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MEETING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on the Environment
Subject:	ETS Aviation: WPE 7 September - 4-column table

In view of an upcoming WPE meeting please find attached the four column table based on the vote of the ENVI Committee on 11 July 2017.


**Proposal for a
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
amending Directive 2003/87/EC to continue current limitations of scope for aviation activities and to prepare to implement a global market-based measure from 2021**

Commission proposal	ENVI Committee vote 11 July 2017	Council Position Coreper 21 May 2017	Comments / Suggestions
<p>THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,</p> <p>Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,</p> <p>Having regard to the proposal from the European Commission,</p> <p>After transmission of the draft legislative act to the national parliaments,</p> <p>Having regard to the opinion of the European Economic and Social Committee¹,</p> <p>¹ OJ C , , p. .</p>		<p>THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,</p> <p>Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,</p> <p>Having regard to the proposal from the European Commission,</p> <p>After transmission of the draft legislative act to the national parliaments,</p> <p>Having regard to the opinion of the European Economic and Social Committee¹,</p> <p>¹ OJ C , , p. .</p>	

Commission proposal	ENVI Committee vote 11 July 2017	Council Position Coreper 21 May 2017	Comments / Suggestions
<p>Having regard to the opinion of the Committee of the Regions²,</p> <p>Acting in accordance with the ordinary legislative procedure,</p> <p>Whereas:</p> <p>² OJ C , , p. .</p>		<p>Having regard to the opinion of the Committee of the Regions²,</p> <p>Acting in accordance with the ordinary legislative procedure,</p> <p>Whereas:</p> <p>² OJ C , , p. .</p>	
<p>(1) At the 21st Conference of the Parties to the United Nations Framework Convention on Climate Change (UNFCCC) which took place in Paris from 30 November to 12 December 2015, an international agreement was adopted to strengthen the global response to climate change. The Paris Agreement, <i>inter alia</i>, sets out a long-term goal in line with the objective to keep the global temperature increase well below 2°C above pre-industrial levels and to pursue efforts to keep it to 1,5°C above pre-industrial levels. The Paris Agreement was approved on behalf of the Union by Council Decision (EU) 2016/1841. The Paris Agreement entered into force</p>		<p>(1) At the 21st Conference of the Parties to the United Nations Framework Convention on Climate Change (UNFCCC) which took place in Paris from 30 November to 12 December 2015, an international agreement was adopted to strengthen the global response to climate change. The Paris Agreement, <i>inter alia</i>, sets out a long-term goal in line with the objective to keep the global temperature increase well below 2°C above pre-industrial levels and to pursue efforts to keep it to 1,5°C above pre-industrial levels. The Paris Agreement was approved on behalf of the Union by Council Decision (EU) 2016/1841. The Paris Agreement entered into force</p>	

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on 4th November 2016. In order to achieve the goal of the Paris Agreement, parties will prepare, communicate and maintain successive nationally determined contributions.		on 4 th November 2016. In order to achieve the goal of the Paris Agreement, <u>all sectors will need to contribute</u> ; parties will prepare, communicate and maintain successive nationally determined contributions. <u>Action should therefore also be taken through the International Civil Aviation Organisation (ICAO) to reduce emissions from international aviation.</u>	
(2) The environmental objectives of the Union as referred to in Article 191 of the Treaty, are preserving, protecting and improving the quality of the environment; protecting human health; and promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change.		(2) [...]	
<p style="text-align: center;">Amendment 1 Recital 2 a (new)</p>			
	<i>(2a) Environmental protection is one of the most important challenges facing the Union.</i>		

Commission proposal	ENVI Committee vote 11 July 2017	Council Position Coreper 21 May 2017	Comments / Suggestions
<p>(3) A binding target of at least a 40% domestic reduction in economy-wide greenhouse gas emissions by 2030 compared to 1990 was set by the European Council of 23-24 October 2014. The Council meeting on 6 March 2015 formally approved this contribution of the Union and its Member States as their Intended Nationally Determined Contribution under the Paris Agreement. The European Council conclusions of October 2014 foresaw that the target should be delivered collectively by the Union in the most cost-effective manner possible, with the reductions in the Emissions Trading System (ETS) and non-ETS sectors amounting to 43% and 30% by 2030 compared to 2005 respectively. All sectors of the economy should contribute to achieving these emission reductions.</p>		<p>(3) A binding target of at least a 40% domestic reduction in economy-wide greenhouse gas emissions by 2030 compared to 1990 was set by the European Council of 23-24 October 2014. The Council meeting on 6 March 2015 formally approved this contribution of the Union and its Member States as their Intended Nationally Determined Contribution under the Paris Agreement. The European Council conclusions of October 2014 foresaw that the target should be delivered collectively by the Union in the most cost-effective manner possible, with the reductions in the Emissions Trading System (ETS) and non-ETS sectors amounting to 43% and 30% by 2030 compared to 2005 respectively. All sectors of the economy should contribute to achieving these emission reductions.</p>	
<p align="center">Amendment 2 Recital 3 a (new)</p>			


Commission proposal	ENVI Committee vote 11 July 2017	Council Position Coreper 21 May 2017	Comments / Suggestions
	<p><i>(3a) A well-functioning, reformed EU ETS with an enhanced instrument to stabilise the market will be the main European instruments to achieve the 40% reduction target with a linear factor and free allocation beyond 2020. The auction share should be expressed as a percentage figure in the legislative act, to enhance planning certainty as regards investment decisions, to increase transparency, to minimise carbon leakage, and to render the overall system simpler and more easily understandable. Those provisions should be consistent with the Union's climate objectives and its commitments under the Paris Agreement, and aligned with the 2018 Facilitative Dialogue, the first global stocktake in 2023, and subsequent global stocktakes every five years thereafter, intended to inform successive Nationally Determined Contributions (NDCs).</i></p>		


Commission proposal	ENVI Committee vote 11 July 2017	Council Position Coreper 21 May 2017	Comments / Suggestions
<p align="center">Amendment 3 Recital 4</p>			
<p>(4) The Union and its Member States have been endeavouring to advance international agreement to reduce greenhouse gas impacts from aviation since 1997 and they have legislation in place since 2008 to limit the climate change impacts from aviation activities through the EU emissions trading system (EU ETS) that has been operating since 2005. In order to advance progress at the International Civil Aviation Organization (ICAO), the Union has twice adopted time-bound derogations to the EU ETS so as to limit compliance obligations to emissions from flights between aerodromes situated in the European Economic Area (EEA), with equal treatment on routes of aircraft operators wherever they are based. The most recent derogation from the EU ETS, Regulation (EU) No 421/2014 of the European Parliament and of the Council, limited compliance obligations to intra-EEA flights between 2013 and 2016, and envisaged potential</p>	<p>(4) The Union and its Member States have been endeavouring to advance international agreement to reduce greenhouse gas impacts from aviation since 1997 and they have legislation in place since 2008 to limit the climate change impacts from aviation activities through the EU emissions trading system (EU ETS) that has been operating since 2005. <i>The Court of Justice ruled in its judgment of 21 December 2011^{1a} that the inclusion of extra-EEA flights in the EU ETS does not violate international law.</i> In order to advance progress at the International Civil Aviation Organization (ICAO), the Union has twice adopted time-bound derogations to the EU ETS so as to limit compliance obligations to emissions from flights between aerodromes situated in the European Economic Area (EEA), with equal treatment on routes of aircraft operators wherever they are based. The most recent derogation from the EU ETS, Regulation (EU)</p>	<p>(4) The Union and its Member States have been endeavouring to advance international agreement to reduce greenhouse gas impacts from aviation since 1997 and they have legislation in place since 2008 to limit the climate change impacts from aviation activities through the EU emissions trading system (EU ETS) that has been operating since 2005. In order to advance progress at the International Civil Aviation Organization (ICAO), the Union has twice adopted time-bound derogations to the EU ETS so as to limit compliance obligations to emissions from flights between aerodromes situated in the European Economic Area (EEA), with equal treatment on routes of aircraft operators wherever they are based. The most recent derogation from the EU ETS, Regulation (EU) No 421/2014 of the European Parliament and of the Council, limited compliance obligations to intra-EEA flights between 2013 and 2016, and envisaged potential</p>	

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changes to the scope of the system as regards activity to and from aerodromes situated outside the EEA from 1 January 2017 onwards following the review set out in that Regulation.	<p>No 421/2014 of the European Parliament and of the Council, limited compliance obligations to intra-EEA flights between 2013 and 2016, and envisaged potential changes to the scope of the system as regards activity to and from aerodromes situated outside the EEA from 1 January 2017 onwards following the review set out in that Regulation.</p> <p>_____</p> <p><i>1^a Judgment of the Court of Justice of 21 December 2011, Air Transport Association of America and Others v. Secretary of State for Energy and Climate Change, C-366/10, ECLI:EU:C:2011:864.</i></p>	changes to the scope of the system as regards activity to and from aerodromes situated outside the EEA from 1 January 2017 onwards following the review set out in that Regulation.	
Amendment 4 Recital 5			
(5) In the light of the resolution adopted at ICAO's 39 th Assembly in October 2016 on the implementation of a global market-based measure from 2021 to offset international aviation emissions above 2020 levels, it is considered appropriate to continue the existing	(5) In the light of the resolution adopted at ICAO's 39 th Assembly in October 2016 on the implementation of a global market-based measure from 2021 to offset international aviation emissions above 2020 levels, the adoption of Standards and Recommended	(5) In the light of the resolution adopted at ICAO's 39 th Assembly in October 2016 on the implementation of a global market-based measure from 2021 [...], it is considered appropriate to continue the existing derogation pending further progress on the design	

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<p>derogation pending further progress on the design elements and the implementation of the global market-based measure. In this regard, the adoption of Standards and Recommended Practices by ICAO to complement that Resolution and implement the global system is planned for 2018. However, its concrete operationalisation will require action by ICAO parties at domestic level. Also, governance arrangements must be developed by ICAO, including a registry system. In this context, the current derogation of the EU ETS obligations for flights to and from third countries should be extended, subject to the review on implementing the ICAO scheme, in order to promote momentum in ICAO and facilitate the operationalisation of the ICAO scheme. As a result of the extension of the derogation, the amount of allowances to be auctioned and issued for free, including from the special reserve, should be the same as would correspond to 2016, and</p>	<p>Practices by ICAO to complement that Resolution and implement the global system is planned for 2018. However, its concrete operationalisation will require action by ICAO parties at domestic level. Also, governance arrangements must be developed by ICAO, including a registry system. In this context, the current derogation of the EU ETS obligations for flights to and from third countries should be extended until 2021 in order to promote momentum in ICAO and facilitate the operationalisation of the ICAO scheme. As a result of the extension of the derogation, the amount of allowances to be auctioned and issued for free, including from the special reserve, should be the same as would correspond to 2016, and should be proportional to the reduction of the surrender obligation.</p>	<p>elements and the implementation of the global market-based measure. In this regard, the adoption of Standards and Recommended Practices by ICAO to complement that Resolution and implement the global system is planned for 2018. However, its concrete operationalisation will require action by ICAO parties at domestic level. Also, governance arrangements must be developed by ICAO, including a registry system. In this context, the current derogation of the EU ETS obligations for flights to and from third countries should be extended, subject to the review <u>in view of the implementation of the ICAO</u> scheme, in order to promote momentum in ICAO and facilitate the operationalisation of the ICAO scheme. As a result of the extension of the derogation, the amount of allowances to be auctioned and issued for free, including from the special reserve, should <u>remain</u> [...] proportional to the reduction of the surrender obligation. <u>From 1 January 2021 onwards the</u></p>	

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should be proportional to the reduction of the surrender obligation.		<u>number of allowances allocated to aircraft operators should be reduced annually in line with the linear reduction factor applicable to all other sectors in the EU ETS, subject to the review in view of the implementation of the ICAO scheme. The review will be prepared in full accordance with the Better Regulation arrangements and adequate consultations with all stakeholders, including Member States. Allowances not allocated from the special reserve should continue to be cancelled.</u>	
Amendment 5 Recital 5 a (new)			
	<i>(5a) 50 % of allowances should be auctioned from 1 January 2021, while the total number of allocated allowances should be subject to the application of the linear reduction factor as provided for in Article 9 of Directive 2003/87/EC.</i>		
Amendment 6 Recital 5 b (new)			
	<i>(5b) Revenues generated from the auctioning of allowances, or their equivalent in financial value,</i>		

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	<p><i>should be used to tackle climate change in the Union and in third countries, inter alia, to reduce greenhouse gas emissions, to adapt to the impacts of climate change in the Union and in third countries, especially developing countries, to fund research and development for mitigation and adaptation, including in the fields of aeronautics, air transport and sustainable alternative aviation fuels, to reduce emissions through low-emissions transport, and to cover the costs of administering the EU ETS. Special consideration should be given to Member States which use those revenues for co-financing research and innovation programmes or initiatives under the Ninth Research Framework Programme (FP9). Transparency on the use of revenues generated from the auctioning of allowances under this Directive is fundamental to underpinning Union commitments.</i></p>		
<p align="center">Amendment 7 Recital 5 c (new)</p>			

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	<p><i>(5c) Emission offsets under the global market-based measure (GMBM) comprise one element in ICAO's basket of measures to achieve the aspirational goal of carbon neutral growth from 2020 (CNG 2020) and should be complemented by advances in airframe and propulsion technologies. Continued funding for research strategies and programmes such as the Clean Sky Joint Technology Initiatives, Galileo, SESAR and Horizon 2020 will be essential to technological innovation and operational improvements in order to go beyond CNG 2020 and achieve sector-wide absolute emission reductions. Furthermore, it is important that Union legislation, such as Single European Sky, that aim at preventing the fragmentation of European airspace and consequently an increase in aviation CO2 emissions, is speedily and fully implemented by the Member States.</i></p>		

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Amendment 8 Recital 6			
<p>(6) Given that key features of the global market-based measure have yet to be developed and that its implementation depends on domestic legislation by States and regions, it is considered appropriate for a review to take place once there is clarity about the nature and content and of these legal instruments in advance of the start of ICAO's global market-based measure, and a report submitted to the European Parliament and Council. That report should consider any standards or other instruments adopted through ICAO, the actions taken by third countries to implement the global market-based measure to apply to emissions from 2021 and other relevant international developments (e.g. rules under UNFCCC and the Paris Agreement on carbon markets and accounting). That report should consider how to implement these instruments in Union law through a revision of the EU ETS. It should also consider the rules applicable to</p>	<p>(6) Given that key features of the global market-based measure have yet to be developed and that its implementation depends on domestic legislation by <i>participating</i> States and regions, <i>the Commission should report regularly to the European Parliament and to the Council on progress in the ICAO negotiations, in particular on relevant instruments adopted through ICAO, the actions taken by third countries to implement the global market-based measure to apply to emissions for the period 2021-2035, efforts to establish ambitious and binding measures to achieve the aviation industry's long-term goal of halving aviation CO₂ emissions relative to 2005 levels by 2050, and other relevant international developments (e.g. rules under UNFCCC and the Paris Agreement on carbon markets and accounting). Once there is clarity about the nature and content of the ICAO instruments and in</i></p>	<p>(6) Given that key features of the global market-based measure have yet to be developed and that its implementation depends on domestic legislation by <u>participating</u> States and regions, [...] <u>the Commission should report regularly to the European Parliament and to the Council on progress in the ICAO negotiations, in particular on relevant [...] instruments adopted through ICAO, including Standards and Recommended Practices (SARPS), the actions taken by third countries to implement the global market-based measure to apply to emissions from 2021 and other relevant international developments and applicable instruments</u> (e.g. rules under UNFCCC and the Paris Agreement on carbon markets and accounting). <u>Once there is clarity about the nature and content of the ICAO instruments and in advance of the start of ICAO's global market-based measure, the Commission should present a [...]</u></p>	


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<p>intra-EEA flights as appropriate. That report should be accompanied by a proposal as appropriate to the European Parliament and the Council consistent with ensuring the contribution of aviation to the Union's 2030 economy-wide greenhouse gas reduction commitment.</p>	<p><i>advance of the start of ICAO's global market-based measure, the Commission should present a report in which it should consider how to implement these instruments and make them consistent with Union law through a revision of the EU ETS. That report should further consider the rules applicable to intra-EEA flights, as appropriate. That report should be accompanied by a proposal as appropriate to the European Parliament and the Council consistent with ensuring the contribution of aviation to the Union's 2030 economy-wide greenhouse gas reduction commitment.</i></p>	<p>report <u>in which it</u> should consider how to implement these instruments in Union law <u>in particular</u> through a revision of the EU ETS Directive. It should [...] <u>further consider the rules applicable to intra-EEA flights, as appropriate. In so doing, that report should reflect the need to minimise duplication and any undue administrative burden for Member States and aircraft operators.</u> That report should be accompanied by a proposal, as appropriate, to the European Parliament and the Council consistent with ensuring the contribution of aviation to the Union's 2030 economy-wide greenhouse gas reduction commitment.</p>	
<p align="center">Amendment 9 Recital 6 a (new)</p>			
	<p><i>(6a) In order to ensure that existing and future Union domestic climate standards are respected, and without prejudice to the review referred to in Article 28b of Directive 2003/87/EC, CORSIA should be implemented in, and made consistent with,</i></p>		

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	<i>Union law through the EU ETS.</i>		
<p style="text-align: center;">Amendment 10 Recital 6 b (new)</p>			
	<p><i>(6b) Although the technical rules for the ICAO global market-based measure are yet to be adopted by the ICAO Council, it is important that regulatory authorities and aircraft operators have information about Monitoring, Reporting and Verification (MRV) requirements and emissions units eligible under the ICAO scheme as early as possible in order to facilitate preparation for the implementation of the ICAO scheme and the monitoring of CO₂ emissions from 1 January 2019. Such MRV requirements should have a level of stringency that is consistent with the requirements for monitoring and reporting greenhouse gas emissions under Commission Regulation (EU) No 601/2012, and should ensure that the emissions reports submitted are verified in accordance with Commission Regulation (EU) No 600/2012.</i></p>		

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Amendment 11 Recital 6 c (new)			
	<p><i>(6c) While the confidentiality of the technical work in ICAO should be acknowledged, it is also important that ICAO member states, aircraft operators and civil society continue to be engaged in the ICAO's work to implement the global market-based measure and that the ICAO reaches out to all stakeholders to inform them about progress and decisions in a timely manner. In order to achieve that, it might be necessary to revise the non-disclosure protocols for Members and Observers of the ICAO Committee on Aviation Environmental Protection (CAEP).</i></p>		
Amendment 12 Recital 7			
<p>(7) In order to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of a legislative act, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the</p>	<p>(7) In order to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of a legislative act, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the</p>	<p>(7) [...] <u>To prepare for the implementation of the ICAO global market-based measure, it is necessary to have available relevant data regarding the emissions from aviation activities. These emissions should be monitored, reported and</u></p>	

Commission proposal	ENVI Committee vote 11 July 2017	Council Position Coreper 21 May 2017	Comments / Suggestions
<p>Commission to adopt measures for the monitoring, reporting and verification of emissions applicable to aircraft operators for the purpose of the global market-based measure being elaborated in ICAO. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.</p>	<p>Commission to adopt measures for the monitoring, reporting and verification of emissions applicable to aircraft operators for the purpose of the global market-based measure being elaborated in ICAO. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, <i>in particular</i> at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts, <i>in order to make the decision-making process more transparent and more efficient.</i></p>	<p><u>verified in accordance with the same principles as those applicable to the monitoring, reporting and verification (MRV) of emissions from aviation activities under the EU ETS Directive. In order to ensure uniform conditions for the implementation of the MRV of emissions applicable to aircraft operators for the purpose of implementing the ICAO global market-based measure [...], implementing powers should be conferred on the Commission. Those implementing powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council³. The MRV provisions should be without prejudice to the review and possible proposal in advance of the start of ICAO's global market-based measure. [...]</u></p> <p>_____</p> <p>³ Regulation (EU) No 182/2011 of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the</p>	

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		Commission's exercise of implementing powers, OJ L 55, 28.02.2011, p. 13.	
Amendment 13 Recital 7 a (new)			
	<i>(7a) While the long-term goal should be to have a single global reduction scheme for tackling carbon emissions from aviation by the second phase of the ICAO scheme in 2024, in the event that the ICAO global market-based measure is insufficient to achieve the Union's climate objectives and commitments under the Paris Agreement, other carbon mitigation options should also be explored.</i>		
Amendment 14 Recital 7 b (new)			
	<i>(7b) Aviation also has an impact on climate through releases of nitrogen oxides, water vapour and sulphate and soot particles at high altitudes. The International Panel on Climate Change (IPCC) has estimated that the total climate impact of aviation is currently two</i>		

Commission proposal	ENVI Committee vote 11 July 2017	Council Position Coreper 21 May 2017	Comments / Suggestions
	<p><i>to four times higher than the effect of its past carbon dioxide emissions alone. Pending scientific progress, all impacts of aviation should be addressed to the extent possible. Research on the formation of condensation trails, also known as contrails, their evolution into cirrus clouds, on the smaller direct effects of sulphate aerosols, soot, water vapour contrails and cirrus clouds, and on effective mitigation measures, including operational and technical measures, should also be promoted.</i></p>		
Recital 8			
<p>(8) As a simplification and in order to lighten administrative tasks for the smallest aircraft operators, non-commercial aircraft operators emitting less than 1000 tonnes CO₂ per annum should continue to be considered as meeting the requirements of Directive 2003/87/EC for another ten years, during which measures should be elaborated so that in future all</p>		<p>(8) As a simplification and in order to lighten administrative tasks, <u>aircraft operators with emissions lower than 3000 tonnes CO₂ per annum from intra-EEA flights should benefit from the use of the small emitters tool approved under Commission Regulation (EU) No 606/2010 for the verification of their emissions.</u> [...] <u>Non-commercial aircraft operators</u></p>	


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operators contribute to emission reductions.		emitting less than 1000 tonnes CO ₂ per annum should continue to be considered as meeting the requirements of Directive 2003/87/EC for another ten years, during which measures should be elaborated so that in future all operators contribute to emission reductions.	
Recital 8a (new)			
		(8a) <u>Since the objectives of this Regulation namely to continue the current limitations of scope for aviation activities and to prepare to implement a global market-based measure from 2021, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale or effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond</u>	

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		<u>what is necessary in order to achieve those objectives.</u>	
(9) It is essential to ensure legal certainty for aircraft operators and national authorities in view of the surrender deadline of 30 April 2018 specified in Directive 2003/87/EC. Accordingly, this Regulation should apply from the day of its publication in the <i>Official Journal of the European Union</i> .		(9) It is essential to ensure legal certainty for aircraft operators and national authorities in view of the surrender deadline of 30 April 2018 specified in Directive 2003/87/EC. Accordingly, this Regulation should apply from the day of its publication in the <i>Official Journal of the European Union</i> .	
Amendment 15 Recital 9 a (new)			
	<p><i>(9a) It is accepted that climate-damaging aviation emissions produce more than CO₂ effects. Directive 2008/101/EC of the European Parliament and of the Council^{1a} contained a Commission undertaking to submit an appropriate proposal on nitrogen oxides in 2008. Despite the technical and political difficulties involved, the Commission should speed up its work in that regard.</i></p> <hr style="width: 20%; margin-left: 0;"/> <p>^{1a} <i>Directive 2008/101/EC of the European Parliament and of the</i></p>		


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	<i>Council of 19 November 2008, amending Directive 2003/87/EC so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Community (OJ L 8, 13.1.2009, p. 3).</i>		
(10) Directive 2003/87/EC should therefore be amended accordingly.		(10) Directive 2003/87/EC should therefore be amended accordingly.	
HAVE ADOPTED THIS REGULATION:		HAVE ADOPTED THIS REGULATION:	
Article 1			
Directive 2003/87/EC is amended as follows:		Directive 2003/87/EC is amended as follows:	

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<p align="center">Amendment 16 Article 1 - paragraph 1 - point -1 (new) Directive 2003/87/EC Article 3c - paragraph 3 a (new)</p>			
	<p><i>(-1) In Article 3c, the following paragraph 3a is added:</i></p> <p><i>“3a. The total quantity of allowances to be allocated to aircraft operators in 2021 shall be 10 % lower than the average allocation for the period from 1 January 2014 to 31 December 2016, and then decrease annually at the same rate as that of the total cap for the EU ETS referred to in the second subparagraph of Article 9 so as to bring the cap for the aviation sector more in line with the other EU ETS sectors by 2030.</i></p> <p><i>For aviation activities to and from aerodromes located in countries outside the EEA, the quantity of allowances to be allocated from 2021 onwards may be adjusted taking into account the ICAO global market-based measure to be implemented from 2021 to offset international aviation emissions</i></p>		

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	<i>above 2020 levels.</i> "		
Amendment 17 Article 1 – paragraph 1 – point -1 a (new) Article 3d – paragraph 2			
	<i>(-1a) In Article 3d, paragraph 2 is replaced by the following:</i> "2. From 1 January 2021 , 50 % of allowances shall be auctioned. This percentage may be increased as part of the general review of this Directive. <i>The remaining free allocations shall be used, where necessary, to avoid the application of Article 10a (5) between 2021 and 2030.</i> "		
Amendment 18 Article 1 – paragraph 1 – point -1 b (new) Article 3d – paragraph 3 - subparagraph 1			
	<i>(-1b) In Article 3d (3), the first subparagraph is replaced by the following:</i> <i>‘The Commission is empowered to adopt delegated acts in accordance with Article 30b to supplement this Directive by laying down detailed arrangements</i> for the auctioning by Member States of allowances not required to be issued free of charge		

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	<p>in accordance with paragraphs 1 and 2 of this Article or Article 3f(8). The number of allowances to be auctioned in each period by each Member State shall be proportionate to its share of the total attributed aviation emissions for all Member States for the reference year reported pursuant to Article 14(3) and verified pursuant to Article 15. For the period referred to in Article 3c(1), the reference year shall be 2010 and for each subsequent period referred to in Article 3c the reference year shall be the calendar year ending 24 months before the start of the period to which the auction relates.’</p>		
<p align="center">Amendment 19 Article 1 – paragraph 1 – point -1 c (new) Article 3d – paragraph 3 - subparagraph 2</p>			
	<p><i>(-1c) In Article 3d (3), the second subparagraph is deleted.</i></p>		

Commission proposal	ENVI Committee vote 11 July 2017	Council Position Coreper 21 May 2017	Comments / Suggestions
<p align="center">Amendment 20 Article 1 – paragraph 1 – point -1d (new) Article 3d – paragraph 4 - subparagraph 1</p>			
	<p><i>(-1d) In Article 3d(4), the first subparagraph is replaced by the following:</i></p> <p>‘<i>All</i> revenues generated from the auctioning of allowances <i>shall</i> be used to tackle climate change in the Union and third countries, inter alia, to reduce greenhouse gas emissions, to adapt to the impacts of climate change in the Union and third countries, especially developing countries, to fund research and development for mitigation and adaptation, including in particular in the fields of aeronautics and air transport, to reduce emissions through low-emission transport and to cover the cost of administering the Union scheme. The proceeds of auctioning <i>may</i> also be used to fund contributions to the Global Energy Efficiency and Renewable Energy Fund, and measures to avoid deforestation. <i>Special consideration shall be given to Member States which use</i></p>		

Commission proposal	ENVI Committee vote 11 July 2017	Council Position Coreper 21 May 2017	Comments / Suggestions
	<i>revenues for co-financing research and innovation programmes or initiatives under the Ninth Research Framework Programme (FP9). Member States shall inform the Commission of actions taken pursuant to this paragraph."</i>		
<p align="center">Amendment 21 Article 1 – paragraph 1 – point -1e (new) Article 12 – paragraph 3</p>			
	<p><i>(-1e) In Article 12, paragraph 3 is replaced by the following:</i></p> <p>"3. Member States shall ensure that, by 30 April each year, the operator of each installation surrenders a number of allowances, equal to the total emissions from that installation during the preceding calendar year as verified in accordance with Article 15, and that these are subsequently cancelled."</p>		

Commission proposal	ENVI Committee vote 11 July 2017	Council Position Coreper 21 May 2017	Comments / Suggestions
<p style="text-align: center;">Amendment 22 Article 1 – paragraph 1 – point -1f (new) Article 21 – paragraph 2 a (new)</p>			
	<p><i>(-1f) In Article 21, the following paragraph 2a is added:</i></p> <p><i>‘2a. The report shall, using data provided through the cooperation referred to in Article 18b, include a list of aircraft operators subject to the requirements of this Directive who have not opened a registry account.’</i></p>		

Commission proposal	ENVI Committee vote 11 July 2017	Council Position Coreper 21 May 2017	Comments / Suggestions
(1) Article 28a is amended as follows:		(1) Article 28a is amended as follows:	
		(-a) <u>the title is replaced by the following:</u> " <u>Derogations applicable in advance of the implementation of [...] ICAO's global market-based measure</u> "	
<p align="center">Amendment 23 Article 1 – paragraph 1 – point 1 - point a - point i Article 28a – paragraph 1 - point a</p>			
(a) paragraph 1 is amended as follows: i. points (a) and (b) are replaced by the following: (a) all emissions from flights to and from aerodromes located in countries outside the European Economic Area (EEA) in each calendar year from 1 January 2013, subject to the review referred to in Article 28b".	(a) paragraph 1 is amended as follows: i. points (a) and (b) are replaced by the following: (a) all emissions from flights to and from aerodromes located in countries outside the European Economic Area (EEA) in each calendar year from 1 January 2013 to 31 December 2020 , subject to the review referred to in Article 28b".	(a) paragraph 1 is amended as follows: i. points (a) and (b) are replaced by the following: (a) all emissions from flights to and from aerodromes located in countries outside the European Economic Area (EEA) in each calendar year from 1 January 2013, subject to the review referred to in Article 28b".	

Commission proposal	ENVI Committee vote 11 July 2017	Council Position Coreper 21 May 2017	Comments / Suggestions
<p align="center">Amendment 24 Article 1 – paragraph 1 – point 1 - point a - point i Article 28a – paragraph 1 - point b</p>			
(b) all emissions from flights between an aerodrome located in an outermost region within the meaning of Article 349 of the Treaty on the Functioning of the European Union (TFEU) and an aerodrome located in another region of the EEA in each calendar year from 1 January 2013, subject to the review referred to in Article 28b".	(b) all emissions from flights between an aerodrome located in an outermost region within the meaning of Article 349 of the Treaty on the Functioning of the European Union (TFEU) and an aerodrome located in another region of the EEA in each calendar year from 1 January 2013 to 31 December 2020 , subject to the review referred to in Article 28b.	(b) all emissions from flights between an aerodrome located in an outermost region within the meaning of Article 349 of the Treaty on the Functioning of the European Union (TFEU) and an aerodrome located in another region of the EEA in each calendar year from 1 January 2013, subject to the review referred to in Article 28b".	
<p align="center">Amendment 25 Article 1 – paragraph 1 – point 1 - point a - point i a (new) Article 28a – paragraph 1 - point b a (new)</p>			
	<p><i>ia. a new point point is added:</i></p> <p><i>(ba) all emissions from flights between aerodromes located in the EEA and operated as a consequence of a flight as referred to in points (a) or (b) being diverted to an aerodrome located in the EEA in each calendar year from 1 January 2017, subject to the review referred to in Article 28b.</i></p>		

Commission proposal	ENVI Committee vote 11 July 2017	Council Position Coreper 21 May 2017	Comments / Suggestions
ii. point (c) is deleted.		ii. point (c) is deleted.	
Article 1 – paragraph 1 – point 1 - point b Article 28a – paragraph 2			
(b) paragraph 2 is amended as follows:		(b) paragraph 2 is <u>replaced by the following</u> :	
Amendment 26 Article 1 – paragraph 1 – point 1 - point b - point i Article 28a – paragraph 2 - subparagraph 1			
i. the first subparagraph is replaced by the following: “From 1 January 2017, by way of derogation from Articles 3d to 3f and until amendments subsequent to the review referred to in Article 28b have entered into force, aircraft operators shall be issued, each year, the number of allowances that corresponds to the year 2016. From 2021 onwards that number of allowances shall be subject to the application of the linear factor in Article 9.”	i. the first subparagraph is replaced by the following: From 1 January 2017 <i>to 31 December 2020</i> , by way of derogation from Articles 3d to 3f and until amendments subsequent to the review referred to in Article 28b have entered into force, aircraft operators shall be issued, each year, the number of allowances that corresponds to the year 2016. From 2021 onwards that number of allowances shall be subject to the application of the linear factor in Article 9.	“[...] <u>By way of derogation from Articles 3e and 3f [...], aircraft operators benefiting from the derogations provided for in points (a) and (b) of paragraph 1 shall be issued, each year, a [...] number of free allowances [...] reduced in proportion to the reduction of the surrender obligation provided for in those points.</u> <u>By way of derogation from Article 3f(8), allowances that are not allocated from the special reserve shall be cancelled.</u> From 2021 onwards the number of allowances <u>allocated to aircraft operators</u> shall be subject to the application of the linear factor in	

Commission proposal	ENVI Committee vote 11 July 2017	Council Position Coreper 21 May 2017	Comments / Suggestions
		Article 9, <u>subject to the review referred to in Article 28b.</u> [...]	
Amendment 27 Article 1 – paragraph 1 – point 1 - point b - point ii Article 28a – paragraph 2 - subparagraph 3			
ii. the third subparagraph is deleted.	ii. the third subparagraph is <i>replaced by the following:</i> <i>As regards activity in the period from 1 January 2017 to 31 December 2020, Member States shall publish the number of aviation allowances allocated to each aircraft operator by 1 September 2018.</i>		

Commission proposal	ENVI Committee vote 11 July 2017	Council Position Coreper 21 May 2017	Comments / Suggestions
<p align="center">Amendment 28 Article 1 – paragraph 1 – point 1 - point c Article 28a – paragraph 4</p>			
<p>(c) paragraph 4 is replaced by the following:</p> <p>“4. By way of derogation from Article 3d(3), the number of allowances to be auctioned by each Member State from 1 January 2013 shall be reduced to correspond to its share of attributed aviation emissions from flights which are not subject to the derogations provided for in points (a) and (b) of paragraph 1 of this Article.”;</p>	<p>(c) paragraph 4 is replaced by the following:</p> <p>4. By way of derogation from Article 3d(3), the number of allowances to be auctioned by each Member State <i>in respect of the period</i> from 1 January 2013 <i>to 31 December 2020</i> shall be reduced to correspond to its share of attributed aviation emissions from flights which are not subject to the derogations provided for in points (a) and (b) of paragraph 1 of this Article.</p>	<p>(c) paragraph 4 is replaced by the following:</p> <p>“4. By way of derogation from Article 3d(3), the number of allowances to be auctioned by each Member State from 1 January 2013 shall be reduced to correspond to its share of attributed aviation emissions from flights which are not subject to the derogations provided for in points (a) and (b) of paragraph 1 of this Article.”;</p>	

Commission proposal	ENVI Committee vote 11 July 2017	Council Position Coreper 21 May 2017	Comments / Suggestions
Article 1 – paragraph 1 – point 1 - point ca (new) Article 28a – paragraph 6			
		<p>(ca) <u>paragraph 6 is replaced by the following:</u></p> <p><u>"By way of derogation from Articles 3g, 12, 15 and 18a, where an aircraft operator has total annual emissions lower than 25 000 tonnes CO₂, or where an aircraft operator has total annual emissions lower than 3 000 tonnes of CO₂ from flights other than those referred to in points (a) and (b) of paragraph 1 of this Article, its emissions shall be considered to be verified emissions if determined by using the small emitters tool approved under Commission Regulation (EU) No 606/2010 and populated by Eurocontrol with data from its ETS support facility. Member States may implement simplified procedures for non-commercial aircraft operators as long as such procedures provide no less accuracy than the small emitters tool provides."</u></p>	

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<p>(d) paragraph 7 is replaced by the following:</p> <p>"Paragraph 1 shall apply to countries with whom an agreement pursuant to Article 25 or 25a has been reached only in line with the terms of such agreement".</p>		<p>(d) paragraph 7 is replaced by the following:</p> <p>"Paragraph 1 shall apply to countries with whom an agreement pursuant to Article 25 or 25a has been reached only in line with the terms of such agreement".</p>	
<p align="center">Amendment 29 Article 1 – paragraph 1 – point 1 - point d a (new) Article 28a – paragraph 8</p>			
	<i>(da) paragraph 8 is deleted.</i>	<u>(e) paragraph 8 is deleted.</u>	
<p align="center">Amendment 30 Article 1 – paragraph 1 – point 2 Article 28b – paragraph 1</p>			
<p>(2) The following Articles 28b and 28c are inserted:</p> <p><i>"Article 28b</i></p> <p><i>Reporting by the Commission on the implementation of ICAO's global market-based measure</i></p> <p>1. The Commission shall report to the European Parliament and the Council on the relevant ICAO standards or other legal instruments</p>	<p>(2) The following Articles 28b and 28c are inserted:</p> <p><i>"Article 28b</i></p> <p><i>Reporting by the Commission on the implementation of ICAO's global market-based measure</i></p> <p>1. The Commission shall, <i>by 1 January 2019 and then regularly afterwards</i>, report to the European Parliament and the Council on the</p>	<p>(2) The following Articles 28b and 28c are inserted:</p> <p><i>"Article 28b</i></p> <p><i>Reporting by the Commission on the implementation of ICAO's global market-based measure</i></p> <p>1. The Commission shall <u>regularly, and at least once a year</u>, report to the European Parliament and <u>to</u> the Council on <u>progress in the</u></p>	

Commission proposal	ENVI Committee vote 11 July 2017	Council Position Coreper 21 May 2017	Comments / Suggestions
<p>as well as on domestic measures taken by third countries to implement the global market-based measure to be applied to emissions from 2021, and on other relevant international developments.</p>	<p>relevant ICAO standards <i>and recommended practices (SARPs)</i>, <i>ICAO Council approved recommendations relevant to the global market-based measure</i> or other legal instruments as well as on domestic measures taken by third countries to implement the global market-based measure to be applied to emissions from 2021, <i>the implications of reservations by third countries</i> and on other relevant international developments. <i>The Commission shall also provide regular updates to the European Parliament and the Council on the establishment of a global registry and the development of the SARPs in accordance with the ICAO's standards-making procedures. In line with the UNFCCC's 'Global stocktake', it shall also report on efforts to meet the aviation sector's aspirational long-term emissions reduction goal of halving aviation CO₂ emissions relative to 2005 levels by 2050.</i></p>	<p><u>International Civil Aviation Organisation (ICAO) negotiations to implement the global market-based measure to be applied to emissions from 2021, in particular on the relevant ICAO [...] instruments, including Standards and Recommended Practices (SARPs), [...] as well as on domestic measures taken by third countries [...] and on other relevant international developments and applicable instruments.</u></p>	

Commission proposal	ENVI Committee vote 11 July 2017	Council Position Coreper 21 May 2017	Comments / Suggestions
<p align="center">Amendment 31 Article 1 – paragraph 1 – point 2 Article 28b – paragraph 2</p>			
<p>2. The report should consider ways for those ICAO instruments to be implemented in Union law through a revision of this Directive. The report shall also consider the rules applicable in respect of flights within the European Economic Area (EEA) as appropriate.</p>	<p>2. <i>By 1 March 2020, the Commission shall report to the European Parliament and the Council on the adequacy of those ICAO instruments and options</i> for those ICAO instruments to be implemented in Union law through a revision of this Directive. The report shall also consider the rules applicable in respect of flights within the European Economic Area (EEA), as appropriate. <i>The report shall also examine the ambition and overall environmental integrity of the global market-based measure including its general ambition in relation to targets under the Paris Agreement, level of participation, enforceability, transparency, penalties for non-compliance, processes for public input, quality of offset credits, monitoring, reporting and verification of emissions, registries, accountability and rules on the use of biofuels. In addition, the report</i></p>	<p>2. <u>Within 12 months of the adoption by ICAO of the relevant instruments, and before the global market-based measure becomes operational, the Commission shall present a report to the European Parliament and to the Council in which it shall [...]</u> consider ways for those [...] instruments to be implemented in Union law <u>in particular</u> through a revision of this Directive. <u>The Commission shall, in that report [...]</u> also consider the rules applicable in respect of flights within the European Economic Area (EEA), as appropriate.</p>	

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	<i>shall consider whether the delegated act adopted under Article 28c (2) needs to be revised.</i>		
Amendment 32 Article 1 – paragraph 1 – point 2 Article 28b – paragraph 2 a (new)			
	<i>2a. No extension of the derogation as referred to in Article 28a beyond 2020 shall take place in respect of flights to or from a third country that is not participating in the global market-based measure, if that country had quantified commitments included in Annex B to the Kyoto Protocol.</i>		
Amendment 33 Article 1 – paragraph 1 – point 2 Article 28b – paragraph 3			
3. The report may be accompanied by proposals, as appropriate to the European Parliament and the Council to amend, delete, extend or replace the derogations provided for in Article 28a, consistent with the Union economy-wide greenhouse gas emission reduction commitment for 2030.	3. The report <i>referred to in paragraph 2 shall</i> be accompanied by proposals, as appropriate, to the European Parliament and the Council to amend, delete, extend or replace the derogations provided for in Article 28a, consistent with the Union economy-wide greenhouse gas emission reduction commitment for 2030 <i>with the aim</i>	3. The report <u>referred to in paragraph 2 shall</u> be accompanied by proposals, as appropriate, to the European Parliament and the Council to amend, delete, extend or replace the derogations provided for in Article 28a, consistent with the Union economy-wide greenhouse emission reduction	

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	<i>of ensuring full environmental integrity and effectiveness of EU climate action and reducing any ambiguity in advance of CORSIA becoming operational.</i>	commitment for 2030.	
Amendment 34 Article 1 – paragraph 1 – point 2 Article 28c – paragraph 1			
<p><i>Article 28c</i></p> <p><i>Provisions for monitoring, reporting and verification for the purpose of the global market-based measure</i></p> <p>1. The Commission shall adopt provisions for the appropriate monitoring, reporting and verification of emissions for the purpose of implementing the global market-based measure being elaborated in ICAO. Those provisions shall be based on the same principles as the Regulation referred to in Article 14 (1) and shall ensure that the emissions reports submitted are verified in accordance with Article 15.</p>	<p><i>Article 28c</i></p> <p><i>Provisions for monitoring, reporting and verification for the purpose of the global market-based measure</i></p> <p>1. The Commission shall adopt provisions for the appropriate monitoring, reporting and verification of emissions for the purpose of implementing the global market-based measure being elaborated in ICAO. Those provisions shall <i>be entirely consistent with the principles contained in the</i> Regulation referred to in Article 14 (1) and shall ensure that the emissions reports submitted are verified in accordance with Article 15.</p>	<p><i>Article 28c</i></p> <p><i>Provisions for monitoring, reporting and verification for the purpose of the global market-based measure</i></p> <p>1. The Commission shall adopt [...] <u>implementing acts concerning the appropriate monitoring, reporting and verification of emissions for the purpose of implementing the ICAO global market-based measure [...] on all routes covered by it.</u> Those [...] <u>implementing acts shall be based on the relevant instruments adopted in ICAO, and on the monitoring and reporting [...] principles [...] referred to in Article 14 (1), and [...] the verification principles and criteria</u></p>	

Commission proposal	ENVI Committee vote 11 July 2017	Council Position Coreper 21 May 2017	Comments / Suggestions
		referred to in Article 15.	
Article 1 – paragraph 1 – point 2 Article 28c – paragraph 2			
2. The Commission is empowered to adopt a delegated act in accordance with Article [23]."		2. [...] <u>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article [22a].</u> "	
Article 1 – paragraph 1 – point 2 Article 28c – paragraph 3			
(3) In point (k) of Annex I, the year '2020' is replaced by '2030'.		(3) In point (k) of Annex I, the year '2020' is replaced by '2030'.	
Amendment 35 Article 1 – paragraph 1 – point 2 a (new) Article 30 – paragraph 4 a (new)			
	<i>(2a) In Article 30, the following paragraph 4a is inserted:</i> <i>4a. By 1 January 2020, the Commission shall present an updated analysis of the non-CO₂ effects of aviation, accompanied, if appropriate, by legislative proposals how best to address those effects.</i>		

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Article 2			
<p>This Regulation shall enter into force on the day of its publication in the <i>Official Journal of the European Union</i>.</p> <p>This Regulation shall be binding in its entirety and directly applicable in all Member States.</p> <p>Done at Brussels, <i>For the European Parliament</i> <i>The President</i> <i>For the Council</i> <i>The President</i></p>		<p>This Regulation shall enter into force on the day of its publication in the <i>Official Journal of the European Union</i>.</p> <p>This Regulation shall be binding in its entirety and directly applicable in all Member States.</p> <p>Done at Brussels, <i>For the European Parliament</i> <i>The President</i> <i>For the Council</i> <i>The President</i></p>	