



International Civil Aviation Organization

**WORKING PAPER**

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**ASSEMBLY — 37TH SESSION**

**EXECUTIVE COMMITTEE**

**Agenda Item 17: Environmental protection**

**INTERNATIONAL AVIATION AND CLIMATE CHANGE: *DE MINIMIS* PROVISIONS**

(Presented by Belgium on behalf of the European Union and its Member States<sup>1</sup>  
and by the other States Members of the European Civil Aviation Conference<sup>2</sup>,  
and by Eurocontrol)

**EXECUTIVE SUMMARY**

This paper is submitted as a contribution from Europe towards reaching agreement within ICAO on a comprehensive package to address the impact of international aviation on climate change. Naturally the position set out is subject to a satisfactory overall outcome.

The proposal for an Assembly resolution on international aviation and climate change contained in the Secretary General's Working Paper WP/262 includes a provision which envisages special treatment for States which do not have substantial international aviation emissions. This paper considers how such a provision may apply in relation to achieving an ambitious, collective global emissions reduction goal.

In addition it explains how States could make special provisions for aircraft operators that are small contributors to international aviation emissions in the design and implementation of their climate change measures.

**Action:** The Assembly is invited to note the contents of this paper and to endorse the principle of including *de minimis* provisions in the Assembly Resolution on International Aviation and Climate Change as part of an overall framework which facilitates effective action to address international aviation emissions.

<i>Strategic Objectives:</i>	This working paper relates to Strategic Objective C, <i>Environmental Protection – Minimize the adverse effect of global civil aviation on the environment.</i>
<i>Financial implications:</i>	No additional resources required.
<i>References:</i>	No references.

<sup>1</sup> Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom.

<sup>2</sup> Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Croatia, Georgia, Iceland, Monaco, Montenegro, Norway, Republic of Moldova, San Marino, Serbia, Switzerland, The former Yugoslav Republic of Macedonia, Turkey, and Ukraine.

## 1. INTRODUCTION

1.1 The proposal for an Assembly resolution on international aviation and climate change contained in the Secretary General's Working Paper WP/262 includes special provisions for States and aircraft operators that are small contributors to international aviation CO<sub>2</sub> emissions. These provisions deal with the following two distinct issues:

- consideration of a *de minimis* exception for States which do not have substantial international aviation activity levels (WP/262, paragraph 13); and
- the inclusion in market-based measures of special provisions (for aircraft operators) to account for very small contributors to international aviation CO<sub>2</sub> emissions (WP/262, Annex, paragraph (m)).

1.2 This paper considers how a *de minimis* provision for States could apply in relation to achieving an ambitious, collective global emissions reduction goal. In addition it explains how States could make special provisions for aircraft operators that are small contributors to international aviation emissions in the design and implementation of their climate change measures.

## 2. DE MINIMIS EXEMPTIONS FOR STATES IN RELATION TO GOALS

2.1 A *de minimis* exemption for States relates to the contribution that a State would make to achieving global climate change goals. European States are among those whose aviation markets have contributed most to current levels of greenhouse gas emissions from aviation and to aviation activity. The European States recognise their responsibility in this respect and the need to implement effective climate change policy measures to address the issue. Other States with lower contributions to total greenhouse gas emissions from international aviation may be expected to contribute differently towards the collective global goal.

2.2 Discussions in ICAO have suggested that a small number of States are responsible for most international aviation activity. Based on data from the International Energy Agency (IEA), a third of ICAO States accounted in 2007 for 95% of fuel supplied to international aviation. These States clearly have influence over the vast majority of emissions from international aviation and therefore measures they take would have a significant effect on meeting climate change goals. Any effective framework within ICAO should focus on the need for these States to take action to contribute to global goals for limiting international aviation emissions.

2.3 More than two-thirds of ICAO States currently contribute little to total international aviation emissions and have relatively little international aviation activity. This is particularly true for Least Developed Countries. Such States could be exempted from expectations that they should take early action under an ambitious climate change policy framework adopted by ICAO.

### 3. SPECIAL PROVISIONS FOR SMALLER AIRCRAFT OPERATORS IN RELATION TO MEASURES

3.1 The vast majority of aviation emissions come from a limited number of commercial air carriers. When States adopt measures to reduce greenhouse gas emissions from aviation, including market-based measures, they may decide to exempt smaller aircraft operators. This could help avoid disproportionate burdens on operators without materially reducing the environmental effectiveness of the measure. The result of such an approach could be that small aircraft operators with low levels of aviation activity, such as most operators from Least Developed Countries and Small Island States, are exempted from measures. At the same time it is of key importance for such exemptions to be consistent with the principle of non-discrimination on grounds of nationality.

3.2 For example, the EU's Emissions Trading System (EU ETS) contains such special provisions. The legislation exempts small commercial aircraft operators that meet either of the following conditions:

- total annual CO<sub>2</sub> emissions below 10,000 tonnes per calendar year; or
- no more than 2 flights a day to or from EU airports<sup>3</sup>.

3.3 The first criterion generally exempts operators who operate small aircraft. The second criterion generally exempts operators from smaller or Least Developed Countries that fly infrequently to the EU. These provisions are thus based on the activity levels of individual aircraft operators and are non-discriminatory in terms of their application. As a consequence, and in addition to those States not having operators with flights to the EU, there are around 90 ICAO States that currently have no commercial aircraft operators covered by the EU ETS.

### 4. CONCLUSIONS

4.1 Europe is ready to consider an ICAO resolution which includes a *de minimis* exemption for States in the context of agreement in ICAO on a comprehensive package. This package must include ambitious global emissions goals and a framework which facilitates the implementation of the basket of measures, including market-based measures. Such an exemption would recognise that those States whose aviation markets contribute a very small proportion of international aviation CO<sub>2</sub> emissions would not be expected to make a significant contribution to achieving the collective global goal. However, these States would still be encouraged to submit action plans to ICAO, which could include information on any specific assistance needs.

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<sup>3</sup> Defined in the legislation as "fewer than 243 flights per period for three consecutive four month periods".