

# Aviation's contribution to European Union climate action

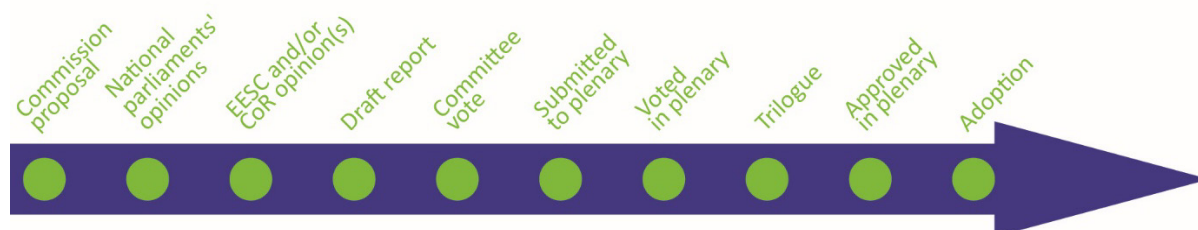
## Revision of EU ETS as regards aviation

### OVERVIEW

As part of the 'fit for 55' package, the Commission proposed a revision to the EU's emissions trading system (ETS) as regards carbon dioxide emissions from aviation. The proposal sought to ensure that the sector contributes to the EU's climate targets through increased auctioning of allowances, with an end to free allowances from 2027, and by applying the linear reduction of aviation allowances. The proposal would also integrate, into the revised ETS, the International Civil Aviation Organization's agreed global market-based Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) and apply it to international flights departing from or arriving at an airport inside the European Economic Area (EEA). For domestic flights in the Member States or flights within the EEA, the ETS would continue to apply. In the European Parliament, the file was referred to the Committee on Environment, Public Health and Food Safety (ENVI), with Sunčana Glavak (EPP, Croatia) appointed rapporteur. Following adoption of Parliament and Council's respective positions in June 2022, a provisional agreement was reached in December 2022. Parliament adopted the text on 18 April and the Council on 25 April 2023. The directive entered into force on 5 June 2023, and Member States have until 31 December to transpose it into national law.

**Proposal for a directive of the European Parliament and of the Council amending Directive 2003/87/EC as regards aviation's contribution to the Union's economy-wide emission reduction target and appropriately implementing a global market-based measure**

<i>Committee responsible:</i>	Environment, Public Health and Food Safety (ENVI)	COM(2021) 552
<i>Rapporteur:</i>	Sunčana Glavak (EPP, Croatia)	14.7.2021
<i>Shadow rapporteurs:</i>	Milan Brglez (S&D, Slovenia) Claudia Gamon (Renew, Austria) Bas Eickhout (Greens/EFA, the Netherlands) Anna Zalewska (ECR, Poland) Silvia Modig (The Left, Finland)	2021/0207(COD)  Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')
<i>Procedure completed.</i>	Directive (EU) 2023/958 <a href="#">OJ L 130, 16.5.2023, pp. 115–133.</a>	



## Introduction

On 14 July 2021, the Commission adopted the 'fit for 55' legislative package, which entails adjustments to a wide range of EU climate and energy legislation. With the aviation contribution proposal ([COM\(2021\) 552](#)), the European Commission is amending the ETS Directive ([2003/87/EC](#)) as it pertains to carbon dioxide (CO<sub>2</sub>) emissions from aviation. The amendments follow the ambitions outlined in the 2019 Commission [communication](#) on the European Green Deal.

Aviation accounts for 3.7 % of the EU's economy-wide CO<sub>2</sub> emissions, and the Commission wants to ensure the sector contributes to the Union's 2030 emissions reduction target. The proposal sets the quantity of aviation allowances in the ETS and the share of allowances available for auctioning, and introduces the linear reduction of aviation allowances in line with other ETS sectors. It also follows the policy conclusions put forward in the Commission's [climate target plan](#), seeking to deliver on the now legally binding climate targets for 2030 and 2050, following the adoption of the [European Climate Law](#) in July 2021. The amendments will also integrate, into the revised ETS, global market-based Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) agreed in the International Civil Aviation Organization (ICAO) and apply it to international flights departing from or arriving at an airport inside the EEA ('extra-EEA flights'). ICAO's 2019 environmental [report](#) projected international aviation CO<sub>2</sub> emissions to more than double, and potentially triple, by 2050, compared to 2015.

## Context

The third phase of the European emissions trading system from 2012 to 2020 included aviation CO<sub>2</sub> emissions, also requiring international airlines to surrender ETS emissions allowances for any flights into or out of the European Union. The EU was the first economy to address the issue of aviation emissions.

The inclusion of aviation emissions in the EU ETS, starting in 2012, was opposed by trade partners such as the United States, Canada and China. In case [C-366/10](#), the Court of Justice of the EU (CJEU) ruled in favour of the planned inclusion in the EU ETS, after evaluating its validity on the grounds of international law and international agreements, which opponents claimed were infringed upon. In January 2012, the United States Congress [adopted](#) a law prohibiting US airlines from participating in the EU ETS; China [reportedly](#) threatened to cancel orders made with the EU-based Airbus Group.

The EU adopted the 'stop-the-clock' Decision [377/2013/EU](#), suspending application of the ETS in 2012 for international flights, in expectation of a global market-based mechanism for aviation emissions. This paved the way for the October 2013 decision by the 38th ICAO Assembly to work towards developing a global market-based mechanism (GMBM) to address international aviation emissions.

Subsequently, [Regulation \(EU\) No 421/2014](#) suspended application of the ETS to extra-EEA flights. [Regulation \(EU\) 2017/2392](#) prolonged this derogation until 2023 – the first phase of CORSIA.

CORSIA was [agreed](#) at the 39th ICAO Assembly in October 2016, to become operational (in a pilot phase) from 2021.

### 'Offsetting' or 'cap and trade'

ICAO decides a baseline for international aviation emissions for CORSIA, which serves to deliver ICAO's goal of carbon-neutral growth from 2020 onwards. Excess emissions above the baseline need to be 'offset'; this means that airline operators must purchase CORSIA-eligible [emissions units](#) to compensate for growing emissions.

The [EU ETS](#) is a cap and trade system under which there is an upper limit for total emissions – the cap. Emission allowances are issued up to the level of the cap; they can be auctioned, distributed for free, set aside in reserves, or traded.

Under the EU ETS, the cap decreases over time and there is a shift from free allowances towards auctioning. The reduced supply pushes up the market price in the auctions, thereby incentivising investment in activities that reduce emissions.

## Existing situation

Currently, intra-EEA and Member States' domestic aviation flights are covered by the EU ETS. Derogations for extra-EEA flights are governed by the extensions [established](#) in the 2017 Regulation.

Monitoring, reporting and verification of aviation emissions by aircraft operators is required by the EU ETS. In April each year, carriers surrender emission allowances corresponding to their emissions in the previous year.

Operators emitting less than 25 000 tCO<sub>2</sub> annually can use the simplified monitoring [tool](#). The [annual cap](#) for aviation allowances is set at 95 % of 2004-2006 historic emissions; free allowances for allocation currently make up 82 % of allowances, while 15 % is available for auctioning and the remaining 3 % is set aside for new entrants and fast-growing airlines. A 2010 activity benchmark is the basis for receiving free allowances.

Revenues from auctioning should go towards climate action within or outside the EU, on which Member States report. A small portion may be used to cover the costs of administering the EU ETS.

[Annex 1](#) of the EU ETS directive defines general exceptions to which the EU ETS does not apply, such as search and rescue or humanitarian flights, diplomatic and military flights, or flights taken for surveillance, research or training purposes.

Since 1 January 2021, following the June 2020 Council Decision ([\(EU\) 2020/954](#)), all extra-EEA flights have participated<sup>1</sup> in the voluntary pilot phase of CORSIA.

### About the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA)

The aim of [CORSIA](#) is to ensure **stabilisation of aviation emissions** by offsetting emissions above a pre-defined baseline. CORSIA runs in three phases: pilot phase (2021-2023), first phase (2024-2026) and second phase (2027-2035).

Initially, ICAO had adopted a **goal of carbon-neutral growth from 2020**, calculating a baseline using an average of 2019 and 2020 emissions linked to international aviation. In June 2020, ICAO [decided](#) that the calculation of offsetting requirements in the pilot phase should use 2019 as a baseline rather than the 2019-2020 average, due to the significant decrease in aviation emissions as a result of the coronavirus pandemic (CO<sub>2</sub> emissions from aviation [dropped](#) 64 % in the EU in 2020). The first-phase baseline is currently under discussion due to the pandemic's impact on 2020 emissions linked to international aviation. As aviation emissions are not expected to [rebound](#) to pre-pandemic levels until 2024, a 2019 baseline will, in effect, probably mean that no offsetting will be required during the pilot phase.

Under CORSIA, airlines are required to monitor and report emissions on all international routes. The scheme is **route-based** and, as such, offsetting only applies if both the country of departure and arrival are participating in CORSIA. Details of CORSIA standards and recommended practices, including technical aspects, are available on ICAO's [website](#).

The key aspects of CORSIA were presented in a short [EPRS publication](#) in 2019. CORSIA is to be reviewed every 3 years, with the first review scheduled for 2022.

## Parliament's starting position

In 2017, the European Parliament [welcomed](#) ICAO's 2016 agreement on a global market-based measure for aviation emissions and the fact that 65 countries directly committed to participating in the voluntary pilot phase and first phase.

With the delivery of CORSIA and its 2020 baseline ambition, Parliament's January 2020 [resolution](#) on the European Green Deal included a call to strengthen CORSIA, urging the Commission and Member States to support the adoption of a long-term emissions reduction goal within ICAO. Parliament called on the Commission to safeguard European autonomy in implementing the ETS directive as

desired; this was a reference to the 2019 ICAO [resolution](#), which determined that CORSIA applies exclusively to international aviation emissions. In the same resolution, Parliament gave its support to the proposed measure to reduce free allowances for aviation within the EU ETS, to ensure that aviation contributes to EU climate action.

## Council & European Council starting position

Through Council Decision [\(EU\) 2018/2027](#), Member States agreed on the common reply they should give regarding participation in CORSIA as members of the European Union. In the Decision, the EU expressed its strong support for developing and putting into operation the global market-based measure (CORSIA). The Decision also served as the mandatory notification to ICAO of differences in existing legal frameworks, as outlined in its addendum.

The December 2020 European Council [conclusions](#) invited the Commission to explore ways to strengthen the ETS system, while maintaining its integrity and considering distributional concerns.

## Preparation of the proposal

In August 2020, the European Union Aviation Safety Agency (EASA) published its updated analysis [report](#) (pursuant to Article 30(4) of the EU ETS directive) on non-CO<sub>2</sub> effects of aviation on climate change. In September 2020, the [report](#) (required by Articles 3d and 28b of the EU ETS Directive) evaluating cost pass-through and ICAO's global market-based measure (CORSIA) was published.

On the 'Have your say' [website](#), an inception impact assessment was open for feedback from 3 July to 28 August 2020, followed by the [public consultation](#) from 1 October 2020, which remained open until 14 January 2021 and received 91 responses. The option of a return to the full scope of the EU ETS (the 'COWIDE' option in the impact assessment) had the highest support in the open consultation (32 %). The CORSIA only option ('C2CONLY') was preferred by 27 % of respondents. Responses from NGOs primarily preferred COWIDE, while business and the private sector preferred C2CONLY. On allowances, 69 % of responses agreed that the mitigation impact would increase with the removal of free allocations.

The proposal is accompanied by an [impact assessment](#), which focuses primarily on aviation's contribution to the European climate target for 2030, and the impact of various options for including aviation emissions under the EU ETS versus CORSIA. Secondly, the impact assessment considers the pace at which to increase auctioning of allowances and recommended an immediate phasing out of free allowances. EPRS's [initial appraisal](#) of the impact assessment gives more detail.

In April 2021, the Commission's Regulatory Scrutiny Board (RSB) [adopted](#) a positive opinion with reservations on the basis of the draft impact assessment. The RSB asked for the impact assessment to be simplified by applying a clear intervention logic, to focus on the most relevant options and to define the available policy choices and limitations. It further requested consideration of the impact on the sector of multiple initiatives with similar objectives, an example being the proposal on sustainable aviation fuels (SAF), also known as RefuelEU ([COM\(2021\) 561](#)). Finally, it pointed to shortcomings in the comparison of policy options and integration of stakeholder feedback, asking for a better explanation of the impacts and a better cost-benefit presentation of preferred options.

## The changes the proposal would bring

Below are some of the key changes from the Commission's legislative [proposal](#) on aviation CO<sub>2</sub> emissions under the EU ETS as proposed in July 2021, and before the legislative process in the Council and Parliament started, affecting articles in the consolidated [Directive 2003/87/EC](#). The contribution of the aviation sector under EU ETS in delivering emission reductions towards the European climate target links in with the overall [review](#) of the EU ETS, which aims to reduce greenhouse gas emissions from sectors covered by the ETS by 61 % in 2030, compared to 2005.

## Intra-EEA flights' contribution under new cap-and-trade rules

[Article 3c](#) (Total quantity of allowances for aviation) is [amended](#), consolidating the quantity of allowances starting in 2024 at the level of allocations made for Annex 1 activities linked to intra-EEA flights and to flights between the EEA and Switzerland and the United Kingdom (UK) in 2023; the UK and Switzerland will fall under the same rules as intra-EEA flights. The linear reduction pursuant to Article 9 is to be applied (currently a reduction of 2.2 %, which the overall ETS review proposes to increase to 4.2 %). On the basis of these calculations, the Commission will publish the quantity of allowances for aviation in 2024, and determine the quantity of free allocations had there not been an update to the directive.

[Article 3d](#) (Method of allocation of allowances for aviation through auctioning) is [amended](#) to reflect the transition to full auctioning of allowances as of 1 January 2027. It proposes decreasing by a quarter each year, starting in 2024, the amount of free allocations, to reach full auctioning in 2027.

Allocation of free allowances to aircraft operators will be proportionate to the share of verified emissions reported in 2023, including those that had a derogation in 2023 but are included from 2024. As a consequence of these amendments, Articles 3e and 3f concerning rules for free allocations and the special reserve are deleted.

A revised Article 6(2)(e) opens up trading in and surrender of the allowances previously reserved only for the aviation sector to other participants in the EU ETS (ETS installations).

## Specificities for outermost regions under ETS

[Article 3c, paragraph 7](#) proposes a derogation until 2030 for flights between an outermost region of a Member State to an aerodrome in the same Member State. The quantity of aviation allowances shall be increased to take account of necessary allocations for flights taking place between outermost regions of a Member State to a country, other than the Member State, which had a derogation in 2023 but is included in 2024.

## Revenue from trading

The current paragraph 3 is modified in response to the fact that Member States' auctioning of aviation allowances will include arrangements to transfer a share of the revenues to the EU's general budget (under proposal [COM\(2021\) 570](#)). The current Article 3d, paragraph 4 is replaced, giving Member States the right to determine use of revenues from auctioning, in accordance with Article 10.3, which requires 50 % to go towards climate action. The paragraph is also updated to exclude the share mentioned in paragraph 3, which qualifies as own resources under Article 311(3) of the Treaty on the Functioning of the EU (TFEU).

## CORSIA - Extra-EEA scope and eligible offsetting credits

In [Article 12](#) (Transfer, surrender and cancellation of allowances), a new [paragraph 6](#) implements CORSIA for flights to, from and outside the EEA, the UK and Switzerland by EU companies. This follows the June 2020 Council Decision, as mentioned under the existing situation ([\(EU\) 2020/954](#)). Such flights will be required to offset emissions above the CORSIA baseline as per their share of the collective aviation emissions established by CORSIA. Member States are responsible for the calculations and should notify companies registered in their country of the level of offsets necessary by 30 November each year for emissions in the preceding year; exceptions still apply for special flights. The Commission will adopt a delegated act defining the methodology for Member States to use when calculating offsetting requirements. In paragraph 8, the deadlines for operators to ensure offsetting by cancelling eligible units are determined for each phase of CORSIA.

In [Article 25a](#) (Third-country measures to reduce the climate change impact of aviation), [new paragraphs](#) are added on the implementing act that the Commission will adopt to define the list of

countries participating in CORSIA (25a(3)). For extra-EEA flights to countries not applying CORSIA, neither CORSIA nor the ETS will apply (25a(5)) until the end of 2026, to ensure a level playing field.

[Article 11a](#) (Use of Certified Emission Reductions (CERs) and Emission Reduction Units (ERUs) from project activities in the EU ETS before the entry into force of an international agreement on climate change) is [amended](#), thereby providing for extra-EEA flights to use eligible international credits to comply with CORSIA for flights to a destination participating in CORSIA (as per the Article 25a(3) amendment). The Commission will adopt an implementing act determining the list of eligible credits; these can either a) be credits authorised by Parties participating in the [Article 6\(4\) mechanism](#) under the [Paris Agreement](#), or b) originate from the crediting programmes deemed eligible by ICAO. [Article 11a\(5\)](#) remains unchanged, as does [Article 24a](#).

Credits related to point a) or b) above are only eligible for use if the issuing party is still a Party to the Paris Agreement at the time of use and, starting in 2027, they must originate from a country participating in CORSIA. An exception to this last point concerns credits originating from least developed countries (LDCs) or small island developing states (SIDS), as defined by the United Nations, unless their gross domestic product (GDP) per capita equals or exceeds the EU average.

The Commission retains the power to adopt an implementing act to exempt EU-based companies from the offsetting requirement in cases of significant distortion of competition due to less stringent or unequal application of CORSIA by a third country ([25a\(7\)](#)).

## Other aspects and interpretations

Interestingly, CE Delft researchers analysing the proposal [find](#) that the wording of combined Articles 11a and 25a implies that operators from countries not applying CORSIA, on extra-EEA routes to a destination applying CORSIA, would be obliged to surrender ETS allowances for such flights.

For flights to and from LDCs or SIDS (as defined by the United Nations) that do not participate in CORSIA, the exemption from any ETS requirements would continue to apply without an end date ([25a\(6\)](#)).

As introduced under its starting position, the Parliament reiterated the EU's legislative autonomy, as ruled by the CJEU, in its Green Deal resolution. The aviation proposal exempts extra-EEA flights to countries not participating in CORSIA from any offsetting or EU ETS requirements until the end of 2026. Some stakeholders view this as backsliding, as the original EU ETS for aviation would cover all flights into the EEA (in force from 2024, when the current derogation expires).

Furthermore, Parliament had previously called on Member States and the Commission to ensure a strong CORSIA, a point that stakeholders and academia are currently questioning, with the decision to change the CORSIA baseline year seen as lowering the scheme's ambition and delaying mitigation action. The Commission's proposal integrates the 2020 ICAO baseline decision, which is limited to the pilot phase, and reverts to the originally agreed baseline calculation in 2024 (Article 25a(3)).

No major restructuring is proposed of the EU ETS for aviation in terms of monitoring, reporting and verification, and the main entities and administrative bodies are unaltered. Article 18a ([Administering Member State](#)) is updated to require only a bi-annual update of the list of active operators as per the activities in Annex 1. Despite the significant climate impact of non-CO<sub>2</sub> effects from aviation, the scope remains limited to carbon emissions.

## Advisory committees

The Commission for the Environment, Climate Change and Energy of the European Committee of the Regions (CoR) debated the 'fit for 55' package at its meeting on 9 September 2021. A draft opinion covering several proposals under the headline 'Making ETS and CBAM (carbon border adjustment mechanism) work for EU cities and regions' was prepared by rapporteur Peter Kurz (PES, Germany). The CoR opinion was [adopted](#) during the CoR's 149th plenary session, from

27 to 29 April 2022. The text does not contain specific amendments focused on aviation; it calls for the proposals to go beyond the 2030 targets and include a focus on the 2050 climate neutrality target, and for a share of auction revenues to be allocated to the local and regional level.

The European Economic and Social Committee (EESC) adopted its [opinion](#) (TEN/756-EESC-2021) on 8 December 2021. Dumitru Fornea (Workers – Group II, Romania) was rapporteur for the file. Only two amendments are proposed: a call to limit allowance trading to operators or installations emitting CO<sub>2</sub>, and another to specifically exclude financial intermediaries so as to avoid speculation. During its 567th plenary from 23 to 24 February 2022, the EESC adopted an overarching opinion on the '[chapeau](#)' [communication](#) on the Commission's 'fit for 55' proposals. Cillian Lohan (Diversity Europe – Group III, Ireland) and Stefano Mallia (Employers – Group I, Malta) were the rapporteurs.

## National parliaments

The subsidiarity deadline for national parliaments to react was [8 November 2021](#). The Joint Committee on Transport and Communication of the Irish Houses of the Oireachtas has issued a [reasoned opinion](#) concluding that several of the 'fit for 55' package proposals, including the ETS for aviation, do not comply with the principle of subsidiarity. The reasoned opinion points to inadequacy in meeting the procedural requirements, specifically concerning the detailed statement, including indicators, allowing for assessment of the implications of EU-wide measures in the area (as per [Protocol 2, Article 5](#) attached to the EU Treaties). The Czech Senate has adopted a [resolution](#) requesting the European Commission to evaluate further the risks of cost increases for airlines and citizens and questioning the appropriateness of the timing, considering the negative impacts suffered by the aviation industry due to COVID-19. Conversely, a resolution adopted by the Spanish Joint Committee for EU Affairs [concludes](#) that the proposal complies with the subsidiarity principle.

## Stakeholder views<sup>2</sup>

Referencing the industry's commitment towards carbon-neutral aviation in Europe via the [Destination 2050 initiative](#), the International Air Transport Association ([IATA](#)) expresses concern about overlaps between the EU ETS and CORSIA and recommends full application of CORSIA. It goes on to call for initiatives focused on reducing the cost of sustainable fuel to increase supply and use, rather than taxation as an incentive for transformation.

Airlines for Europe ([A4E](#)) presents cumulative cost forecasts towards 2025 and 2030 for the combined proposals relating to aviation and warns of the implications for intra-EEA connectivity. They state their support for market-based measures such as the ETS and CORSIA but are against taxation, which is seen to reduce capacity for innovation. A4E calls for smooth implementation of CORSIA, with no additional limitations for EU operators than the eligible credits as determined by ICAO; they also suggest a [hybrid ETS/CORSIA application](#) on intra-EEA flights. The European Regions Airline Association ([ERA](#)) focuses on the potential impact on European carriers' competitiveness and the risk of carbon leakage with the proposed combination of full auctioning by 2027 and an increased yearly linear reduction under the EU ETS, especially affecting intra-EEA flights.

[CarbonMarketWatch](#) concludes that the proposal constitutes backsliding, goes against the EU's own decision not to use international carbon credits to deliver its climate commitments, and ignores the preferred option of the Commission's own impact assessment in opting for a gradual, rather than immediate, phase-out of free allocations. The organisation criticises the choice to implement CORSIA, as opposed to using the full scope of the EU ETS for aviation, which it says would deliver larger emissions reductions. CarbonMarketWatch recalls several uncertainties over CORSIA, which it considers a 'risky' option where avoiding market distortion relies on full participation by other countries and where credits to cover growing emissions may have insufficient environmental integrity. They further call for immediate full auctioning to apply the polluter pays principle.

The [Stay Grounded network](#), representing 180 organisations aiming to reduce air traffic and build a 'climate just' transport system, echoed many of CarbonMarketWatch's points, adding that the proposal's ambitions are too low, implementation too slow and that CORSIA equals [greenwashing](#). Climate change think-tank [E3G](#) also called to strengthen the polluter pays principle through a swift phasing out of free allocations across all files connected to the ETS, while [Climate Action Network Europe](#) regrets that the revision did not propose to include international flights under the EU ETS.

Clean transport campaigners Transport & Environment ([T&E](#)) welcomed the proposal to increase auctioning and the contribution of aviation within the EEA to reducing emissions by implementing the linear reduction on the aviation cap. However, the association regrets the continued ambition to implement CORSIA, which it refers to as the '[worst solution for the climate](#)'. T&E notes the Commission's attempts to ensure safeguards against double counting and integrity of credits, but points out that these safeguards only apply to airlines registered in Europe. It agrees the proposal constitutes backsliding as regards the previously presented exemption, and recommends that at least flights departing from the EEA should fall under the EU ETS, aligning with the scope of the [SAF proposal](#), and that revenues from ETS for aviation be used to finance deployment of e-kerosene.

[Business Europe](#)'s position paper on the overall 'Fit for 55' package does not specifically evaluate the proposal on aviation in the ETS and CORSIA. However, it warns of the potential for European market distortion compared to the international market if policy-makers do not carefully assess the cumulative impacts of interlinked or related proposals, including on energy taxation and fuels.

Ahead of the ICAO decision to change the baseline, several NGOs and carbon market stakeholders urged ICAO, in an [open letter](#) in May 2020, to avoid modifications, as these would undermine the scheme's credibility and stability, and simultaneously erase offsetting requirements in the pilot phase, and potentially for longer.

## Academic views

In a [study](#) prepared for the European Parliament's Transport and Tourism Committee (TRAN), researchers from CE Delft present challenges and impacts concerning aviation under the EU ETS and/or CORSIA. The researchers point out that differences remain between CORSIA and the EU ETS in terms of aircraft types and activities that are exempt from obligations, and that this could increase the administrative burden. The study finds the wording unclear in places and specifies that Article 25(a)(4-7) could be misleading. It also points to a lack of detail as to how obligations under the EU ETS, for intra-EEA flights by operators registered in countries that participate in CORSIA, will be notified to those countries in order to exempt such flights from CORSIA obligations. Finally, they find the language to be vague and non-binding, as it concerns the use of revenues for climate-related purposes.

The discussion in, and subsequent [decision](#) by, the ICAO Council to change the CORSIA offsetting baseline to 2019 emissions levels rather than using the average of 2019-2020 emissions levels also prompted academic papers and [commentaries](#). In a May 2020 Öko-Institut [publication](#), researchers argued, using the industry's own projections and historic trend data, that a lower 2019-2020 average due to the pandemic would be unlikely to substantially change airlines' offsetting requirements, meaning no additional financial risk. Conversely, they argued that using a 2019-only baseline, considering the recovery projections, would further delay mitigation action in the sector and remove incentives to ensure a green recovery. An Environmental Defense Fund (EDF) [analysis](#) pointed out that an existing flexibility [mechanism](#) for CORSIA's pilot phase could be used to alleviate any unexpected higher offsetting requirements; however, like the Öko-Institut, it noted that none of the sector projections expect a swift aviation rebound, and hence no significant impact from a lower baseline. The EDF further warned that the ad hoc decision to change the CORSIA baseline risks undermining the scheme's credibility along with that of ICAO, as the decision was taken by the 36-member Council without consulting the 190+ member states. Both the EDF and the Öko-Institut researchers called to maintain a 2019-2020 average as the CORSIA baseline.

## Legislative process

In the European Parliament, the proposal was referred to the Committee on Environment, Public Health and Food Safety (ENVI). The [draft report](#) (Rapporteur: Sunčana Glavak, EPP, Croatia), published on 17 January 2022, called for a steeper phase-out of free allowances, reaching full auctioning of allowances as of 1 January 2026.<sup>3</sup> It proposed to earmark a significant amount of the Innovation Fund for innovation in the sector, especially in sustainable aviation fuels. The draft report also called on the Commission to put forward another legislative proposal to counterbalance the additional regulatory burden in the proposal, through changes to other parts of EU legislation that pose compliance costs for the sector.

While the draft report proposed to follow the division of scope between the EU ETS and CORSIA suggested in the Commission proposal, it reiterated the need for CORSIA to be transparent, in order to assess its impact and sufficiency as a global emissions reduction scheme. The draft report kept open the possibility of putting in place other carbon mitigation options and safeguarding the Union's competence in relation to the EU ETS.

To increase transparency, the rapporteur proposed a requirement for the Commission to publish 'per aircraft operator in a user-friendly manner' all emissions data, including the amount of offsetting and specifying the amount and type of eligible fuels and/or carbon credits used to comply with offsetting requirements. In addition, Member States' use of ETS revenues should be made public.

The ENVI committee adopted its [report](#) on 17 May 2022. At committee level, discussions revolved mainly around the balance of scope between the EU ETS and CORSIA, measures to ensure the environmental integrity of CORSIA, and the timeline for phasing out free allowances, including the potential to direct ETS revenue linked to aviation emissions towards efforts to green the sector. Some Members raised the issue of non-CO<sub>2</sub> effects, an area the Commission's proposal left out.

In a new article 3(e)(a), ENVI proposed to expand the current EU ETS scope to include, from 30 April of the year following the entry into force of the directive, flights departing from the EEA to third countries. Still to be considered a temporary derogation (see next paragraph), CORSIA would cover extra-EEA flights arriving in the EEA, if the country of departure applied CORSIA. This scope was not part of the Commission's impact assessment. The Commission would need to adopt an implementing act, at least on an annual basis, listing the countries considered to be applying CORSIA. For transparency, the Commission should also publicise a list of countries not considered to be taking part in CORSIA. To avoid double application, aircraft operators on flights out of the EEA to a country applying CORSIA would be able to request a deduction, in their EU ETS surrender requirements, of the financial value of any offsetting credits purchased for the specific route for compliance with CORSIA. The EU ETS exemption for flights to and from least developed countries and small island developing states was removed. ENVI would further shorten the proposed exemption for flights between an outermost region of a Member State to an aerodrome in the same Member State, to apply until 2027 only.

In line with Parliament's previous calls to ensure a strong CORSIA with high environmental integrity, in Article 28b, ENVI proposed, by 1 January 2027 and thereafter biannually, a review of CORSIA, including progress made in ICAO negotiations, and of the sector's efforts to reduce aviation emissions to net zero by 2050. Furthermore, ENVI proposed that the Commission assess the environmental integrity and level of ambition of CORSIA in relation to targets under the Paris Agreement, by 2027. Depending on the findings, the Commission should, if needed, present a legislative proposal by the end of 2027, to end the temporary derogation for flights arriving in the EEA. The report also calls for a review of the impact on the internal market and possible social impact of applying CORSIA, by 2027.

The report recommended phasing out free allowances more rapidly, decreasing them by 50 % in 2024 and reaching full auctioning by 2025, two years ahead of the Commission proposal. The total

amount of allowances would be increased to take account of the extended scope of departing international flights. The linear reduction under Article 9 would apply to aviation allowances.

Aviation allowance auction revenues, beyond the own resources share, should in ENVI's view benefit the sector and the report proposed to direct 75 % to the climate investment fund, which would support sector-based measures to reduce climate impacts, including non-CO<sub>2</sub> impacts.

To further support the uptake of sustainable aviation fuels (SAFs) up until the end of 2029, a reserve of 20 to 40 million of the total allowances (depending on final scope) was proposed, to be allocated as [contracts for difference](#) to cover the price differential between fossil kerosene and SAFs. Synthetic aviation fuels would be allocated at 70 % of the available contract for difference allowances, and under this heading renewable fuels of non-biological origin should be prioritised.

To address the climate impact of regional or short-range (<1000 km) flights, ENVI proposed that the Commission deliver an evaluation by January 2026 on the potential for higher minimum shares of SAF requirements, alternative routing and measures to promote modal shifts.

As regards the climate impacts of non-CO<sub>2</sub> effects<sup>4</sup> from aviation, the ENVI report (Article 14(2)) proposed a monitoring, reporting and verification (MRV) framework for non-CO<sub>2</sub> emissions, to be established by the Commission, through delegated acts, 6 months after the entry into force of the directive. Based on the MRV data, the Commission should, if appropriate following an impact assessment, by the end of 2026, put forward a legislative proposal to extend the scope of the EU ETS to cover non-CO<sub>2</sub> aviation emissions. Pending this extension, to account for non-CO<sub>2</sub> emissions from aviation, ENVI proposed, from the end of 2027, a CO<sub>2</sub> emission factor multiplier, increasing annually up to a maximum factor of 2. The 2020 EASA report on non-CO<sub>2</sub> effects from aviation concluded that these are at least as important as those of CO<sub>2</sub> emissions alone.

The proposed measures to increase transparency and access to information put forward by the rapporteur were included in the final report by ENVI. In the recitals the Commission is called upon to ensure continuously that the administrative burden of implementation is as light as possible.

The Parliament [adopted](#) its position during the June I 2022 plenary session, with 479 votes in favour, 130 against and 32 abstentions. However, the Parliament decided to follow the Commission's original proposal for a derogation for outermost regions until 2030, and further extended the scope of this specific [derogation](#) to exempt any flights from an outermost region to the EEA, as well as flights within that outermost region. Parliament also requested the Commission to present, before 1 January 2025, an analysis of measures to reduce the climate impact of air travel by private aircraft.

The file was referred back to the ENVI committee with a mandate for trilogue negotiations.

In the Council, environment ministers held a first exchange of views on the 'fit for 55' package on 6 October 2021; the [progress report](#) of 6 December 2021 gave an overview of work in the Council. On the aviation proposal, the report showed diverging views on how quickly to phase out free allocation, with some delegations considering the pandemic's impact on the sector, while others supported moving immediately to full auctioning. In examining the proposal, the Council looked at the potential impact on competitiveness and consumers; it has also debated the preferred relationship between the ETS and CORSIA, asking about the quality of credits, the countries covered and the baseline, in view of the EU's commitments under the Paris Agreement. Some delegations requested an assessment of the cumulative impact of interlinked proposals.

During its [meeting](#) of 28 June 2022, the Environment Council adopted its [general approach](#) on all files related to the EU ETS directive. The Council followed the proposal by the Commission in terms of scope of EU ETS versus CORSIA (see changes the proposal would bring), phasing out free allowances by 2027, and the linear reduction percentage of 4.2 % for annual continuous reduction of the ETS cap – the amount of total allowances. To support uptake of SAFs, the general approach of the Council suggested setting aside 20 million of the phased out allowances to give to aviation activities using SAFs to compensate for the cost difference. A wider derogation was suggested until

2030 for outermost regions, and a report evaluating the directive's impacts on air connectivity, competitiveness or carbon leakage risks for islands and remote territories was requested by 2028.

On 6 December 2022, a [provisional agreement](#) was [reached](#) in interinstitutional negotiations. The agreed text follows the Commission's proposal in terms of scope, applying the EU ETS to intra-EEA flights including flights to and from the UK and Switzerland, while CORSIA will apply to extra-EU flights. In 2026, the Commission will evaluate the environmental integrity and the sufficiency of CORSIA, as regards the objectives of the Paris Agreement. In line with Parliament's recommendation, where the evaluation report finds CORSIA to be insufficient, it shall be accompanied by a proposal to extend, as appropriate, from January 2027, the EU ETS to extra-EEA flights.

Flights to, from and between outermost regions of the same Member State will be exempt until 2030, slightly widening the proposed derogation, but not extending it beyond same Member State regions.

The CORSIA baseline for offsetting will be used (85 % of the 2019 emissions level). Flights to and from LDC and SIDS (with a lower GDP per capita than the EU average), not applying CORSIA, will be exempted from surrendering EU ETS allowances.

Free allowances will be phased out one year earlier than proposed by the Commission, reaching full auctioning in 2026. However, 20 million allowances are set aside to incentivise the uptake of SAF. The SAF allowances will be given for free until 2030, to cover the price differential for operators using SAF, as a measure to support their uptake. Level of support (allowances received) will depend on the type of fuel and point of departure. To ensure availability of sustainable alternatives in locations with potential supply constraints, small islands, small airports and outermost regions will be able to cover 100 % of the price difference between any SAF and kerosene, using free SAF allowances. For other locations, SAF price difference can be covered from 50-95 %, depending on the type of SAF.

The climate investment fund proposed by Parliament to dedicate 75 % of aviation allowance auctioning revenues to sectoral climate action was not agreed. However, 5 million aviation allowances, relating to allocations for 2026, will be transferred to the innovation fund and earmarked for aviation projects.

As proposed by Parliament, the Commission will publish emissions, fuel type and offsetting data in a user-friendly manner at aircraft operator level, where possible, to increase transparency.

The MRV framework for non-CO<sub>2</sub> emissions from aviation, proposed by Parliament, will be implemented from 2025 and evaluated in 2027. In 2028, following an impact assessment, the Commission can put forward a proposal to address non-CO<sub>2</sub> emissions from aviation.

Parliament's proposed analysis of climate impact arising from private aircraft use, as well as of short-range flights, where Parliament also requested evaluation of possible re-routing or modal-shifts incentivising measures for flights <1000 km, are however not mentioned in the agreement.

The [agreed text](#) was endorsed in the ENVI committee on 9 February 2023. Parliament adopted the text on 18 April 2023 with 463 votes in favour, 117 against, and 64 abstentions. The Council then adopted the text on 25 April 2023. The final act was signed on 10 May 2023 and published in the [Official Journal](#) on 16 May 2023, entering into force on 5 June 2023. Member States have to transpose its measures in national law by 31 December 2023.

## EUROPEAN PARLIAMENT SUPPORTING ANALYSIS

Erbach G. with Foukalova, N., [Review of the EU ETS](#), EPRS, European Parliament, May 2023.

Jensen L., [EU climate target plan: Raising the level of ambition for 2030](#), EPRS, European Parliament, December 2020.

Remeur C., [Carbon emissions pricing: Some points of reference](#), EPRS, European Parliament, March 2020.

[Research for TRAN Committee – The aviation and maritime sectors and the EU ETS: challenges and impacts](#), Final report, DG IPOL, European Parliament, October 2021.

Soone J., [ReFuelEU Aviation initiative: Sustainable aviation fuels and the fit for 55 package](#), EPRS, European Parliament, December 2022.

Vettorazzi S. with Medeiros De Faria, A. P., ['Fit for 55': Revision of the EU Emissions Trading System](#), EPRS, European Parliament, January 2022.

Vettorazzi S. with Medeiros De Faria A. P., [Fit for 55 package: revising the EU Emissions Trading System as regards aviation](#), EPRS, European Parliament, March 2022.

## OTHER SOURCES

ICF Consulting et al., [Assessment of ICAO's global market-based measure \(CORSIA\) pursuant to Article 28b and for studying cost pass-through pursuant to Article 3d of the EU ETS Directive](#), European Commission, February 2021.

[Notification under the Carbon Offsetting and Reduction Scheme for International Aviation \(CORSIA\)](#), European Parliament, Legislative Observatory (OEIL).

[Report on the functioning of the European carbon market](#), COM(2020) 740 final.

[Revision of the EU Emissions Trading System for aviation. 'Fit for 55 package'](#), Legislative Observatory (OEIL), European Parliament.

## ENDNOTES

- <sup>1</sup> On 14 July 2021, the Commission also put forward proposal [COM\(2021\) 567](#) for a decision to amend Article 12 of the EU ETS directive, by adding a new paragraph (6) detailing Member States' obligation to notify operators by 30 November 2022 of any offsetting requirements for 2021 under the CORSIA scheme.
- <sup>2</sup> This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'European Parliament supporting analysis'.
- <sup>3</sup> A faster phase-out of free allowances would result in an increase of 12 million allowances for auctioning in the period up to 2030. The draft report proposes to make these allowances available instead to avoid the [cross-sectoral correction factor](#).
- <sup>4</sup> Water vapour (H<sub>2</sub>O), oxides of nitrogen (NO<sub>x</sub>), sulphur dioxide (SO<sub>2</sub>) and soot particles are examples of non-CO<sub>2</sub> emissions, while effects also include atmospheric processes such as the formation of ozone and contrail cirrus. The climate impact of these depend on a number of factors such as altitude, weather, time and flight coordinates.

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