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## LEGISLATIVE ACTS AND OTHER INSTRUMENTS

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Subject: COUNCIL DECISION on the position to be taken on behalf of the European Union within the International Civil Aviation Organization as regards the notification of differences between Union law and the Second Edition of the International Standards and Recommended Practices on Environmental Protection – Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA)

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**COUNCIL DECISION (EU) 2025/...**

**of ...**

**on the position to be taken on behalf of the European Union  
within the International Civil Aviation Organization  
as regards the notification of differences between Union law  
and the Second Edition of the International Standards and Recommended Practices  
on Environmental Protection – Carbon Offsetting and Reduction Scheme  
for International Aviation (CORSIA)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular  
Article 192(1), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Chicago 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 to the Chicago Convention and members of ICAO, whereas the Union has observer status in certain ICAO bodies.
- (3) Pursuant to Article 54 of the Chicago Convention, the ICAO Council is to adopt international standards and recommended practices.
- (4) The 21st Conference of the Parties to the United Nations Framework Convention on Climate Change was concluded in December 2015 with the adoption of the Paris Agreement. The objective of the Paris Agreement is to limit the increase in the global average temperature to well below 2 °C above pre-industrial levels, and to pursue efforts to limit the temperature increase to 1,5 °C above those levels. All sectors of the economy should contribute to achieving those emission reductions, including international aviation.
- (5) In 2016, the 39th ICAO General Assembly decided to develop a global market-based measure scheme to limit greenhouse gas emissions from international aviation at their 2020 levels. The Union position in that regard was established by Council Decision (EU) 2016/915<sup>1</sup>.

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<sup>1</sup> Council Decision (EU) 2016/915 of 30 May 2016 on the position to be taken on behalf of the European Union with regard to the international instrument to be drawn up within the ICAO bodies and intended to lead to the implementation from 2020 of a single global market-based measure for international aviation emissions (OJ L 153, 10.6.2016, p. 32, ELI: <http://data.europa.eu/eli/dec/2016/915/oj>).

- (6) At the 10th meeting of its 214th session, the ICAO Council adopted the First Edition of Annex 16, Volume IV, to the Chicago Convention: the International Standards and Recommended Practices on Environmental Protection – Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA).
- (7) At its 228th session, the ICAO Council adopted Amendment 1 to Annex 16, Volume IV, to the Chicago Convention, following amendments proposed by the Committee on Aviation Environmental Protection and the outcome of the 2022 CORSIA periodic review. The resulting Second Edition of Annex 16, Volume IV, to the Chicago Convention (the ‘Second Edition’) became applicable on 1 January 2024.
- (8) Article 38 of the Chicago Convention covers departures from international standards and procedures. In accordance with that Article, any contracting State which finds it impracticable to comply in all respects with any such international standard or procedure, or to bring its own regulations or practices into full accord with any 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, needs to give immediate notification to ICAO of the differences between its own practice and that established by the international standard.
- (9) Given that there are certain differences between Union law and the Second Edition, a Union position should be established as regards the notification of differences pursuant to Article 38 of the Chicago Convention.

- (10) CORSIA is implemented in Union law by means of Directive 2003/87/EC of the European Parliament and of the Council<sup>2</sup>. The position to be taken within ICAO as regards the notification of differences between that Directive and the First Edition of Annex 16, Volume IV, to the Chicago Convention was established by Council Decision (EU) 2018/2027<sup>3</sup>.
- (11) In 2023, Directive 2003/87/EC was amended by Directive (EU) 2023/958 of the European Parliament and of the Council<sup>4</sup>. One of the objectives of Directive (EU) 2023/958 was to pursue the implementation of CORSIA in the Union.
- (12) The Union position as regards the notification of the differences, set out in this Decision, is proposed at this stage because the relevant Union legal acts as regards the implementation of CORSIA in the Union have been adopted.

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<sup>2</sup> Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32, ELI: <http://data.europa.eu/eli/dir/2003/87/oj>).

<sup>3</sup> Council Decision (EU) 2018/2027 of 29 November 2018 on the position to be taken on behalf of the European Union within the International Civil Aviation Organization in respect of the First Edition of the International Standards and Recommended Practices on Environmental Protection — Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) (OJ L 325, 20.12.2018, p. 25, ELI: <http://data.europa.eu/eli/dec/2018/2027/oj>).

<sup>4</sup> Directive (EU) 2023/958 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC as regards aviation's contribution to the Union's economy-wide emission reduction target and the appropriate implementation of a global market-based measure (OJ L 130, 16.5.2023, p. 115, ELI: <http://data.europa.eu/eli/dir/2023/958/oj>).

- (13) Article 12 of Directive 2003/87/EC provides for the adoption by the Commission of implementing acts specifying the methodology for the calculation of offsetting requirements for aircraft operators. Accordingly, on 9 July 2024, the Commission adopted Implementing Regulation (EU) 2024/1879<sup>5</sup>.
- (14) As communicated to the ICAO Secretariat, and acknowledged by the Secretariat, the annual CO<sub>2</sub> emissions for all State pairs reported by Member States to the ICAO Secretariat as subject to offsetting requirements is without prejudice to the calculation of offsetting requirements and the quantity of CORSIA eligible units to be cancelled to demonstrate compliance.
- (15) Pursuant to Directive 2003/87/EC, CORSIA eligible units are those determined by the ICAO Council, provided they originate from a State implementing the Paris Agreement and participating in CORSIA. That difference should be notified to ICAO.
- (16) Pursuant to Directive 2003/87/EC, in addition to the flights specified in the Second Edition, the following flights are also exempted from monitoring requirements: flights performed under visual flight rules, flights performed for scientific research or testing aircraft and flights performed in the framework of public service obligations. That difference should be notified to ICAO.

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<sup>5</sup> Commission Implementing Regulation (EU) 2024/1879 of 9 July 2024 laying down rules for the application of Directive 2003/87/EC of the European Parliament and of the Council as regards the calculation of offsetting requirements for the purpose of CORSIA (OJ L, 2024/1879, 10.7.2024, ELI: [http://data.europa.eu/eli/reg\\_impl/2024/1879/oj](http://data.europa.eu/eli/reg_impl/2024/1879/oj)).

- (17) Pursuant to Commission Implementing Regulation (EU) 2018/2066<sup>6</sup>, aircraft operators not eligible to use emissions estimation tools are to use Method A or Method B as their fuel use monitoring method. They are to use the same method to report all flights, including flights which are not subject to offsetting requirements. That difference should be notified to ICAO.
- (18) Member States should notify ICAO of the differences no later than two months following the entry into force of this Decision and should inform the Commission accordingly.
- (19) It is appropriate to establish the position to be taken on the Union's behalf within ICAO with regard to the Second Edition as it is binding on the Member States pursuant to and within the limits set out in Article 90 of the Chicago Convention. The Second Edition is also to become binding upon the Union and its Member States under some of the existing international air transport agreements. Therefore, the adoption of a Union position in respect of the notification of differences falls within the scope of Article 218(9) of the Treaty.
- (20) The position of the Union is to be expressed by each Member State, acting in the interest of the Union,

HAS ADOPTED THIS DECISION:

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<sup>6</sup> Commission Implementing Regulation (EU) 2018/2066 of 19 December 2018 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council and amending Commission Regulation (EU) No 601/2012 (OJ L 334, 31.12.2018, p. 1, ELI: [http://data.europa.eu/eli/reg\\_impl/2018/2066/oj](http://data.europa.eu/eli/reg_impl/2018/2066/oj)).

## Article 1

The position to be taken on behalf of the Union within ICAO as regards the notification of differences between Union law and the Second Edition of Annex 16, Volume IV, to the Chicago Convention: the International Standards and Recommended Practices on Environmental Protection – Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) (the ‘Second Edition’) shall be the following: each Member State shall fill in the ICAO Electronic Filing of Differences System (EFOD) the differences in accordance with the conditions set out in Article 2 of this Decision.

## Article 2

1. The notification of differences set out in this Article is without prejudice to other notifications submitted pursuant to Article 38 of the Chicago Convention with regard to the provisions of the Second Edition.
2. A difference relative to point 4.3.1 of Chapter 4 of the Second Edition ‘Emissions units’, with the following difference details:

*‘[Member State] notifies ICAO that compliance with offsetting requirements deriving from emissions from flights operated by operators based in [Member State], within the European Economic Area (EEA) or from flights operated from the EEA to and from Switzerland or the United Kingdom is ensured, in accordance with Directive 2003/87/EC of the European Parliament and of the Council<sup>7</sup>, by the surrendering of allowances under EU ETS regional scheme which also apply to such flights.*

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<sup>7</sup> Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC (OJ EU L 275, 25.10.2003, p. 32, ELI: <http://data.europa.eu/eli/dir/2003/87/oj>).

*Participation in the regional schemes obliges operators from [Member State] to address those emissions.*

*Compliance with offsetting requirements is thereby fulfilled at the unit cancellation phase, detailed in Chapter 4 of Annex 16, Volume IV, to the Chicago Convention. Operators administered by [Member State] are considered compliant with CORSIA offsetting requirements following the submission of a verified Emissions Unit Cancellation Report. That report shall demonstrate the cancellation of sufficient CORSIA units, with the exception of flights between EEA States and flights between EEA States and the United Kingdom or Switzerland.'*

That difference shall be labelled a Category A difference 'More exacting or exceeds the ICAO standard or recommended practice' and a 'Significant Difference' in the EFOD.

3. A difference relative to point 4.2.1 of Chapter 4 of the Second Edition 'Emissions Units', with the following difference details:

*'In accordance with Article 11a of Directive 2003/87/EC [Member State] notifies ICAO that, in addition to the criteria included in the ICAO document entitled 'CORSIA Emissions Unit Eligibility Criteria', the following conditions must be fulfilled for units to be considered eligible for compliance with CORSIA for operators administered by [Member State]:*

- (a) *units must originate from a State that is a Party to the Paris Agreement at the time of use;*

(b) *units must originate from a State participating in CORSIA offsetting.*

That difference shall be labelled a Category A difference ‘More exacting or exceeds the ICAO standard or recommended practice’ and a ‘Significant Difference’ in the EFOD.

4. A difference relative to point 2.1.1 of Chapter 2 of the Second Edition ‘Monitoring, Reporting and Verification (MRV) of Aeroplane Operator Annual CO<sub>2</sub> emissions’, with the following difference details:

*‘In accordance with Annex I to Directive 2003/87/EC, [Member State] notifies ICAO that, in addition to the exemptions set out in points 2.1.1 and 2.1.3 of Annex 16, Volume IV, to the Chicago Convention, the Standards and Recommended Practices in this Chapter will not apply to the following flights departing from or arriving in the EEA:*

- (a) *any flights performed exclusively under visual flight rules as defined in Annex 2 to the Chicago Convention;*
- (b) *flights performed exclusively for the purpose of scientific research or for the purpose of checking, testing or certifying aircraft or equipment whether airborne or ground-based;*

(c) *flights performed in the framework of public service obligations imposed in accordance with Regulation (EC) No 1008/2008 of the European Parliament and of the Council<sup>8</sup>.*

That difference shall be labelled a Category C difference ‘Partially implemented’ and not a ‘Significant Difference’ in the EFOD.

5. A difference relative to points 2.2.1.3.1, 2.2.1.3.2 and 2.2.1.3.6 of Chapter 2 of the Second Edition ‘Monitoring, Reporting and Verification (MRV) of Aeroplane Operator Annual CO<sub>2</sub> emissions’, with the following difference details:

*‘In accordance with Article 55(1) of Commission Implementing Regulation (EU) 2018/2066<sup>9</sup>, aircraft operators operating fewer than 243 flights per period for three consecutive four-month periods and aircraft operators operating flights with total annual emissions lower than 25 000 tonnes of CO<sub>2</sub> per year shall be considered small emitters. [Member State] notifies ICAO that aircraft operators above the small emitters’ threshold shall use Method A or Method B as a Fuel Use Monitoring Method.’*

*‘In accordance with Implementing Regulation (EU) 2018/2066, [Member State] notifies ICAO that aircraft operators shall use the selected Fuel Use Monitoring Method for all their reported flights, including for international flights not subject to offsetting requirements.’*

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<sup>8</sup> Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (OJ L EU 293, 31.10.2008, p. 3, ELI: <http://data.europa.eu/eli/reg/2008/1008/oj>).

<sup>9</sup> Commission Implementing Regulation (EU) 2018/2066 of 19 December 2018 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council and amending Commission Regulation (EU) No 601/2012 (OJ EU L 334, 31.12.2018, p. 1, ELI: [http://data.europa.eu/eli/reg\\_impl/2018/2066/oj](http://data.europa.eu/eli/reg_impl/2018/2066/oj)).

*'In accordance with Directive 2003/87/EC, [Member State] notifies ICAO that aircraft operators that meet the requirements of points 2.1.1 and 2.1.3 of Annex 16, Volume IV, to the Chicago Convention, after 1 January 2021 for the first time without qualifying as a new entrant and that are not small emitters shall directly use a Fuel Use Monitoring Method.'*

That difference shall be labelled a Category A difference 'More exacting or exceeds the ICAO standard or recommended practice' and not a 'Significant Difference' in the EFOD.

6. Each Member State shall file the differences in this Article no later than two months following the entry into force of this Decision and shall inform the Commission accordingly.

### *Article 3*

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

Done at ..., ...

*For the Council*

*The President*

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