

# DECISIONS

## 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**

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) Greenhouse gas emissions from international aviation represent more than 2 % of global emissions and are growing exponentially, with projections for 2050 indicating that, under a 'business as usual' scenario, such emissions from international aviation activities could grow above 200 % compared to current levels. By 2050, global greenhouse gas emissions should be reduced by at least 50 % below their 1990 levels. All sectors of the economy should contribute to achieving those emission reductions, including international aviation.
- (2) The 21st Conference of the Parties to the UN Framework Convention on Climate Change was successfully concluded in December 2015 by the adoption of the Paris Agreement, the objective of which is to limit global temperature increase well below 2 °C compared to pre-industrial levels, and to pursue efforts to limit temperature increase to 1,5 °C.
- (3) The International Civil Aviation Organisation (ICAO) was established by the 1944 Chicago Convention on International Civil Aviation. The Member States of the Union are Contracting Parties to that Convention and members of the ICAO, while the Union has observer status in certain ICAO meetings, including the triennial ICAO Assembly. The Union and its Member States are Parties to the 1997 Kyoto Protocol, which requires them to pursue the limitation of emissions of greenhouse gases from international aviation through the ICAO. Decision 1600/2002/EC of the European Parliament and of the Council <sup>(1)</sup> called for the Union to identify and undertake specific actions to reduce greenhouse gas emissions from international aviation if no such action were agreed within the ICAO by 2002.
- (4) The 33rd Session of the ICAO Assembly (2001) endorsed the development of an open emissions trading system for international aviation <sup>(2)</sup>. The ICAO Committee on Aviation Environmental Protection recommended in 2004 that an aviation-specific emissions trading system based on a new legal instrument under ICAO auspices should not be pursued further. The 35th Session of the ICAO Assembly (2004) endorsed the further development of an open emissions trading system and the possibility for ICAO Contracting States to incorporate emissions from international aviation into their emissions trading schemes <sup>(3)</sup>, but the 36th Session of the ICAO Assembly (2007) called for aircraft operators based in other ICAO Contracting States to be exempt unless it were mutually agreed between those States to implement an emissions trading system on other ICAO Contracting State's aircraft operators <sup>(4)</sup>. The Union, its Member States and other European States have consistently reserved the right to apply market-based measures (MBMs) on a non-discriminatory basis to all aircraft operators providing services to,

<sup>(1)</sup> Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme (OJ L 242, 10.9.2002, p. 1).

<sup>(2)</sup> ICAO Resolution A33-7.

<sup>(3)</sup> ICAO Resolution A35-5.

<sup>(4)</sup> Appendix L to Resolution A36-22.

from or within their territory, recalling that the Chicago Convention recognises its Parties' rights to apply, on a non-discriminatory basis, their own aviation laws and regulations to the aircrafts of all States <sup>(1)</sup> providing services to, from or within their territory.

- (5) Considering that the limitation of greenhouse gas emissions from international aviation is an essential contribution in line with overall emission-reduction commitments, the European Parliament and the Council adopted Directive 2008/101/EC <sup>(2)</sup> which amended Directive 2003/87/EC <sup>(3)</sup>. The fifth recital of Directive 2008/101/EC provides that the Union will seek to ensure that such a global agreement intended to contain global temperature increase includes measures to reduce greenhouse gas emissions from aviation and, in this event, the Commission ought to consider which amendments to Directive 2003/87/EC, as it applies to aircraft operators, are necessary.
- (6) The Commission Communication to the European Parliament and the Council on 'The Paris Protocol — A blueprint for tackling global climate change beyond 2020' underlines that ICAO ought to act to effectively regulate emissions from international aviation before the end of 2016. The next meeting of the ICAO Assembly will take place in 2016, and ought to agree on an international instrument intended to lead to the implementation from 2020 of a single global MBM for international aviation emissions.
- (7) The 38th Session of the ICAO Assembly (2013) resolved that ICAO and its Contracting States, with relevant environmental or aviation organisations in each ICAO Contracting State, would work together to strive to achieve a collective medium-term global aspirational goal of keeping the global net carbon emissions from international aviation from 2020 at the same level and decided to develop a global MBM for international aviation emissions and to report the results of its work for decision at the 39th Session of the ICAO Assembly (2016). International aviation emissions are projected to be around 70 % higher in 2020 than in 2005 <sup>(4)</sup> and the Union and its Member States have consistently advocated that the global reduction target for greenhouse gas emissions from international aviation should be a 10 % reduction by 2020 compared to 2005 levels. However, it appears expedient for the Union to seize the opportunity to promote the development, within a rather short time frame, of a global MBM to limit greenhouse gas emissions from international aviation no higher than their 2020 levels, bearing in mind the review of the objective over time, as appropriate.
- (8) In order to facilitate progress at the 2016 ICAO Assembly towards an appropriate international instrument, the European Parliament and the Council decided, by virtue of Regulation (EU) No 421/2014 <sup>(5)</sup>, to consider on a temporary basis the requirements of Directive 2003/87/EC to be satisfied in respect of flights to and from aerodromes located in countries outside the European Economic Area (EEA). In doing so, the Union emphasised that legal requirements can be applied in respect of flights to and from aerodromes located in EEA States, in the same manner as legal requirements can be applied in respect of the emissions from flights between such aerodromes.
- (9) Directive 2003/87/EC, as amended by Regulation (EU) No 421/2014, sets out certain obligations incumbent upon the Commission following the 39th Session of the ICAO Assembly (2016). The Commission is to report to the European Parliament and to the Council on actions to implement an international agreement on a global MBM from 2020 that will reduce greenhouse gas emissions from international aviation in a non-discriminatory manner. In its report, the Commission is to consider and, if appropriate, include proposals in reaction to those developments on the appropriate scope for coverage of emissions from activity to and from aerodromes located in countries outside the EEA from 1 January 2017 onwards.
- (10) It is appropriate to establish the position to be taken on the Union's behalf 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 MBM for international aviation emissions.

<sup>(1)</sup> Reservations to the 2007 ICAO Resolution, 2010 ICAO Resolution, 2012 ICAO Council Decision endorsing the Delhi Declaration and 2013 ICAO Resolution (see [http://ec.europa.eu/clima/policies/transport/aviation/documentation\\_en.htm](http://ec.europa.eu/clima/policies/transport/aviation/documentation_en.htm)).

<sup>(2)</sup> Directive 2008/101/EC of the European Parliament and of the Council of 19 November 2008 amending Directive 2003/87/EC so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Community (OJ L 8, 13.1.2009, p. 3).

<sup>(3)</sup> 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 and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).

<sup>(4)</sup> See reservations to the 2013 ICAO Resolution, under footnote 1.

<sup>(5)</sup> Regulation (EU) No 421/2014 of the European Parliament and of the Council of 16 April 2014 amending Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community, in view of the implementation by 2020 of an international agreement applying a single global market-based measure to international aviation emissions (OJ L 129, 30.4.2014, p. 1).

- (11) Although not a member of ICAO, the Union has observer status, which could allow the Commission to take part in certain discussions in the relevant ICAO bodies, including the Assembly, in support of the Union's position.
- (12) It is necessary to adopt a Union position well ahead of the next ICAO Assembly,

HAS ADOPTED THIS DECISION:

*Article 1*

The position to be taken, on the Union's behalf, 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, shall be in accordance with the Annex.

It shall be expressed by the Member States acting jointly, in the interest of the Union, within the ICAO bodies, and assisted by the Commission, in line with the Union's observer status, in discussions on the single global MBM.

*Article 2*

The Commission shall keep the relevant Council bodies fully informed of the ongoing discussions on the single global MBM. In order to maintain the consistency of the Union's position and the proper application of the terms of the Annex, the Commission shall, throughout the process, transmit to the relevant Council bodies preparatory documents setting out the detailed position, whenever this is necessary, in view of the developments within the ICAO bodies, for consideration and approval, particularly during and after the 208th ICAO Council.

Taking into account the progress at ICAO, the relevant Council bodies shall further elaborate their position, in particular as regards the future of the relevant Union legislation within that ICAO framework.

*Article 3*

This Decision shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels, 30 May 2016.

*For the Council*  
*The President*  
M.J. VAN RIJN

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