

Scene setter

You are meeting [REDACTED] and [REDACTED] from Lufthansa.

On 23 March you attended a workshop and dinner organised by Lufthansa (LH) top management at their Frankfurt premises.

This meeting is a follow-up to the workshop. Lufthansa also wants to discuss slot relief for the winter 22 season. Lufthansa may also raise a point about aviation insurance and the need for states to step in as insurers of last resort in case the war escalates.

Objective(s)

- Fit for 55: To convey the message that they are raising a valid point on the cumulative impact of Fit for 55 measures and to reassure LH of COM determination to maintain high levels of connectivity and competitiveness of the EU aviation industry. To explain that FF55 instruments contain some safeguards for this purpose (such as phase-in periods). To invite to further dialogue with MOVE or with co-legislators.
- Call on LH to support the Ukrainian refugee crisis by relying on their extensive network to enable refugees to reach safety across the Union.
- [REDACTED]
- ASR: Initiative to revise the Air Services Regulation now underway. MOVE particularly interested in LH views on financial fitness of air carriers (including possible changes to ownership and control requirements), and possibility of restrictions on traffic rights for environmental reasons. [Open Public Consultation is open for responses. Deadline 26 May. Targeted consultations for the impact assessment support study also in Q2 2022].
- Insurance – in a recent call between Dir E UA team and Lufthansa (and their in-house insurance broker, Albatros), they claimed that states should step in as insurers of last resort (in case the war escalates). They need to talk to DG COMP as this may be state aid (MOVE to be kept in the loop).

Key Messages

1. Post-Covid aviation ramp-up + Slots

State of the industry

- Eurocontrol traffic scenarios (1-11 May): We are currently flying at 86%, above the high scenario which was set at 82%. We continue to monitor the situation.

- COM is mindful of the severe and lasting impact of the COVID-19 on aviation and conscious of the impact that the war can have on the recuperation of the sector and in particular long haul.

Slots (beyond S22) and invasion of UA

- COM is working on a proposal for slot relief after the summer 22 season. [REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

2. Fit for 55 legislative package (including global competitiveness of European aviation)

- The European Green Deal aims to transform the EU into a fair and prosperous society, with a modern and competitive economy where there are no net emissions of greenhouse gases in 2050. So competitiveness is an essential part of the Deal.
- Therefore, we take your concerns on the potential risks of carbon leakage and reduced European connectivity very seriously.
- Our proposals address such risks and we consider that they are limited.
- We look forward to continue discussions with co-legislators on how to further address them, in a practical manner, if needed. However, at this stage, the role of the Commission is rather limited.

- As regards the proposed Regulation on **ReFuelEU Aviation**, i.e. on the harmonised supply and take-up of the Sustainable Aviation Fuels, the Commission proposal contains safeguards to preserve a level playing field and avoid carbon leakage, within the boundaries of international law.
- Anti-tankering provisions mitigate the risk of carbon leakage, by ensuring that airlines do not avoid refuelling at EU airports. Regarding the situation of EU airlines competing with flights that connect to hub airports outside the EU, the risk of carbon leakage exists but is assessed as moderate. The reasons for this are the following:
 - By 2025 and 2030, the Commission proposes SAF obligations of 2% and 5% respectively. By 2030, this would translate into a marginal ticket price increase of less than 1% on average. Given the current increase in energy prices, this is likely to be more.
 - Several third countries are currently developing their own national SAF policies, such as US, UK, CH, Turkey, Gulf states and others. By 2030 and 2035, it can be expected that SAF would be available at many hub airports outside the EU, which would help reducing the risk of carbon leakage.
 - More and more non-EU airlines are committing to using SAF as a way to reduce their emissions in the coming years. This will inevitably help EU airlines to compete on equivalent conditions.
 - In the first years of the SAF obligations, the Commission will closely monitor the evolution of airlines competitiveness and the risks of carbon leakage. The Commission proposal plans for a review by 2028, where adjustments could be made if necessary.
- If I may add an important point on ReFuelEU Aviation. We are setting up EU-level rules on SAF that must apply in a harmonised way across the EU. We must come together with a joint ambition to decarbonise European aviation as a whole. That means common targets at EU level – including on e-fuels, not State-by-State or airline by airline (this could create distortions for airlines and airports and affect competitiveness and affordability of flying). We count with LH as a key stakeholder to support an EU-level ambition.

- On the **EU Emissions Trading System**, ensuring the financial equality of passengers transferring in the EU to passengers transferring at hubs outside the EU could realistically only be done either by reducing SAF costs through free SAF allowances or by achieving equal carbon pricing with CORSIA (as the Commission has not proposed to apply the ETS to extra-European flights). While we strive to strengthen CORSIA in ICAO - in line with the European Green Deal that also calls for global action - bringing it to parity with the EU ETS is not a realistic objective.
- [REDACTED]
[REDACTED] On 11 May, we received a cross-industry letter on "SAF Allowances" that was co-signed by A4E so we assume the idea is supported by you. This could indeed be a way to help bridge the price gap with SAF.
- Concerning the **Energy Taxation Directive**, the Commission's proposal puts forward minimum rates of taxation that encourage a switch to more sustainable fuels. It also encourages more efficient and less polluting aircraft in the EU's aviation.
- The ETD proposal gives MS the optional choice to tax international flights in case bilateral agreements allow for it.
- The revision of the ETD is subject to unanimity vote in the Council (no co-decision as in case of other FF55 files), after consulting the European Parliament and the European Economic and Social Committee.
- In the Council, MS discussions are progressing, with a PCY compromise text expected under FR PCY. In the Parliament, the committee decision is awaited with a vote expected in June 2022. The EESC has already adopted its opinion in January 2022.

3. Global level playing field

EU external aviation policy (if the subject of CATAs is raised)

- The EU external aviation policy is based on combining market opening with setting an ambitious set of common standards. These standards go far beyond those of bilateral air services agreements.

- CATAs set global benchmarks for fair competition, social or environmental matters, which would otherwise not be set. This is very important to keep in mind.
- CATAs generate benefits for all aviation stakeholders, consumers and the overall economy. We believe this is the right way forward.
- We also continue to push for advancing fair competition in ICAO.

4. EASA-ECDC health protocol

- The European Union Aviation Safety Agency (EASA) and European Centre for Disease Prevention and Control (ECDC) have issued an update of the joint document defining measures to assure the health safety of air travellers and aviation personnel for the summer 2022.
- Overall the new guidelines have been shortened and simplified, where, as main measures, social distancing at airports has been lifted, the recommendations on flight services restrictions have been also lifted and more importantly, it is no more recommended to wear a mask during the flight, except if it is mandatory at the country of destination.
- The document place paramount importance on health safety at every stage of the end-to-end passenger journey. Recognising that airports, airlines and aircraft are different, it takes a pragmatic approach in implementation – highlighting and giving guidance on the ways in which individual locations and situations can best be re-engineered to meet the new health safety standards.

5. Importance of European hubs

- The COVID-19 pandemic has clearly affected connectivity within and beyond the EU and, thus, the activity of European hubs. Long-haul flights have been the slowest to recover. However, several key third countries, and notably our transatlantic partners, have removed travel restrictions, so the situation is now improving and intercontinental flights are picking up.
- The Commission is closely monitoring the situation and has adopted the Temporary Crisis Framework on 23 March to enable Member

States to use the flexibility foreseen under State aid rules to support the economy in the context of Russia's invasion of Ukraine.

Defensive Points

Fit for 55

The Fit for 55 proposal on ETS puts in doubt the EU's commitment to CORSIA – are you still a supporter of CORSIA?

- Yes, definitely. We really want to see CORSIA becoming successful in relation to the goal of Carbon Neutral Goal from 2020.
- This requires a high level of participation and robust environmental integrity. The Commission's proposal is designed to promote both these conditions and counter potential weaknesses in CORSIA.
- The fact that we propose to maintain our current emissions trading system for intra-EEA flights (and departures to the UK and Switzerland) is a reflection of our higher climate ambition in the EU and is fully in line with the statement delivered at the last Assembly so it shouldn't come as a surprise.
- In aviation, the EU is a single jurisdiction as regards many policies that are widely accepted (market access, ownership and control, single aircraft certification, third country operators, blacklist, etc).
- To avoid double charging under ETS and CORSIA on the same routes, the possibility of filing a difference to ICAO exists.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Why isn't there an overarching Impact Assessment for the whole Fit for 55 Package? (Cumulative impacts on aviation)

- The impact assessment accompanying the 2030 Climate Target Plan provides the costs and benefits of the revised climate ambition, i.e. of achieving 55% greenhouse gas emissions reductions by 2030. It defines cost-effective pathways to deliver the targets, assessing the best mix of instruments and sectoral contributions. It shows that all sectors need to contribute; otherwise, some sectors will have to do more, in a less cost-effective way. It also shows benefits in deploying a broad mix of policy instruments, including extending carbon pricing and increased energy and transport regulatory policy ambition.
- All Fit for 55 impact assessments start from the Climate Target Plan, ensuring that the proposals “add up” to the 55% greenhouse gas emissions reductions target and that all sectors contribute to the effort cost-effectively. In other words, we followed a two-step approach: the Climate Target Plan provided the key elements of the policy architecture (e.g. standards, targets, sectors targeted) that are spelled out now in the Fit for 55 proposals.

ReFuelEU Aviation: How do you avoid putting EU aviation industry at competitive disadvantage with non-EU industry, in particular EU hub airports?

- It is essential that all aviation players (EU and non-EU) contribute to the SAF transition and bear the (financial) effort of using SAF. There should be no difference of treatment depending on the nationality of the airlines. An anti-tankering measure will ensure that all airlines take up SAF at EU airports.
- With moderate targets at the start, the impact on ticket prices will be minimal (around 1% increase by 2030). We don't see any potential for distortion with such levels, or shift of airlines to non-EU airport hubs.
- We need to continue working at ICAO level towards establishing global action on SAF. This will ensure a level playing field.

Are you imposing the SAF blending mandate on non-EU airlines? How will your aviation proposals affect third-country carriers?

- The decarbonisation of air transport can only be successful if embraced by all actors on the market and if a level playing field between airlines is ensured. In setting a SAF blending mandate, it would be essential to avoid creating turf for distortion of competition, or putting some airlines at a disadvantage.

- The proposed rules are very different from the ETS full scope. First, the blending mandate is placed on fuel suppliers distributing fuel at EU airports. All airlines are treated equally, regardless of their nationality. Second, the obligation on airlines is only a technical requirement to avoid unnecessary emission.
- We understand that there is increasing interest from non-EU airlines to decarbonise their activities with the use of SAF. By boosting SAF production in the EU, this would create more opportunities for such airlines to reduce the carbon footprint of their passengers, and also to claim benefits for SAF usage under relevant greenhouse gas schemes like CORSIA.

ReFuelEU Aviation: What are your expectations on SAF prices?

- It is very difficult to predict accurately how SAF prices will evolve in the years to come. The volatility of feedstock prices and the evolution of fossil energy prices depend on many factors, including the effect on the market of the uncertainty linked to the COVID-19 situation, the increased reliance of States around the world on bioenergy to decarbonise, and others. According to [REDACTED] (independent provider of energy market price information), SAF prices will remain firm over the next 12 months, with monthly averages ranging from a low of \$2,800/t to a high of \$3,400/t. But increasing demand in 2022 and a tight supply environment could add upwards pressure to SAF prices. Some downward trend could be expected in spring/summer 2022, but not back to 2020 levels, and not even to prices in the first half of 2021.
- Nevertheless, in spite of the current high trend and price fluctuations on the energy market, the long-term trend for the evolution of SAF production costs as described in the ReFuelEU Aviation impact assessment remains credible and endorsed by actors of the aviation and fuels industry. This decrease will be possible through economies of scale of the SAF industry (boosted by the EU industrial alliance on Renewable and Low Carbon Fuels), as well as the following policy mechanisms. The EU ETS will play an increasing role in reducing the cost of SAF for airlines, as the price of a tonne of CO₂ is currently around 85€, and is expected to further increase. CORSIA will also help to reduce the cost of SAF on extra-EEA flights. If the energy tax directive is adopted, the zero minimum tax rate on SAF would give SAF a fiscal advantage. These complementary instruments will further reduce the price gap.
- The price of fossil kerosene is expected to increase over time, hence also reducing the price gap with SAF.
- The current high SAF prices confirms that the approach of starting with moderate SAF targets is sensible.

SAF: Does the Commission consider Contracts for Difference to decrease the costs of SAF and support the competitiveness of aviation?

- At the EU level, the Commission recognized in its ETS proposal the role of the Carbon Contracts for Difference (CCDs) to encourage emission reductions in industry. Specifically, it proposed to extend the range of measures that the Innovation Fund can support to projects such as CCDs. While transport, including aviation, could potentially benefit from this support, no sectoral earmarking has been envisaged. The specific rules how such type of support would work are to be defined via a delegated act.
- At the national level, support to Contract for Difference for renewable energy is possible under the new Commission's Guidelines on State aid for climate, environmental protection and energy (CEEAG).
- The upcoming Industrial Alliance for Renewable and Low Carbon Fuels Value Chains will also provide a forum and opportunity for stakeholders to further explore how CfD could be operationalised in the aviation (and waterborne) context and effectively combined with other measures such as uptake obligations.

CATA

You should set more stringent sustainability targets and requirements in air transport agreements with third countries:

- We are all in favour of the need to fight climate change and make use of all the tools at our disposal to do so. EU aviation agreements are one of them and the latest agreements being negotiated include important elements on sustainability.
- They stress the need for environmental protection, to work together at domestic and international level to reduce emissions, and allow for taxing aviation fuel within the EU. This is a major improvement from the current bilateral agreements of Member States, which include zero elements on the environment, and fully exempt aviation fuel from taxes.
- However, we can only be successful in this area if MSs, that negotiate most of the aviation agreements, will be ready to renegotiate their existing bilateral agreements to include new environmental requirements and will refuse to negotiate any new ones unless these clauses are included.
- Otherwise, there is very little we can achieve at EU level as third countries will refuse to negotiate with the EU and will prefer to follow the bilateral route with MSs that is less demanding in this area.

Qatar should provide full financial transparency (ie separate accounts for the airline) for the past years in advance of the Joint Committee meeting:

- Financial transparency is a key element and the EU-Qatar CATA has set a new global benchmark with its transparency obligations.
- However, the CATA was signed last October only, and its rights and obligations - including those on transparency - only started applying from the day of signature.

- As there is no legal basis for such request, we should take a forward-looking approach instead. We will discuss financial transparency at the forthcoming Joint Committee and ensure that the obligations are being complied with.

The Commission should ensure that non- EU airlines comply with the principles set forth in the agreement before they are signed:

- Let us stay realistic: This is not how international agreements work. Rights and obligations are exchanged with the signing and application of the agreement.
- We therefore have an interest to swiftly sign these agreements, and apply them in their entirety from day 1.

CRS

When will COM be proposing a revision of the CRS Code of Conduct Regulation?

- Timing of revision of the CRS Code of Conduct aligned with timeline of the initiative on multimodal digital mobility service, in order to ensure full coherence. Scheduled timeline for adoption for MDMS is Q4 2022.

Insurance (Russian invasion of Ukraine)

Would MOVE support the airline industry in its discussions with COMP to make states the “insurers of last resort” in case the war escalates and no commercial insurance can be obtained?

- We are aware that some insurance clauses may automatically terminate the insurance coverage (e.g. nuclear attack, war between the UN Security Council members). At the same time, the insurance community has been reassuring it that they will continue providing coverage for as long as possible. This is their business after all and if all insurance contracts were to be cancelled, they would not make any revenue.
- At the same time, we hear and acknowledge your concerns about the risk that if the war was to escalate, there would be no insurer ready to step in. We note your view that ultimately the states should be the “insurers of last resort” (similarly to what happened after 9/11). We encourage you to discuss it with DG COMP as such state involvement may amount to state aid. MOVE would like to be kept in the loop.

Background

ReFuelEU Aviation

The Commission adopted a legislative proposal as part of Fit for 55, which consists of a SAF blending obligation on aviation fuel suppliers with increasing targets over time, starting in 2025. An obligation on airlines to uplift aviation fuel prior to departures from EU airports aims to prevent fuel tankering and ensure a level playing field between airlines and airports for intra and extra-EEA flights. The ramp-up of SAF binding targets is as follows:

Total shares in the fuel mix (in %)	2025	2030	2035	2040	2045	2050
SAF ramp up out of which:	2	5	20	32	38	63
Specific sub-mandate on e-fuels	-	0.7	5	8	11	28

State of play of ReFuelEU Aviation discussions

The Commission adopted a legislative proposal as part of Fit for 55, which consists of a SAF blending obligation on aviation fuel suppliers with increasing targets over time, starting in 2025. An obligation on airlines to uplift aviation fuel prior to departures from EU airports aims to prevent fuel tankering and ensure a level playing field between airlines and airports for intra and extra-EEA flights. The ramp-up of SAF binding targets as proposed by COM is as follows:

Total shares in the fuel mix (in %)	2025	2030	2035	2040	2045	2050
SAF ramp up out of which:	2	5	20	32	38	63
Specific sub-mandate on e-fuels	-	0.7	5	8	11	28

State of play of ReFuelEU Aviation at the EP and Council

Discussions in the EP are progressing well. The draft report in TRAN was presented by the rapporteur Søren Gade (Renew, DK) on 11 February and consideration of amendments on 19 April. The draft report is broadly in line with the main features of COM proposal. Ongoing discussions between groups centre around (1) broadening of the SAF definition to include more feedstock, hydrogen and electricity, (2) the level of ambition for e-fuels, and (3) the need to preserve a level playing field for the aviation market. ITRE and ENVI committee opinions push for higher ambition, notably mandating the use of liquid hydrogen and electricity by 2035. The report in TRAN is expected to be voted mi-June and in the plenary end July.

Discussions in the Council are progressing. A policy debate took place at the TTE Council on 9 December and Coreper on 6 April clarified MS position on the two political questions (see below). Next Coreper is planned for 20 May. Discussions mainly revolve around two points:

- a) The level of ambition: some MS argue for higher overall targets (DE, DK, NL, SE, FI, LU, AT), including the possibility to set higher national targets (same MS). Others argue for lower level of ambition (PL, HU, CZ, SK, MT, CY). We are strongly attached to the EU-level of ambition and must preserve it by all means. Differing national binding targets would be unmanageable for the airlines and the

fuel producers alike, and would create real competitive distortions in the aviation market.

- b) The nature of fuels and feedstock eligible: some MS are happy with the proposed approach. Others want to open the eligibility of fuels to first generation feedstock. It is not for ReFuelEU Aviation to decide which feedstock is sustainable or not. This should be decided under the revision of the Renewable Energies Directive (RED).

FR Presidency aims to make progress and reach a General Approach by June. TTE Council will take place on 2 June.

Background on the status of ETD:

In the European Parliament, the files was assigned to the Committee on Economic and Monetary Affairs (ECON), with ITRE committee associated; TRAN committee is contributing. The ECON appointed rapporteur is Johan Van Overtveldt (ECR, Belgium), and for ITRE – Robert Hajšel (S&D, Slovakia). The rapporteur delivered a draft report on 28 February 2022, which was then opened to amendments. Although the report recognized the risk of carbon leakage and impacts on competitiveness of aviation and maritime, the amendments proposed support taxation of jet fuels, although introduce more favourable treatment for cleaner fuels. The committee is expected to vote on the final report on 20 June 2022, with a plenary vote provisionally scheduled for 12 September 2022.

In the Council, the examination of the proposal has taken place in the Working Party on tax questions. The aviation specific provisions were discussed so far during two meetings: on 20 October 2021 and 8 April 2022. FR PCY aims to propose a compromise text still during its term. FR PCY partial compromise (excludes aviation articles) was discussed on 2 May. As anticipated, MS positions on aviation are divided, with many MS still developing their position:

- a number of MS support the introduction of a fuel tax;
- some MS proposed to discuss on a ticket tax, even combined with the fuel tax;
- a transitional period is considered necessary by many MS;
- geographical and connectivity concerns have been raised, together with possible issues of international competitiveness and fuel tankering;
- overall impact on the sector should be further assessed.

The European Economic and Social Committee adopted an opinion on the Energy Taxation Directive in plenary on 21 January 2022. Concerning aviation and waterborne, the Committee questions whether taxation is the best way to promote improved sustainability in these modes, and instead suggests to propose dedicated solutions to promote new and sustainable means of propulsion. It also considers worldwide solutions should be promoted.





EU DCC

The EU Digital COVID Certificate has been a crucial element in Europe's response to the COVID-19 pandemic, has rapidly become a global standard and is greatly supporting the recovery of the aviation sector. Since its roll out and the application of the EU DCC Regulation, more than 1.7 billion EU Digital COVID Certificates have been issued and around 60 States (27 EU States and 35 third countries from all five continents) across the globe are now part of the system,

The date when the EU Digital COVID Certificate Regulation is currently set to expire is on the 30 June 2022. However, as a result of the current epidemiological situation, Member States might find it necessary to keep EU DCC to maintain or reintroduce a requirement for EU citizens exercising their right to free movement. In a survey, essentially all responding Member States indicated a possible need, in the context of travel, for proofs of vaccination, test or recovery during the second half of 2022 and the first half of 2023,

In early February 2022, the Commission proposed to extend the application of the EU Digital COVID Certificate Regulation by 12 months, so that, in the event that certain restrictions to free movement based on public health would still be in place after 30 June 2022, EU citizens will not be deprived of the EU Digital COVID Certificates as an effective, secure and privacy-preserving way of proving their COVID-19 vaccination, test and recovery status.

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