

Written Statement of Reservation by Lithuania on behalf of the Member States of the European Union and 14¹ other Member States of the European Civil Aviation Conference (ECAC) with regard to ICAO Assembly Resolution A38-18

The 28 Member States of the European Union, and 14 other Member States of ECAC (listed in footnote 1) support a comprehensive approach to reducing aviation emissions, encompassing progress on technology and standards, operational measures, and market-based measures, which is shared at the level of ICAO as was confirmed by the adoption of the Assembly Resolution A38-18. We therefore strongly welcome the Assembly's decision to develop a global MBM scheme for international aviation for implementation from 2020, as part of this comprehensive approach. We look forward to contributing to the ambitious schedule of work on the design of the global MBM for decision by the 39th session of the Assembly.

Whilst welcoming Assembly Resolution A38-18 as a significant step forward in ICAO's efforts to comprehensively address the climate change impacts of international civil aviation, Lithuania, on behalf of the 28 Member States of the European Union, and 14 other Member States of ECAC submits this statement in order to clarify our position in relation to the following paragraphs of the Resolution:

Level of ambition and global aspirational goals (Paragraph 7.)

The 28 Member States of the European Union, and 14 other Member States of ECAC believe that the collective "aspirational" goal formulated to apply from 2020 is insufficiently ambitious. By 2020, global international aviation emissions are projected to be around 70% higher than 2005 levels, even with the 2% per year fuel efficiency improvement foreseen in the Resolution.

Accordingly, the European Union has 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.

¹ Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Iceland, the Republic of Moldova, Monaco, Montenegro, Norway, San Marino, Serbia, Switzerland, and The former Yugoslav Republic of Macedonia

Action up to 2020 (Paragraph 16.)

The 2010 ICAO Resolution A37-19 recognised that States can take more ambitious actions prior to 2020 and implement existing market-based measures. This was welcomed by the 27 Member States of the European Union, and the other 17 Member States of ECAC. We consider that market-based measures are one of the most effective tools for addressing the climate impact of aviation. Europe is resolved to continue a comprehensive approach to reducing aviation emissions and contribute to addressing climate change, including through market based measures.

No legal requirement for 'mutual agreement' (Paragraph 16. a)

The Chicago Convention recognises expressly the right of each Contracting State to apply on a non-discriminatory basis its laws and regulations to the aircraft of all States.

The 28 Member States of the European Union, and 14 other Member States of ECAC, although they are committed to multilateral action to address the effects of aviation emissions, would like to recall that Assembly resolutions may not diminish these rights or add to the obligations of ICAO Contracting States.

De minimis provisions (Paragraph 16. b)

Depending on the interpretation of paragraph 16. b), *de minimis* provisions of the sort envisaged in that paragraph could potentially exempt routes to and from many States from the scope of all market-based measures everywhere in the world.

Moreover, paragraph 16. b) of Resolution A38-18 should in no way be considered to be a precedent for the global MBM.

Common but differentiated responsibilities and respective capabilities (Annex on the guiding principles for the design and implementation of market-based measures (MBMs) for international aviation – paragraph (p))

The 28 Member States of the European Union, and 14 other Member States of ECAC disagree with the listing of common but differentiated responsibilities and respective capabilities from the UNFCCC among the guiding principles for market-based measures.

The guiding principles were originally intended to guide States in the design of regional and national measures. A State lacking capability to implement national measures would not apply these principles in the first place.

The UNFCCC principle applies to actions by States. In taking regional action, it would result in market distortions and discrimination among operators if there were to be differing treatment between operators on the basis of their nationality for activities to and from airports in Europe. As such, this would be in contradiction with the principles enshrined in the Chicago Convention and which govern ICAO's work. Many carriers based in less developed countries are in fact among the largest, the most advanced and the most profitable in the world.

The 28 Member States of the European Union and 14 other member States of ECAC do remain committed to assisting those States that are in need of it with the improvement of the sustainability of their aviation sector.

Accordingly Lithuania, on behalf of the Member States of the European Union (Austria, Belgium, Bulgaria, Croatia, 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) and 14 other Member States of the European Civil Aviation Conference (Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Iceland, the Republic of Moldova, Monaco, Montenegro, Norway, San Marino, Serbia, Switzerland, and The former Yugoslav Republic of Macedonia), hereby enters a formal reservation with respect to paragraphs 7, 16 a) and 16 b) of Resolution A38-18, as well as of principle p) of its Annex, and requests that this statement be formally recorded.