Council of the
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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 Amendment 177 to Annex 1, Amendment 47 to Annex 2, Amendment 108 to Annex 8 and Amendment 90 to Annex 10, and of a new volume VI to Annex 10 to the Convention on International Civil Aviation

COUNCIL DECISION (EU) 2021/…

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 Amendment 177 to Annex 1, Amendment 47 to Annex 2, Amendment 108 to Annex 8 and Amendment 90 to Annex 10, and of a new volume VI to Annex 10 to the Convention on International Civil Aviation

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 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 is to adopt international standards and recommended practices, and designate them as Annexes to the Chicago Convention.

(4) The ICAO Council, at its 222nd session, is to adopt Amendment 177 to Annex 1 - Personnel Licensing, Amendment 47 to Annex 2 - Rules of the Air, Amendment 108 to Annex 8 - Airworthiness of Aircraft and Amendment 90 to Annex 10 Volume V - Aeronautical Telecommunications, and a new Volume VI to Annex 10 to the Chicago Convention.

(5) The main purpose of the amendments proposed is to establish a legal framework for the design, type certification and operation of remotely piloted aircraft operating across international borders and over the high seas under Instrument Flight Rules. The Union is a strong supporter of the efforts by ICAO to establish such a legal framework.

(6) It is appropriate to establish the position to be taken on the Union's behalf within the ICAO Council as Amendment 177 to Annex 1, Amendment 47 to Annex 2, Amendment 108 to Annex 8 and Amendment 90 to Annex 10 Volume V, and the new Volume VI to Annex 10 to the Chicago Convention will be binding on the Union and capable of decisively influencing the content of Union law, namely Commission Regulations (EU) No 1178/2011[1], (EU) No 748/2012[2], (EU) No 965/2012[3], (EU) No 1321/2014[4] and potentially (EU) No 452/2014[5], and Commission Implementing Regulation (EU) 2017/373[6].

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1 Commission Regulation (EU) No 1178/2011 of 3 November 2011 laying down technical requirements and administrative procedures related to civil aviation aircrew pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 311, 25.11.2011, p. 1).

2 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).

3 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).

4 Commission Regulation (EU) No 1321/2014 of 26 November 2014 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks (OJ L 362, 17.12.2014, p. 1).

5 Commission Regulation (EU) No 452/2014 of 29 April 2014 laying down technical requirements and administrative procedures related to air operations of third country operators pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 133, 6.5.2014, p. 12).

6 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, p. 1).

(7) The position of the Union within the ICAO Council with regard to the adoption of Amendment 177 to Annex 1, Amendment 47 to Annex 2, Amendment 108 to Annex 8 and Amendment 90 to Annex 10 Volume V, and the adoption of a new Volume VI to Annex 10 to the Chicago Convention should be to support those amendments in their entirety and should be expressed by the Member States that are members of the ICAO Council, acting jointly on behalf of the Union.

(8) Once adopted, the Amendments to Annexes 1, 2, 8 and 10 to the Chicago Convention will be binding on all contracting States, including all Member States, in accordance with and within the limits set out in the Chicago Convention.

(9) 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 adopted by ICAO, or to bring its own regulations or practices into full accord with any such international standard or procedure after amendment of the latter, 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.

(10) Pursuant to Article 90 of the Chicago Convention, any Annex or any amendment of an Annex adopted by the ICAO Council becomes effective within three months after its submission to the 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 States register their disapproval with the ICAO Council.

(11) The position of the Union after the adoption of Amendment 177 to Annex 1, Amendment 47 to Annex 2, Amendment 108 to Annex 8 and Amendment 90 to Annex 10 Volume V, and the adoption of a new Volume VI to Annex 10 to the Chicago Convention by the ICAO Council, to be announced by the ICAO Secretary General via an ICAO State Letter procedure, should be not to register disapproval with the ICAO Council.

(12) In the case that Union legislation differs from the Annexes to the Chicago Convention as amended by ICAO after they become applicable, the Commission should submit to the Council the detailed differences to be notified to ICAO on the Union's behalf by the Member States,

HAS ADOPTED THIS DECISION:

Article 1

1. The position to be taken on the Union's behalf within the ICAO Council shall be to support the adoption of Amendment 177 to Annex 1, Amendment 47 to Annex 2, Amendment 108 to Annex 8 and Amendment 90 to Annex 10 Volume V, and the adoption of a new Volume VI to Annex 10 to the Chicago Convention in their entirety.

2. The position to be taken on the Union's behalf, provided the ICAO Council adopts without any substantial change Amendment 177 to Annex 1, Amendment 47 to Annex 2, Amendment 108 to Annex 8, Amendment 90 to Annex 10 Volume V, and the new Volume VI to Annex 10 to the Chicago Convention referred to in paragraph 1, shall be not to register disapproval with the ICAO Council with regard to the adopted measures in reply to the respective ICAO State Letters.

3. In the case that Union legislation differs from the Annexes to the Chicago Convention as amended by ICAO after they become applicable, thus requiring the notification of differences with those Annexes in accordance with Article 38 of the Chicago Convention, the Commission shall, in due time and sufficiently in advance of the deadline set by 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 ICAO on the Union's behalf by the Member States.

Article 2

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

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

Article 3

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

Done at Brussels,

For the Council
The President