



International Coalition for Sustainable Aviation

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## ICSA views on the development of the CORSIA Technical Advisory Body

(This paper represents the views of the International Coalition for Sustainable Aviation (ICSA) on specific issues in aviation environmental protection. ICSA has submitted a version of this paper to an upcoming meeting of the Steering Group of ICAO’s Committee on Aviation Environment Protection (CAEP) Steering Group. In accordance with the non-disclosure requirements of the CAEP, no portion of this paper discloses, reproduces, communicates, or disseminates information or content of the CAEP secure site.)

### SUMMARY

This paper presents the views of the International Coalition for Sustainable Aviation (ICSA) on the establishment of the Technical Advisory Body (TAB) called for in Assembly Resolution 39-3; examines timing considerations, including the preparation of draft Terms of Reference (TORs); and outlines elements to be included in the TORs in order for the TAB to fulfil its functions with credibility and legitimacy.

### Toward Transparency, Equity and Inclusiveness in an Environmentally Effective CORSIA: The Importance of the Technical Advisory Body (TAB)

**Summary.** As governments and airlines around the world prepare to implement the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) established by the UN’s International Civil Aviation Organization (ICAO), a key issue is whether CORSIA will be implemented in an **environmentally effective** way that fosters **transparency, equity, and inclusiveness**. CORSIA caps the emissions of international flights between participating States at 2020 levels, for the years 2021-2035. It allows airlines to meet their caps by reducing their own emissions; by using sustainable alternative fuels that emit less, on a life-cycle basis, than conventional fossil fuels; and by investing in emissions units – including carbon “offset” credits. In the latter two cases, sustainable alternative fuels and carbon “offsets”, the reductions occur outside the aviation sector.

ICAO has established technical groups to propose methodologies for calculating the carbon benefits of the fuels and Emissions Units Criteria for ensuring the climate benefit of the offset credits. Draft **Standards and Recommended Practices (SARPs), including the proposed Emissions Units Criteria**, are now under consideration by ICAO’s Executive Council, **which will vote in mid-June 2018 on whether to adopt them**. If the Council does vote to adopt the SARPs, *this paper considers how ICAO can implement the SARPs in a transparent, equitable, and inclusive way.*

The paper focuses on one key step, the establishment of the Technical Advisory Body (TAB) charged with applying the Emissions Units Criteria to develop a set of recommended offset credit programs for eligibility in CORSIA. The establishment of this TAB is globally significant, since it represents



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the first time since the adoption of the 2015 Paris Agreement on climate change that the nations of the world will establish a body with authority to analyze and make recommendations on the environmental integrity of emission reduction credits to be used to meet international climate protection obligations. The paper recommends that ICAO, its Council, and its Committee on Aviation Environmental Protection (CAEP) make significant changes in their heretofore confidential processes, to ensure that the widest possible array of States is aware of, and has the opportunity to participate transparently and meaningfully in, the establishment and operation of the TAB, and to ensure that the TAB operates with integrity. Without such changes, nations of the world, industry, and civil society will not be able to have confidence in the work of the TAB.

**Discussion.** When they adopted Resolution 39-3 (2016) establishing CORSIA, the 190+ Member States of the ICAO Assembly set forth their expectation that CORSIA would “contribute to the achievement of the goals set out in the Paris Agreement” – namely, holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change.

- The Assembly’s Member States, in Resolution 39-3, requested their elected representatives on ICAO’s Executive Council, as well as ICAO’s Committee on Aviation Environmental Protection (CAEP), to take key decisions, “with a view to establishing necessary mechanisms for implementation of the CORSIA from 2020.” Among other things, the Assembly asked “the Council to establish, with the technical contribution of CAEP, a standing technical advisory body [TAB] on the Emissions Unit Criteria (EUC) to make recommendations to the Council on the eligible emissions units for use by the CORSIA.”
- Assembly Member States that are particularly vulnerable to the impacts of climate change – coastal, low-lying, and Small Island States, States at risk of desertification, and States whose food supplies are at risk, among others – as well as States that historically have not benefitted from the Kyoto Protocol’s Clean Development Mechanism (CDM), have a particularly strong interest in ensuring that when the Council and the CAEP fulfil these responsibilities, their decisions promote environmental effectiveness, transparency, equity and inclusiveness.
  - If the Council and CAEP fulfil these responsibilities, CORSIA can achieve the goals the Assembly set forth for it.
  - If they do not, CORSIA will not reduce global warming pollution, and could make that pollution worse.
- **Timing for establishing the TAB.** The Assembly specified that Council “develop, with the technical contribution of CAEP, the SARPs and related guidance material for Emissions Unit Criteria (EUC) to support the purchase of appropriate emissions units by aircraft operators under the scheme, taking into account relevant developments in the UNFCCC and Article 6 of the Paris Agreement, for adoption by the Council as soon as possible but not later than 2018.” (39-3, operative paragraph 20(c)) The Assembly did not request the Council to establish the TAB on any particular date, but simply said that ICAO’s Executive Council, as well as ICAO’s Committee on Aviation Environmental Protection (CAEP), needed to take key decisions – presumably including establishing the TAB, allowing the TAB to



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commence its work, and present the Council with recommendations so Council could ensure “necessary mechanisms for implementation of the CORSIA from 2020.”

- Convening the TAB in a timely fashion will be important in assisting States as they prepare to implement CORSIA; at the same time, it will be crucial to the TAB’s effective functioning and perceived legitimacy to ensure that the TAB’s composition is broadly representative of States, that the TAB operates with integrity and transparency, that it provides opportunities for input by stakeholders, that it takes account of developments under the UNFCCC, that it grounds its recommendations in publicly available materials provided to it for its review, and that it adopts procedures that include opportunities for review and reconsideration of its recommendations based on publicly available materials.
- Consequently, it is important for CAEP, in a timely fashion, to develop draft Terms of Reference for the TAB that address these key concerns.
- Moreover, the Council, at its 211th Session (5-23 June 2017), requested the CAEP, subject to decision by the 212th Session of the Council, to “make further progress on the application of the emissions units criteria, including the informal testing of some programmes against the criteria, with a view to providing technical contribution to the Council, when requested, on the establishment of a Technical Advisory Body (TAB) and its process of work to evaluate programmes and make recommendations to the Council on the eligible emissions units for use by CORSIA, as per Assembly Resolution A39-3, operative clause 20 d).” It would be logical for the Council and CAEP to have before them the results of this informal testing as they develop the terms of reference for, and begin constituting, the TAB.
- Accordingly, **ICSA recommends** that CAEP’s Steering Group task the Emissions Units Criteria subgroup of CAEP’s Global Market-Based Measures Task Force (GMTF-EUC) to commence drafting the TORs; that the GMTF-EUC receive updates on the results of the programme testing and revise the draft in light of these updates; and that the GMTF forward the draft TORs to CAEP for its consideration and for sending to Council for to adopt at Council’s 215th Session in November.

**Elements to be included in the TAB TORs.** Placement within ICAO’s structures. The TORs should establish the TAB under the umbrella of CAEP GMTF, and subject to guidance and decisions by CAEP and its GMTF, while ensuring broad representation, transparency, public input, and avoidance of conflicts of interest.

**Membership in the TAB.** The 190+ Member States of the ICAO Assembly, which requested the establishment of the TAB, have a justified expectation that their technical interests and expertise will be reflected in the composition of the TAB. Failure to open the TAB’s membership to nominations from all 190+ States or their regional/interest groupings risks constituting a TAB that lacks legitimacy in the eyes of a large number of Member States. In addition, all official CAEP observer organizations should be allowed to provide nominations for consideration. The TORs should specify that CAEP, on the basis of nominations submitted, should develop a slate of recommended members of the TAB, and submit that recommended slate to Council for Council’s approval.

**Conflicts of interest.** As it will be essential that the TAB operate, and appear to operate, free of conflicts of interest, the TORs should specify strong conflict of interest provisions.



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**Transparency.** The TAB should be established on the basis of, and conduct its work on the basis of, certain elements that are the hallmarks of sound technical decision-making. These include: broad public notice, the opportunity to be heard, transparency of documents and deliberations, and recommendations to be based on the record of materials presented. Omitting such provisions from the TAB TORs, however, would heighten the risk that the TAB's work would be seen as arbitrary, capricious, and subject to undue influence, such that airlines could not rely on the environmental integrity of the ensuing Council selection of programmes and units based on the TAB's recommendations. They should be included in the TAB TORs.

**Developments in the UNFCCC.** Resolution 39-3 directs the Council to take account of UNFCCC developments. The TORs for the TAB should ensure that the TAB does so in its recommendations to Council. This would ensure that the TAB develops its recommendations in light of the guidance to be issued by the end of the Twenty-Fourth Session of the Conference of the Parties (COP-24) on a range of carbon market-related matters, including the avoidance of double-claiming.

It would also ensure that the TAB fully takes into account any decisions of the Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol (CMP). In order to strengthen pre-2020 action, the CMP established a platform for voluntary cancellation of Certified Emission Reductions (CERs) issued under the Kyoto Protocol's Clean Development Mechanism (CDM). The CMP has not yet decided whether CERs can be used for any other purpose, including any compliance purpose, post-2020; but to remove the cloud of uncertainty as to whether CERs could be used for CORSIA compliance, the CMP could address this in the context of COP-24.

Decisions on vintage and timeframe for emission units, which the Assembly also tasked the Council with taking, are closely connected to the sequencing of decision-making in the UNFCCC, Kyoto Protocol, and Paris Agreement. These decisions should be made, at the earliest, after COP24 when countries in the UNFCCC are expected to adopt implementation guidelines for the Paris Agreement, including those relating to its Article 6.

**Coordination with alternative fuels processes.** In its October 2016 Resolution, the ICAO Assembly directed Council "that a methodology should be developed to ensure that an aircraft operator's offsetting requirements under the scheme in a given year can be reduced through the use of sustainable alternative fuels." ICAO has undertaken considerable work in this regard. Taking into account that a body similar to the TAB will need to be developed, but for recognition of certification of sustainable alternative fuels, ICSA recommends that CAEP coordinate the drafting of an analogous set of TORs for the establishment of a technical advisory body for approving alternative fuel sustainability certification schemes.

#### **CONCLUSIONS: DRAFTING OF TAB TORs; ESTABLISHMENT OF TAB.**

The above discussion underscores the importance of commencing the work on the TAB TORs in a timely way, in an open and transparent manner, with much broader input coming from outside of CAEP than has occurred to date. The TORs should specify transparency, public notice and input, breadth of membership, strong conflict of interest rules, strong requirements that recommendations be grounded in factual



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material presented, and clear specifications that the TAB take account of any guidance and/or decisions adopted by the UNFCCC, Paris Agreement, and Kyoto Protocol Parties. Decisions on programme and emissions unit eligibility, vintage and timeframe should be taken only in light of the outcome of COP-24. If the TAB is constituted and conducts its work without strong transparency and broad representation, and if the TAB fails to take into account the guidance which may be issued at the end of COP-24, airlines may find that there simply are no programs whose eligibility they can count on with certainty, since the technical and legal underpinnings for the TAB's recommendations would be so compromised.