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NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
No. Cion doc.:	5968/17 CLIMA 25 ENV 104 AVIATION 20 MI 102 IND 27 ENER 38 CODEC 162 - COM(2017) 54 final
Subject:	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 - Preparation for the trilogue

1. On 3 February 2017, the Commission submitted a proposal for a Regulation 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.
2. The proposal follows the agreement within ICAO in October 2016 to put in place from 2021 a global Market-Based Measure (GMBM) as concerns emissions from aviation (CORSIA - Carbon Offsetting and Reduction Scheme for International Aviation). The Commission proposes to extend the derogation for non intra EEA flights from the scope of ETS and to make provisions for a review aimed at implementing the GMBM within the EU, inter alia through a revision of the ETS Directive, once the relevant ICAO decisions on operationalisation of the GMBM have been taken. The Commission also proposes that the Linear Reduction Factor (LRF) as regards the quantity of emission allowances in Article 9 of the ETS Directive should apply from 2021 onwards to the aviation sector.

The Regulation should be adopted as soon as possible in order to avoid a legal gap and to ensure legal certainty for aircraft operators and authorities. The dates for reporting and surrendering allowances from emissions in 2017 would be 31 March and 30 April 2018 respectively.

3. On 21 June 2017, the Permanent Representatives agreed a mandate for negotiations with the European Parliament (document 10595/17).
4. In the Parliament, Julie GIRLING (ECR, UK) was appointed rapporteur for the proposal. On 11 July 2017, the ENVI Committee adopted a report containing 35 amendments to the proposal of the Commission.
5. On 13 September 2017, the Parliament adopted 37 amendments to the proposal. It was then referred back to the ENVI Committee in view of interinstitutional negotiations.
6. On 25 September 2017, the first trilogue was held on the basis of an updated mandate agreed by the Permanent Representatives Committee on 20 September 2017¹.
7. In view of the next trilogue, delegations will find in the 4-column table in the Annex to this note a proposed mandate for the Presidency. The mandate is based on the outcome of the trilogue and subsequent compromise suggestions from the Commission and the Parliament on a number of issues and contacts with delegations on the key political issues.

The proposed mandate is set out in the **fourth column** of the table².

8. On the key political issues of end date for the derogation from full scope, allocation and auctioning of allowances and earmarking of auctioning revenues, the Presidency proposes as an overall compromise to accept an end date of 2027 (31 December 2026) when CORSIA becomes mandatory for participating states, subject to the Parliament:
 - dropping its amendments on allocation and auctioning of allowances (amendments 36, 16 (first part) and 21 and 5);
 - accepting to retain the use of "should" in Article 3d (4) on earmarking of auctioning revenues as in the current Directive (amendment 42).

¹ Document 12082/17.

² When changes are made to the Council position of 21 June 2017, these are marked in **bold** and underlined. Deletions are marked by [...].

9. On other issues and in addition to the flexibilities already showed by the Council at the first trilogue, the Presidency suggests to accommodate the Parliament further on the provisions inter alia on:

- the review in Article 28b (amendment 31);
- MRV in Article 28c (amendment 34), while maintaining the Council position on implementing acts;
- recital 6d (amendment 11) on transparency of the ICAO negotiations. The suggestion from the Presidency would be to make a statement on this issue.

On these issues it should be noted that the Parliament has also taken a step towards the Council.

10. As concerns Amendment 47, the Working Party on Environment on 2 October 2017 had a preliminary discussion. The Presidency will issue its proposal for a mandate separately before the meeting of the Permanent Representatives Committee.
11. The Permanent Representatives Committee is invited to agree to the Presidency's suggestions as set out in the fourth column table annexed to this note in view of the upcoming trilogue.
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**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	EP Position	Council Position Coreper 21 June 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	EP Position	Council Position Coreper 21 June 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>_____</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>_____</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 on 4th November 2016. In order to</p>	<p><u>Council text agreed</u></p>

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
<p>on 4th November 2016. In order to achieve the goal of the Paris Agreement, parties will prepare, communicate and maintain successive nationally determined contributions.</p>		<p>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></p>	
<p>(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.</p>		<p>(2) [...]</p>	<p>Agreed text: <u>(2) Environmental protection is one of the most important challenges facing the Union.</u> 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.</p>

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
Amendment 1 Recital 2 a (new)			
	<i>(2a) Environmental protection is one of the most important challenges facing the Union.</i>		See under recital 2
Amendment 38 Recital 3			
<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</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</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</p>	<p><u>Council:</u> Commission compromise suggestion acceptable:</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)</p>

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
the economy should contribute to achieving these emission reductions.	the economy should contribute to achieving these emission reductions <i>and in order to do so, the Commission should provide, inter alia, a platform for exchanging among Member States best practices and lessons learned in the sector of low-emission mobility.</i>	the economy should contribute to achieving these emission reductions.	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. <u>The Commission should facilitate exchanges among Member States on best practices and lessons learned in the sector of low-emission mobility.</u> <i>(EP has indicated its readiness to accept the Commission suggestion)</i>
Amendment 2 Recital 3 a (new)			
	<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</i>		<u>Council</u> : Amendment acceptable Wording needs to be aligned with the parallel recital in the ETS revision.

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
	<p><i>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>		
<p>Amendment 39 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</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</i></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</p>	<p><u>Council:</u> Commission compromise suggestion acceptable:</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</p>

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
<p>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 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><i>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. In addition, since 2004 and 2008 the Member States have recommitted themselves to implementing the Single European Sky concept, taking account of the growth in the volume of air traffic in the coming years. In order to achieve progress with air traffic management, the implementation of SESAR (Single European Sky ATM Research) needs to be speeded up, and innovative technologies must be supported under the Clean Sky project. The introduction, through the International Civil Aviation Organization (ICAO), of the global market-based measure should contribute to further progress on aviation emissions reduction.</i> In order to advance progress at the International Civil Aviation Organization</p>	<p>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 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>ETS) that has been operating since 2005. <u>The Court of Justice ruled in its judgment of 21 December 2011^{1a} that the inclusion of aviation activities in the EU ETS by the 2008 legislation does not violate international law.</u> 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 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</p>

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	<p>(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 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><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,</i></p>		<p>Regulation.</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> <p><i>(EP has indicated its readiness to accept the Commission compromise)</i></p> <p>Remaining part of EP amendment (technological innovation) addressed under Amendment 7</p>

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	<i>C-366/10, ECLI:EU:C:2011:864.</i>		
Amendment 4 Recital 5			
<p>(5) In the light of the resolution adopted at ICAO's 39th 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 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</p>	<p>(5) In the light of the resolution adopted at ICAO's 39th 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 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 <i>until 2021</i> 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</p>	<p>(5) In the light of the resolution adopted at ICAO's 39th 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 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</u></p>	<p><u>Council:</u> Presidency suggestion:</p> <p>(5) In the light of the resolution adopted at ICAO's 39th 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 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, <u>in order to promote momentum in ICAO and facilitate the operationalisation of the ICAO scheme,</u> the current derogation of the EU ETS obligations for flights to and from third countries should</p>

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<p>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 should be proportional to the reduction of the surrender obligation.</p>	<p>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>implementation of 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 <u>remain</u> [...] proportional to the reduction of the surrender obligation. <u>From 1 January 2021 onwards the 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></p>	<p>be extended [...] <u>until [2027] to allow for gathering the necessary experience with the implementation of</u> 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 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></p> <p><i>(Presidency suggestion based on EP suggestion. EP has indicated</i></p>

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
			<p><i>that it can accept the Council's text on LRF subject to adjustments needed on end date and allocation of allowances) :</i></p> <p>See also amendment 23 (end date)</p>
Amendment 5 Recital 5 a (new)			
	<p><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></p>		<p>EP maintains its amendment</p> <p>Council: maintain position (Amendment not acceptable).</p>
Amendment 6 Recital 5 b (new)			
	<p><i>(5b) Revenues generated from the auctioning of allowances, or their equivalent in financial value, 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</i></p>		<p>Council: Revised amendment acceptable in principle as part of overall compromise:</p> <p><i>(5b) Revenues generated from the auctioning of allowances, or their equivalent in financial value, 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</i></p>

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
	<p><i>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 Directive 2003/87/EC is fundamental to underpinning Union commitments.</i></p>		<p><i>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 <u>and reporting</u> on the use of revenues generated from the auctioning of allowances under Directive 2003/87/EC <u>and submitted by Member States in accordance with Article 17 of Regulation (EU) No 525/2013</u> is fundamental to underpinning Union commitments.</i></p>

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
Amendment 7 Recital 5 c (new)			
	<p><i>(5c) Emission offsets under the global market-based measure 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, aimed at preventing the fragmentation of European airspace and consequently an increase in aviation CO₂ emissions, is speedily and fully implemented by the Member</i></p>		<p><u>Council: Commission compromise suggestions on Amendments 39, 7 and 41 acceptable:</u></p> <p><u>(4a) ICAO's work on a market based measure for international aviation emissions is one element of the so-called "basket of measures" to achieve the aspirational goal of carbon neutral growth from 2020 (CNG 2020), and should be complemented by advances in air traffic management and propulsion technologies. Continued development of research strategies and programmes will be essential to technological innovation and operational improvements in order to go beyond CNG 2020 and achieve sector-wide absolute emission reductions.</u></p> <p><u>(4b) Several measures have been adopted at Union level which aim at preventing the fragmentation of European airspace in order to</u></p>

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	<i>States.</i>		<p><u>enhance the flow of air traffic and control of airspace usage, thereby reducing emissions. Member States have recommitted themselves to implementing the Single European Sky concept, taking account of the growth in the volume of air traffic in the coming years. In order to achieve progress with air traffic management, the implementation of SESAR (Single European Sky ATM Research) needs to be speeded up. Other measures such as the use of GNSS for satellite-based navigation, Joint Technology Initiatives such as Clean Sky I and Clean Sky II and EU research programs, such as Horizon 2020 and its successors, will also contribute to improve efficiency and reduce aviation emissions.</u></p> <p><i>(EP has indicated its readiness to accept the Commission compromise suggestions)</i></p>

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
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</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</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 (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 advance of the start of ICAO's global market-based measure, the</u></p>	<p><u>Council: EP compromise suggestion to merge EP and Council texts acceptable:</u></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 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</u></p>

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
<p>also 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.</p>	<p><i>the ICAO instruments, and in 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><u>Commission should present a [...] report in which it should consider how to implement these instruments in Union law in particular through a revision of the EU ETS Directive. It should [...] 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>relevant international developments <u>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 [...] report in which it should consider how to implement these instruments in Union law [...] through a revision of the EU ETS Directive. It should [...] further consider the rules applicable to intra-EEA flights, as appropriate. In so doing, that report should reflect the need to ensure consistency with Union law, in particular to avoid any distortion of competition and to minimise 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</p>

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
			Union's 2030 economy-wide greenhouse gas reduction commitment. <i>(based on a EP suggestion)</i>
Amendment 9 Recital 6 a (new)			
	<i>(6a) In order to ensure that existing and future Union domestic climate standards are respected, and without prejudice to the review as referred to in Article 28b of Directive 2003/87/EC, CORSIA should be implemented in, and made consistent with, Union law through the EU ETS.</i>		EP has indicated that is ready to drop amendment subject to Council accepting the EP suggestion for recital 6 above. <u>Council:</u> maintain position (amendment not acceptable)
Amendment 41 Recital 6 b (new)			
	<i>(6b) Several legislative acts have been adopted at Union level which aim at preventing the fragmentation of European airspace in order to enhance the flow of air traffic and control of airspace usage, thereby reducing emissions. Within the Union, the CORSIA scheme should be viewed as part of the ICAO's so-called "basket of measures", alongside</i>		See proposal under AM 7

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
	<p><i>full implementation by Member States of Single European Sky legislation, SESAR, the use of GNSS for satellite-based navigation, and Joint Technology Initiatives such as Clean Sky I and Clean Sky II. The Commission should also report to the European Parliament and to the Council on actions for the implementation of the GMBM taken by Member States to reduce greenhouse gas emissions from aviation, including information, with regard to the use of revenues, submitted by Member States in accordance with Article 17 of Regulation (EU) No 525/2013.</i></p>		
<p>Amendment 10 Recital 6 c (new)</p>			
	<p><i>(6c) 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</i></p>		<p>EP suggestion for revised Amendment 10:</p> <p><i>(6c) 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,</i></p>

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
	<p><i>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>		<p><i>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 <u>avoid any distortion of competition</u> and be 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> <p>Council: Maintain position (Amendment not acceptable)</p> <p>Amendment partly covered by Council text for recital 7</p>

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
Amendment 11 Recital 6 d (new)			
	<p><i>(6d) 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>		<p><u>Council</u>: ready to suggest a statement (will be circulated separately)</p> <p><u>Commission compromise suggestion</u>:</p> <p>(6d) 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. The European Union should promote that the ICAO reaches out to all stakeholders to inform them about progress and decisions in a timely manner.</p> <p><u>EP compromise suggestion</u>:</p> <p>(6d) While the confidentiality of the technical work in ICAO should be acknowledged, it is also important that ICAO member</p>

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
			<p><i>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, the Commission and the Member States should call for, and strive to enhance the level of, transparency in ICAO's work on setting up the global market-based measure.</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 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</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 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</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 verified in accordance with the same principles as those applicable to the monitoring, reporting and verification (MRV) of emissions from aviation activities under the</u></p>	<p><u>EP maintains position</u> on delegated acts - outcome subject to decision in Article 28c</p> <p><u>Council:</u> Maintain Council text</p>

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
<p>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>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>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 Commission's exercise of implementing powers, OJ L 55, 28.02.2011, p. 13.</p>	

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
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>		<u>EP maintains amendment</u> Council: Maintain position (Amendment not acceptable).
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 to four times higher than the effect of its past carbon dioxide emissions alone. Pending</i>		Council: Presidency suggestion based on Commission compromise suggestion and with the inclusion of a reference to IPCC (as requested by EP): <u>7(b) Aviation also has an impact on climate through releases of nitrogen oxides, water vapour and sulphate and soot particles at high altitudes which could have significant climate impact,</u>

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
	<p><i>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>		<p><u>according to scientific research. The International Panel on Climate Change (IPCC) has estimated that the total climate impact of aviation is currently two 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. In Directive 2008/101/EC of the European Parliament and of the Council a Commission proposal on nitrogen oxides was envisaged in 2008. Despite the technical and political difficulties involved, the Commission should speed up its work in that regard. 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.</u></p>

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
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 operators contribute to emission reductions.</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> [...] 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 operators contribute to emission reductions.</p>	<p><u>Council text agreed</u></p>

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
Recital 8a (new)			
		<p><u>(8a) 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 what is necessary in order to achieve those objectives.</u></p>	<p>Council: Presidency suggestion:</p> <p><u>(8a) Since the objectives of this Regulation namely to continue the current limitations of scope for aviation activities until [2027] 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 what is necessary in order to achieve those objectives.</u></p> <p><i>(EP indicates that it can accept Council text subject to agreement on an end date for the derogation on scope)</i></p> <p>See under amendment 23 (end date)</p>

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
<p>(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>.</p>		<p>(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>.</p>	
<p>Amendment 15 Recital 9 a (new)</p>			
	<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> <p>_____</p> <p><i>^{1a} Directive 2008/101/EC of the European Parliament and of the</i></p>		<p>Addressed under AM 14.</p>

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
	<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:	

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
Amendment 16 Article 1 - paragraph 1 - point -1 (new) Directive 2003/87/EC Article 3c - paragraph 3 a (new)			
	<p><i>(-1) In Article 3c, the following paragraph 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>		<p><u>EP maintains amendment</u></p> <p><u>Council: Maintain position</u> (Amendment not acceptable).</p>

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
	<i>above 2020 levels.”</i>		
Amendment 36 Article 1 – paragraph 1 – point -1 a (new) Article 3d – paragraph 2			
	<p><i>(-1a) In Article 3d, paragraph 2 is replaced by the following:</i></p> <p>“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.”</p>		<p><u>EP maintains amendment</u></p> <p><u>Council: Maintain position</u> (Amendment not acceptable).</p>
Amendment 18 Article 1 – paragraph 1 – point -1 b (new) Article 3d – paragraph 3 - subparagraph 1			
	<p><i>(-1b) In Article 3d (3), the first subparagraph is replaced by the following:</i></p> <p><i>‘The Commission is empowered to adopt delegated acts in accordance with Article [23] to supplement this Directive by laying down detailed arrangements for the auctioning by Member States of allowances not required to be issued free of charge in accordance with paragraphs 1 and 2 of this Article or Article 3f(8). The number of allowances to be</i></p>		<p><u>EP text agreed.</u></p> <p>Reference to Article 23 needs to be further looked at.</p>

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
	<p>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>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>		<p><u>EP text agreed</u></p>

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
Amendment 42 Article 1 – paragraph 1 – point -1d (new) Article 3d – paragraph 4 - subparagraph 1			
	<p><i>(-1d) In Article 3d(4), the first subparagraph is replaced by the following:</i></p> <p>‘All revenues generated from the auctioning of allowances shall 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 and to fund common projects to reduce greenhouse gas emissions from the aviation sector, such as the SESAR Joint Undertaking and the Clean Sky Joint Technology Initiatives and any initiatives enabling the</p>		<p><u>EP maintains amendment.</u></p> <p><u>Council:</u> amendment acceptable subject to maintaining "should" and to EP accepting Council suggestion for 2027 as end date and its position on allocation of allowances and auctioning.</p> <p>The reference to FP 9 should be deleted as it is unclear.</p> <p>Wording from current Directive 2003/87/EC should be reinserted:</p> <p><i>"Member States shall inform the Commission of actions taken pursuant to this paragraph".</i></p>

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
	<p><i>widespread use of GNSS for satellite-based navigation and interoperable capabilities within all Member States, in particular those improving air navigation infrastructure, the provision of air navigation services and the use of airspace. The proceeds of auctioning may also be used to fund contributions to the Global Energy Efficiency and Renewable Energy Fund, and measures to avoid deforestation. Special consideration shall be given to Member States which use 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>		

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
Amendment 21 Article 1 – paragraph 1 – point -1e (new) Article 12 – paragraph 3			
	<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>		<p><u>EP maintains amendment</u></p> <p><u>Council</u>: Maintain position (Amendment not acceptable).</p>

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
Amendment 47 Article 1 – paragraph 1 – point -1f (new) Article 12 – paragraph -3a (new)			
	<p><i>(-1f) In Article 12, the following paragraph is inserted before paragraph 3a:</i></p> <p><i>“-3a. In order to protect the environmental integrity of the EU ETS, aviation operators and other operators in the EU ETS may not use allowances that are issued from 1 January 2018 onwards by a Member State in respect of which there are obligations lapsing for aviation operators and other operators. The legal act referred to in Article 19 shall implement this paragraph.”</i></p>		<p><u>Council</u>: Presidency suggestion to be circulated separately.</p>
Amendment 22 Article 1 – paragraph 1 – point -1g (new) Article 21 – paragraph 2 a (new)			
	<p><i>(-1g) In Article 21, the following paragraph is added:</i></p> <p><i>‘2a. The report referred to in paragraph 2 shall, using data provided through the cooperation referred to in Article 18b, include a list of aircraft operators subject</i></p>		<p>EP has indicated that it can drop the amendment</p>



Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
	<i>to the requirements of this Directive who have not opened a registry account.'</i>		
(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> "	<u>Council text agreed</u>
Amendment 23 Article 1 – paragraph 1 – point 1 - point a - point i Article 28a – paragraph 1 - point a			
(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" .	<u>EP maintains amendment</u> Council: can accept the end date of 2027 subject to the EP accepting Council's position on allocation of allowances and auctioning (including the use of auctioning revenues, i.e. earmarking).

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
Amendment 24 Article 1 – paragraph 1 – point 1 - point a - point i Article 28a – paragraph 1 - point b			
(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" .	<u>EP maintains amendment</u> Council: see under amendment 23 (end date)
Amendment 25 Article 1 – paragraph 1 – point 1 - point a - point i a (new) Article 28a – paragraph 1 - point b a (new)			
	<i>ia. the following point is inserted:</i> <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) of this paragraph being diverted to an aerodrome located in the EEA in each calendar year from 1 January 2017, subject to the review as referred to in Article 28b.”</i>		<u>EP maintains amendment</u> but proposes to discuss this further in trilogue Council: Maintain position (Amendment not acceptable in the absence of further clarifications on the modalities for implementation and the practicability of this amendment).



Commission proposal	EP Position	Council Position Coreper 21 June 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 i Article 28a – paragraph 2 - subparagraph 1			
<p>i. the first subparagraph is replaced by the following:</p> <p>“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.”</p>	<p>i. the first subparagraph is replaced by the following:</p> <p>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.</p>	<p>"[...] <u>By way of derogation from Articles 3e and 3f</u> [...], aircraft operators <u>benefiting from the derogations provided for in points (a) and (b) of paragraph 1</u> shall be issued, each year, <u>a</u> [...] <u>number of free allowances</u> [...] <u>reduced in proportion to the reduction of the surrender obligation provided for in those points.</u></p> <p><u>By way of derogation from Article 3f(8), allowances that are not allocated from the special reserve shall be cancelled.</u></p> <p>From 2021 onwards the <u>number of allowances allocated to aircraft operators</u> <u>shall be subject to the application of the linear factor</u> in</p>	<p>EP has indicated that it could accept the Council text subject to amendments following agreement on end date for derogation on scope and on allocation of allowances</p> <p><u>Council</u>: maintain Council text.</p> <p>See also under amendment 23 (end date)</p>

Commission proposal	EP Position	Council Position Coreper 21 June 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>		<u>EP text agreed</u>
Amendment 28 Article 1 – paragraph 1 – point 1 - point c Article 28a – paragraph 4			
(c) paragraph 4 is replaced by the following: “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	(c) paragraph 4 is replaced by the following: 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 from 1 January 2013 to 31 December 2020</i> shall be reduced to	(c) paragraph 4 is replaced by the following: “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	<u>EP</u> maintains amendment <u>Council</u> : see under amendment 23 (end date)

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
emissions from flights which are not subject to the derogations provided for in points (a) and (b) of paragraph 1 of this Article.”;	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.	emissions from flights which are not subject to the derogations provided for in points (a) and (b) of paragraph 1 of this Article.”;	
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</u></p>	<u>Council text agreed</u>



Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
		<u>aircraft operators as long as such procedures provide no less accuracy than the small emitters tool provides.</u> ";	
(d) paragraph 7 is replaced by the following: "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".		(d) paragraph 7 is replaced by the following: "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".	
Amendment 29 Article 1 – paragraph 1 – point 1 - point d a (new) Article 28a – paragraph 8			
	<i>(da) paragraph 8 is deleted.</i>	<u>(e) paragraph 8 is deleted.</u>	EP and Council text identical

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
Amendment 30 Article 1 – paragraph 1 – point 2 Article 28b – paragraph 1			
<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 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>(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 regularly thereafter</i>, report to the European Parliament and the Council on the relevant ICAO standards <i>and recommended practices (SARPs), 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</i></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, report to the European Parliament and to the Council on progress in the 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>	<p><u>Council: accept EP compromise suggestion to merge EP and Council texts:</u></p> <p>1. The Commission shall [...] <u>by 1 January 2019 and regularly thereafter</u>, report to the European Parliament and <u>to the Council on progress in the 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), ICAO Council-approved recommendations relevant to the global market-based measure, the establishment of a global registry</u> [...] as well as on domestic measures taken by third countries <u>to implement the global market-based measure to be</u></p>

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
	<p><i>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>applied to emissions from 2021, the implications of reservations by third countries</u> and on other relevant international developments and applicable instruments. <u>In line with the UNFCCC's 'Global stocktake', the Commission 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.</u></p>
<p>Amendment 31 Article 1 – paragraph 1 – point 2 Article 28b – paragraph 2</p>			
<p><u>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.</u></p>	<p>2. <u>By 1 March 2020, the Commission shall report to the European Parliament and the Council on the adequacy of those ICAO instruments and options</u> 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</i></p>	<p>2. 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 [...] 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</p>	<p>Council: Presidency suggestion for merging EP and Council texts:</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,</u> the Commission shall present a report to the European Parliament and to the Council <u>in which it shall [...]</u> consider ways for those [...] instruments to be implemented in Union law [...]</p>

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
	<p><i>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 shall consider whether the delegated act adopted under Article 28c(2) needs to be revised.</i></p>	<p>rules applicable in respect of flights within the European Economic Area (EEA)₂ as appropriate.</p>	<p>through a revision of this Directive. <u>The Commission shall, in that report [...] also consider the rules applicable in respect of flights within the European Economic Area (EEA)₂ as appropriate. It 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 shall consider whether the provisions adopted under Article 28c(2) need to be revised.</u></p> <p><i>(EP can accept dropping the reference to 2020, EP maintains its request for a reference to "on the adequacy of those ICAO</i></p>

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
			<p><i>instruments" in the first sentence after "Council")</i></p> <p>The issue of whether the ICAO instruments are adequate is covered by the last part of the paragraph.</p> <p>Reference to "provisions" to be looked at in light of agreement on 28c.</p>

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
Amendment 33 Article 1 – paragraph 1 – point 2 Article 28b – paragraph 3			
<p>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.</p>	<p>3. The report <i>referred to in paragraph 2 of this Article shall be</i> 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 of ensuring full environmental integrity and effectiveness of Union climate action and reducing any ambiguity in advance of CORSIA becoming operational.</i></p>	<p>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 commitment for 2030.</p>	<p><u>Council:</u> Commission compromise suggestion acceptable:</p> <p>3. The report <u>referred to in paragraph 2 of this Article shall be</u> 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 <u>with the aim of preserving environmental integrity and effectiveness of Union climate action.</u></p> <p><i>(EP has indicated its readiness to accept the Commission compromise suggestion)</i></p>

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
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</i> 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 [...] <u>implementing acts concerning</u> the appropriate monitoring, reporting and verification of emissions for the purpose of implementing the <u>ICAO global market-based measure [...] on all routes covered by it</u>. Those [...] <u>implementing acts</u> shall be based on <u>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 referred to in</u> Article 15.</p>	<p><u>Council</u>: Commission compromise suggestion acceptable :</p> <p>1. The Commission shall adopt [...] provisions for the appropriate monitoring, reporting and verification of emissions for the purpose of implementing the <u>ICAO global market-based measure [...] on all routes covered by it</u>. Those [...] provisions shall be based on <u>the relevant instruments adopted in ICAO and be consistent with the principles contained in</u> the Regulation referred to in Article 14 (1), and shall ensure that the emissions reports submitted are verified in accordance with <u>the verification principles and criteria in Article 15</u>.</p> <p><i>(EP has indicated that it is ready to accept the Commission's compromise suggestion).</i></p> <p>Reference to "provisions" to be looked at in light of agreement on 28c.</p>

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
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> "	<p><u>EP</u> indicates that discussions on the issue of delegated and implementing acts should await outcome of negotiations on ETS revision.</p> <p><u>Council</u>: maintain position on implementing acts subject to agreement on ETS revision.</p>
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 is inserted: “4a. By 1 January 2020, the Commission shall present an updated analysis of the non-CO₂ effects of aviation, accompanied, if appropriate, by a legislative proposal on how best to address those effects.”</i>		<p><u>EP maintains amendment.</u></p> <p>COM can accept the amendment</p> <p><u>Council</u>: amendment acceptable in the context of an overall satisfactory agreement</p>

Commission proposal	EP Position	Council Position Coreper 21 June 2017	Comments / Suggestions
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,</p> <p><i>For the European Parliament The President</i></p> <p><i>For the Council 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,</p> <p><i>For the European Parliament The President</i></p> <p><i>For the Council The President</i></p>	