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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on certain aspects of aviation safety with regard to the end of the transition period mentioned in the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community - Outcome of the European Parliament's first reading (Brussels, 14-18 December 2020)

I. INTRODUCTION

A number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this file at first reading.

After the plenary approved the request of the Committee on Transport and Tourism to proceed according to the Rule 163 (urgent procedure) on 15 December 2020, the EPP, S&D, Renew, ID, Greens/EFA, ECR and GUE/NGL groups jointly presented a compromise amendment (amendment number 1) to the abovementioned proposal for a Regulation on behalf of the Committee on Transport and Tourism. This amendment had been agreed during the informal contacts referred to above.

II. VOTE

When it voted on 18 December 2020, the plenary adopted the compromise amendment (amendment number 1) to the abovementioned proposal for a Regulation.

The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto[1].

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

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[1] The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics.*** The symbol " ▌ " indicates deleted text.

P9_TA(2020)0388

Aviation safety at the end of the transition period with regard to the withdrawal of the United Kingdom from the Union ***I

European Parliament legislative resolution of 18 December 2020 on the proposal for a regulation of the European Parliament and of the Council on certain aspects of aviation safety with regard to the end of the transition period mentioned in the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (COM(2020)0828 – C9-0397/2020 – 2020/0364(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to Parliament and the Council (COM(2020)0828),

– having regard to Articles 294(2) and 100(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0397/2020),

– having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

– after consulting the European Economic and Social Committee,

– after consulting the Committee of the Regions,

– having regard to the undertaking given by the Council representative by letter of 16 December 2020 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

– having regard to Rules 59 and 163 of its Rules of Procedure,

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P9_TC1-COD(2020)0364

Position of the European Parliament adopted at first reading on 18 December 2020 with a view to the adoption of Regulation (EU) 2020/… of the European Parliament and of the Council on certain aspects of aviation safety with regard to the end of the transition period *provided for* in the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

After consulting the European Economic and Social Committee,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure[2],

[2] Position of the European Parliament of 18 December 2020.

Whereas:

(1) The Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community[3] (the 'Withdrawal Agreement') was concluded by the Union by means of Council Decision (EU) 2020/135[4] and entered into force on 1 February 2020. The transition period provided for in Article 126 of the Withdrawal Agreement (the 'transition period'), during which Union law continues to apply to and in the United Kingdom of Great Britain and Northern Ireland (United Kingdom) in accordance with Article 127 of the Withdrawal agreement, ends on 31 December 2020.

(2) The principal objective of Regulation (EU) 2018/1139 of the European Parliament and of the Council[5] is to establish and maintain a high and uniform level of aviation safety in the Union. For that purpose, a system of certificates has been established for various aviation activities, in order to achieve the required safety level and to enable the necessary verifications and the mutual acceptance of certificates issued.

(3) In the area of aviation safety, the consequences of the end of the transition period for certificates and approvals without an agreement setting out the new aviation safety relationship between the Union and the United Kingdom can be addressed by many stakeholders through various measures. Those measures include the transfer to a civil aviation authority of one of the Member States and the application, before the end of the transition period, for a certificate issued by the European Union Aviation Safety Agency (the 'Agency'), taking effect from the day following the end of the transition period.

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3 OJ L 29, 31.1.2020, p. 7.

4 Council Decision (EU) 2020/135 of 30 January 2020 on the conclusion of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ L 29, 31.1.2020, p. 1).

5 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).

(4) However, for some certificates, specific measures need to be put in place to address the consequences of the end of the transition period. This is particularly the case for design certificates issued before the end of the transition period by the Agency to design organisations with their principal place of business in the United Kingdom, or by such design organisations approved by the Agency. Until that date, the Agency was carrying out the functions and tasks of the 'State of design' under the Convention on International Civil Aviation and the Annexes thereto on behalf of the United Kingdom as provided for in Article 77 (1) of Regulation (EU) 2018/1139. After the end of the transition period, the functions and tasks of the 'State of design' regarding the United Kingdom will be assumed by the United KingdomCivil Aviation Authority. In order to address that change, the United Kingdom has enacted legislation that deems design certificates issued before the transition period to have been issued under the laws of the United Kingdom with effect from the end of the transition period.

(5) Specific measures on the Union's part are necessary to ensure that,insofar as aircraft registered in the Union are concerned, the designs that were covered by suchdesign certificates continue to be covered by design certificates governed by Regulation (EU) 2018/1139 after the end of the transitional period. The specific measures should allow the aircraft operators concerned to continue using the products in question. It is therefore necessary to provide that the Agency or, as the case may be, design organisations approved by it, are deemed to have issued the design certificates covering those designs with effect from the day following the end of the transition period. Regulation (EU) 2018/1139 and relevant Commission acts envisage such design certificates, issued on the basis that the aircraft in question is registered in a Member State, even though a third country is the State of design.

(6) It is necessary toclarify that those design certificates are subject to the relevant rules set out in Regulation (EU) 2018/1139 and the relevant implementing and delegated acts adopted by virtue of it or of Regulation (EC) No 216/2008 of the European Parliament and of the Council[6], in particular those applicable to design certification and mandatory continuing airworthiness information.

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[6] Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC (OJ L 79, 19.3.2008, p. 1).

(7) In view of the urgency entailed by the end of the transition period, it is considered to be appropriate to provide for an exception to the eight-week period referred to in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community.

(8) Since the objective of this Regulation, namely, maintaining a high and uniform level of aviation safety in the Union, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(9) This Regulation should enter into force as a matter of urgency and should apply from the day following the end of the transition period, unless an agreement between the European Union and the United Kingdom governing matters of civil aviation safety related to design certificates addressed in this Regulation has entered into force ***or provisionally applies*** by that date,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

1. This Regulation lays down specific provisions, in view of the end of the transition period, for certain aviation safety certificates issued under Regulation (EC) No 216/2008 or (EU) 2018/1139 to natural and legal persons having their principal place of business in the United Kingdom.

2. This Regulation shall apply to the design certificates listed in the Annex which are valid on the day before the date of application of this Regulation and which have been issued by the Agency to natural or legal persons having their principal place of business in the United Kingdom or by a design organisation having its principal place of business in the United Kingdom.

3. This Regulation shall apply only in respect of aircraft registered in the Union.

Article 2

Definitions

For the purposes of this Regulation, the corresponding definitions of Regulation (EU) 2018/1139 and of the delegated and implementing acts adopted under that Regulation and under Regulation (EC) No 216/2008 shall apply.

Article 3

Validity of certificates

The design certificates referred to in Article 1(2) shall be deemed to have been issued with effect from the date referred to in Article 5(2):

(1) by the Agency, in respect of certificates referred to in Article 1(2) that were issued by the Agency;

(2) by an organisation approved by the Agency, in respect of certificates referred to in Article 1(2) that were issued by a design organisation approved by the Agency.

Article 4

Rules and obligations regarding certificates governed by Article 3

1. The certificates governed by Article 3 of this Regulation are subject to the rules applicable to them in accordance with Regulation (EU) 2018/1139 and the relevant implementing and delegated acts adopted by virtue of that Regulation or of Regulation (EC) No 216/2008, in particular Commission Regulation (EU) No 748/2012[7].

[7] Commission Regulation (EU) No 748/2012 of 3 August 2012 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations (OJ L 224, 21.8.2012, p. 1).

2. The Agency shall have the powers established in Regulation (EU) 2018/1139 and in the relevant implementing and delegated acts adopted under that Regulation and under Regulation (EC) No 216/2008 with regard to entities having their principal place of business in a third country.

Article 5

Entry into force and application

1. This Regulation shall enter into force on the day following that of its publication in the Official Journal of the European Union.

2. This Regulation shall apply from the day following that on which Union law ceases to apply to and in the United Kingdom pursuant to Articles 126 and 127 of the Withdrawal Agreement.

3. This Regulation shall not apply if an agreement between the Union and the United Kingdom governing matters of civil aviation safety related to the design certificates referred to in Article 1(2) of this Regulation has entered into force ***or, as the case may be, provisionally applies*** by the date referred to in paragraph 2 of this Article.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament *For the Council*

The President *The President*

ANNEX

LIST OF CERTIFICATES REFERRED TO IN ARTICLE 1

1. Commission Regulation (EU) No 748/2012[8], Annex I, Part 21, Section A, Subpart B (Type-certificates and restricted type-certificates)

2. Regulation (EU) No 748/2012, Annex I, Part 21, Section A, Subpart D (Changes to type-certificates and restricted type-certificates)

3. Regulation (EU) No 748/2012, Annex I, Part 21, Section A, Subpart E (Supplemental type-certificates)

4. Regulation (EU) No 748/2012, Annex I, Part 21, Section A, Subpart M (Repairs)

5. Regulation (EU) No 748/2012, Annex I, Part 21, Section A, Subpart O (European Technical Standard Order authorisations)

6. Regulation (EU) No 748/2012, Annex I, Part 21, Section A, Subpart J (Design organisation approvals)

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[8] Commission Regulation (EU) No 748/2012 of 3 August 2012 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations (OJ L 224, 21.8.2012, p. 1).