Council is called to approve new editions of Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Doc 9284) under Annex 18 to the Chicago Convention - *The Safe Transport of Dangerous Goods by Air*. Those Technical Instructions are directly referred to in point CAT.GEN.MPA.200 “Transport of dangerous goods” of Annex IV to Commission Regulation (EU) No 965/2012¹⁸. Because of that direct reference, any change to those Technical Instructions is likely to have a decisive influence on the content of the Union legislation.
- (14) ICAO considers notification of differences pertaining to recommended practices important because that knowledge of differences from recommended practices can also be important for the safety, regularity and efficiency of air navigation. That consideration is further strengthened and supported by the ICAO Assembly Resolution A39-22 in the area of aviation safety and air navigation, detailed in the ICAO Manual on notification of differences (ICAO Doc 10055), by which all ICAO Contracting States declared to act accordingly.
- (15) Within the framework of the ICAO Universal Safety Oversight Audit Programme (‘USOAP’) audit of the EASA performed in February and March 2025, a lack of notification of differences pertaining to recommended practices in the area of aviation safety and air navigation was found as non-compliance with the USOAP requirements.
- (16) Therefore, an express inclusion of Union position as regards notification of differences pertaining to recommended practices in the Council Recommendation should allow for a more streamlined, consistent and efficient Union adoption process and support Member States in their compliance with ICAO Assembly Resolution A39-22 in the area of aviation safety and air navigation.
- (17) More flexibility with regards to amendments to Annexes to the Chicago Convention, new PANS and new editions of Technical Instructions falling within the Union competence that are likely to have a decisive influence on the content of the Union law, and thus requiring formulation of a Union position, should be sought jointly, in

¹⁶ Regulation (EU) No 376/2014 of the European Parliament and of the Council of 3 April 2014 on the reporting, analysis and follow-up of occurrences in civil aviation, amending Regulation (EU) No 996/2010 of the European Parliament and of the Council and repealing Directive 2003/42/EC of the European Parliament and of the Council and Commission Regulations (EC) No 1321/2007 and (EC) No 1330/2007 (OJ L 122, 24.4.2014, p. 18, ELI: <http://data.europa.eu/eli/reg/2014/376/oj>).

¹⁷ 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>).

¹⁸ Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 296, 25.10.2012, p. 1, ELI: <http://data.europa.eu/eli/reg/2012/965/oj>).

particular, when agenda of an ICAO Council session could be amended shortly before it takes place.

- (18) The objective of this proposal is to further improve Union processes for decision making by Member States at the ICAO. The proposed changes aim to reach those objectives.
- (19) For the purposes of the implementation of this Decision, Member States and the Commission, in line with the Union's observer status, should act in close cooperation in accordance with their duty of sincere cooperation.
- (20) Decision (EU) 2023/746 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision (EU) 2023/746 is amended as follows:

- (1) the title is replaced by the following:

‘Council Decision (EU) 2023/746 of 28 March 2023 establishing the criteria and the procedure for establishing the position to be taken on behalf of the European Union in the International Civil Aviation Organization as regards the adoption of international standards and recommended practices, or amendments thereto, the approval of new technical instructions for the safe transport of dangerous goods by air or procedures for air navigation services and the notification of differences with respect to adopted international standards and recommended practices’;
- (2) Article 1 is replaced by the following:

‘Article 1

The position to be taken on behalf of the Union in the Council of the International Civil Aviation Organization (‘ICAO Council’), when that body is called upon to adopt new international standards and recommended practices (‘SARPs’) or amendments to SARPs in the areas of civil aviation safety, air navigation and traffic management relating to Annexes 1, 2, 3, 4, 6, 8, 10, 11, 13, 14, 15, 18 and 19 to the Convention on International Civil Aviation (the ‘Chicago Convention’), or to approve new editions of Technical Instructions for the Safe Transport of Dangerous Goods by Air (‘Technical Instructions’) or Procedures for Air Navigation Services (‘PANS’), insofar as such SARPs, Technical Instructions or PANS and have legal effects within the meaning of Article 218(9) TFEU, shall be established in accordance with the criteria and procedure set out in Article 2 of this Decision.’;
- (3) In Article 2, the first sentence in paragraph 1 and point (a) are replaced by the following:

‘1. Where the ICAO Council is to adopt new SARPs or amendments to SARPs or approve new PANS or new editions to Technical Instructions as referred to in Article 1, the Commission shall:

 - (a) In due time and at least one month before the date of the ICAO Council meeting where new SARPs or amendments to SARPs are to be adopted or where new PANS or new editions to Technical instructions are to be approved, submit to the Council, for discussion and approval, a document setting out the particulars of the draft position to be taken on the Union's behalf; in exceptional circumstances, this timeline may be shortened in the case of the

urgent adoption of new SARPs or of an amendment, or of the temporary suspension of entry into force of SARPs or of an amendment or in the case of the urgent approval of new PANS or new edition of Technical Instructions, where the text of the relevant draft SARPs or amendments or draft PANS or draft of new edition of Technical Instructions is available less than a month before the date of the ICAO Council meeting where those SARPs or amendments to be adopted or PANS or Technical Instructions are to be approved, the Commission shall endeavour to submit the document to the Council without undue delay and in any event at the latest five days after having received the draft new SARPs or draft amendments or draft PANS or draft Technical Instructions from the International Civil Aviation Organization ('ICAO');';

- (4) Article 3 is replaced by the following:

'Article 3

The position to be taken on the Union's behalf in the ICAO as regards the notification of differences with respect to new international standards and recommended practices contained in Annexes 1, 2, 3, 4, 6, 8, 10, 11, 13, 14, 15, 18 and 19 to the Chicago Convention, or amendments thereof, pursuant to Article 38 of the Chicago Convention and in light of ICAO Assembly resolution A39-22, shall be established in accordance with the criteria and procedure set out in Articles 4 and 5 of this Decision.';

- (5) Article 4 is replaced by the following:

'Article 4

Where Union law differs from the international standards or from recommended practices referred to in Article 3 of this decision and notification to the ICAO of those differences is therefore required in accordance with Article 38 of the Chicago Convention and in light of ICAO Assembly resolution A39-22, 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 document, based in particular on the information provided by the EASA in accordance with Article 90(4) of Regulation (EU) 2018/1139, where applicable, setting out details of the differences to be notified to the ICAO, and where appropriate, indicating what flexibility is available to Member States as regards the form of the notification.

The position to be taken pursuant to this Article shall be expressed by all Member States acting jointly in the interest of the Union';

- (6) In Article 7, paragraph 1 is replaced by following:

'1. This Decision shall apply until 31 December 2028.';

- (7) The Annex is replaced by the text in the Annex to this Decision.

Article 2

The position referred to in Articles 1 and 3 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.

Article 3

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels,

For the Council
The President