



2021/0207(COD)

31.1.2022

DRAFT OPINION

of the Committee on Transport and Tourism

for the Committee on the Environment, Public Health and Food Safety

on the 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 (COM(2021)0552 – C9-0319/2021 – 2021/0207(COD))

Rapporteur for opinion: Jan-Christoph Oetjen

PA_Legam

SHORT JUSTIFICATION

The Commission proposal aims at revising the EU ETS in respect of aviation emissions in order to ensure sector's contribution to the 2030 emissions reduction targets and coherence of the European offsetting system with the CORSIA, developed within ICAO. The reduction of environmental footprint of the aviation sector is to be achieved by gradual phase out of free allowances and shift towards their auctioning in combination with technological advances expected in the near future, optimisation of air navigation services through Single European Sky and other legislative measures, such as obligatory uplift of Sustainable Aviation Fuels, included in the wider Fit for 55 legislative package.

Rapporteur's position:

The Rapporteur supports the initiative; especially that aviation has been part of the EU ETS since 2012 and contributed greatly to greenhouse gas emissions reduction under the system by purchasing its offsetting credits from other sectors. Moreover, the shift towards more sustainable, more efficient flights is an opportunity to the industry which is simply not possible to be missed in order to stay competitive in the mid to long term. Similarly, the Rapporteur welcomes and supports international effort to offset aviation emissions under the CORSIA.

While recognising the ambition behind the Commission proposal, however, there is also a need to acknowledge many challenges for the EU aviation sector stemming from still ongoing crisis due to the Covid19 pandemic as well as uneven level playing field in respect of 3rd countries' participation in CORSIA.

Among a few solutions to counterbalance those challenges and to reap full benefits of this proposal to the advantage of the industry and customers alike, the Rapporteur proposes to introduce free allocation of allowances to aircraft operators to incentivise the uplifting of sustainable aviation fuels (SAF), including synthetic aviation fuels, in line with the objectives of the proposal for a regulation on ensuring a level playing field for sustainable air transport (2021/0205 (COD)). The Rapporteur does not want these ETS credits to have an impact on the ETS cap, therefore, he suggests that they come from the pool of total allowances available and proposes to reserve a total of 20 million for this purpose up to 2030, to be reviewed in 2027 and possibly extended beyond 2030. This would reduce the cost impact of ReFuel EU mandate, both for SAF and for its sub targets, incentivise the fuels users to uplift more SAFs, support the European sustainable fuel production and mitigate the cost impact and carbon distortion in case the rest of the world does not follow the EU approach to carbon pricing and SAF.

Moreover, since further greening of the air travel is not possible without significant advances in technology development and its uptake by the market, the Rapporteur would like to see the earmarking of revenues from EU ETS allowances purchased by aircraft operators for R&D investment exclusively in the aviation sector.

Perhaps the most important challenge of the current system is to ensure equal treatment for all aircraft operators irrespective of their origin. Bearing in mind that ensuring full compliance with CORSIA by a 3rd country carrier is not always possible and the procedures to achieve

that are often very long, the Commission should have the necessary tools to impose EU ETS on such aircraft operator, as an immediate temporary measure, acting whenever there is a distortion of competition or a threat of injury to the European aircraft operator as a result of this non-compliance. This should be done instead or in combination with the exemptions from CORSIA granted to the European airlines, already foreseen in the Commission proposal.

Last but not least, to avoid high fluctuations in carbon price, as unfortunately seen in recent months, the Rapporteur's view is that it is also time to consider a revision of current rules safeguarding the market against any future speculation.

AMENDMENTS

The Committee on Transport and Tourism calls on the Committee on the Environment, Public Health and Food Safety, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a directive

Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) The further greening of air travel is not possible without significant advances in technology and its uptake by the market, which requires earmarking, for the purpose of R&D investment exclusively in the aviation sector, revenues generated from the purchase of EU ETS allowances by aircraft operators.

Or. en

Amendment 2

Proposal for a directive

Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) The EU ETS directive should also be a tool to incentivise solutions that facilitate decarbonisation. Therefore, 20 million allowances should be reserved and allocated for free to aircraft operators and for subsequent years up to 2030, to provide a guaranteed reward for uplifting sustainable aviation fuels. To ensure that the market for those fuels will find the investment necessary to flourish, 50% of the allowances should be allocated specifically for the uplifting of synthetic aviation fuels. The Commission should detail the methodology to allocate these allowances based on prices. In its methodology the Commission should set out in particular how to cover the price difference between on the one hand the

use of kerosene and on the other sustainable aviation fuels, in relation to reducing CO2 emissions by one tonne. Moreover, to further boost decarbonisation solutions and technologies, a zero-rating should apply to synthetic aviation fuels for the aircraft operators using such fuels, for a transitional period lasting until the implementing acts referred to in Article 14(1) enter into force.

Or. en

Amendment 3

Proposal for a directive

Recital 22

Text proposed by the Commission

(22) In order to ensure uniform conditions for exempting aircraft operators from surrender requirements as laid down in Article 12(8) of Directive 2003/87/EC in respect of emissions from flights to and from countries applying CORSIA in a less stringent manner in its domestic law, or failing to enforce CORSIA provisions in a manner equal to all aircraft operators pursuant to Article 25a(7) of that Directive, ***implementing powers should be conferred on*** the Commission to exempt airlines based in the Union from surrender requirements in respect of emissions from flights where a significant distortion of competition to the detriment of airlines based in the Union occurs due to a less stringent implementation or enforcement of CORSIA in the third country. The distortion of competition could be caused by a less stringent approach to eligible offset credits or double counting provisions. ***Those powers should be exercised*** in accordance with ***Regulation (EU) No 182/2011 of the European Parliament and of the Council.***

Amendment

(22) In order to ensure uniform conditions for exempting aircraft operators from surrender requirements as laid down in Article 12(8) of Directive 2003/87/EC in respect of emissions from flights to and from countries applying CORSIA in a less stringent manner in its domestic law, or failing to enforce CORSIA provisions in a manner equal to all aircraft operators pursuant to Article 25a(7) of that Directive ***or when it is determined, on the basis of available facts, that a threat of injury which is detrimental to aircraft operators that hold an air operator certificate issued by a Member State or are registered in a Member State, including the outermost regions, dependencies and territories of that Member State, exists.*** The Commission ***should take measures of a temporary nature*** to exempt airlines based in the Union from surrender requirements in respect of emissions from flights where a significant distortion of competition to the detriment of airlines based in the Union occurs due to a less stringent implementation or enforcement of CORSIA in the third country, ***and/or apply EU ETS to aircraft operators from a third***

*country applying CORSIA in a less stringent manner in its domestic law, or failing to enforce CORSIA provisions in respect of emissions from flights to and from the EEA. The distortion of competition could be caused by a less stringent approach to eligible offset credits or double counting provisions. **The measures of a temporary nature should apply until the Commission determines that the distortion of competition or threat of injury no longer exist or when a third country complies with CORSIA in a satisfactory manner or in the same manner equal for all aircraft operators. However, in any event, such measures should not apply longer than 9 months. After 9 months, the Commission should, by means of an implementing act, either extend the duration of the measures or modify them or revoke them. That implementing act should be adopted in accordance with the examination procedure referred to in Article 22a(2).***

Or. en

Amendment 4

Proposal for a directive Recital 24 a (new)

Text proposed by the Commission

Amendment

(24a) The ETS Directive provides for measures in the event of prices for allowances being excessive. However, the European Green Deal legislative reforms together with an unprecedented market rally have led to allowance prices increasing with a dramatic impact on EU ETS-related costs. The Commission should present a report to the European Parliament and Council assessing if the current measures are still effective and if they need to be amended.

Or. en

Amendment 5

Proposal for a directive Recital 26 a (new)

Text proposed by the Commission

Amendment

(26a) Pursuant to Article 30(4) of this directive the Commission presented an updated analysis of the non-CO2 effects of aviation. That analysis found that uncertainties remain with regard to those impacts, and how to assess them in terms of equivalent emissions metrics. Moreover the challenges of finding an appropriate multiplier to account for the climate effects of non-CO2 emissions as well as the uncertainty about the climate impact of NOX, and the potential unintended consequences, creates a political risk for the integrity of the EU ETS.

Or. en

Amendment 6

Proposal for a directive Article 1 – paragraph 1 – point 1 – point b Directive 2003/87/EC Article 3c – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. 20 million of the total quantity of allowances referred to in paragraph 5 of this Article and for subsequent years up to 2030 shall be reserved to be allocated for free in respect of aircraft operators that uplift sustainable aviation fuels. 50% of these allowances shall be allocated specifically for the uplifting of synthetic aviation fuels.

Or. en

Justification

In 2019, for the first time a small amount of biofuel was reported to be used. Two aircraft operators reported covering 0.01% of the 2019 ETS aviation emissions (COM 2020, 740 final). "The main incentive for uplifting sustainable aviation fuels, including synthetic aviation

fuel, is that allowances will not need to be surrendered for CO2 emissions, which are permanently stored or avoided. In addition, to accelerate the uplifting, a certain amount of allowances should be reserved to provide a guaranteed reward.

Amendment 7

Proposal for a directive

Article 1 – paragraph 1 – point 2 – point b

Directive 2003/87/EC

Article 3d – paragraph 1c

Text proposed by the Commission

1c. As from 1 January 2027, all of the quantity of allowances in respect of which free allocation would have taken place in that year shall be auctioned. ’,

Amendment

1c. As from 1 January 2027, all of the quantity of allowances in respect of which free allocation would have taken place in that year shall be auctioned, ***except for the quantity of allowances referred to in Article 3c(5a).*** ’,

Or. en

Justification

The phase out of free allowances should exclude the allowances allocated for free for the uplifting of SAF.

Amendment 8

Proposal for a directive

Article 1 – paragraph 1 – point 2 – point e

Directive 2003/87/EC

Article 3d – paragraph 4

Text proposed by the Commission

4. Member States shall determine the use of revenues generated from the auctioning of allowances covered by this Chapter, except for the revenues established as own resources in accordance with Article 311(3) of the Treaty and entered in the general budget of the Union. Member States shall use the revenues generated from the auctioning of allowances in accordance with Article

Amendment

4. Member States shall determine the use of revenues generated from the auctioning of allowances covered by this Chapter, except for the revenues established as own resources in accordance with Article 311(3) of the Treaty and entered in the general budget of the Union. Member States shall use the revenues generated from the auctioning of allowances in accordance with Article 10(3). ***Revenues generated from the***

10(3).;

auctioning of allowances to aircraft operators shall be used to advance research and development in relation to aircraft efficiency, deployment of decarbonisation solutions and the environmental performance of the aviation sector.;

Or. en

Justification

Further decarbonisation of the sector will not happen without significant advances in technology development and its uptake by the market, there is the need to earmark revenues from EU ETS allowances purchased by aircraft operators for R&D investment exclusively in the aviation sector.

Amendment 9

Proposal for a directive

Article 1 – paragraph 1 – point 3 a (new)

Directive 2003/87/EC

Article 3 e (new)

Text proposed by the Commission

Amendment

(3a) *The following Article 3 e (new) is added.*

Article 3e (new)

Allocation and issue of allowances to aircraft operators for uplifting sustainable aviation fuels.

1. *As from [the date of entry into force of this directive], the total quantity of allowances referred to in Article 3c(5a) shall be allocated free of charge for the uplifting of sustainable aviation fuels.*

2. *Each aircraft operator may apply for an allocation of allowances that are to be allocated free of charge for each year until 2030 based on the uplifting of the fuels referred to in paragraph 1 from [the date of entry into force of this directive].*

a) *The quantity of allowances shall be proportionate to the total greenhouse gas emissions saved according to the*

treatment of those fuels under Directive (EU) 2018/2001 and the implementing acts referred to in Article 14(1) of the ETS directive.

b) For a transitional period until the implementing acts referred to in Article 14(1) enter into force synthetic aviation fuels shall be rated with zero emissions for the aircraft operators using them.

3. The Commission shall publish the costs difference between the kerosene and SAF on a yearly basis. The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Directive concerning the detailed arrangements for the allocation of aviation allowances for free for uplifting sustainable aviation fuels by covering the price difference per tonne of CO₂ saved from using those fuels instead of kerosene.

4. The Commission shall evaluate by 2027 whether the reserve of 20 million of free allowances referred to in Article 3c (5a) should be maintained beyond 2030.

Or. en

Justification

The ETS directive should serve also as an incentive to solutions that can decarbonise the aviation sector. Allowing for allowances to be allocated for free for the uplifting of sustainable aviation fuels represents a reward for their use. Covering the price difference between the use of kerosene and these fuels for saving a tonne of CO₂ emissions would push for a boost of these fuels production and a smooth development of their market.

Amendment 10

Proposal for a directive

Article 1 – paragraph 1 – point 4 a (new)

Directive 2003/87/EC

Article 10 – paragraph 3 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

(4a) In Article 10, (3) the following

subparagraph is added:

Revenues generated from the auctioning of allowances to aircraft operators shall be used to advance research and development in relation to aircraft efficiency, deployment of decarbonisation solutions, and the environmental performance of the aviation sector.

Or. en

Justification

Further decarbonisation of the sector will not happen without significant advances in technology development and its uptake by the market, there is the need to earmark revenues from EU ETS allowances purchased by aircraft operators for R&D investment exclusively in the aviation sector.

Amendment 11

Proposal for a directive

Article 1 – paragraph 1 – point 6 a (new)

Directive 2003/87/EC

Article 14 paragraph 1

Present text

1. The Commission shall adopt implementing acts concerning the detailed arrangements for the monitoring and reporting of emissions and, where relevant, activity data, from the activities listed in Annex I, for the monitoring and reporting of tonne-kilometre data for the purpose of an application under Article 3e or 3f, which shall be based on the principles for monitoring and reporting set out in Annex IV and the requirements set out in paragraph 2 of this Article. Those implementing acts shall also specify the global warming potential of each greenhouse gas in the requirements for monitoring and reporting emissions for that gas.

Amendment

(6a) Article 14 paragraph 1 is amended as follows:

1. The Commission shall adopt implementing acts concerning the detailed arrangements for the monitoring and reporting of emissions and, where relevant, activity data, from the activities listed in Annex I, for the monitoring and reporting of tonne-kilometre data for the purpose of an application under Article 3e or 3f, which shall be based on the principles for monitoring and reporting set out in Annex IV and the requirements set out in paragraph 2 of this Article. Those implementing acts shall also specify the global warming potential of each greenhouse gas in the requirements for monitoring and reporting emissions for that gas. ***Those implementing acts shall apply the sustainability and greenhouse gas***

emissions saving criteria for the use of biomass established by Directive (EU) 2018/2001^{1a} of the European Parliament and the Council, with any necessary adjustments for application under this Directive, for this biomass to be zero-rated. They shall specify how to account for storage of emissions from a mix of zero-rated sources and sources that are not zero-rated. They shall also specify how to account for emissions from synthetic aviation fuels and recycled carbon fuels, ensuring that these emissions are accounted for and that double counting is avoided.

^{1a} Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources.

Or. en

Justification

The amendment introduces an alignment of this Article with the new provision in Article 3e subparagraph 2b.

Amendment 12

Proposal for a directive

Article 1 – paragraph 1 – point 8 – point a

Directive 2003/87/EC

Article 23 – paragraph 3

Text proposed by the Commission

3. The delegation of power referred to in Articles 3d(3), 10(4), 10a(1) and (8), 10b(5), 12(7), third subparagraph, 19(3), Article 22, Articles 24(3), 24a(1), 25a(1) and Article 28c may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of

Amendment

3. The delegation of power referred to in Articles 3d(3), **3e**, 10(4), 10a(1) and (8), 10b(5), 12(7), third subparagraph, 19(3), Article 22, Articles 24(3), 24a(1), 25a(1) and Article 28c may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of

the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.’,

the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.’,

Or. en

Amendment 13

Proposal for a directive

Article 1 – paragraph 1 – point 9

Directive 2003/87/EC

Article 25a – paragraph 3

Text proposed by the Commission

3. The Commission shall adopt an implementing act listing countries other than EEA countries, Switzerland and the United Kingdom, which are considered to be applying CORSIA for the purposes of this Directive, with a baseline of 2019 for 2021 to 2023 and a baseline 2019-2020 for each year thereafter. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 22a(2).

Amendment

3. ***At least once a year***, the Commission shall adopt an implementing act listing countries other than EEA countries, Switzerland and the United Kingdom, which are considered to be applying CORSIA for the purposes of this Directive, with a baseline of 2019 for 2021 to 2023 and a baseline 2019-2020 for each year thereafter. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 22a(2). ***From 2027, the Commission shall also publish a list of aircraft operators from countries which are not considered to be applying CORSIA for flights to or from other third countries for the purposes of this Directive.***

Or. en

Justification

In the absence of a wide spectrum of hard measures available to the Commission in the event of non-compliance with CORSIA by a 3rd country, creating a list of carriers registered in non-compliant states is an excellent soft measure to influence customer choice and achieve level playing field.

Amendment 14

Proposal for a directive

Article 1 – paragraph 1 – point 9

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Text proposed by the Commission

7. **Where** the Commission **determines that** there is a significant distortion of competition which is detrimental to aircraft operators that hold an air operator certificate issued by a Member State or is registered in a Member State, including in the outermost regions, dependencies and territories of that Member State, **the Commission shall be empowered to adopt implementing acts to exempt those aircraft operators** from surrender requirements as laid down in Article 12(8) in respect of emissions from flights to and from **such countries**. The distortion of competition **may be caused by** a third country **applying** CORSIA in a **less stringent manner in its domestic law, or failing to enforce CORSIA provisions** in a manner equal to all aircraft operators. **Those implementing acts shall be** adopted in accordance with the examination procedure referred to in Article 22a(2).

Amendment

7. **From 2027, on a yearly basis or whenever evidence is presented,** the Commission **shall assess whether** there is a significant distortion of competition **due to a non-compliance with, or a less stringent application in its domestic law of, CORSIA by a third country, or when it is determined, on the basis of available facts, that a threat of injury** which results from such non-compliance or such a less stringent application and is detrimental to aircraft operators that hold an air operator certificate issued by a Member State exist. **The distortion of competition or threat of injury may be caused by a third country applying CORSIA in a less stringent manner in its domestic law, or failing to enforce CORSIA provisions in the same manner for all aircraft operators. Where the assessment confirms that distortion of competition or a threat of injury exist and result from non-compliance with or a less stringent application of CORSIA by a third country, the Commission shall take measures of a temporary nature to exempt** aircraft operators that hold an air operator certificate issued by a Member State or is registered in a Member State, including in the outermost regions, dependencies and territories of that Member State from surrender requirements as laid down in Article 12(8) **and/or to apply EU ETS** in respect of emissions from flights to and from **the EEA operated by aircraft operators from a non-compliant third country. The measures of a temporary nature shall apply no longer than 9 months or until the determines that** the distortion of competition **or threat of injury no longer exist or when** a third country **complies with** CORSIA in a **satisfactory manner or CORSIA is enforced in the same manner for** all

aircraft operators. ***At the end of the nine-month period, the Commission shall either extend the duration of those measures, or modify or revoke them, by means of an implementing act adopted by the Commission*** in accordance with the examination procedure referred to in Article 22a(2).

Or. en

Justification

Fair competition and level playing field must be ensured, especially under the ETS directive. For this reason, the Commission should be enabled to take immediate temporary measures in case of significant distortion of competition caused by a third country applying CORSIA in a less stringent manner in its domestic law, or failing to enforce CORSIA provisions in a manner equal to all aircraft operators. The temporary measures can result not only in an exemption to the EU aircraft operators facing the distortion of competition from surrender requirements as laid down in Article 12(8) in respect of emissions from flights to and from such countries but also in an application of EU ETS to aircraft operators from a third country applying CORSIA in a less stringent manner in its domestic law, or failing to enforce CORSIA provisions in respect of emissions from flights to and from the EEA.

Amendment 15

Proposal for a directive

Article 1 – paragraph 1 – point 9 a (new)

Directive 2003/87/EC

Article 29a – paragraph 4 a (new)

Text proposed by the Commission

Amendment

(9a) In Article 29a the following paragraph is added:

4a. In 2027 or whenever 100% of the quantity of allowances, with the exception of the allowances allocated for free as referred in to Article 3e, in respect of which free allocation would have taken place in that year are auctioned, the Commission shall present a report to the European Parliament and to the Council in which it should consider whether the measures in this Article are still effective, respond to the needs of the market or whether they need to be amended.

Justification

To avoid high fluctuations in carbon price, as unfortunately seen in recent months due to the Green Deal legislation reforms, it is also time to consider a revision of current rules safeguarding the market against any future speculation. It is vital to avoid speculation from undermining the Green Deal ambitions.