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PROPOSAL

From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

date of receipt: 30 October 2023

To: Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

No. Cion doc.: COM(2023) 678 final

Subject: ANNEX to the Proposal for a COUNCIL DECISION on the position to be adopted, on behalf of the European Union, within the EEA Joint Committee concerning an amendment to Annex XX (Environment) to the EEA Agreement (ETS Aviation)

Delegations will find attached document COM(2023) 678 final.

Encl.: COM(2023) 678 final



Brussels, 30.10.2023
COM(2023) 678 final

ANNEX

ANNEX

to the

Proposal for a

COUNCIL DECISION

**on the position to be adopted, on behalf of the European Union, within the EEA Joint
Committee concerning an amendment to Annex XX (Environment) to the EEA
Agreement**

(ETS Aviation)

ANNEX

DRAFT DECISION OF THE EEA JOINT COMMITTEE

No [...]

of [...]

amending Annex XX (Environment) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area (“the EEA Agreement”), and in particular Article 98 thereof,

Whereas:

- (1) Directive (EU) 2023/958 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC as regards aviation’s contribution to the Union’s economy-wide emission reduction target and the appropriate implementation of a global market-based measure¹ is to be incorporated into the EEA Agreement.
- (2) Decision (EU) 2023/136 of the European Parliament and of the Council of 18 January 2023 amending Directive 2003/87/EC as regards the notification of offsetting in respect of a global market-based measure for aircraft operators based in the Union² is to be incorporated into the EEA Agreement.
- (3) Directive (EU) 2023/958 establishes a special mechanism for bridging the cost difference between sustainable aviation fuels and fossil fuels, which has a higher level of support for certain islands in the Union. This higher level of support should also apply to Iceland.
- (4) Directive (EU) 2023/958 extends, for the final time, a time-bound exemption for flights operated to and from relevant third countries. Iceland is in a specific geographic situation which it assesses as leading to special adverse impacts on air connectivity and risks of carbon leakage. In order to address this, for the interim period of that time-bound exemption, and in a manner that will ensure full respect of and conformity with the principle of equal treatment of airlines on the same route and of the objectives, principles and other provisions of the EEA Agreement, a mechanism should be established for conditional allocation of additional allowances to aircraft operators in respect of flights departing from an aerodrome located in Iceland and arriving at an aerodrome located in the EEA, in Switzerland or in the United Kingdom, or departing from an aerodrome located in the EEA and arriving in Iceland. The allowances allocated under this mechanism are to be deducted from the number of allowances otherwise allocated for auctioning by Iceland. Any additional allowances allocated to aircraft operators pursuant to such a mechanism shall be conditional on accelerated efforts by those operators towards meeting the objective of climate neutrality.

¹ OJ L 130, 16.5.2023, p. 115.

² OJ L 19, 20.1.2023, p. 1.

- (5) In 2026, there should be a report evaluating the air connectivity of Iceland, including consideration of competitiveness and carbon leakage, as well as environmental and climate impacts, and of the adaptations set out in this Decision. The results of this evaluation should, where appropriate, be taken into account for the future revision of Directive 2003/87/EC beyond the period of 2024 to 2026.
- (6) Annex XX to the EEA Agreement should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Point 21al (Directive 2003/87/EC of the European Parliament and of the Council) of Annex XX to the EEA Agreement shall be amended as follows:

1. The following indents are added:
 - ‘ - **32023 D 0136**: Decision (EU) 2023/136 of the European Parliament and of the Council of 18 January 2023 (OJ L 19, 20.1.2023, p. 1),
 - **32023 L 0958**: Directive (EU) 2023/958 of the European Parliament and of the Council of 10 May 2023 (OJ L 130, 16.5.2023, p. 115).’
2. Adaptations (b) to (d) are replaced by the following adaptations:
 - (b) In point (c) of the third subparagraph of Article 3c(6), the words “, and at airports located in Iceland” shall be inserted after the words “sustainable air transport”.
 - (c) In paragraph 1 of Article 3d, the following subparagraph shall be inserted after the first subparagraph:

“From 1 January 2025 until 31 December 2026, Iceland shall, each year, allocate free allowances to aircraft operators, in accordance with the principle of equal treatment applicable under the EEA Agreement, including equal treatment between airlines on the same route, up to a level of the number of allowances to be auctioned by Iceland pursuant to Article 3d(3), in respect of flights departing from an aerodrome located in Iceland and arriving at an aerodrome located in the EEA, in Switzerland or in the United Kingdom, or departing from an aerodrome located in the EEA and arriving in Iceland. The additional free allocation for 2025 and 2026 shall not exceed the level of free allocation in 2024, and shall be subject to the application of the linear reduction factor referred to in Article 9. If there are insufficient allowances, a uniform adjustment shall be applied in respect of all allocations. The number of allowances equal to the additional free allocation under this subparagraph shall be deducted from the number of allowances to be auctioned by Iceland pursuant to Article 3d(3). All free allocation pursuant to this subparagraph shall be administered by Iceland in the Union Registry. Aircraft operators shall apply to the Icelandic competent authority, which shall allocate allowances in accordance with this subparagraph, subject to the submission and publication by the aircraft operator of a climate-neutrality plan. A climate-neutrality plan shall be consistent with the climate neutrality objectives of Iceland, and the European Union and its Member States, pursuant to the Paris Agreement and shall specify:

 - the details described in the third subparagraph of Article 10b(4);

- further measures, undertaken and planned, of the aircraft operator to meet the objective of this Directive until 31 December 2026; and,
- how the airline's public advocacy activities align with the climate neutrality objective.

The plan shall be submitted together with confirmation from an independent verifier in accordance with the verification and accreditation procedures provided for in Article 15 of Directive 2003/87/EC.

The above allocation by the Icelandic competent authority on the additional allocation of allowances shall be made following the submission and publication by the aircraft operator of the climate-neutrality plan. As regards actual fulfilment by the aircraft operator of the measures planned and committed to in the climate-neutrality plan, the independent verifier shall examine this each year. In case the independent verifier reports non-fulfilment by an aircraft operator of its own plan, the Icelandic competent authority shall claim the freely allocated allowances back.”

(d) Article 3d(4) shall not apply to the EFTA States.’

3. Adaptations (e) and (f) are deleted. Adaptations (g) to (t) are renumbered as adaptations (e) to (r).
4. The following adaptations are inserted after adaptation (r):
 - ‘(s) The following shall be inserted after point (d) of paragraph 8 of Article 30:
 - “(e) an evaluation of the air connectivity of Iceland, including consideration of competitiveness and carbon leakage, as well as environmental and climate impacts, and of the adaptations set out in Decision of the EEA Joint Committee No XX/2023 of [this decision].”
 - (ea) In the course of the process set out in Article 102 of the EEA Agreement for any future revision of this Directive, the EEA Joint Committee shall be mindful of the results and elements of the evaluation referred to in paragraph 8 of Article 30.’.
5. Adaptations (u) and (v) are renumbered as adaptations (t) and (u).

Article 2

The texts of Directive (EU) 2023/958 and Decision (EU) 2023/136 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on [...], or on the day following the last notification to the EEA Joint Committee under Article 103(1) of the EEA Agreement, whichever is the later*.

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

* [No constitutional requirements indicated.] [Constitutional requirements indicated.]

Done at Brussels, [...].

For the EEA Joint Committee

The President

[...]

The Secretaries

To the EEA Joint Committee

[...]

Joint Declaration by the Contracting Parties

to Decision of the EEA Joint Committee No .../... incorporating Directive (EU) 2023/958 of the European Parliament and of the Council and Decision (EU) 2023/136 of the European Parliament and of the Council into the Agreement

Directive (EU) 2023/958 of the European Parliament and of the Council of 10 May 2023 includes appropriate implementation of measures adopted by the International Civil Aviation Organisation. The Contracting Parties share the understanding that the incorporation of the Directive is without prejudice to the scope of the EEA Agreement.