COMMISSION DELEGATED REGULATION (EU) 2019/1603

of 18 July 2019

supplementing Directive 2003/87/EC of the European Parliament and of the Council as regards measures adopted by the International Civil Aviation Organisation for the monitoring, reporting and verification of aviation emissions for the purpose of implementing a global market-based measure

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC ([1]), and in particular Article 28c thereof,

Whereas:

(1) Article 28c of Directive 2003/87/EC empowers the Commission to adopt provisions for the appropriate monitoring, reporting and verification of emissions for the purpose of implementing the International Civil Aviation Organisation's ('ICAO') global market-based measure on all routes covered by that measure. For reasons of legal certainty and clarity, it is necessary to specify the flights subject to those provisions by reference to the relevant routes and aircraft operators.

(2) Arrangements for the monitoring and reporting of emissions as well as the verification of emission reports apply, for the purposes of the EU Emission Trading System, in accordance with Commission Regulation (EU) No 601/2012 ([2]) and Commission Implementing Regulation (EU) 2018/2067 ([3]). Those arrangements have been updated and further developed, as regards the monitoring and reporting of emissions, by Commission Implementing Regulation (EU) 2018/2066 ([4]), which will apply from 1 January 2021. Implementing Regulations (EU) 2018/2066 and (EU) 2018/2067 take account of the first edition of the international standards and recommended practices adopted by the ICAO on 27 June 2018. For reasons of administrative efficiency and to minimise compliance costs for operators, it is appropriate to align the provisions for the implementation of the ICAO's global market based measure and the provisions laid down in Regulation (EU) No 601/2012 and in those Implementing Regulations.

(3) Under Commission Regulation (EU) No 601/2012, Member States can prescribe the use of electronic templates and specific file formats for the purposes of reporting emissions from aviation activities under Directive 2003/87/EC. To ensure that aircraft operators can comply with such requirements also when reporting emissions for the purposes of the ICAO's global market-based measure, the Commission should publish a specific electronic data exchange format.

(4) The application of monitoring, reporting and verification requirements for certain flights only in respect of aircraft operators based in the EEA is not considered to cause any distortion of competition. Therefore, such requirements can be adopted on the basis of Article 28c of Directive 2003/87/EC.

(5) On the basis of a cooperation agreement between the two, the Commission is entitled to request the assistance of Eurocontrol to ensure quality of emissions data. In the interests of ensuring the completeness and accuracy of emissions data to be transmitted by Member States in the format expected by ICAO, Member States should be able to request the Commission to seek this assistance from Eurocontrol.

([1]) OJ L 275, 25.10.2003, p. 32.
([2]) Commission Regulation (EU) No 601/2012 of 21 June 2012 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council (OJ L 181, 12.7.2012, p. 30).
([3]) Commission Implementing Regulation (EU) 2018/2067 of 19 December 2018 on the verification data and on the accreditation of verifiers pursuant to Directive 2003/87/EC of the European Parliament and of the Council (OJ L 334, 31.12.2018, p. 94).
([4]) Commission Implementing Regulation (EU) 2018/2066 of 19 December 2018 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council and amending Commission Regulation (EU) No 601/2012 (OJ L 334, 31.12.2018, p. 1).

(6) Member States should transmit relevant verified emissions data to the ICAO Secretariat, and ensure complete and timely reporting of emissions data concerning all relevant flights.

(7) In accordance with Article 28b(2) of Directive 2003/87/EC, the report referred to in that article should consider whether this regulation should be revised,

HAS ADOPTED THIS REGULATION:

Article 1

1. The reporting obligations provided for in Article 2 shall only apply to aircraft operators that fulfil all of the following conditions:

(a) they hold an air operator certificate issued by a Member State or are registered in a Member State, including in the outermost regions, dependencies and territories of that Member State;

(b) they produce annual CO_2 emissions greater than 10 000 tonnes from the use of aeroplanes with a maximum certified take-off mass greater than 5 700 kg conducting flights between aerodromes located in different States in the European Economic Area (EEA) or flights referred to in Article 2(1), from 1 January 2019.

2. For the purposes of point (b) of paragraph 1, emissions from the following types of flights shall not be taken into account:

(a) State flights;

(b) humanitarian flights;

(c) medical flights;

(d) military flights;

(e) firefighting flights.

Article 2

1. Aircraft operators shall report emissions from the following flights:

(a) flights between aerodromes located in Member States and aerodromes located in third countries;

(b) flights between aerodromes located in Member States and aerodromes located in outermost regions, dependencies or territories of other Member States;

(c) flights between aerodromes located in outermost regions, dependencies or territories of Member States and aerodromes located in third countries or dependencies or territories of other Member States.

2. Paragraph 1 shall apply also in respect of commercial air transport operators operating fewer than 243 flights per period of three consecutive four-month periods that depart from or arrive in an aerodrome situated in the territory of a Member State.

3. Aircraft operators are recommended to also verify and report their emissions from flights between aerodromes located in two different third countries.

4. Paragraphs 1 and 3 shall apply with respect to emissions from any type of flight except for the types of flights referred to in Article 1(2), including:

(a) flights for the purposes of training or search and rescue;

(b) flights under visual flight rules;

(c) flights for scientific research and testing;

(d) Public Service Obligation flights.

Article 3

1. For the purposes of reporting their emissions pursuant to Article 2 of this Regulation, aircraft operators shall be subject to the same requirements as those laid down in Article 14 of Directive 2003/87/EC and Regulation (EU) No 601/2012. From 1 January 2021, they shall be subject to the same requirements as those laid down in Implementing Regulation (EU) 2018/2066.

2. The Commission shall publish an electronic data exchange format for the purposes of reporting emissions from the flights referred to in Article 2. Aircraft operators shall use that electronic data exchange format.

Article 4

The verification of emission data to be reported pursuant to Article 2 of this Regulation and the accreditation of verifiers carrying out that verification shall be subject to the same requirements as those laid down in Article 15 of Directive 2003/87/EC and Part B of Annex V to that Directive, as well as Implementing Regulation (EU) 2018/2067.

Article 5

An aircraft operator that is listed in the Annex to Commission Regulation (EC) No 748/2009 ([5]) shall report its emissions to its administering Member State specified in that Annex.

An aircraft operator that is not listed in the Annex to Regulation (EC) No 748/2009 shall report its emissions to the Member State that issued its air operator certificate or, where an air operator certificate has not been issued by a Member State, the Member State where that aircraft operator has its place of judicial registration.

Article 6

Upon request by a Member State, the Commission may request the assistance of Eurocontrol to improve the accuracy of emissions data, with a view to their transmission in accordance with Article 7.

Article 7

Without prejudice to the revision of Directive 2003/87/EC by the European Parliament and the Council, Member States shall transmit to the Secretariat of the International Civil Aviation Organisation the relevant emissions data that have been reported pursuant to Article 14 of Directive 2003/87/EC and pursuant to this Regulation. Before that transmission, competent authorities shall conduct order of magnitude checks on the data to be transmitted. At the same time, Member States shall also transmit this emissions data to the Commission.

The emissions factor specified in Annex 16, Volume IV to the Convention on International Civil Aviation signed on 7 December 1944 (Chicago Convention) for the fuel Jet Kerosene (Jet A1 or Jet A) shall be used for the purposes of the transmission of emissions data pursuant to the first paragraph of this Article.

Article 8

This Regulation shall enter into force on the twentieth day following its publication in the *Official Journal of the European Union*.

([5]) Commission Regulation (EC) No 748/2009 of 5 August 2009 on the list of aircraft operators which performed an aviation activity listed in Annex I to Directive 2003/87/EC on or after 1 January 2006 specifying the administering Member State for each aircraft operator (OJ L 219, 22.8.2009, p. 1).

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 18 July 2019.

For the Commission
The President
Jean-Claude JUNCKER