



Council of the European Union
General Secretariat

Brussels, 04 July 2025

WK 9372/2025 INIT

LIMITE

AVIATION

ICAO

RELEX

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

NOTE

From: General Secretariat of the Council
To: Delegations

N° prev. doc.: ST 7055/23

Subject: COUNCIL DECISION 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
- Report from the Commission on implementation

In view of the Working Party on Aviation on 16 July 2025, delegations will find, in Annex, a report from the Commission on the implementation of Council decision (EU) 2023/746.

WK 9372/2025 INIT

LIMITE

EN

Commission services non-paper

Report on the application of 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 (“ICAO”) as regards the adoption of, or amendments to, international standards and recommended practices, and the notification of differences with respect to adopted international standards¹

1. STATUS AND SUBJECT MATTER

1. This non-paper is presented pursuant to Article 7 of Council Decision (EU) 2023/746 with the objective to report on its application, in particular its effectiveness and the frequency of its use.
2. It includes data on Union positions formed as regards various submissions to ICAO, covering a period from the entry into force of Council Decision (EU) 2023/746 until June 2025 when the preparatory works started ahead of the 235th session of the ICAO Council.

2. BACKGROUND ON ICAO COUNCIL SESSIONS

1. The ICAO Council holds three sessions per year. According to an established practice, the ICAO Council adopts new standards and recommended practices or amends standards and recommended practices (“SARPs”) at its winter session (January to March). However, in some instances SARPS were voted outside winter session. For example, at the 235th ICAO Council (9 - 13 June 2025 and 23 June – 4 July 2025), an Amendment 2 of Annex 19 “*Safety Management*” falling under the scope of Decision (EU) 2023/746 is to be presented for the adoption.
2. During the applicability of the Council Decision, the following EU Member States were elected among 36 Council States: France, Germany, Italy, Austria, Spain, and Romania. A new election to the ICAO Council will take place before the expiration of the Council Decision and the following EU Member States are candidates: Denmark, France, Germany, Italy, Poland, and Spain.
3. The Rules of Procedure of the ICAO Council state that proposals for new or amended SARPs must be shared with the ICAO Council members “*at least ten working days before the meeting*”. This notably enables a final review of the proposed new or amended SARPs by the ICAO Air Navigation Commission in the immediate weeks preceding their adoption by the ICAO Council.
4. Before each session of the ICAO Council, a Union position pursuant to Article 218(9) TFEU needs to be established for items having legal effects within the meaning of that provision. This includes decisions to approve or disapprove SARPs. Furthermore, a Union position shall be established regarding the notification of differences with respect to SARPs.
5. A Union position on amendments to SARPs and/or on new SARPs shall be expressed by the Member States of the Union that are members of the ICAO Council, acting jointly

¹ OJ L 99/7, 12.4.2023

in the interest of the Union. The position on notification of differences shall be expressed by all Member States acting jointly in the interest of the Union.

3. SUBMISSIONS UNDER THE COUNCIL DECISION (EU) 2023/746 (FREQUENCY)

1. Within the period stated under point 1.2 above, the Commission submitted to the Council 26 Information notes concerning amendments to the Annexes to the Chicago Convention falling under the scope of the Council Decision. The Information notes were prepared at experts' level by the European Union Aviation Safety Agency (EASA) in close collaboration and consultation with Member States' experts.
2. Although not covered by Council Decision (EU) 2023/746, but directly stemming from the amendments to SARPs covered by the above Decision, Information notes contained also information about the amendments to or establishment of Procedures on Air Navigation Services ("PANS"). PANS are consequential changes to SARPs in question. The Commission submissions thus included proposed Union position for 7 instances where new PANS or amendments to PANS were to be approved at the ICAO Council.
3. The Commission submitted to the Council, for discussion and approval, two submissions setting out positions to be taken on behalf of the Union in cases falling under Article 4 of Council Decision (EU) 2023/746 i.e. notification of differences. Those submissions covered altogether 10 cases where the Union law differed from the adopted SARPs.
4. Annex 1 contains a detailed overview and analysis of the submissions of the Information notes by the Commission to the Council.
5. Annex 2 presents cases of Commission submissions related to ICAO Council deliberations falling outside the scope of the Council Decision (EU) 2023/746, within aviation safety and air navigation area, with a detailed description of those cases.

4. ASSESSMENT OF EFFECTIVENESS

1. Information notes concerning amendments to various Annexes to the Chicago Convention were well received by the Member States and swiftly processed towards endorsement.
2. The procedure contained in Council Decision (EU) 2023/746 resulted in a less rigid process for establishing the Union positions and offered more time to discuss the substance. It allowed the Commission to describe in more detail the proposed changes, their reasoning, and to analyse how these proposed amendments to SARPs would be addressed in Union law.
3. The timeline as set by Article 4 of Council Decision (EU) 2023/746 (i.e. "*in due time and at least two months before any deadline set by the ICAO for the notification of differences*") allowed for appropriate scrutiny by the relevant Council preparatory body, i.e. the Working Party on Aviation where Member States examined preparatory documents generally during two sessions of the Working Party.
4. The timeline as set by Article 2 paragraph 1 letter (a) of Council Decision (EU) 2023/746 (i.e. "*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*"), posed some challenges. As per its internal Rules of Procedure, ICAO issues documents, in some instances, only ten working days before the meeting where the vote takes place. This therefore puts a requirement to present the Union position on a text which is still under discussion in ICAO preparatory bodies and has not yet been fully determined for the adoption. However, it is noted that Article 2 paragraph (1, letter a) of Council Decision

(EU) 2023/746 provides for some flexibility in such situation: “*in exceptional circumstances, of an amendment, where the text of the relevant draft SARPs or amendments is available less than a month before the date of the ICAO Council meeting where those SARPs or amendments are to be adopted, 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 from the International Civil Aviation Organization (‘ICAO’)*”. This was the case of the most recent Amendment 2 to Annex 19.

5. The necessity to undergo EU internal process that usually takes approximately at least 2 – 3 months compared to the timeline of ICAO to have the document ready for the formal adoption often create challenges, especially where new SARPs or amendments to SARPs are put up for the adoption by the ICAO Council at the last moment. This situation occurred for example whereby the EU internal process could not have been completed before the formally announced date for the adoption of SARPs by the ICAO Council. It should be underlined that the adoption of the amendments to the Annexes to the Chicago Convention is a specific process with its own lengthy procedure, which differs from the procedure for the adoption of other items such as Technical Instructions or various work programmes and outcomes of working groups examined by the ICAO Council. It notably includes a formal notification of the date at which the amendments are planned for the adoption. In addition, the adoption of SARPs requires a formal vote (by two third of the Council members) unlike other topics examined by the ICAO Council where the decision is usually taken by a consensus. In that specific situation, the European representatives had to request the President of the ICAO Council to postpone the adoption of the said SARPs by the ICAO Council to enable the EU process to take place. It should be noted that such a request is extremely rare in the ICAO context and can have an impact on the implementation date of the SARPs.
6. Following the above process, in most cases EU Member States representatives in the ICAO Council received the adopted Union position before the respective ICAO Council session. In some instances, however, the lack of such adopted Union position posed some challenges for the EU Member States representatives in the ICAO Council as a request for postponing the vote date had to be submitted and there was no time for internal coordination among EU members of the ICAO Council. Only the timely submission of the adopted Union position to the EU members of the ICAO Council ensures that they act in line with Union position.
7. Information notes setting out draft positions to be taken on behalf of the Union in cases falling under Article 3 of Council Decision (EU) 2023/746, i.e. notification of differences, were efficiently and swiftly processed by the Council Working Party on Aviation, including 2 cases of belated submissions by the Commission that were caused by some delays in EASA Rulemaking Task 0719. The efficiency was driven by the common objective to comply with the Chicago Convention and to form a Union position without delays, so, that the Union Member States and the Contracting Parties to the Chicago Convention could meet their obligation vis-à-vis the Chicago Convention.
8. Following the procedure set up by Council Decision (EU) 2023/746, it can be concluded that the implementation of the Council Decision met its purpose and all EU Member States were able to fulfil their obligation stemming from the Chicago Convention and file a difference/differences without undue delays.
9. It was also observed that into strict interpretation of the scope of Council Decision (EU) 2023/746 created some inconsistencies in the application of the said Decision. Notably, the Procedures for Air Navigation Services (“PANS”) which are adopted as a consequence of amendments to Annexes falling within the scope of this Decision should

be subject to the Union position. Another explored gap concerns recommended practices.

10. A too strict interpretation of the Council Decision's scope which leaves aside PANS or recommended practices led to an unnecessary separation of them from the Union positions. Such a narrow interpretation is a missed opportunity for EU Member States to have a comprehensive overview of all types of changes affecting SARPs and for the Union to properly establish its position on those changes.
11. During the applicability period, there were also several submissions falling outside the scope of the Council Decision (see details in Annex 2) that should be considered for a possible extension of the Council Decision (EU) 2023/746 once discussed in the Council.
12. The examples of these situations show that new PANs and other instruments (i.e. Technical Instructions) which have legal effects on the Union law require a formulation of a Union position pursuant to Article 218(9) TFEU. It is therefore essential that those instances are covered by the Council Decision to allow for the Union position to be adopted ahead of the vote or approval in the ICAO.
13. Another case which is not covered by the Council Decision concerned Amendment 19 to Annex 13 – *Aircraft Accident and Investigation*. This amendment was a purely consequential amendment stemming from an amendment to Annex 6 that was, at the same time, addressed under the Council Decision procedure. Therefore, in the field of civil aviation safety, it might be opportune to enlarge the scope of Council Decision (EU) 2023/746 to cover all Chicago Convention Annexes in the field of civil aviation safety and air navigation. This in particular concerns ICAO Annexes that are reflected in the Union civil aviation safety rules, i.e. not only in Regulation 2018/1139, but also in other aviation safety regulations such as Regulation 376/2014 Occurrence Reporting, Regulation 996/201 on Accident Investigation, and Regulation 2111/2005 on the EU's Air Safety List.

5. NEXT STEPS

1. This evidenced-based assessment has been compiled with a view to enable a constructive discussion within the Council in order to further improve Union processes for the establishment of Union position ahead of Member States voting at the International Civil Aviation Organization.
2. Pursuant to Article 7, paragraph 3 of Council Decision (EU) 2023/746, the Commission will submit a proposal to the Council reflecting this analysis.

ANNEX 1

A DETAILED OVERVIEW OF SUBMISSIONS BY THE EUROPEAN COMMISSION

1. Following the adoption of Council Decision (EU) 2023/746, the Commission submitted numerous documents setting out draft positions to be taken by Member States on the Union's behalf.
2. In cases where the ICAO Council was to adopt new SARPs or amendments thereof (Article 2 paragraph 1 of Council Decision (EU) 2023/746), following submissions were presented by the Commission:
 - a. ICAO Council, the 231st session (11-22 March 2024)

Information note on the position to be taken on behalf of the European Union at the International Civil Aviation Organization as regards the adoption of amendments to ICAO Annexes 1, 2, 3, 4, 6 Parts I-IV, 8, 10 Vol II and III, 11, and 15.

- i. The proposal concerned the position to be taken on the Union's behalf at the International Civil Aviation Organization (ICAO) on the adoption of the following ICAO Annex amendments:

Annex 1 Amendment 179
Annex 2 Amendment 48
Annex 3 Amendment 81
Annex 4 Amendment 62
Annex 6 Part I Amendment 49
Annex 6 Part II Amendment 41
Annex 6 Part III Amendment 25
Annex 6 Part IV
Annex 8 Amendment 110
Annex 10 Vol II Amendment 93
Annex 10 Vol III Amendment 92
Annex 11 Amendment 53
Annex 15 Amendment 43

- ii. Information note, in the part related to amendments to various Annexes to the Chicago Convention was well received by Member States and swiftly processed towards its endorsement.
 - iii. Additionally, the Information note laid down the position to be taken on the Union's behalf on the consequential changes to the Procedures for Air Navigation Services:

PANS-ATM (Air traffic management Doc 4444),
PANS-AIM (Aeronautical Information Management - Doc 10066)
PANS-ABC (ICAO Abbreviation and codes - Doc 8400)
PANS-OPS (Aircraft Operations - Doc 8168) Vol I, II Vol III
new PANS-IM (information management)
PANS-MET (Meteorological)

not directly covered by Council Decision (EU) 2023/746 but directly stemming from the amendments to Annexes listed above.

- iv. The part of Information note related to Procedures for Air Navigation Services (“PANS”) has been separated from the Information note by the Council with a reference to the scope of Council Decision (EU) 2023/746, although these particular amendments of PANS were consequential to amendments to Annexes covered by Council Decision (EU) 2023/746. Thus, forming a Union position on amendments to PANS had to be submitted through different means. This situation created inconsistency and unnecessary complication during the deliberations.

b. ICAO Council, the 234th session (10 March – 4 April 2025)

Information note on the position to be taken on behalf of the European Union at the International Civil Aviation Organization as regards the adoption of amendments to ICAO Annexes 1, 2, 3, 4, 6 Parts I-IV, 8, 10 Vol II and III, 11, and 15.

- i. The proposal concerned the position to be taken on the Union’s behalf at the International Civil Aviation Organization (ICAO) on the adoption of the following ICAO Annex amendments:

Annex 3 Amendment 82
Annex 6, Part I Amendment 50
Annex 6, Part II Amendment 42
Annex, Part III Amendment 26
Annex 10, Vol I Amendment 94
Annex 10, Vol II Amendment 94
Annex 10, Vol III Amendment 93
Annex 10, Vol V Amendment 91
Annex 11 Amendment 54
Annex 14, Vol I Amendment 18
Annex 14, Vol II Amendment 10
Annex 15 Amendment 44.

- ii. Additionally, the Information note laid down the position to be taken on the Union’s behalf on the approval of the new Procedures for Air Navigation Services – Meteorology (PANS-MET, Doc 10157).
- iii. Information note, in the part related to amendments to various Annexes to the Chicago Convention was well received by Member States and swiftly processed towards its endorsement.
- iv. As regards PANS, due to the fact that PANS are falling out of the scope of the Council Decision (EU) 2023/746, the point on PANS was separated from points on amendments to SARPs by the Council. Although PANS are not covered by the Council Decision (EU) 2023/746, this separation was a missed opportunity to provide EU Member States with a comprehensive overview that changes to SARPs would introduce. This situation created inconsistency and unnecessary complication during the deliberations.

c. ICAO Council, 235th session (9-13 June and 23 June – 4 July 2025)

Information note on the position to be taken on behalf of the European Union at the International Civil Aviation Organization as regards the adoption of amendment 2 to ICAO Annex 19.

- i. The proposal concerned the position to be taken on the Union's behalf at the International Civil Aviation Organization (ICAO) on the adoption of the following ICAO Annex amendment:

Annex 19, Amendment 2

- ii. Information note, in the part related to the amendment 2 to Annex 19 – *Safety Management* to the Chicago Convention was well received by Member States and swiftly processed towards its endorsement.

3. Furthermore, the Commission, submitted to the Council, for discussion and approval, numerous documents setting out draft positions to be taken on behalf of the Union in case falling under Article 3 of Council Decision (EU) 2023/746 i.e. notification of differences. There were following cases:

- a. Information note on the position to be taken on behalf of the European Union at the International Civil Aviation Organization as regards notification of differences to Annex 1, Annex 2, Annex 6 Part I, Annex 6 Part II, Annex 6 Part III, Annex 10 Volume II, Annex 10 Volume III and Annex 11 to the Convention on International Civil Aviation (August 2024).

- i. The proposal concerned the position to be taken on the Union's behalf at the International Civil Aviation Organization (ICAO) on the differences to be notified to ICAO regarding the following amendments:

Amendment 179 to Annex 1

Amendment 48 to Annex 2

Amendment 49 to Annex 6, Part I

Amendment 41 to Annex 6, Part II

Amendment 25 to Annex 6, Part III

Amendment 93 to Annex 10 Volume II

Amendment 92 to Annex 10 Volume III

Amendment 53 to Annex 11

- ii. The Commission submitted the preparatory document in accordance with Article 4 of the Council Decision (EU) 2023/746. The preparatory document was based on information provided by the European Union Aviation Safety Agency prepared in consultation with EU Member States experts and further consulted within the Commission. The timeline as set by Article 4 allowed further consultations within EU Member States after presenting the Information note to the Council preparatory body i.e. Working Party on Aviation.
- iii. Following the procedure set up by the Council Decision (EU) 2023/746 reached its purpose and all EU Member States were in the position to fulfil their obligation stemming from the Chicago Convention and file a difference/differences on time.

b. Information note on the position to be taken on behalf of the European Union at the International Civil Aviation Organization as regards notification of differences to Annex 4 and Annex 15 to the Convention on International Civil Aviation (November 2024).

- i. The proposal concerned the position to be taken on the Union's behalf at the International Civil Aviation Organization (ICAO) on the differences to be notified to ICAO regarding the following amendments:

Amendment 62 to Annex 4

Amendment 43 to Annex 15

- ii. At its 231st session, the Council of the International Civil Aviation Organization (ICAO) adopted Amendments 62 to Annex 4 and 43 to Annex 15 to the Convention on International Civil Aviation. These amendments concerned changes in several standards. Moreover, the amendments to Annex 4 concerned certain recommended practices (13.6.2 and 14.6.2). The amended provisions of Annex 15 concerned changes to several standards as well as recommended practices, namely 3.6.5, 5.4.3.1, 5.4.3.1.2 and 5.4.3.1.3.
- iii. These changes introduced temporary differences between SARPs and Union legislation as from the new SARPs applicability date until amendments to Union legislation would be introduced and become applicable.
- iv. Although the above proposal was submitted to the Council at a late stage, only a few weeks before the applicability date set up for 28 November 2024, the procedure under the Council Decision (EU) 2023/746 (EU) allowed the Commission to address these differences with Member States in the Council. The Council was able to very swiftly react, discuss and endorse the Union position to notify differences, although with a 3 weeks delay i.e. after the set applicability date.
- v. When adopting these particular amendments at the 231st ICAO Council session, legislative work at Union level taking into account these changes was expected to be finalised by the ICAO stipulated deadline. The delay in the process was caused by delays occurring with Rule Making Task RMT 0719 managed by the European Union Aviation Safety Agency.
- vi. The Information note contained a part on notifying differences to recommended practices. However, this part has been removed by the Council, pointing out that recommended practices, as opposite to standards do not fall under the Council Decision (EU) 2023/746 (EU).
- vii. With the submission of this Information note, the objective of the Commission was to provide a complete overview of all differences stemming from amendment 62 to Annex 4 as well as amendment 43 to Annex 15. The reason, besides a comprehensive overview was twofold:
 1. ICAO Contracting States, including all EU Member States by ICAO Assembly Resolution A39-22 committed to notify differences to recommended practices in the area of aviation safety and air navigation, detailed in the ICAO Manual on notification of differences (Doc 10055);
 2. ICAO considers notification of differences pertaining to recommended practices obligatory due to the fact that knowledge

of differences from recommended practices may also be important for the safety, regularity and efficiency of air navigation.

- viii. It shall be noted that within the framework of the ICAO 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.

ANNEX 2

A DETAILED OVERVIEW OF SUBMISSIONS BY THE EUROPEAN COMMISSION WITHIN REMIT OF CIVIL AVIATION SAFETY AND AIR NAVIGATION FALLING OUTSIDE DECISION (EU) 2023/746

1. Shortly before and within the period of the applicability of the Council Decision (EU) 2023/746, the Commission submitted to the Council, for discussion and approval, numerous documents setting out the draft position to be taken on behalf of the Union in cases falling outside the scope of Council Decision (EU) 2023/746.
2. These were following submissions:
 - a. Technical Instructions for the safe transport of dangerous goods by air, under Annex 18 - The Safe Transport of Dangerous Goods by Air (228th ICAO Council, 13-31 March 2023).
 - i. On 9 February 2023, the President of the ICAO Council confirmed a new point “*Proposed amendment to the Technical instructions for the safe transport of dangerous goods by air to permit active tracking devices powered by small lithium batteries in checked baggage*” to be added to the Agenda of the 228th ICAO Council meeting.
 - ii. The newly added point to the agenda had a direct impact on the content of EU rules for transport of dangerous goods (Annex IV section CAT.GEN.MPA.200 “*Transport of dangerous goods*” of Regulation 965/2012).
 - iii. Thus a fully-fledged proposal for a Council Decision under Article 218(9) of TFEU was therefore required to establish an EU position as there were change to these Instructions.
 - iv. An extremely short timeframe put an unprecedented pressure on Member States to form a Union position on this matter with a direct decisive influence on the content of the Union law. In a search of an efficient way under time constraints, a Presidency compromise was introduced to an already existing Commission proposal on a position to be taken on behalf of the European Union at the International Civil Aviation Organization on a different matter (position on adoption of amendment 93 to Annex 10).
 - b. Amendment 19 to Annex 13 (231st ICAO Council, 11 – 22 March 2024)
 - i. The proposal concerned the position to be taken on the Union’s behalf for the envisaged Amendment 19 to Annex 13 – *Aircraft Accident and Incident Investigation*. Annex 13 falls outside of the scope of Council Decision (EU) 2023/746.
 - ii. The proposal concerned the position to be taken on the Union’s behalf for the envisaged Amendment 19 to Annex 13 – *Aircraft Accident and Incident Investigation*. Annex 13 falls outside of the scope of Council Decision (EU) 2023/746.
 - iii. It should be noted that this amendment was a consequential amendment stemming from amendment to Annex 6 that was, at the same time, addressed by Information note under the procedure established by

Council Decision (EU) 2023/746 (see details under Annex 1, point 2a), while this consequential amendment had to follow a rigid procedure as set by Article 218(9) TFEU.

- iv. The main purpose of the amendment 19 to Annex 13 - *Aircraft Accident and Incident Investigation* was to improve aviation safety by ensuring a high level of efficiency, expediency, and quality of civil aviation safety investigations. The proposed changes aimed to reach these objectives by assisting the safety investigation authorities of the Member States in their investigations on Remotely Piloted Aircraft (RPAS), and making available, without delay, information and data from recorders installed on aircraft.