

Information note for the twenty-third Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters

Public participation and access to information at the International Civil Aviation Organisation

Introduction

The International Civil Aviation Organization (ICAO) is the UN agency in charge of international civil aviation. Working through ICAO, States may establish important climate and environment regulations covering the international civil aviation sector. In 2016, States adopted the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA), a global scheme with the objective of achieving “carbon neutral growth” after 2020, relying on the use of carbon offsets and sustainable aviation fuel.

ICAO's governance and decision-making structure

The three most important ICAO decision-making bodies with regard to climate and environment are the ICAO Assembly, the ICAO Council and the Committee on Aviation Environmental Protection (CAEP). The ICAO Assembly is composed of 193 member states and is the ultimate decision-making authority, but only meets once every three years. Most of the political work is done by the ICAO Council with 36 member states chosen either due to the size of their aviation market or elected by the assembly. CAEP is a technical committee that assists the ICAO Council. It has 25 member states and seven observer states. There are a handful of member countries represented in both the ICAO Council and CAEP (see chart below), including the United Kingdom, Italy, Sweden, Spain, Germany and France. CAEP is further supported by a number of sub-committees and subgroups which provide technical recommendations

ICAO Assembly

193 COUNTRIES

APPROVES ASSEMBLY RESOLUTION
ESTABLISHING CORSIA

Delegates CORSIA rulemaking to ICAO Council

ICAO Council

36 COUNTRIES

DEVELOPS AND APPROVES CORSIA RULES
(SARPs + GUIDANCE)

Creates committees to aid with developing SARPs + guidance

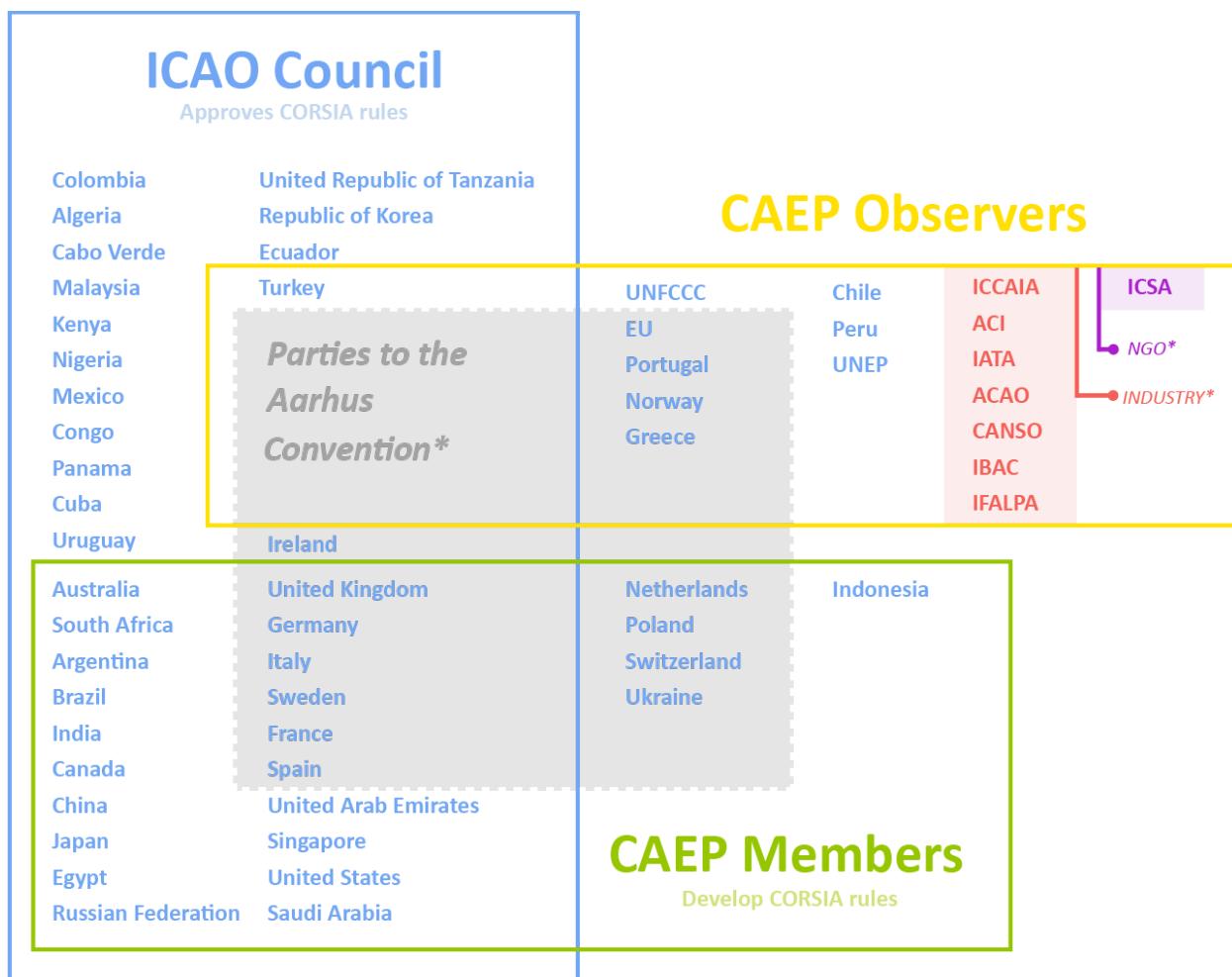
CAEP

COMMITTEE ON AVIATION ENVIRONMENTAL PROTECTION

25 COUNTRIES, 17 OBSERVERS

PROVIDES ASSISTANCE TO COUNCIL
ON ENVIRONMENTAL MATTERS

Creates specialized subcommittees



Public participation

The [rules of procedure for Standing Committees of the Council Assembly](#) set out a transparent default position with regard to access to documents and public participation in meetings (rule 17). Only sessions involving aviation security matters, salaries, disputes between states or issues that could endanger representatives if made public should require a meeting to be held in closed session. Despite this transparent default position, committees set their own working methods, and CAEP meetings and their subgroups are closed. CAEP is governed by “CAEP Directives” approved by the Council, which are not publicly available.

Only one civil society group (ICSA), compared to seven organizations representing industry, is allowed in CAEP meetings. None are allowed in ICAO Council meetings. *Observers participating in technical working groups under CAEP are bound by non-disclosure agreements* which exposes their representatives to unlimited financial liability.

Observers' participation in various ICAO bodies is outlined in the [standing rules of procedure of the Assembly](#). Rule 25 notes that for closed meetings, individual observers may be invited by the bodies

concerned. However, to date, NGOs have only been invited to Assembly, CAEP and CAEP technical working group meetings. Despite the important political decisions taken by ICAO Council meetings, *no civil society observer has ever been invited to observe Council meetings*. A request for participation from policy makers was refused in January 2016 when a delegation of Members of the European Parliament was denied observer access to CAEP.

Access to information

All key rules of relevance to the CORSIA are developed, or have been developed, in the form of Standards and Recommended Practices (SARPs) by CAEP and most have been agreed by the ICAO Council. Once agreed, national governments need to implement the rules into national or regional law. However, *no information on the development and content of these rules has been released publicly*, which keeps important discussions on essential elements related to the integrity of CORSIA in the dark. Draft SARPs are circulated to states for comment, but the draft is never made public, nor are the responses, and so the process is shrouded in secrecy. The state responses to the CORSIA SARP, for example, remain under lock and key.

ICAO recently concluded a review process for the CAEP Rules and Procedures, but only agreed to limited reforms, including sharing information with states which are not members of CAEP, but still refusing to make information public beyond States.

What is the role of Parties to the Aarhus Convention?

Recognising the importance of the CORSIA, national parliaments in Italy and Sweden have submitted written questions to their governments requesting more information on the CORSIA. At the EU level, a number of Members of the European Parliament have asked the European Commission to release documentation on the CORSIA especially considering the importance of its impacts on the EU's climate targets for 2030.

From the 45 countries that are members or observers of the ICAO Council and CAEP, 15 are also Parties to the Aarhus Convention: France, Germany, Italy, Netherlands, Poland, Spain, Sweden, Switzerland, Ukraine, United Kingdom, Ireland, Portugal, Norway, Greece and the EU.

Concretely, Parties to the Aarhus convention should consider the following recommendations:

- **Broaden observer diversity: Countries which are members of the ICAO Council should propose and support that interested observer organisations be allowed to apply for ICAO observer status instead of limiting participation by invitation only. The number of observers should not be limited.**

- Hold meetings open to the public: Countries which are part of the CAEP should request that CAEP meetings follow rule 17 of the general rules of procedure for standing committees and be held open by default.
- Provide access to important documents: All countries should follow rule 41 of the general rules of procedure for standing committees which allows committee documents, including Standards and Recommended Practices (SARPs), to be provided to the public.
- Improve public engagement in decision making: All countries should call on the ICAO Council and CAEP to invite public input to ICAO decision making processes and make input received from observer organisations publicly available.
- Encourage democracy: All countries should share the texts of Committee decisions, together with Committee working papers and other papers with their democratic institutions pursuant to rule 42 of the general rules of procedure for standing committees.

For more information, see:

- Carbon Market Watch (2017): "[Visibility Unlimited: Transparency of the new aviation carbon market](#)"
- *Eye on Global Transparency* blog post: [*No Documents, Closed Doors at the International Civil Aviation Organization*](#)
- Aoife O'Leary, Sabin Center for Climate Change Law (2017): "[*Transparency and ICAO's aviation offsetting scheme: two separate concepts?*](#)"