Exmo. Senhor,
Doutor Francisco Ferreira
Presidente da ZERO – Associação Sistema
Terrestre Sustentável
Rua Alexandre Herculano, n.º 371 -4.ºD
4000-055 Porto

N/Ref.: Of. Nº 1344 DRE-PDC 2018

Assunto: Posição Portuguesa referente ao Regime de Compensação e Redução das emissões de Carbono da Aviação Civil Internacional (CORSIA) - Volume IV do Anexo 16, à Convenção de Chicago¹.

Na sequência do V. Ofício Ref. 65/2018, a ANAC vem remeter a V. as cópias da resposta portuguesa à State Letter AN 1/17.14 - 17/129 da Organização da Aviação Civil Internacional (OACI).

Na 39ª Sessão da Assembleia da OACI, realizada de 27 de setembro a 7 de outubro de 2016, os Estados membros (EMs) aprovaram a Resolução A39-3 e decidiram implementar o regime de compensação e redução das emissões de Carbono da Aviação Civil Internacional (CORSIA).

Por forma a apoiar os EMs na implementação do CORSIA, a Assembleia da OACI solicitou ao Conselho que desenvolvesse Normas e Práticas Recomendadas (SARPs) e demais material de apoio relacionado com todos os aspectos relativos à referida implementação, convergindo os principais elementos na State Letter em epígrafe.

Em janeiro de 2018, decorrendo o processo de consulta aos EMs, a ANAC entendeu, por força dos princípios colaborativo e da transparência, dar conhecimento do conteúdo da State Letter aos principais Operadores, agentes setoriais e Agência Portuguesa do Ambiente, solicitando igualmente eventuais comentários.

Em 20 de março de 2018 foi enviada à OACI a presente posição de Portugal, em resposta à State Letter AN 1/17.14 - 17/129, que agora se divulga junto dos Stakeholders evocados, dos demais Estados da CEAC - Conferência Europeia da Aviação Civil, bem como junto de todos os que se constituíram interessados no processo.

Mais se informa que a presente expetativa temporal para a adoção das CORSIA SARPs por parte do Conselho da OACI refere-se a junho de 2018.

Ao dispor para qualquer esclarecimento adicional.

Com os melhores cumprimentos,

O Presidente do Conselho de Administração

Luís Miguel Ribeiro

Em Anexo: O mencionado

IMR/TCS/AM/SS/AS
Reply to State letter AN 1/17.14 – 17/129

I. ATTACHMENT B to State letter AN 1/17.14 – 17/129

Agreement with comments

Comments:

Portugal

- Welcomes that ICAO’s Global Market-Based Mechanism, CORSIA, is being prepared to start in 2019 with offsetting beginning as of 2021.
- Acknowledges the extensive efforts made by the ICAO Council with the contribution of CAEP in developing the CORSIA Package.
- Supports the consensus achieved at the 212th Council Session, as recorded in C-DEC 212/7 and circulated with State Letter AN 1/17.14 – 17/129 while recalls the importance of robust CORSIA rules and implementation in order to ensure that CORSIA delivers on its objectives.
- The period of three-year review foreseen by Assembly Resolution A39-3 should be used to increase efforts to limit and reduce the emissions from international civil aviation.
- Underlines that, beyond States’ participation and consistent implementation, the quality of the eligible Emission Units used to offset aviation emissions, including their vintages and accounting, and the sustainability of alternative fuels claimed for emission reductions are critical to CORSIA’s environmental effectiveness and uniform application, and thus essential to the overall credibility of the scheme.
- Reiterates its willingness to move towards the implementation of CORSIA on the basis of circulated CORSIA Package and follow-up work that still has to be completed in due time so as to enable an effective implementation, in accordance with the Bratislava Declaration of the 44 ECAC States and the request made by the 39th Assembly.
- Recalls both Portuguese and European’s higher ambitions linked to the need to make sure that CORSIA delivers on its objectives and underlines the important concessions that have been made in order to reach a global compromise.
- Should any States or stakeholders seek to weaken any aspect of the circulated compromise, notably with regard to the emission units and sustainability of alternative fuels - through the comment and adoption process- this support would then have to be reconsidered.
- Conscious of the many diverging views on details of the proposal Portugal cautions against any re-opening of the core elements of the CORSIA package.
Should however, the present CORSIA Package be re-opened, Portugal, together with the other European States, will insist on its views and comments on core issues being taken into account as well in the proposed CORSIA package and Portugal will again be ready to engage in the debate in relation to the points, comments and subsequent redrafting proposals outlined below, which aim at making sure that the scheme delivers on its objective.

1. **Effective and uniform application of CORSIA**

- Emission unit eligibility criteria and sustainability criteria for eligibility of sustainable aviation fuels contained in the Implementation Elements are critical to CORSIA's environmental integrity, effectiveness and uniform application, and thus the overall credibility of the scheme.
- It is understood that these criteria must be legally binding without ambiguity and their integrity must be maintained for an effective functioning of the scheme.
- Any discretion or exception in the application of these criteria might compromise legal certainty and equal conditions between States and Aircraft Operators.
- Annex 16 Volume IV must maintain the direct references to 'CORSIA Emission Unit Eligibility Criteria', the list of 'CORSIA Eligible Emission Units' resulting from these criteria's application, 'CORSIA Eligibility Framework and Requirements for Sustainability Certification Schemes', 'CORSIA Approved Sustainability Certification Schemes', and the 'CORSIA Sustainability Criteria for Sustainable Aviation Fuels' and must require their application for the implementation of the SARPs without discretion or exception.

**Proposed text:**

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<th>Annex 16 Vol. IV</th>
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<tr>
<td>Part II. Chapter 1. Administration, Note 2.</td>
<td>The ICAO documents referred to in this Volume of Annex 16 and listed below are material approved by the Council for publication by ICAO to support this Volume and are essential to the implementation of the CORSIA. These documents are available on the ICAO CORSIA website and may only be amended by the Council.</td>
<td>The ICAO documents referred to in this Volume of Annex 16 and listed below are material approved by the Council for publication by ICAO to support this Volume and are essential to the implementation of the CORSIA. Their use is mandatory where this Volume of Annex 16 requires their application. These documents are available on the ICAO CORSIA website and may only be amended by the Council.</td>
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2. **Eligible emission units**

Emission units eligibility criteria

- Quality and integrity of emission units are critical to CORSIA environmental added-value and credibility.
- CORSIA will be effective only if the growth of aviation emissions from 2020 is effectively compensated by projects on the ground generating emission units that represent real, additional, permanent and verified reductions of greenhouses gases that are accounted for only once towards any climate mitigation obligation or voluntary action.
- Full application of Emissions Unit Eligibility Criteria as defined in the current draft Implementation Elements is a necessary and first condition for the quality and integrity of eligible emission units.
- In accordance with Assembly Resolution A39-3, paragraph 20(c), the Emissions Unit Eligibility Criteria must be legally binding in full and consistently applied.
- Only emission units that meet all CORSIA Emissions Unit Eligibility Criteria, as defined in the current draft Implementation Elements, would be eligible under CORSIA and there must not be any discretion or exception in the application of these Criteria.
- Eligibility of UNFCCC credits must also be conditional to those credits fulfilling CORSIA Emission Unit Eligibility Criteria.
- As agreed in the Assembly Resolution A39-3, vintages should be defined.
- Likewise, emission units, including UNFCCC credits, must not be counted as contributing to the achievement of Nationally Determined Contributions under the Paris Agreement, or any other climate obligation or voluntary action. Other forms of double counting shall also be avoided.
- Emissions Unit Eligibility Criteria must be subject to a robust and transparent governance process for changes to them in line with Assembly resolution A39-3 paragraph 20(e), providing future compatibility with relevant decisions under the Paris Agreement. Eligible emission units should not vary between States, avoiding market distortions and violations on the principle of non-discrimination on the basis of nationality.
- Legal certainty on CORSIA Eligible emission units and on Emission Unit Eligibility Criteria that will apply to determine eligible emission units under CORSIA is necessary. Both States and Aircraft Operators will have to be certain that the units purchased are eligible for compliance.

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1 20. (c) the Council to 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.
Vintages

- Before becoming operational, SARPs and the Implementation Elements must also provide certainty on the unit vintages, also known as eligibility dates.
- Unit vintage eligibility is essential information for operators to properly prepare for the implementation of CORSIA, otherwise they risk purchasing units that may ultimately not be eligible.
- CORSIA only has an environmental added value compared to a scenario without CORSIA if it leads to the generation of additional emission reductions.
- As emission reductions achieved prior to agreement by the ICAO Assembly on the CORSIA Resolution would have been generated all the same, therefore, only emissions units that originate from projects with a start date after the CORSIA Resolution, namely after 31 December 2016, should be admissible under CORSIA.
- 31\textsuperscript{st} December 2016 vintage will ensure a balance between supply and demand, considering the estimated modest demand in the first years of the scheme, reasonable expected cost of offsetting emissions (relative to fuel costs for instance), and the necessary environmental integrity of units.
- Assembly Resolution 39-3 Paragraph 21 states that for emission units generated from mechanisms established under the UNFCCC to be eligible they must align with Council decisions, notably on vintages. This requires the determination of a vintage date for the eligibility of UNFCCC credits. Logically, the same vintage should apply to other emission units.
- Currently there is no rule on vintages, so the above mentioned paragraph of the Assembly Resolution cannot be operationalised.
- Just as for any other units, eligibility of UNFCCC credits should be strictly conditional to those credits originating from programmes or projects that started after 31\textsuperscript{st} December 2016.

**Proposed text (EUC and vintages)**

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<td>Part II. Chapter 4. Emission units, 4.2 Cancelling CORSIA Eligible Emissions Units, paragraph 4.2.1</td>
<td>The aeroplane operator shall meet its offsetting requirements according to 3.4.4, as calculated by the State to which it is attributed, by cancelling CORSIA Eligible Emissions Units in a quantity equal to the sum of its final offsetting requirements for a given compliance period (i.e., FORC). The CORSIA Eligible Emissions Units are only those units described in</td>
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\footnote{Eligibility Dates: dates / periods to which emission reductions are referenced which are acceptable/eligible under the scheme}
the ICAO document entitled “CORSIA Eligible Emissions Units”, which meet the CORSIA Emissions Unit Eligibility Criteria contained in the ICAO document entitled “CORSIA Emissions Unit Eligibility Criteria”. These ICAO documents are available on the ICAO CORSIA website.

permanent and verified reductions of greenhouses gases, that are accounted for only once towards any climate mitigation obligation or voluntary action, and are generated from projects which started after 31st December 2016. The CORSIA Eligible Emissions Units are only those units described in the ICAO document entitled “CORSIA Eligible Emissions Units”, which meet the CORSIA Emissions Unit Eligibility Criteria contained in the ICAO document entitled “CORSIA Emissions Unit Eligibility Criteria”. These ICAO documents are available on the ICAO CORSIA website.

3. **Sustainable Aviation Fuels**

- Sustainability criteria are essential to CORSIA's environmental integrity when accounting for the use of Sustainable Aviation Fuels under the CORSIA.
- Only alternative fuels with significant emission reductions (compared to conventional jet fuels) and which do not create other negative environmental, social and economic impacts, may be eligible for claiming emissions reductions under the CORSIA.
- The sustainability criteria related to *themes 1 (Greenhouse Gases) and 2 (Carbon Stock)*, included in the draft CORSIA package, limit the risk of adverse sustainability impacts up until the end of the pilot phase, during which time alternative aviation fuels are expected to represent a very small proportion of total aviation fuel consumption (significantly less than 1%).
- Sustainability criteria related to *themes 1 and 2* are critical to ensure that alternative fuels used by Aircraft Operators do not have negative climate change impacts. However, these criteria are not sufficient to ensure environmental integrity and sustainability of aviation alternative fuels.
- In accordance with ICAO 212th Council decision, CAEP should continue to review SARPs provisions relating to the use of Sustainable Aviation Fuels in the CAEP/11 and CAEP/12 cycles, with the objective of recommending enhanced sustainability criteria to the ICAO Council as soon as possible and, in any case, before the end of the 2023.
- In our opinion, a clear signal should be sent to markets so that only truly sustainable alternative fuels will be developed. When the ICAO CORSIA sustainability criteria are complemented and updated, compliance of all sustainable aviation fuels with the additional criteria should be required and certified from no later than the 1st January 2024.
4. **Third-party verification**

- Third Party verification, in accordance with an internationally recognised standard, is key to the effectiveness of CORSIA.
- Third Party verification alleviates the administrative burden on States and ensures an equal treatment basis for all stakeholders involved.
- Third Party verification of emission reports ensures that offsetting obligations are determined on an accurate basis and Third Party verification of reports on cancellation of emissions units ensures that offsetting obligations are effectively met.
II. **COMMENT ON THE DRAFT ICAO CORSIA IMPLEMENTATION ELEMENTS**

- Application of ICAO CORSIA Implementation Elements, directly referenced in Volume IV of Annex 16 and required in the implementation of the SARPs, must be mandatory in order to guarantee CORSIA's uniform application and effectiveness in terms of meeting its environmental objectives.
- As a matter of legal certainty, this reference should be clear and unequivocal also in ICAO CORSIA Implementation Elements.

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<td>First paragraphs of section 2.1, section 2.2, section 2.3, section 2.4, section 2.5</td>
<td>&quot;reflected&quot;</td>
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1. **CORSIA Eligible Emission units**

**Key messages:**

- Quality of the emissions units used for compliance with offsetting requirements under CORSIA is determined by the Emissions Unit Eligibility Criteria which define the key principles for the eligibility of units.
- Emission unit eligibility criteria are a core element of the CORSIA and their specific wording, as originally developed and recommended to the ICAO Council by the ICAO CAEP, must remain unchanged, notwithstanding the comments from ICAO States.

2. **Use of Sustainable Aviation Fuels under the CORSIA**

- Europe made a lot of concessions to reach a compromise in relation to this aspect of the CORSIA package.
- Sustainability criteria are essential to the environmental integrity when accounting for the use of Sustainable Aviation Fuels under the CORSIA.
- Only alternative fuels with emission reductions (compared to conventional jet fuels) and which do not create other negative environmental, social and economic impacts, must be eligible for claiming emissions reductions under the CORSIA.
- Sustainability criteria related to themes 1 and 2 are critical to ensure that alternative fuels used by Aircraft Operators do not have negative climate change impacts and compliance must be certified by independent sustainability certification schemes meeting strict eligibility requirements. However, these criteria are not sufficient to ensure CORSIA environmental integrity and sustainability of aviation alternative fuels.
• The sustainability criteria must be enhanced as soon as possible and in any case, by the end of the pilot phase, to ensure that the production and use of alternative aviation fuels is sustainable on a large scale.
• A precautionary approach should apply ensuring that GHG benefits can only be claimed for alternative fuels that can provide a significant emission reduction compared to conventional jet fuels.
• The addition of CORSIA Default life cycle Emissions values for Sustainable Aviation Fuels with material land use impacts requires careful consideration (as robust data is necessary) and must properly account for uncertainties.
• Emissions associated with induced land use change (ILUC) are subject to very high levels of uncertainty and we consider that it will be important to reflect this uncertainty in CORSIA.
• The completion of a reliable LCA methodology is critical to CORSIA environmental integrity. The methodology must be reviewed, on a regular basis, to ensure it reflects the best available scientific evidence.
• Portugal also recognises the significance of sustainability criteria embodied in Article 2 of the Declaration of the ICAO CAAF/2 conference and the importance to strengthen public trust in CORSIA.
• In line with United Nations Sustainable Development Goals, Sustainable Aviation Fuels should meet Sustainability criteria that take into account all aspects of sustainability. This includes environmental, social and economic criteria. With respect to the environmental criteria a range of aspects must be covered, including water use, soil quality and biodiversity.

3. CORSIA Central Registry

• Public access to information on CORSIA functioning is central to its credibility, its environmental integrity and level-playing-field between operators.
• The CORSIA Central Registry must provide information accessible to the public for each Aircraft Operator on the offsetting obligations and the extent to which these obligations have been met.

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<td>2.5.2 CORSIA Central Registry (CCR): Information and Data for Transparency</td>
<td>The information will include: [...] For each Aeroplane Operator: • Aeroplane Operator name, • State in which Aeroplane Operator is attributed, • Reporting year, • Total annual CO2 emissions, • Total annual CO2 emissions for State pairs subject to</td>
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