



Brussels, 27 May 2020
(OR. en)

8321/20
ADD 1

AVIATION 97
RELEX 372
CLIMA 100
ICAO 5

WORKING DOCUMENT

From: Presidency
To: Delegations

No. Cion doc.: ST 7794/20 + ADD1

Subject: **Coordination in preparation for the 220th session of the ICAO Council
(Montréal, 8 - 26 June 2020)**
– Presidency compromise

Following the meeting of the AVIA Working Party on 26 May 2020, delegations will find attached a revised draft for the Information note (part B, environment) regarding EU coordination in preparation of the 220th session of the ICAO Council. Changes in comparison to the proposal from the Commission are marked with **bold** and ~~strikethrough~~.

In the absence of comments by delegations **by 17:00 CET on Thursday 28 May 2020¹**, the file will be forwarded to COREPER for endorsement and decision on the use of written procedure.

¹ avia-mar@consilium.europa.eu

INFORMATION NOTE**Coordination in preparation for the 220th Session of the ICAO Council****Part B**

This information note is presented by the Commission's services on the basis of the existing agenda² and currently available relevant information in view of coordinating EU positions for the 220th Session of the ICAO Council³ on the items of EU interest indicated below:

45. In the area of Environmental Protection

- Update on the work on the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA)
- Recommendations of the Committee on Aviation Environmental Protection (CAEP) related to CORSIA
- Recommendations of the Technical Advisory Body (TAB) related to CORSIA

The only item of this information note pertaining to a possible decision of the ICAO Council with legal effects on the Union is [C-WP/15053---] (*Update on the work on the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA)*) regarding a possible **adjustment of the design elements of CORSIA**~~adjusted baseline for CORSIA~~, in the context of the COVID-19 crisis, **in particular as regards CORSIA baseline**.

~~It is recalled that the position to be taken in ICAO bodies by the Member States on behalf of the European Union with regard to the adoption of the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) is defined in Council Decision (EU) 2016/915 of 30 May 2016, as supplemented and refined by information notes following the 39th ICAO Assembly in 2016. The present document is intended to allow a coordinated Union position on the second and third items referred to above.~~

² C-WP/14992 (28/2/20).

³ Dates for the 220th Council Session: Committee phase: 11 – 22 May 2020 and Council phase: 8 – 26 June 2020

As regards the first item, the elements in this note **concerning CORSIA baseline** are intended to prepare internal discussion in view of next steps. Background are, mostly, the arguments raised by stakeholders to the effect that the baseline established in CORSIA should be changed. In this respect, it needs to be borne in mind that Council Decision (EU) 2016/915 sets out as Union position that the Union shall “aim to ensure that that international instrument [CORSIA] is consistent with the ICAO goal of offsetting the growth of CO₂ emissions from international aviation above their levels **in 2020**”.

As regards the other elements under the first item as well as the second and the third item referred above, the present document is intended to allow a coordinated Union position.

ANNEX

220th ICAO Council Session

Consideration of agenda items of EU interest – suggested Union position

ITEMS RELATING TO ENVIRONMENTAL PROTECTION

It is recalled that the position to be taken in ICAO bodies by the Member States on behalf of the European Union with regard to Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) is defined in Council Decision (EU) 2016/915 of 30 May 2016, as supplemented and refined by information notes following the 39th ICAO Assembly in 2016. Article 28b(1) of Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community stipulates that the Commission shall report to the European Parliament and to the Council the progress in the ICAO negotiations to implement CORSIA.

Against this background, the present note covers three subject matters:

- *Update on the work on the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) – C-WP/15053---*
- *Recommendations of the Committee on Aviation Environmental Protection (CAEP) related to CORSIA – C-WP/...*
- *Recommendations of the Technical Advisory Body (TAB) related to CORSIA – C-WP/...*

As regards the first point, the present note contains **first** elements regarding the baseline established in CORSIA, with a view to preparing next steps. **It also contains elements regarding other CORSIA design elements using 2020 emissions values, such as new entrant's threshold and one option available to States to calculate the offsetting requirements for the pilot phase. Those elements form part of the concretisation of the Union position as provided for in Article 2 of Decision (EU) 2016/915, as it currently stands.**

The second and third points **also** form part of the concretisation of the Union position as provided for in Article 2 of Decision (EU) 2016/915, as it currently stands.

- **Update on the work on the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) – C-WP/15053---**

~~At the time of drafting this information note, the Working Paper was not available yet.~~

Background for consideration

A report is to be presented by the ICAO Secretariat on ongoing activities and next steps regarding the implementation of CORSIA, including the flexible approach to provide capacity-building, such as online training sessions of the CORSIA Central Registry (CCR) and online CORSIA verification courses, as well as CAEP's initial work to assess the impact of COVID-19 on CORSIA implementation. Information is also to be provided on various scenarios for the long-term maintenance of the CORSIA Central Registry (CCR).

a) The key issue here is the consideration of the impact of COVID-19 on the CORSIA baseline that is used to determine future offsetting requirements for aeroplane operators in order to achieve carbon neutral growth from 2020. The ongoing COVID-19 crisis will clearly lead to a substantial reduction of CO₂ emissions from international aviation in 2020.⁴ It will therefore also lead to a substantially lower CORSIA baseline⁵ which, under both the Assembly Resolution A40-19 and the ensuing SARPs, is determined as the average of the international aviation CO₂ emissions covered by CORSIA during 2019 and 2020. A significantly lower baseline could result in significantly higher offsetting requirements and - depending on unit prices - costs than expected for operators over the lifetime of CORSIA. This, naturally, also depends on the recovery rate of international air traffic and the development of CO₂ emissions from international air traffic.

CAEP working groups have carried out an order-of-magnitude analysis aiming at quantifying the impact of the COVID-19 crisis on the demand for emission units (offsets) under CORSIA, based on different scenarios, and exploring various options for the baseline.⁶ These options vary from the status quo, to using 2019 emissions or an average of emissions over more years or even extrapolated estimations of what emissions could have been in 2020 if there had not been any crisis. The order-of-magnitude analysis was unanimously endorsed for consideration by the ICAO Council at the meeting of the CAEP Steering Group on 11 May 2020.

Taking into account environmental effectiveness in relation to ICAO's goal of ensuring carbon neutral growth from 2020, cost implications, market certainty, political feasibility and the need to avoid unravelling key CORSIA design elements as well as the legal process in ICAO, a prudent initial approach, based on the information currently available, could be to adjust CORSIA's design to set as baseline the international aviation CO₂ emissions covered by CORSIA during 2019 ~~only~~.

A decision by the ICAO Council to adjust the CORSIA baseline during this session would send the signal that ICAO is actively taking steps to adapt to the crisis and should preserve States' support for and participation in CORSIA. ~~In order to balance the urgency of a decision with the need to ensure compliance with ICAO's governance rules, such a decision by the ICAO Council may be followed by a State Letter consultation and formal adoption at the following (221st) ICAO Council Session.~~

⁴ CO₂ emissions in 2020 could be about 40 % lower than levels anticipated in 2016 (CAEP, 11 May 2020)

⁵ The reference emissions for the CORSIA baseline could be about 18% lower compared to 2019 levels (CAEP, 11 May 2020)

⁶ IATA, ICSA and other organisations have also carried out related studies.

b) Moreover, it may be appropriate to make certain related adjustments to CORSIA design elements, such as:

- a corresponding adjustment of the option of using 2020 emissions as reference for calculating offsetting requirements during the so-called “pilot phase”, i.e. the first three years of voluntary participation (2021-2023);
- **an adjustment of the thresholds applicable to determine when new entrants shall be subject to offsetting requirements;**⁷
- a clarification that, in the calculation of offsetting requirements for a given year, the Sectoral Growth Factor cannot be negative, thus preventing that any negative offsetting requirements in one year cancels out positive requirements in another year of the same compliance period.

On the design elements set out in those two first indents above, a prudent and flexible approach should be adopted. In this respect, reference to emission levels of 2019 instead of 2020 levels could be considered.

c) Some countries indicated that they might try to use the opportunity of a possible baseline change to call for having different baselines for different countries, depending on their level of development, year of joining CORSIA or other criteria. Such a change would go against the principles of Resolution A40-19 and the Chicago Convention and its principle of non-discrimination, and would lead to major risks of unravelling CORSIA.

Should it take several years to reach the pre-crisis level of traffic and associated emissions, a higher 2019 emissions baseline is likely to lead to no or minimal offsetting requirements during the pilot phase.⁸ In this context, it should be recalled that the Assembly Resolution A40-19 provides for a review of CORSIA every three years – the first of these in 2022. It specifies that the reviews should include an assessment of progress towards achieving the ICAO’s global aspirational goal; of the scheme’s market and cost impact on States and aeroplane operators and on international aviation; and of the functioning of the scheme’s design elements; and consider the scheme’s improvements that would support the purpose of the Paris Agreement, in particular its long-term temperature goals; and also consider updating the scheme’s design elements to improve implementation, increase effectiveness, and minimise market distortion. Depending on the recovery rate of

⁷ **CORSIA SARPs currently provide that offsetting requirements shall not be applicable to a new entrant aeroplane operator for three years starting in the year when it meets the requirements in 2.1.1 and 2.1.3 of the SARPs, or until its annual CO₂ emissions exceed 0.1 per cent of total CO₂ emissions from international flights, as defined in 1.1.2 and 2.1 of the SARPs, in 2020, whichever occurs earlier.**

⁸ Changing the baseline to 2019 emissions could result in changes in total offsetting requirements for the pilot phase from 40 Mt CO₂ under no COVID-19 scenario to zero or close to zero in COVID-19 scenarios (CAEP, 11 May 2020)

international air traffic and the extent to which CORSIA contributes to the global climate ambition, and with a view to ensuring consistency with considerations by the Assembly on a long-term aspirational CO₂ emissions reduction goal, it may be relevant to re-examine CORSIA's level of ambition, potentially including the issue of the baseline, on the occasion of a future review.

With regard to the emissions reporting deadlines of 31 May 2020 and 31 August 2020⁹, these do not pose any major COVID-19 related problems for the EU, as the EU ETS imposed equivalent obligations on operators already by 31 March 2020. However, non-EU Member States may experience difficulties with these deadlines. It is however not advisable to address such difficulties by amending the CORSIA SARPs.

Union position

a) The Union position on the adaptation of the baseline will not be established through this information note, but will form the object of a possible proposal, in the context of the COVID-19 pandemic, under Article 218(9) TFEU to amend Council Decision (EU) 2016/915.

b) Support/~~request~~ related adjustments to CORSIA design elements **regarding in particular new entrants' threshold and options available to States to calculate the offsetting requirements for the pilot phase**, so as to fully secure the environmental integrity of CORSIA. **In this respect, consider reference to 2019 emissions levels instead of 2020 emission levels.**

c) Attempts to amend CORSIA SARPs to postpone 2020 reporting deadlines (on the basis that this is necessary because of the COVID-19 crisis) should not be supported.

~~Point a) above does not require a decision in the context of the present information note; point b) should be considered by the Council together with a possible proposal as described under point a); Point c) should be decided upon independently from points a) and b).~~

- **Recommendations of the Committee on Aviation Environmental Protection (CAEP) related to CORSIA – C-WP/~~...~~15058**

~~At the time of drafting this information note, the Working Paper was not available yet.~~

⁹ For aeroplane operators and the verification bodies to submit verified emissions reports and verification reports for 2019 to the State, and for States to submit required information regarding CO₂ emissions for 2019 to ICAO, respectively.

Background

The ICAO Council is to be invited to approve the CAEP recommendations related to the “Emissions Unit Programme Registry Attestation” approach. These recommendations were unanimously endorsed for incorporation into the CORSIA Package at the meeting of the CAEP Steering Group in December 2019.

Union position

The following points shall be raised during the discussion, as relevant in light of the arguments exchanged:

Support the approval of the CAEP recommendations related to the “Emissions Unit Programme Registry Attestation” approach, acknowledging the importance of taking the decision at this session of the ICAO Council.

- **Recommendations of the Technical Advisory Body (TAB) related to CORSIA – C-WP/...15059**

~~At the time of drafting this information note, the Working Paper was not available yet.~~

Background

The ICAO Council is to be invited to approve the procedural recommendations of the Technical Advisory Body (TAB), including the TAB procedures to monitor and review the continued eligibility of emissions units programmes eligible under CORSIA.

The recommended TAB procedures, published on the ICAO website¹⁰, are based on the procedures applied during the first assessment cycle, and related lessons learned, as well as integrating recommendations as approved by the ICAO Council at its 219th session. The TAB will continue updating its procedures and present them to the ICAO Council.

¹⁰ https://www.icao.int/environmental-protection/CORSIA/Documents/TAB/TAB%202020/TAB%20Procedures_April%202020_Final.pdf

Union position

The following points shall be raised during the discussion, as relevant in light of the arguments exchanged:

Support the approval of the procedural recommendations of the Technical Advisory Body (TAB).

Call on the ICAO Council to adequately prevent within CORSIA the risk of double counting with climate obligations and pledges prior to the entry into force of the Paris Agreement, through corresponding adjustment or other mechanisms.
