



OPINION

European Economic and Social Committee

ReFuelEU Aviation

Proposal for a Regulation of the European Parliament and of the Council on ensuring a level playing field for sustainable air transport
[COM(2021) 561 final - 2021/0205 (COD)]

TEN/744

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Section responsible	Transport, Energy, Infrastructure and the Information Society
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1. Conclusions and recommendations

1.1 The EESC reiterates that the EU aviation market is essential for trade and tourism in the European Union, as well as for the international competitiveness of the European economy¹.

However, because aviation is one of the fastest growing sectors in terms of CO₂ emissions, the EESC supports the regulatory initiatives undertaken by the EU institutions to mitigate the impact of aviation on the environment².

1.2 The Commission's Fit for 55 package aims to put the bloc on course to meet its ambitious target of a 55% reduction in greenhouse gas emissions by 2030, relative to 1990 levels, aligning EU policy with the ambitious political mandates of the Green Deal and EU Climate Law. The EESC supports this very ambitious policy, which contains several legislative proposals affecting aviation, of which an essential element is the promotion of sustainable aviation fuels (SAF). Although the Commission has evaluated the complementary nature of this proposal with other relevant proposals, the EESC believes that the Commission should also take the cumulative financial effects of all relevant regulatory measures into consideration.

1.3 In the context of the regulatory initiatives designed to accelerate the transition to net-zero emissions, the RefuelEU Aviation proposal is of key importance for aviation. Contrary to other sectors, aviation is dependent on fossil fuels as an energy source. In order to enable the aviation sector to grow whilst reducing its CO₂ emissions, the RefuelEU Aviation proposal for a regulation seeks to accelerate the production, distribution and uptake of SAF by imposing an obligation on jet fuel suppliers to aviation to supply an increasing share of aviation fuel blended with SAF at all EU airports, and requiring airlines to increase their uptake of SAF in pre-defined incremental steps.

In line with its approach to the promotion of sustainable aviation, the EESC supports the thrust of the Commission's proposal, but suggests amendments to ensure that it can be implemented effectively and without creating distortions.

1.4 The EESC welcomes the Commission's initiative to accelerate the growth of a market for SAF. It is indeed true that SAF – if produced in sufficient quantities and available to all airlines – would significantly reduce the sector's CO₂ emissions. It is, however, not clear whether the approach pursued by the Commission would prevent distortions to competition.

1.5 Aviation is an international service sector, effectively covering two distinct markets with differing market dynamics: the EEA Single European Market on the one hand, and the

¹ [OJ C 429, 11.12.2020, p. 99](#); [OJ C 389, 21.10.2016, p. 86](#).

² European Green Deal Communication, [COM\(2019\) 640 final](#);
Sustainable and Smart Mobility Strategy, https://ec.europa.eu/transport/themes/mobilitystrategy_en;
EU Emissions Trading Directive including aviation, [COM\(2021\) 552 final](#);
Renewable Energy Directive [COM/2021/557 final](#);
Alternative Fuels Infrastructure Directive, [COM\(2021\) 560 final](#).

internationally regulated market on the other. The EESC believes that the Draft Proposal should clearly reflect this difference, and calls upon the Commission to maintain a level playing field *within* the EEA and to proactively promote *globally* applicable standards for sustainability.

- 1.6 The proposed regulation will cover all operations of all EU airlines, whether these operate within the EEA or internationally; the networks of non-EU airlines, however, will only be covered to the degree that they include services from an EU airport. All other global services of non-EU airlines would not be affected by the required minimum uptake of SAF-blended aviation fuel. The expected price differential between aviation fuel and SAF could therefore provide non-EU airlines with a competitive advantage. At a time when the entire global aviation sector is struggling to recover from the worst crisis in its post-war history, EU airlines should not have to shoulder additional costs unilaterally. Furthermore, if the price differential is passed on to passengers, less environmentally friendly flights operated by non-EU airlines would become more attractive for EU passengers.
- 1.7 The EESC recommends that a pilot phase precede the actual implementation of this Regulation, during which the EEA-internal provisions related to mitigating aviation's impact on the environment could be aligned, and the Commission would focus its efforts on closely coordinating the EU's promotion of SAF with similar initiatives undertaken internationally. Once a sufficient quantity of SAF is produced and available to EU and non-EU carriers, this Regulation would be fully applied to also cover obligations for non-EU airlines departing from EU airports. Such a staggered approach would minimise the risks of first-mover disadvantages, reduce the risk of carbon leakage, enable a cost-effective implementation process and establish planning stability for all stakeholders, including the SAF manufacturers. It would furthermore facilitate a consistent approach to biofuels.
- 1.8 Given that a significantly higher proportion of CO₂ is emitted on international long-haul routes than on the medium- to short-haul EEA routes³, the EESC believes that the Commission should place greater emphasis on means of achieving a coordination of international regulatory measures. These third-party measures, together with already agreed offset mechanisms such as CORSIA⁴, will generate further momentum for the production, dissemination and uptake of SAF internationally, thereby accelerating increased demand for SAF and reducing the risk of carbon leakage⁵.

The EESC shares the Commission's analysis that it will take time to create a market for SAF. The EESC calls upon the Commission to develop a realistic and comprehensive roadmap for the

³ Half of CO₂ emissions come from just 6% of flights: the long-haul operations, [Data Snapshot on CO₂ emissions and flight distance | EUROCONTROL](#).

⁴ The Carbon Offset and Reduction scheme for International Aviation, CORSIA, is a global regime of market-based measures to offset the share of CO₂ emissions from international flights exceeding their 2020 level. It is being applied as from 1 January 2021 on a voluntary basis, until 2026; 81 states (including all EU Member States) representing 77% of international aviation have volunteered.

⁵ Several nations, such as the UK and the US, are also planning measures to promote SAF and reduce CO₂ emissions, see [SWD\(2021\) 633 final](#).

incremental increase of SAF utilisation to provide planning stability for all stakeholders, including SAF producers, and to provide orientation for the political monitoring process.

2. General comments

2.1 A comprehensive and effective regulatory approach to promote the growth of sustainable aviation is required.

2.1.1 The draft RefuelEU Aviation proposal is embedded in several other regulatory proposals in the Fit for 55 package, all aimed at mitigating the effects of aviation on the environment⁶. When assessing the impact and practicability of the RefuelEU Aviation proposal, due consideration must therefore be given to the interdependency of these proposals and their cumulative effect on the aviation market.

2.1.2 A revised Energy Taxation Directive would introduce a minimum tax rate applicable to intra-EU flights; SAF would benefit from a zero minimum tax rate, whereas the minimum tax rates are to increase in incremental steps over a ten-year period to a level of EUR 10.75/Gigajoule. The stated aim of this proposal is to "stimulate the use of more SAF and to encourage airlines to use more efficient and less polluting aircraft and to avoid a possible lack of 32% revenue". If Member States exceed the minimum rate individually, these additional national CO₂ taxes would significantly increase the cost burden on airlines, unless SAF is produced in sufficient quantities. It appears essential to establish such a link to the availability of SAF, otherwise the rules could have a punitive effect, instead of providing more incentives to produce and take up SAF.

2.1.3 In fact, it is questionable whether additional taxes can provide a stimulus to transition from fossil fuels to SAF, if SAF is not available in sufficient quantities.

2.1.4 In the absence of meaningful anti-dumping provisions, market conditions currently enable airline competitors to offer ticket prices which are below their marginal operational costs, indeed even below the cumulative costs of ATM and airport charges. A further tax would not affect such marginal price levels and therefore not provide for incentives to benefit from SAF as a competitive measure; such an EU-wide minimum tax would simply deplete the airlines of financial means needed for investments in more efficient aircraft. Furthermore, the revenues achieved from these additional taxes can, by definition, not be used for pre-determined (environmentally relevant) objectives, but will flow into the coffers of the Member States. They would therefore not enable growth of supply to meet growing demand for air travel.

2.1.5 The EESC therefore believes that a more differentiated evaluation of the market dynamics is required with a particular focus on the potential need to address, as an additional regulatory

⁶ [SWD\(2021\) 633 final](#), section 7.2.

measure, the need for targeted anti-dumping legislation effectively requiring a minimum price level to cover exogenous costs⁷.

The Commission also proposes revising the ETS aviation rules as another measure under the Fit for 55 package. The ETS previously covered roughly 40% of total emissions in the EU; the revised version increased this share with the inclusion of additional sectors such as maritime. The emissions reduction obligation for ETS sectors has also increased from 40% to 61% by 2030 based on 2005 levels, while the free allowances in aviation are to be phased out between 2023 and 2025.

2.1.6 Indeed, emissions trading is a market-based mechanism to reduce emissions, and further fine-tuning of the parameters of this instrument can strengthen the mechanism. When evaluating the effects of such measures on market dynamics, as suggested above, it must be borne in mind that the incremental reduction of free allowances adds a cost burden to the already foreseen additional cost of the EU-wide minimum tax. Furthermore, the Energy Taxation Directive, the ETS Directive and the RefuelEU Aviation Regulation each require data on aviation jet fuel uptake and consumption, as well as SAF uptake. Further consideration should be given to streamlining the data collection, reporting and verification provisions so as to avoid unnecessary complexity and ensure the practicability of the processes.

The proposed Alternative Fuels Infrastructure Regulation is intended to ensure that the appropriate infrastructure will be in place at airports to enable access to SAF at all EU airports. While ensuring efficient logistics for the dissemination of SAF is evidently essential, the Regulation is itself in need of further clarification; according to its current wording, vehicles for delivering green fuel to aviation could be considered not to be green⁸. In the absence of such clarifications, it is difficult to assess the extent to which further costs at airports could materialise which would potentially be passed on to airlines.

2.2 The proposed RefuelEU Aviation Regulation is a key proposal for securing the sustainability of aviation's future, but it must avoid distortive effects on the aviation market.

2.2.1 The Commission recognises that the production and dissemination of SAF at industrial level will require significant investments, and time, for a meaningful scaling up. Because the Commission's jurisdiction is legally limited to intra-EU, and effectively to intra-EEA air traffic, the Commission proposes to minimise distortions to international competition by two measures: ensuring the uptake of SAF-blended jet fuel for all flights departing from EU-airports irrespective of their destination, and imposing a minimum uptake of aviation jet fuel at EU airports. The former targets the supplier and is non-discriminatory with respect to airlines. It is

⁷ Any regulatory intervention into market mechanisms runs counter to the objectives of liberalising the aviation market. However, liberalisation is not a dogma, and has its limits when it prevents the achievement of climate goals as laid out in the Green Deal. Hence the requirement for a detailed and differentiated analysis of the market implications of such interventions. in a liberalised regulatory framework. This is all the more relevant if several complementary regulatory initiatives are interdependent and can have cumulative financial effects on the stakeholders.

⁸ EESC opinion on *Sustainable finance taxonomy - climate change*, adopted on 22/09/2021.

questionable, however, whether the latter is practicable and effective in preventing market distortions.

2.2.2 Article 7 imposes an obligation on all airlines to provide data, inter alia, on the jet aviation fuel uptake at a given EU airport, and an obligation to report the total amount of SAF-blended aviation fuel purchased from the suppliers. Airlines currently already report jet fuel uptake and consumption per flight in the context of the reporting obligations under the EU ETS; this scheme only applies to intra-EU flights⁹. The proposed Regulation extends the reporting obligations to international flights from EU airports. These are also operated by non-EU carriers which are therefore included in the data reporting obligations. It is internationally accepted to include non-national airlines in data-reporting obligations so that national authorities can monitor compliance. Thus, this reporting obligation should not meet with international opposition.

2.2.3 However, Article 5 imposes an obligation on (all) airlines to ensure that their annual jet fuel uptake at a given EU airport is at least 90% of the annual required jet aviation fuel. The purpose of this provision is to prevent so-called tankering. The Commission refers to tankering as a means for an airline to uplift more jet fuel than required to avoid refuelling at the destination airport where the jet fuel may be more expensive¹⁰. However, the hubs of some non-EU network airlines are in the proximity of the EEA (examples: London, Doha, Dubai, Istanbul) requiring only a short-haul flight from a given EEA airport to that hub. The long-haul destinations could then be reached with a fuel uptake at the non-EU hub airport without tankering. The amount of SAF-related additional cost passed on to the passenger in the ticket price could incentivise passengers to reach their final long-haul destination by flying via the (less expensive) non-EU connecting hub airport¹¹. However, Article 5 does not address the *systemic* distortions created by creating competitive disadvantages for EU hub airports and thereby for EU network airlines.

2.2.4 Given that routes to hubs in the vicinity of the EU involve short-haul flights, the uptake of fuel for these EU-outbound flights covers only a small fraction of the non-EU airlines' total international operations. Over time, as the share of SAF-blended fuel increases, so will the price difference between the SAF-blend and the traditional aviation fuel, thereby increasing the competitive attractiveness of flights via non-EU hubs. Passengers will be even more incentivised to avoid routings involving SAF-uptake; this would negatively impact the stated aim of this regulatory proposal to promote the uptake of SAF and thereby reduce CO₂ emissions, including on EU-outbound routes.

⁹ The original intention to extend the applicability of EU ETS for flights to/from EU airports was dropped upon opposition from non-EU states insisting that their airlines cannot legally be included in an EU regulatory scheme akin to a tax.

¹⁰ The Explanatory Memorandum (1. Reasons and objectives of the proposal), p.1.

¹¹ Example: The ticket price for Stuttgart-Vienna-Kuala Lumpur would be impacted by the more expensive SAF-blended uptake for the short-haul leg Stuttgart-Vienna, as well as the required SAF uptake for the long-haul leg Vienna-Kuala Lumpur. By contrast, flying Stuttgart-Istanbul-Kuala Lumpur would only require the uptake of SAF-blended aviation fuel for the short-haul leg Stuttgart-Istanbul.

In the example given above, it could indeed be financially advantageous for the airline operating Istanbul-Stuttgart to uptake sufficient fuel from Istanbul to reduce the need for a further fuel uptake for the return flight Stuttgart-Istanbul thereby avoiding the uptake of SAF-blended fuel altogether. Such considerations are prevented by Article5.

- 2.2.5 In light of the above, the EESC recommends "staggering" the application of this proposed Regulation. In a pilot phase, the focus of activities should be on aligning existing provisions on data reporting and on CO₂-related levies at EU and national level. Several such provisions currently exist in parallel, and form the basis for calculating the level of both emission allowances and offsets, and national CO₂/aviation fuel taxes to be paid. Currently, however, these provisions are not seen in the same context, giving rise to parallel administrative processes for stakeholders and administrations. This proposed Regulation would, in its current form, introduce a further requirement to provide even more data on fuel uptake at all airports, including SAF fuel uptake and EU-wide fuel uptake; EASA and EUROCONTROL would also be obliged to report accumulated data received in accordance with the provisions of this Regulation, but not necessarily other data.
- 2.2.6 It would seem necessary to begin by establishing transparency and reducing unnecessary complexity by streamlining the reporting, verification and monitoring mechanisms for the existing regulations for EU airlines, and thereby establish a coherent, effective and efficient set of measures which could also integrate the diverse national initiatives, creating a harmonised framework. In this pilot phase, the data delivered by the EU airlines would reflect the uptake of SAF (only) by EU airlines for intra-EEA flights. This appears realistic in view of the time required to upscale production of SAF. Such flights within the European Single Aviation Market should not, initially, include international passengers.
- 2.2.7 This suggested pilot phase would not necessarily delay the full implementation of the Regulation, its purpose being to streamline the intra-EU data reporting and verification processes to ensure that the Fit for 55 measures for aviation do not give rise to unnecessarily complex red tape. It would furthermore create transparency about the cumulative financial effect of the measures on the European aviation sector. The pilot phase would not preclude the Commission from aligning the processes with those adopted outside the EEA.
- 2.2.8 The application of this Regulation to international flights from EU airports should be made dependent on the availability of SAF to cater for the increased demand. An effective EEA-wide SAF uptake scheme could then serve internationally as a possible benchmark, template and standard. Staggering the scope of the proposed scheme will furthermore avoid a repetition of the controversy experienced by the Commission over the inclusion of outbound EU flights in the EU ETS. Key is that the Commission develops practicable regulatory instruments at *EEA* level, and negotiates a harmonised approach at *global* level.
- 2.2.9 In the context of coordinating the steps towards a refined and targeted *international* framework, CORSIA can, and will, need to be addressed. By maintaining a distinction between the milestones for measures within the EEA, and milestones for the international framework, CORSIA can be consensually adapted to the latter without creating further complexity for the former.
- 2.3 A comprehensive, clear and compelling roadmap for the implementation of all drafted proposals, as well as monitoring milestones, is required.

- 2.3.1 The climate targets which have been politically agreed within the EEA for all sectors, in particular aviation, are extremely ambitious and, as the recently published IPCC report confirms, overdue. However, the specificities of aviation, as described by the Commission and briefly summarised above, require incentivising demand and supply for a currently negligible (SAF) market without undermining the international competitiveness of the European aviation sector or endangering European job security. To meet these sector-specific challenges, it will be essential to implement effective measures in clearly defined incremental steps to which the stakeholders can realistically adapt their internal products and processes.
- 2.3.2 The ongoing legislative process inherently comes with a degree of uncertainty with respect to the final outcome of the legislative packages. The EESC urges all EU institutions to seek to maintain and indeed further improve the cumulated effectiveness of the proposed measures – and achieve consensus on the roadmap for their implementation.
- 2.3.3 Such a roadmap will include aligning already existing national measures. Some Member States have already developed such roadmaps after consultation with stakeholders¹².

3. Specific comments

- 3.1 Essential for the successful implementation of the proposal is ensuring that critical design errors in a SAF mandate are ruled out. The Commission has developed 8 policy designs which differ with respect to the obliged party of the Regulation (Supplier and/or Airline), geographical scope (intra-EEA with or without extra EEA), sub-mandates for future sophisticated SAF products (in particular RFNBO), objective (SAF volume /GHG savings), and logistical requirements (i.e. does the option include a book and claim system making the physical supply of each airport unnecessary, so as to avoid having to ensure that each fuel batch at each airport would have to contain SAF).
- 3.2 The EESC supports the approach of the Commission to mandate advanced biofuels and e-kerosene. The EU proposal would supersede given national mandates which partially do rely on crop-based fuels. Therefore, because the production of biofuels is of overriding importance to many sectors, and not only aviation, it is crucial to ensure that their production is always sustainable.
- 3.3 The Commission's proposal envisages a 5% SAF-blend by 2023, of which 4.3% is attributed to biofuel, and 0.7% to e-kerosene. The Commission should review the balance between the advanced biofuels and e-kerosene. Because advanced biofuels are made from waste and residues, the resources limit its ambitious exploitation. E-kerosene, however, if made from (green) renewable electricity and CO₂ captured from the atmosphere, would provide for fuel with negligible CO₂ emissions. The EESC believes that further secondary legislation could accelerate the introduction of advanced production processes, and facilitate the achievement of more ambitious mid- and long-term targets for SAF-blends.

¹² Example: Power-To-Liquid Roadmap of Germany, 2021, https://www.bmvi.de/SharedDocs/DE/Anlage/LF/ptl-roadmap.pdf?__blob=publicationFile.

3.4 In view of its potential, the EESC recommends pursuing more ambitious inclusions of e-kerosene. It does not seem unrealistic to raise the minimum target to 0.7% in 2027 and 5% in 2030. In the view of the EESC, the Commission underestimates the dynamics of the e-kerosene market. Developing countries in South America and Africa can develop power plants, store and transport e-fuels to countries in need of SAF and e-fuels. To the degree to which plants scale up, the production of e-fuels will become increasingly affordable for these countries. The current wording of the Renewable Energy Directive (RED III), however, does not provide for sufficient planning stability for investors to invest in new technologies. This energy source is so important, however, that a clear political roadmap, as outlined above, is called for.

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