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THE EUROPEAN SAF MANDATE AND ITS IMPACT ON COMPETITION: MAINTAINING OR DISTORTING THE LEVEL PLAYING FIELD?

READING TIME: +/- 15 MINUTES

The aviation industry is facing a transformative challenge to step up its efforts to reduce carbon emissions. As part of these efforts, sustainable aviation fuel (SAF) represents a pivotal component in achieving greener aviation. Compared to fossil-based jet fuel, SAF has the potential to reduce lifecycle CO₂ emissions by up to 80%.

Following the adoption of Regulation (EU) 2023/2405 – known as ‘[the ReFuelEU Aviation Regulation](#)’ (the **Regulation**) – aviation fuel suppliers, airlines and airports face new obligations to ensure increased uptake of SAF in the coming decades, thereby serving the EU objective to reduce net greenhouse gas emissions (**GHG**) by at least 55% by 2030, compared to 1990 levels.

The Regulation constitutes an unprecedented intervention in market dynamics to kickstart a nascent industry, by imposing mandated uptake of SAF. The EU legislator aims to do so whilst maintaining the level playing field on the EU transport and aviation fuel markets. Still, the mandate can be expected to have major implications on competitive dynamics affecting SAF producers, fuel suppliers, airlines and airports. This blogpost sheds light on these implications and provides an outlook on the possible introduction of a so-called ‘book and claim’ system.

KEY TAKE AWAYS:

- ♦ The physical supply-side mandate poses logistical and commercial challenges for fuel suppliers. Whilst the flexibility mechanism under the Regulation intends to mitigate potential concerns, it is yet unclear how this mechanism can and will be used.
- ♦ Airlines are often confronted with fuel suppliers having strong, if not dominant, local market positions. The mandate further increases the leverage for fuel suppliers given the mandatory physical supply of a scarce product and the anti-tankering requirements. A book and claim system would allow airlines to counterbalance this leverage but has its own challenges.
- ♦ Airports were given a rather neutral role in the scaling-up of the SAF update, focusing on logistical facilitation. This ignores the fact that airports are already pursuing their own strategies in incentivising or even mandating SAF uptake outside of the scope of the Regulation.

KEY DEFINITIONS

Before discussing the requirements under and competitive impact of the Regulation, it is essential to define a few key terms;

SAF

The term SAF is used by the aviation industry to refer to a sustainable, non-conventional, alternative to fossil-based jet fuel.

The Regulation includes a definition of SAF that encompasses different types of SAF (synthetic aviation fuels, aviation biofuels or recycled aviation carbon fuels). There are various production pathways, as well as feedstocks that can be used, such as waste oil and fats. Eligibility of those fuels should be based on the sustainability criteria and thresholds established in the [Renewable Energy Directive \('EU Red'\)](#).

In this article the term 'SAF' is used to describe the fuel derived from renewable feedstocks before the blending with fossil fuels – so-called 'neat SAF'. The

ultimate blend of this SAF with conventional fuel is referred to as 'SAF-blended fuel'.

Currently, SAF is deemed a scarce product. Various sources refer to an estimated maximum SAF production capacity today in the EU of around 0.2 million tonnes, representing only 10% of the volume of SAF that will be required in 2030 under the then applicable mandate. However, this does not take into account production capacity outside the EU, and does not reflect the vast investments currently being made for the development of new SAF production projects. SAF producers that are already operative are optimistic that the available quantities of SAF will be sufficient to meet the targets during the initial years of the mandate.

Fuel supplier

In simple terms, a fuel supplier should be understood as an undertaking supplying aviation fuel to airlines at an airport. But the Regulation uses a definition that refers to the entity supplying fuel to the market that is responsible for passing fuel through an excise duty point (i.e., is obliged to pay Value Added Taxes on the sales of fuel), or where no excise is due or where duly justified, any other relevant entity designated by a Member State. This definition causes uncertainty in practice, and is currently being interpreted differently amongst Member States.

Union airports

The Regulation does not require SAF to be distributed at every Union airport. The mandate only applies to those airports where passenger traffic was higher than 800,000 passengers or where the freight traffic was higher than 100,000 tonnes in the previous reporting period, and not situated in an outermost region. According to data provided by Airports Council International Europe (ACI Europe), this currently concerns 152 airports in the European Economic Area. The Regulation allows additional airports to fall within the scope of the requirements via an opt-in.

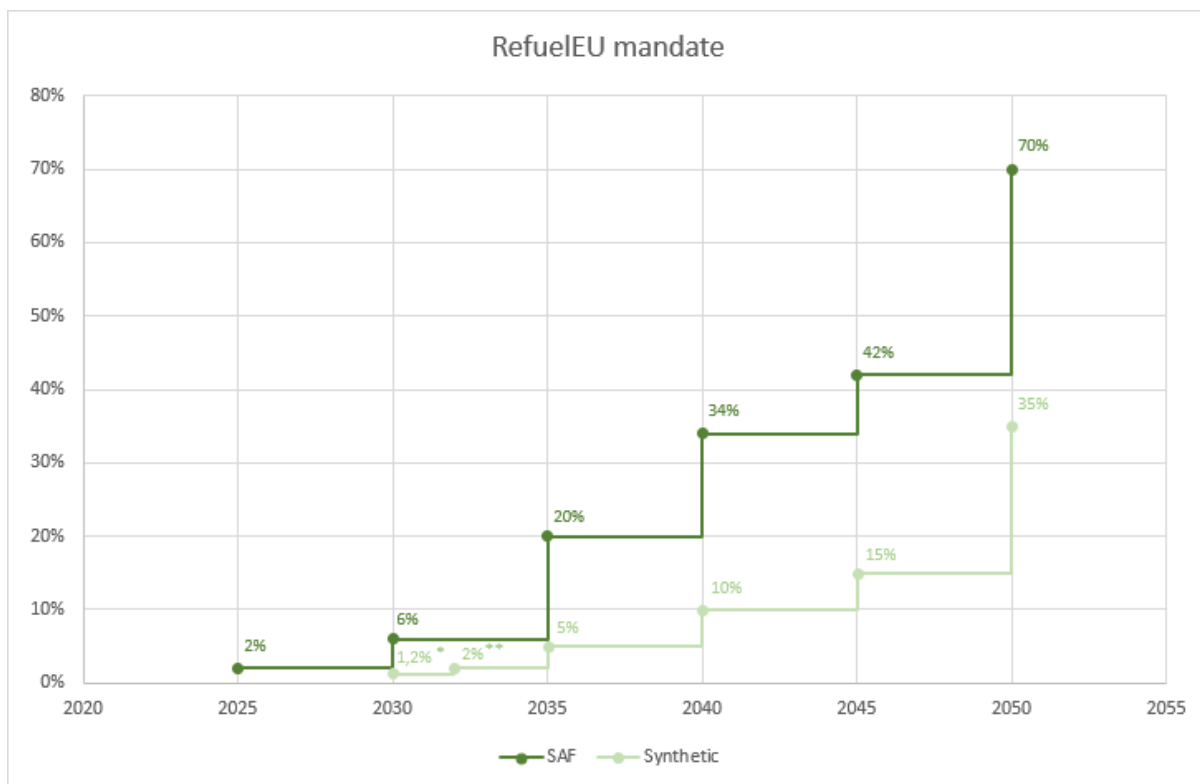
KEY REQUIREMENTS UNDER THE REGULATION

Mandate for fuel suppliers

The Regulation requires fuel suppliers to *'ensure that all aviation fuel made available to aircraft operators at each Union airport contains the minimum shares of SAF'*. This obligation applies as of 1 January 2025. In principle, the minimum shares of SAF must be **physically supplied** at all Union airports that fall within the scope of the Regulation.

The minimum SAF shares that SAF-blended fuel must contain are set out in Annex I of the Regulation, starting with 2% and gradually increasing to 70% as of 2050.

A separate sub-mandate for synthetic aviation fuels will apply from 2030, which increases to 35% (so half of the total SAF mandate) as of 2050. As shown in the graph below, the objectives are set to increase every five years, although the increments are not distributed evenly over time and represent huge leaps which fuel suppliers are bound to overcome.



* From 1 January 2030 until 31 December 2031: average share of 1,2 % of synthetic aviation fuels, of which each year minimum 0,7 %.

** From 1 January 2032 until 31 December 2034: average share of 2,0 % of synthetic aviation fuels, of which each year minimum 1,2 % from 1 January 2032 until 31 December 2033 and 2,0 % from 1 January 2034 until 31 December 2034.

It is expected that the introduction of the physical supply mandate will bring logistical challenges for fuel suppliers. To mitigate these challenges, the Regulation offers an exception to the principle of physical SAF supply at all Union airports in the form of a so-called **flexibility mechanism**. This mechanism is available for the period from January 1, 2025 to December 31, 2034. It allows fuel suppliers to comply with the minimum SAF percentages by means of a weighted average of the aviation fuel they supply at all Union airports that are subject to the Regulation. The targets can thus be over-achieved at airports in areas where SAF supply is most cost-effective to compensate for under-supply at other airports.

The practical relevance of the flexibility mechanism for fuel suppliers can be questioned for two reasons:

1. The flexibility is only available to fuel suppliers serving multiple Union airports. Local fuels suppliers active at only one Union airport will not be able to benefit from the mechanism.
2. Uncertainty exists on whether the flexibility can only be used by specific legal entities or also within the wider corporate group of a fuel supplier. Fuel suppliers can use corporate structures comprising separate legal entities for the respective countries or even airports where they are active. It does not clearly follow from the legal definition of 'fuel supplier' whether the overarching group or a specific legal entity is to be qualified as the company subjected to the mandate and for which the flexibility mechanism is available. If it is the legal entity, the scope of application and hence the benefit of the mechanism is significantly reduced.

Tankering prohibition for airlines

The SAF mandate is imposed on the supply-side of the market and not the demand-side. Under the Regulation, airlines are not subject to any obligation to uplift fuel with certain minimum shares of SAF. However, airlines will of course be indirectly subjected to the supply-side mandate, as they will no longer be able to purchase conventional fuel if only SAF-blended fuel is offered by fuel suppliers. And airlines will only be able to claim the environmental benefits of the uplifted SAF actually purchased by them. The main regulatory obligation directly imposed on airlines concerns the so-called anti-tankering requirement. This requirement applies to airlines that operated at least 500 commercial passenger air transport flights, or 52 commercial all-cargo air transport flights departing from Union airports in the previous reporting period. For those airlines, the yearly quantity of fuel uplifted at a Union airport must be at least 90% of the yearly quantity of fuel required for flights from that airport. This prevents airlines from tankering fuel at airports (especially located outside the EEA) where fuel costs are lower e.g. because no SAF mandate applies. The anti-tankering requirement is meant to avoid what is seen as an unsustainable practice and at the same time to help preserve the level playing field for both airlines and airports.

Facilitation by airports

Under the Regulation, airports are deliberately allocated a more neutral role. They are not required to play a pro-active role in the scaling-up of SAF uptake, beyond the need to take all necessary measures to facilitate the access of airlines to SAF-blended fuel.' It is not entirely clear how far-reaching this facilitation obligation is and how in practice it will correlate to the use of the flexibility mechanism.

THE REGULATION'S IMPACT ON COMPETITIVE DYNAMICS

FUEL SUPPLIERS



The mandate introduced under the Regulation constitutes a significant intervention in the aviation fuel supply and demand market. This can be expected to impact competitive dynamics and the level playing field for fuel suppliers in several ways.

First, a failure by local suppliers to secure access to sufficient SAF will trigger public enforcement and may jeopardise the ability to continue operations on the fuel supply market. Securing that access may be challenging, given the scarcity of SAF and nascency of the industry. Many SAF production projects are currently being developed (large and small), but significant investment in terms of time and costs will be required for these projects to be completed. To guarantee compliance with the mandate, fuel suppliers will be dependent either on their own SAF production or on SAF procurement agreements with a small pool of SAF producers. In the global market for SAF purchases (by fuel suppliers, airlines and corporates), smaller fuel suppliers risk being last in line.

Second, concerns may arise in the context of large, vertically integrated companies that are both producing SAF and supply fuel at airports. Such businesses can have a competitive advantage over fuel suppliers without their own SAF production, as they have a reduced risk to face supply shortages and can avoid the payment of a profit margin at the level of SAF production. Moreover, where fuel suppliers depend on SAF supplies by vertically integrated competitors, there will be an inherent risk of exclusionary behaviour, eg through refusals or delays of supplies, discriminatory or unreasonable terms, predatory pricing or so-called margin squeeze (not allowing competing fuel suppliers to profitably sell SAF-blended fuel based on the price of SAF compared to the price charged for SAF-blended fuel by the vertically integrated supplier). Whether such behaviour is likely to occur and if so, whether it would prevent non-vertically integrated fuel suppliers from competing effectively, will depend on the strength of market positions of vertically integrated business, which in turn will depend on the level of scarcity of SAF.

Despite these risks, it appears that the Regulation has triggered more concerns being voiced by airlines than by fuel suppliers. Perhaps this is explained by the strong market positions that fuel suppliers may have vis-à-vis airlines: even if certain fuel suppliers can only get access to SAF at very high prices, airlines often have little leverage to push back against those high prices being fully passed on to them through higher SAF-blended fuel costs.



Airlines are generally keen to advance the use of SAF and the development of sufficient SAF supply. Not only is this beneficial in the context of their individual sustainability commitments, but also imperative due to investors demands and increased pressure from consumers. Furthermore, the use of SAF yields benefits under the EU ETS for intra-EEA flights. Airlines have to submit CO₂ allowances on the basis of their CO₂ emissions for every intra-EU flight. To align with the EU climate target, the number of free allowances continuously reduces, and will be completely phased-out from 2026. From then, airlines will have to purchase or auction the allowances they need. The use of SAF that meets the EU RED requirements will reduce their financial burden resulting from EU ETS as they are zero rated under the scheme. According to the [ETS Directive](#), for the period from 1 January 2024 until 31 December 2030, a maximum of 20 million of the total quantity of allowances shall be reserved for the use of SAF. The idea is that those allowances should cover part of the remaining price differential between fossil fuel and SAF. The idea is that those allowances should cover part of the remaining price differential between fossil fuel and SAF.

Notwithstanding their desire to increase SAF uptake, airlines share concerns on the way in which the Regulation may adversely impact their competitive position vis-à-vis other airlines, and their negotiating leverage vis-à-vis fuel suppliers. These concerns are substantial, also given the expected economic impact of the mandate. Fuel represents the largest element of operational costs for an airline. Since SAF carries a price tag that is approximately triple that of conventional fossil fuel (and more depending on the type of SAF), the mandate is expected to significantly affect economic performances of airlines, as well as ticket prices.

In respect of competition between airlines, the intention to maintain the level playing field can be distorted by the following types of airlines gaining a competitive advantage as a result of the Regulation:

- ♦ Airlines mainly operating from smaller airports falling outside of the scope of application of the Regulation;
- ♦ Airlines mainly operating from airports falling short of the mandate as a result of the use of the flexibility mechanism by local fuel suppliers;
- ♦ Non-EU airlines that offer long haul flights via their non-EU hub. Those airlines are similarly affected by the need to purchase SAF blended fuel at the Union airport where a flight originates or departs from. But in the case of a stopover, no SAF mandate would apply under the Regulation for the second leg of the flight. This may result in lower ticket prices for those passengers who choose to avoid long-haul flights from or via EU hubs by connecting or re-routing via a non-EU hub. It is recognised in recital 50 of the Regulation that this could lead to distortions of competition at the expense of Union airports and airlines using such airports, and could lead to carbon leakage. The Commission is called upon in this recital to develop “targeted mechanisms aiming at preventing those effects”.

Airlines also raise concerns in respect of their negotiation position vis-à-vis fuel suppliers. In this respect, it should be noted that at some airports, competition between fuel suppliers is already rather limited. Strong or even dominant local market positions by fuel suppliers can result in a lack of bargaining power for airlines and risks of excessive prices and unreasonable conditions. Such risks of exploitative behaviour will only increase due to a mandated uptake of a scarce product to which access may be challenging for fuel suppliers.

These risks are further reinforced by:

- ♦ **The tankering prohibition:** airlines effectively lose an outside option as alternative to purchasing more expensive (SAF blended) fuel offered by dominant or very strong local suppliers; and
- ♦ **Local SAF requirements beyond the mandate:** as a result of the flexibility mechanism, far-reaching ambitions of fuel suppliers and/or airport mandates (see below), airlines can be confronted with requirements to locally purchase fuel with SAF percentages well beyond the mandate.

To some extent, the leverage of fuel suppliers may be counterbalanced by airlines entering into wider offtake agreements with fuel suppliers covering various airports, including airports where considerable competition with other suppliers does exist.

AIRPORTS



The implementation of the Regulation may also affect competitive dynamics between airports. This is because the share of SAF offered by fuel suppliers at an airport, and hence the price of fuel, will impact the airport's economic attractiveness *vis-à-vis* airlines. This can go in two directions: certain airlines may prefer to operate at airports where lower shares of SAF are blended if that results in lower fuel costs. Conversely, certain airlines may seek to avoid operating at airports with low SAF availability, as it limits the ability to meet their own sustainability targets.

Airports must also take into account their own sustainability commitments, eg in relation to so-called 'Scope 3 emissions'. These are GHG emissions caused by third parties and not produced or controlled directly by the airport. Ensuring increased SAF uptake is one of the ways in which airports can effectively seek to limit these emissions.

The difficulty for airports is that under the Regulation, they have only limited possibilities of influencing the local SAF supply. They depend on the options and ambitions of local fuel suppliers, and the fuel suppliers' use of the flexibility mechanism, which will determine whether the local SAF supply will exceed or fall short of the mandate.

In practice, some airports take a proactive approach and adopt measures to increase local SAF uptake. This can take the form of incentives making it more attractive for airlines to use SAF, being funded through external/governmental funding or, which is now more often the case, funded by airlines through airport charges. It can also take the form of additional SAF mandates. However, such deviating local mandates risk creating a patchwork of different standards across airports in the EEA. This would be contrary to the policy objective of maintaining a level playing field through a harmonized Regulation. For this reason, the European Commission made clear that national mandates imposing higher SAF shares are no longer possible following the entry into force of the Regulation (eg, as communicated in this [letter from the Dutch Minister of Infrastructure and Water Management](#)). And whereas the Regulation explicitly leaves room for airlines and fuel suppliers to pursue a more ambitious environmental policy, it does not provide this discretion to airports.

OUTLOOK: A BOOK AND CLAIM SYSTEM TO ALLEVIATE COMPETITION CONCERNS?



The potential competition concerns raised by the Regulation in large part result from the adopted principle that SAF must be physically supplied by every fuel supplier at all Union airports within the scope of the Regulation. Especially from the side of airlines, calls are made to mitigate competition concerns by allowing airlines to purchase SAF from their preferred supplier, irrespective of where in the EEA the SAF is physically uplifted or consumed. This is referred to as a 'book and claim' system, allowing for the claiming of emissions reduction from SAF via purchase records. The European Commission is currently assessing the possibility to include elements of a book and claim system as part of a revision of the Regulation.

In essence, a book and claim system already exists for airlines that want to purchase SAF beyond the regulatory mandate on a voluntary basis, and also for corporations or individual passengers who make additional SAF purchases to fly more sustainably. Airlines are keen to introduce this system for all their SAF purchases. It would allow them to fully benefit from competition between SAF producers and fuel suppliers, and to make use of the most cost-efficient offers of SAF-blended fuel available anywhere in the EEA. However, the question is how a book and claim system would affect fuel suppliers and airports, and how it could be applied, administered and enforced in practice.

For fuel suppliers, a book and claim system may well result in only those who can supply the least expensive SAF-blended fuel within the EEA meeting (or likely over-achieving) the mandate. Fuel suppliers active at airports further removed from sources of SAF production, or smaller suppliers obtaining less attractive supply terms from SAF producers, would likely struggle to find airlines willing to buy their SAF-blended fuel.

In this context, it is unclear how virtual SAF purchases elsewhere would affect the physical supply of fuel locally. Aircraft will of course still have to uplift fuel at their departing airports, and will then depend on the (SAF-blended) fuel offered by local fuel suppliers. Those local suppliers may not be able or willing to serve airlines with only conventional fuel in view of SAF purchases already made with other suppliers. To solve this issue, a book and claim system may need to involve a settlement mechanism between fuel suppliers similar to the mass balance mechanism already in use at larger Union airports where suppliers use common infrastructure for conventional jet fuel. To make such a system work effectively, certain additional administrative and commercial challenges will need to be overcome.

Alternatively, a book and claim system could be introduced as part of a general shift away from the requirement of physical SAF supplies at all Union airports. Replacing the mandate imposed on fuel suppliers, the primary focus for achieving the minimum SAF percentages under the mandate would then rest with the airlines. The key benefit of such a fully virtual system is that it can ensure that SAF is purchased and uplifted there where it is most cost-efficient. However, it is not unlikely for such a system to result in the markets for the production and supply of SAF and SAF-blended fuel then becoming characterised by just a few large-scale suppliers, geographically concentrated around major airports (such as Amsterdam – Schiphol, Paris – Charles de Gaulle and Frankfurt). This would be contrary to the European Commission’s deliberate policy choice for a regulatory framework designed to ensure the development of SAF production and supply locally across the EEA, also to maintain a level playing field for airports.

It is thus challenging to find the right balance between enabling more competition internationally, whilst encouraging local SAF initiatives, and without creating even more administrative burdens and operational obstacles for the sector. This explains why the European Commission gave itself more time to consider the options for introducing a book and claim system, without delaying the entry into force of the Regulation and the mandate.

Based on further sector consultations and expert reports, the European Commission is expected to publish its findings and proposals for a potential revision of the Regulation by July this year (which may however be delayed). We will give an update on those proposals in our next blogpost on the implementation of the ReFuelEU Aviation Regulation.

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