

12th September 2018

Vice President Šefčovič, Commissioner Violeta Bulc, Commissioner Miguel Arias Cañete
European Commission, Rue de la Loi 200
1049 Brussels, Belgium

CORSIA & European climate ambition on aviation

Dear Vice President Šefčovič, Commissioner Bulc, Commissioner Arias Cañete

EU aviation emissions increased 96% from 1990 to 2016, and are now 3.6% of EU emissions. These emissions are included in the EU 2030 target, and ambitious action is required to ensure the target is achieved.

ICAO's Carbon Offsetting and Reduction Scheme (CORSIA) for International Aviation is the primary measure which the Commission is pursuing. Draft rules, known as SARPs, have been adopted by the ICAO Council and sent to states for a response. States have been given until October 22nd to provide an initial response to the SARP, and December 1st to notify of any differences to be filed. The Commission will propose a common position for member states to adopt.

This takes place against the background that environmental safeguards in the CORSIA have been progressively weakened since 2016. European NGOs active in ICAO (EuroICSA) wish to make it clear that EU member states are in no position to respond to the SARP provisions at this time because, under EU law, it is the clear responsibility of the Council and European Parliament to first undertake a review of the EU's Emissions Trading System (EU ETS) and CORSIA provisions as set out in the 2017 revision to the ETS Directive¹.

Any reply proposed by the Commission should reserve European and member state positions through filing a general difference to protect Europe's right to meet its legal obligations including domestic laws and its obligations under international law, in particular the Paris Agreement.

The Commission and member states have an obligation to respect EU and international law. Any premature or uncritical response to ICAO by Europe would be condemned as a serious breach of Europe's legal obligations and all means available seized to challenge such a move.

We support the development of a Delegated Act to amend certain non-essential elements of the MRV provisions in the aviation ETS subject to the clear condition that any changes solely increase accuracy, transparency and accountability of reporting, in no way reduce any functionalities of existing ETS legislation, and are without prejudice to any future decision as regards participation in the CORSIA.

¹ Art 28b, Regulation 2017/2392

Given CORSIA's unresolved issues, its environmental weakness and lack of alignment with European climate ambition, industry calls to replace the EU ETS are premature and must be rejected. Such a move would also constitute a breach of Europe's obligations under the Paris Agreement, which has a target for outbound aviation emissions and which excludes the use of international credits. CORSIA breaches both of these commitments, and therefore relying on it as the sole measure to address aviation emissions would constitute backsliding in ambition, which the Paris Agreement prohibits.

A requirement to replace the EU ETS, with its more ambitious target and reliance on allowances, with the CORSIA which has a weaker target and relies on offsets of as yet unknown quality and which count for zero towards climate targets under EU law, would itself constitute a breach of the Paris Agreement's Article 3 no backsliding provision. The ETS as currently functioning has secured 100% compliance from over 500 carriers.

ICAO member states have until 2020 to indicate whether they will participate in the first voluntary phases of CORSIA. This decision must await the CORSIA review under the ETS legislation. We wish to make it clear that no decision on volunteering for CORSIA should be made until after this review. There is the option to volunteer all flights or none, or just flights to and from Europe, thus excluding flights between EU states.

In all its dealings with ICAO, Europe must defend its prerogative to go beyond lowest-common-denominator international agreements and protect its ability to meet and strengthen provisions to fulfil its existing and future Paris Agreement commitments.

We urge you to condition any work to support or implement CORSIA solely in accordance with EU and international law, and in a manner which reaffirms Europe's commitment to the Paris Agreement and its transition to a zero carbon economy. For the reasons outlined above, we call on you to:

- To reject any calls from industry to replace the EU ETS with the CORSIA
- To delay a response to ICAO about the SARP draft rules and the voluntary participation in CORSIA until the completion of the ETS review, as mandated by the ETS Directive.

Sincerely,

William Todts



Executive Director, Transport & Environment
william.todts@transportenvironment.org

Tim Johnson



Director, Aviation Environment Federation
tim@aef.org.uk

Eva Filzmoser



Executive Director, Carbon Market Watch
eva.Filzmoser@carbonmarketwatch.org