COUNCIL DECISION (EU) 2020/767

of 8 June 2020

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 91 to Annex 10, Volume III, to the Convention on International Civil Aviation and the notification of difference from the date of application of Amendment 13B to Annex 14, Volume I, Amendment 40C to Annex 6, Amendment 77B to Annex 3 and Amendment 39B to Annex 15 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 of the Union are contracting States of the Chicago Convention and members of the ICAO, while the Union has observer status in certain ICAO bodies.

(3) Pursuant to Article 54 of the Chicago Convention, the ICAO Council may adopt international standards and recommended practices.

(4) The ICAO Council, during one of its upcoming sessions, is to adopt Amendment 91 to Annex 10, Volume III to the Chicago Convention on the selective calling system (SELCAL) ('Amendment 91').

(5) The main purpose of Amendment 91 is to introduce new tones to expand the available pool of SELCAL codes and thereby reduce the incidence of false indication in the aircraft cockpit. It also makes changes regarding the requirements concerning the system characteristics and introduces new tones which provide for a mechanism for the increase in the number of SELCAL codes with minimum impact for aircraft operators.

(6) It is appropriate to establish the position to be taken on the Union's behalf within the ICAO Council as Amendment 91 will be binding on the Union and is capable of decisively influencing the content of Union law, namely Commission Implementing Regulation (EU) 2017/373 ([1]). Once adopted, Amendment 91 will be binding on all ICAO Member States, including all Member States of the Union, in accordance with and within the limits set out in the Chicago Convention. Article 38 of the Chicago Convention requires contracting States to notify ICAO if they intend to deviate from a standard, under the notification of differences mechanism.

(7) The Union is a strong supporter of the efforts by ICAO to improve aviation safety by ensuring the safe and accurate provision of communication, navigation and surveillance services. The Union should, therefore, support Amendment 91.

([1]) 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).

(8) The position of the Union during one of the upcoming sessions of the ICAO Council with regard to Amendment 91 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.

(9) The position of the Union after the adoption of Amendment 91 by the ICAO Council, to be announced by the ICAO Secretary General by means of an ICAO State letter procedure, should be to notify compliance with Amendment 91 and is to be expressed by all the Member States of the Union.

(10) In 2016 the ICAO Council adopted amendments to a number of annexes to the Chicago Convention, intended to reduce runway excursion incidents and accidents. Those amendments ('the Amendments') are provided in State letters AN 4/1 2.26-16/19, AN 2/2.4 – 16/18, AN 10/1.1 – 16/17 and AN 11/1.3.29-16/12 and will be applicable in the contracting States as of 5 November 2020.

(11) The Union is a strong supporter of the efforts by ICAO to improve aviation safety. The amendments introducing a new harmonised methodology for assessing and reporting runway surface conditions will contribute to mitigate the risk of runway excursion incidents and accidents due to runway contamination such as snow, ice, slush or water.

(12) Commission Implementing Regulations (EU) 2019/1387 ([2]) and (EU) 2020/469 ([3]) incorporate the Amendments in Union law.

(13) Implementing Regulations (EU) 2019/1387 and (EU) 2020/469 will apply in part from 5 November 2020 to coincide with the date of application of the Amendments. However, the COVID-19 pandemic has had a considerable impact on the efforts made by the Member States of the Union and the aviation stakeholders to prepare for the application of the new measures listed in Amendment 77B to Annex 3, Amendment 13B to Annex 14, Amendment 40C to Annex 6 and Amendment 39B to Annex 15 to the Chicago Convention.

(14) In particular, the confinement and the partial unemployment of staff, combined with the additional workload required to manage the significant negative consequences of the COVID-19 pandemic for all stakeholders, have impaired progress.

(15) Competent authorities and operators are experiencing difficulties in preparing for the implementation of the Amendments. It may therefore be necessary for the date of application provided for in Implementing Regulations (EU) 2019/1387 and (EU) 2020/469 to be postponed by six months.

(16) If the ICAO Council does not postpone the date of application of the Amendments by six months, whilst Union law postpones the date of application of the relevant ICAO standards by six months, the Union position should be to notify a difference to ICAO in accordance with Article 38 of the Chicago Convention and to inform ICAO of its intention to postpone the date of application of the Amendments by six months,

HAS ADOPTED THIS DECISION:

Article 1

1. The position to be taken on behalf of the Union within one of the upcoming sessions of the Council of the International Civil Aviation Organization ('ICAO') shall be to support the proposed Amendment 91 to Annex 10, Volume III to the Convention on International Civil Aviation ('Chicago Convention') in its entirety.

2. The position to be taken on behalf of the Union after the adoption by the ICAO Council of Amendment 91 to Annex 10, Volume III to the Chicago Convention shall be to notify compliance with the adopted measure in reply to the respective ICAO State letter.

([2]) Commission Implementing Regulation (EU) 2019/1387 of 1 August 2019 amending Regulation (EU) No 965/2012 as regards requirements for aeroplane landing performance calculations and the standards for assessing the runway surface conditions, update on certain aircraft safety equipment and requirements and operations without holding an extended range operational approval (OJ L 229, 5.9.2019, p. 1).

([3]) Commission Implementing Regulation (EU) 2020/469 of 14 February 2020 amending Regulation (EU) No 923/2012, Regulation (EU) No 139/2014 and Regulation (EU) 2017/373 as regards requirements for air traffic management/air navigation services, design of airspace structures and data quality, runway safety and repealing Regulation (EC) No 73/2010 (OJ L 104, 3.4.2020, p. 1).

Article 2

If the ICAO Council does not postpone the date of application of Amendment 77B to Annex 3, Amendment 13B to Annex 14, Amendment 40C to Annex 6 and Amendment 39B to Annex 15 to the Chicago Convention and the Commission amends Implementing Regulations (EU) 2019/1387 and (EU) 2020/469 and Delegated Regulation C(2020)710 final [4] to delay their application by six months, a corresponding difference from the date of application of Amendment 77B to Annex 3, Amendment 13B to Annex 14, Amendment 40C to Annex 6 and Amendment 39B to Annex 15 to the Chicago Convention by six months shall be notified to ICAO in accordance with Article 38 of that Convention.

Article 3

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.

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

Article 4

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

Done at Brussels, 8 June 2020.

For the Council
The President
A. METELKO-ZGOMBIĆ

[4] Commission Delegated Regulation C(2020) 710 final amending Regulation (EU) No 139/2014 as regards runway safety and aeronautical data.