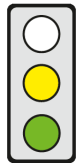


## KEY ISSUES

**Objective of the Decision:** The Commission formulates a "position" for limiting CO<sub>2</sub> emissions from international aviation which it and the Member States will adopt at the 39th Session of the International Civil Aviation Organisation (ICAO) Assembly in autumn 2016.

**Affected parties:** Aviation industry



**Pro:** (1) A coordinated EU "position" for the forthcoming ICAO Assembly increases the likelihood that the concerns of EU airlines will receive greater consideration.

(2) A "global market-based mechanism" at ICAO level may create a level playing field between European and non-European airlines.

**Contra:** In order to avoid distortions of competition, all competing flights must be treated equally; not only those using "one and the same route" but also those using different hubs.

## CONTENT

### Title

**Proposal COM(2016) 183** of 8 April 2016 for a **Council Decision** on the position to be adopted, on behalf of the European Union, in respect of an international instrument to be elaborated by the **ICAO** bodies and intended to lead to the implementation from 2020 of a single global market-based **measure addressing emissions from international aviation**

### Brief Summary

Unless otherwise indicated, page and article numbers refer to the Proposal for a Decision COM(2016) 183.

#### ► Global climate protection and greenhouse gas emissions from international aviation

- In December 2015, 195 parties to the United Nations Framework Convention on Climate Change (UNFCCC) agreed in Paris to keep the global increase in temperatures to well below 2°C above pre-industrial levels (see [cepPolicyBrief](#)).
- By 2050, global greenhouse gas emissions (GHG emissions) will be reduced by at least 50% below their 1990 levels. All sectors of the economy will contribute to GHG reduction. (Recital 1)
- GHG emissions from international aviation
  - represent more than 2% of global GHG emissions,
  - are growing exponentially and
  - are likely to double by 2050.

#### ► Context and objectives

- The International Civil Aviation Organization (ICAO) has 191 member countries including all 28 EU Member States. It is responsible for
  - establishing binding standards for aviation and
  - regulating international air traffic rights.
- In 2013, the International Civil Aviation Organisation (ICAO) decided (ICAO Resolution A38-17/2 and A38-18),
  - to stabilise the global net carbon emissions from international aviation - i.e. from cross-border flights - at the 2020 level ("ICAO target") and
  - design a "global market-based measure" to limit GHG emissions which will be established at the 39th ICAO Assembly in autumn 2016 and will take effect from 2020.
- In this proposal, the Commission formulates a "position" to be adopted by the EU and its Member States at the 39th Session of the ICAO Assembly.

#### ► EU measures on GHG reduction in the aviation sector

- Under the EU Emissions Trading System (EU ETS), companies in certain industries are only permitted to emit GHGs when they have the corresponding emissions rights ("allowances") (see [cepCompass](#)).
- Aviation is included in the EU ETS. Since 2012, all flights have, in principle, been subject to ETS obligations (ETS Directive 2003/87/EC, Art. 2, Annex I)
  - between two EU airports and
  - between an EU airport and a non-EU airport.

- The inclusion of aviation in the EU ETS has come up against significant international opposition. Some non-EU states - particularly USA, China and India - have refused to recognise the inclusion of aviation in the EU ETS and have banned their airlines from taking part.
  - The European Emissions Trading System EU ETS currently only applies to flights within the EU and not to flights between the EU and third countries.
    - Context: Due to the international opposition, the EU decided not to impose sanctions between 2012 and 2016 against airlines that breached the ETS obligations on flights to and from third countries ["Stop-the-Clock" Resolution No. 377/2013/EU, Art. 1; Regulation (EU) No. 421/2014 on the inclusion of aviation in the EU-ETS, Art. 1; see [cepPolicyBrief](#)].
    - The period was limited to the end of 2016 in light of the ICAO's decision to establish a global market-based measure for reducing GHGs at the 39th Session of the Assembly in autumn 2016.
  - The Commission must provide the European Parliament and the Council with a report in which it examines "the extent to which" flights between the EU and third countries are to be included as from 2017 and will - "where appropriate" - submit corresponding proposals (ETS Directive, Art. 28a (8)).
- **EU Position at the 39th Session of the ICAO Assembly**  
 At the 39th Session of the ICAO Assembly in autumn 2016, the EU and its Member States will adopt the following "position" (Art. 1 in conjunction with Annex):
- The EU is seeking to implement, from 2020, a "single global market-based measure" that will limit greenhouse gas emissions from international aviation, in a non-discriminatory manner, "to their levels in 2020".
  - The EU will ensure that the "measure" is compatible with EU law.
  - The EU supports the idea that the ICAO target, for limiting GHG emissions to 2020 levels should be reviewed "over time as appropriate".
  - The EU guarantees that distortions of competition will be avoided by giving equal treatment to "competing flights using one and the same route".
  - The EU will ensure that the "measure" is ecologically effective, practicable, enforceable and non-discriminatory in "every respect".

### Statement on Subsidiarity by the Commission

The Commission makes no reference to questions of subsidiarity.

### Policy Context

In 2015, the Commission confirmed that the ICAO should take action and "effectively" regulate GHG emissions from international aviation before the end of 2016 [Communication COM(2015) 81, see [cepPolicyBrief](#)]. In addition, in its 2015 "Aviation Strategy" it urged Member States to push for a "genuine" global measure at the ICAO Assembly [Communication COM(2015) 598, see [cepPolicyBrief](#)]. In February 2016, the ICAO environmental committee agreed on binding efficiency standards to reduce CO<sub>2</sub> emissions. These will apply to new aircraft from 2020 and to all aircraft from 2028. The standards form part of a package of measures on GHG reduction and will supplement the global market-based measure on GHG reduction which is to be established at the 39th Session of the ICAO Assembly.

In March 2016, the ICAO submitted a draft "global, market-based measure" in which it argued in favour of an "offsetting system": This would mean that GHG emissions from international aviation would only be permitted to increase if the aviation sector implements projects on GHG reduction to at least the same degree in other sectors.

### Legislative Procedure

8 April 2016	Adoption by the Commission
Open	Adoption by the European Parliament and the Council, publication in the Official Journal of the European Union, entry into force

### Options for Influencing the Political Process

Directorates General:	DG Transport (leading)
Committees of the European Parliament:	Environment (leading), Rapporteur TBA
Federal Ministries:	Transport (leading)
Decision-making mode in the Council:	Qualified majority (acceptance by 55% of the Member States which make up 65% of the EU population).

## Formalities

Legislative competence:	Art. 192 TFEU (Environment)
Form of legislative competence:	Shared competence (Art. 4 (2) TFEU)
Legislative procedure:	Art. 294 TFEU (ordinary legislative procedure)

## ASSESSMENT

### Economic Impact Assessment

#### Ordoliberal Assessment

**A coordinated EU "position" for the forthcoming ICAO Assembly increases the likelihood that the concerns of EU airlines will receive greater consideration** than they would without prior coordination because a uniform position on the part of the 28 Member States improves their negotiating position. In addition, this is also likely to result in climate protection being given a higher priority because, by international standards, the EU always supports a high level of climate protection.

**An ICAO-level "global market-based measure" addressing the GHG emissions from international aviation may create a level playing field between European and non-European airlines.** Since the current de facto position is that only emissions from flights between two EU airports are subject to the allowance requirement under the EU ETS, airlines with their hubs outside the EU can offer feeder flights from EU airports more cheaply than airlines that have their hubs in the EU.

**In order to create a level playing field, however, the EU must lift the requirement, for internal European flights to comply with the EU ETS,** by the time the planned ICAO Agreement comes into effect in 2020, as otherwise the current distortions of competition would continue to exist due to the hub situation. Therefore, in its planned report to the European Parliament and the Council, the Commission should not only examine the extent to which GHG emissions from flights to and from third countries will be included as from 2017, but also whether GHG emissions from flights between two EU airports should continue to be included as from 2020.

The efforts to establish, at the forthcoming ICAO Assembly, a "global market-based measure" for GHG emissions from international aviation, to take effect from 2020, are appropriate because the climate can only be effectively protected on a global level. This cannot be achieved by national or regional efforts, such as the EU ETS. A global ICAO agreement would mean that, for the first time, all GHG emissions from international aviation would be included in climate protection. This will create incentives to avoid GHG emissions on all flights.

Insofar as (only) internal European air traffic remains subject to the EU ETS, it is not sufficient **for the avoidance of distortions of competition** if, as proposed by the Commission, only "competing flights on one and the same route" are treated equally. For this, **all competing flights must be treated equally; not only those using "one and the same route" but also those using different hubs.** In the case of a flight from Hamburg to Bangkok, for example, it does not matter to the passengers whether they have to transfer at a hub located inside or outside the EU, but it does matter to the airline because, as a result of the EU ETS, airlines with a hub in the EU incur higher costs.

#### Impact on Efficiency and Individual Freedom of Choice

The "offsetting system" preferred by the ICAO is basically suitable for ensuring that international aviation continues to grow - giving rise to additional GHG emissions - without having a negative impact on climate protection. However, this requires the systematic and effective monitoring both of GHG emissions from international aviation and of GHG savings from compensatory projects in other sectors, which may give rise to high administration costs.

**The EU should lobby for the ICAO to introduce an emissions trading system,** like the EU-ETS, because it is both ecologically effective and economically efficient. An emissions trading system provides all companies subject to the obligations, and airlines, with a reduction target and leaves it up to these companies to find out who is able to achieve reductions at the lowest cost. The efficiency benefits of such a system are only brought to bear, however, where there is compatibility with other emissions trading systems, such as the EU ETS, thereby ensuring that allowances can be traded openly with other systems. Otherwise the most important feature of emissions trading will be lost, i.e. the creation of incentives for emissions reduction in those places where this gives rise to the lowest costs. Isolated emissions trading which only covers one sector cannot do this. The more sectors of an economy and the more countries included in an emissions trading system, the greater the chances of finding cost effective methods of avoidance.

#### Impact on Growth and Employment

Removing the current one-sided competitive disadvantage to EU airlines will tend to have a positive effect on growth and employment for European airlines and airports and their customers.

#### Impact on Europe as a Business Location

Removing the current one-sided competitive disadvantage to EU airlines will tend to have a positive effect on the quality of Europe as a business location as it will make EU hubs more attractive to investors.

## Legal Assessment

### Legislative Competency

Unproblematic. The EU is permitted to take action to protect the climate in general and to reduce GHG emissions from international aviation in particular (Art. 192 TFEU).

### Subsidiarity

Unproblematic. Climate protection is not only a cross-border but a global problem which cannot be solved by individual countries.

## Conclusion

A coordinated EU "position" for the forthcoming ICAO Assembly increases the likelihood that the concerns of EU airlines will receive greater consideration. A "global market-based mechanism" at ICAO level may create a level playing field between European and non-European airlines. In order to avoid distortions of competition, all competing flights must be treated equally; not only those using "one and the same route" but also those using different hubs. The EU should lobby for the ICAO to introduce an emissions trading system.