

Regulating Aviation Emissions in Nigeria: Carbon Market at the Intersection of Environmental, Energy and Aviation Law.

Kate Andrew Nwosi, PhD.*

1. Lecturer with the Department of Jurisprudence and International Law, Faculty of Law, Rivers State University,

Abstract

Aviation-induced emissions regulation in Nigeria cannot be effectively addressed through isolated legal frameworks. And environmental issues cannot be sufficiently addressed through fragmented legal and institutional frameworks. Environmental protection obligations, energy transition requirements, and international aviation compliance requirements intersect in ways that necessitate synchronised legal responses. The aviation sector in Nigeria has significantly expanded over the years, adding to increasing greenhouse gas (GHG) emissions while functioning within an isolated environmental protection regulation. This paper is borne out of the fact that this isolated environmental regulation of aviation-induced emissions poses a serious setback to achieving net-zero emissions targets. The aim is to analyse the possibility of using the recently approved carbon credit market to harmonise all environmental protection laws and energy transition in Nigeria. This paper adopted the doctrinal research methodology. It examines aviation-induced emissions as environmental externalities; energy law perception of aviation fuel transition and carbon finance; aviation law and international compliance obligations; Nigeria's emerging carbon credit market: legal and institutional challenges. Findings reveal that carbon markets function as a legal bridge across environmental, energy and aviation law regulatory domains. Sadly, it has remained underdeveloped due to a lack of robust and enforceable laws. It concludes that operative aviation decarbonisation in Nigeria entails coordinated legal reform that embeds carbon markets within enforceable environmental regulation, energy transition law, and aviation compliance frameworks. The paper, among others, recommends that Nigeria should integrate carbon markets into enforceable environmental law, adaptive energy regulation, and coordinated aviation compliance frameworks.

Keywords

Aviation law, Environmental law, Energy law, Carbon markets, Climate change, Nigeria.

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1. Introduction

The Civil Aviation Act, 2022,ⁱ is the focal legal instrument that oversees the aviation sector in Nigeria. The Act established the Nigerian Civil Aviation Authority ⁱⁱ(NCAA), a body corporate vested with the power to make regulations on aviation issues. The power includes aircraft registration, aviation safety and security; air navigation services; commercial air transport, aerodrome and airspace standard and most importantly, environmental regulations. Section 8 (1) (J) empowered the NCAA to make policies on environmental regulation within the Nigerian aviation sectorⁱⁱⁱ and to ensure that the aviation sector in Nigeria is at par with the international community in terms of adopting and implementing ICAO Standards and Recommended Practices. In executing this task, the NCAA made the Civil Aviation Environmental Regulation Part 16, which specifically deals with how to reduce aviation pollution and safeguard the environment. It adopted the most recent ICAO Carbon Offsetting and Reduction Scheme for International Aviation (CORSA) into the sector.

The National Environmental Standards and Regulations Enforcement Agency (NESREA) is responsible for protecting and developing the environment, biodiversity conservation and sustainable development of Nigeria's natural resources in general and environmental technology, including coordination and liaison with relevant stakeholders within and outside Nigeria on matters of enforcement of environmental standards, regulations, laws, policies and guidelines.^{iv} Despite being the chief environmental regulator, aviation-induced emissions are not incorporated into its regulation; it is left for the NCAA to regulate.

Nigeria's climate obligations, the evolving general carbon credit market, sustainable aviation fuel governance, and international aviation compliance mechanisms are key areas of serious concern, as they cut across environmental law, energy law and aviation law. The carbon credit market is a new idea of emission reduction, which allows states and the private sector to reduce carbon footprints.^v and it is capable of functioning as a legal bridge across environmental, energy and aviation law regulatory domains. Sadly, it has remained underdeveloped as a result of weak statutory and institutional fragmentation.

It is against this backdrop that this paper has decided to examine the possibility of regulating aviation-induced emissions in Nigeria, using the carbon market intersecting environmental, energy and aviation law. Most scholars generally accept that reducing emissions from the aviation sector requires a wider legal approach where all concerned sectors must intentionally contribute to achieve a net-zero emission target.^{vi} It is therefore crucial to conduct research that explores the possibility of integrating other key sectors into the regulation of aviation-induced emissions.

2. Aviation-Induced Emissions as Environmental Externalities

Aviation contributes to international and local externalities, mostly climate change, ground-level air pollution and noise pollution within the airport vicinity.^{vii} Even though new aircraft produce significantly less emissions and noise, total emissions and noise levels were still on the rise because of the increased demand for air travel. Reducing aviation-induced emissions and the climate impacts presents a much greater challenge.^{viii}

It is important to note that aviation contributes approximately about 3 per cent of global anthropogenic carbon dioxide (CO₂) emissions and is one of the fastest-growing sources of greenhouse gases as a result of increasing passenger demand. Notwithstanding aviation's small contribution to total global emissions, the sector presents distinct regulatory challenges due to its transboundary nature, dependence on fossil fuels, and limited near-term technological alternatives.^{ix}

It is crucial to understand environmental externalities for clarity purposes. The term has been defined as 'Environmental externalities refer to the economic concept of uncompensated environmental effects of production and consumption that affect consumer utility and enterprise cost outside the market mechanism. As a consequence of negative externalities, private costs of production tend to be lower than their "social" cost. It is the aim of the "polluter/user-pays" principle to prompt households and enterprises to internalise externalities in their plans and budgets'.^x

From the above definition, one can explain aviation externalities as the unintended consequences of aviation activities that affect the environment and third parties not directly involved in the activity. These includes among others, climate change, noise pollution, ozone depletion, aircraft accidents and air quality. These externalities can have both positive and negative impacts on the natural environment, public health, and societal well-being. While the latter has been mentioned above, the former includes the creation of job opportunities, enhances tourism and business travel and improved economy and infrastructure.

From the environmental law standpoint, aviation emissions constitute a form of environmental harm requiring regulatory intervention. Hence, fundamental principles of international and national environmental law, such as the polluter pays principle, precautionary principle, and sustainable development, encourage the regulation of emissions through both direct controls and market-based instruments.^{xi} The carbon credit markets are the most suitable mechanism that aligns with environmental law objectives by internalising the cost of pollution and incentivising emissions reductions.

If the carbon market is effectively regulated, it will operate as environmental regulatory mechanism that cuts across environmental, energy transition and aviation law rather than sheer pecuniary assets. Nevertheless, carbon market environmental legitimacy largely depends on strong monitoring, reporting, and verification (MRV) systems and enforceable legal values.

The environmental governance in Nigeria is chiefly regulated by the National Environmental Standards and Regulations Enforcement Agency Act (NESREAA)^{xii}. It was first enacted in 2007, and amended in November 2018, by the NESREAA (Establishment) (Amendment Act) to further empower the body -- NESREA in the protection and development of the environment.^{xiii} Despite the new frontiers created by the new amendment, aviation-induced emissions have not been comprehensively incorporated into the NESREA environmental regulation or environmental impact assessment administrations. This omission reflects a broader challenge in environmental law: regulating sector-specific emissions that fall outside traditional pollution control models.

The NESREA, as the chief environmental regulatory body in Nigeria, ought to regulate aviation-induced emissions alongside the NCAA, the Federal Airport Authority of Nigeria (FAAN) and the

National Climate Change Council. These regulatory gaps and lack of synergy are responsible for the inadequate regulatory mechanisms in the aviation sector and the lack of a vivid roadmap for mitigating aviation-induced emissions in Nigeria^{xiv}.

This paper submits that aviation-induced emissions regulation in Nigeria cannot be efficiently addressed through isolated legal frameworks. It is important to include environmental protection commitments, energy transition requirements, and international aviation compliance obligations because these interconnect in ways that require synchronised legal responses. Carbon credit markets present a hopeful regulatory connection across these spheres, but continue to be underdeveloped due to legal fragmentation and institutional weaknesses. Incorporating carbon credit markets into enforceable environmental law, energy transition regulation, and harmonised aviation compliance frameworks will eventually bring robust environmental law governance in Nigeria with climate mitigation purposes.

3. Energy Law Perception: Aviation Fuel Transition and Carbon Finance

The idea of mitigating aviation-induced emissions is basically an energy law issue. Aircraft depend entirely on fossil-based jet fuel, and significant emissions reductions demand deviations from fossil fuel, efficiency, or consumption patterns. Sustainable aviation fuel (SAF) has become apparent as the best feasible long-term pathway for reducing aviation emissions, contributing to lifecycle emission reductions compared to conventional jet fuel.^{xv}

Sustainable aviation fuels (SAFs) are a set of fuels that can be sustainably produced and generate lower CO₂ emissions than conventional kerosene on a life-cycle basis. In the context of international regulation developed under the International Civil Aviation Organisation (ICAO), SAF is defined more precisely as a renewable or waste-derived aviation fuel that meets a set of Carbon Offsetting and Reduction Scheme for International Aviation (CORSA) Sustainability Criteria, including a GHG emission reduction criterion.^{xvi}

Nigeria has more than enough biomass and waste feedstock potential that could support the massive production of SAF^{xvii}. Nevertheless, despite the abundance of biomass and waste feedstock for the production of SAF, the distribution raises complex energy law issues associated with fuel certification, feedstock governance, refining standards, blending mandates, and pricing regulation.^{xviii} The current energy legislation in Nigeria is basically on petroleum and electricity; the idea of SAF has not been sufficiently accommodated as a regulated fuel category.

Although the Nigerian government, NCAA and FAAN are currently involved in pushing for the adoption of SAF through policy, workshops and in the month of May 2025, the NCAA inaugurated six Technical Working Committees (TWGs) precisely to guide the development of policies regarding SAF. These groups focus on areas such as Policy and Regulation, Feedstock and Production, Funding and Investment, Technology, and Infrastructure.^{xix}

Carbon credit markets can significantly play a critical role in addressing these gaps by providing transitional finance for SAF projects. Carbon revenues may de-risk investment, encourage early-stage infrastructure, and incentivise SAF transitioning. From an energy law perspective, carbon markets thus function as climate finance mechanisms aiding energy transition rather than an isolated environmental tool.

4. Aviation Law and International Compliance Obligations

The Chicago Convention of 1944^{xx} is the main instrument and source which grants regulatory powers to the international community on matters relating to international civil aviation. The Convention established the International Civil Aviation Organisation^{xxi} which is a United Nations specialised agency charged with regulatory powers on international civil aviation, setting standards and recommended practices for aviation environmental protection.

The swift and constant advancement of the aviation sector and the need for sustainable aviation development compelled the need for ICAO to provide environmental standards for the aviation sector.^{xxii} since the Chicago Convention never envisaged environmental protection during its inception as an obligation of the ICAO^{xxiii}. ICAO commenced work on environmental protection on April 2, 1971, when it adopted Standards and Recommended Practices to Annex 16^{xxiv} The Chicago Convention on the subject of aircraft noise and its regulatory role in aircraft engine emission is enshrined under Volume II of Annex 16, which is historically linked to the 1972 United Nations Conference on the Human Environment, held in Stockholm.^{xxv}

In furtherance of its functions, the ICAO established different action plans to address environmental challenges from the sector, such as the Organisation's Committee on Aviation Environmental Protection (CAEP), which comprised members from ICAO's state parties, intergovernmental entities, and nongovernmental organisations. CAEP reports and makes recommendations to the Council of ICAO. It produces regular updates on aviation's environmental impact and determines whether adjustments should be made to any of ICAO's SARPs that concern the environment. CAEP was established by the ICAO Council in 1983, superseding the Committee on Aircraft Noise (CAN) and the Committee on Aircraft Engine Emission (CAEE).^{xxvi}

Again, ICAO established the Group on International Aviation and Climate Change (GIACC) to proffer sustainable solutions to aviation's contribution to climate change. The Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) is the most recent and principal international mechanism for addressing aviation-induced emissions from international flights.^{xxvii}

According to Article 2 (2) of the Kyoto Protocol, which instructs that Parties included in Annex 1 *"shall pursue limitation or reduction of emissions of greenhouse gases...from aviation ...working through the International Civil Aviation Organisation..."*^{xxviii} This provision places a compliance obligation on all parties, including Nigerian airlines, in this regime. In discharge of this compliance obligation, CORSIA was adopted. It relies on carbon markets by allowing airlines to offset emissions growth using eligible carbon credits. However, the value and integrity of such credits consequently have direct legal and operational implications for airline compliance and global competitiveness.

Sadly, CORSIA has not transitioned into an enforceable national law in Nigeria. This creates ambiguity for airlines and challenges the certainty necessary for long-term investment and compliance planning. This paper further submits that if carbon credit markets are fully introduced into the aviation sector, it will function as a compliance mechanism fixed within international regulatory management.

5. Carbon Markets as a Legal Bridge Across Regulatory Domains

The legal origin of carbon credit can be traced to the 1997 Kyoto Protocol to the United Nations Framework Convention on Climate Change (UNFCCC), which created three primary mechanisms that allow nations or operators in industrialised states to acquire offset credits to implement emission reduction projects in developing countries and receive credit in the form of “certified emission reductions,” which they may count against their national reduction targets.^{xxxix}

The carbon market is an arrangement where carbon units in place of emission reductions are traded within a well-defined structure.^{xxx} States generate the carbon market for strategic compliance in response to climate actions by allowing the private sector to voluntarily reduce its greenhouse gas emissions. The marketplace limits emissions by enabling the purchase or trading of emission units or their equivalents.

Carbon credits can play a significant role, specifically in attracting private capital and accelerating technology adoption. Realising net zero involves rapidly developing technologies such as low-emission hydrogen, sustainable aviation fuels (SAF), and direct air capture and storage (DACs)^{xxxi}. Organisations cannot purchase carbon credits as a replacement for reducing value chain emissions in line with their near and long-term targets, commonly known as “offsetting”. Nevertheless, obtaining high-quality carbon credits and reducing emissions along a science-based trajectory can be critical in accelerating the transition to net-zero emissions at the global level.^{xxxii} Essentially, carbon credits can play two roles in science-based net-zero policies:

- a. In the transition to net-zero, organisations could decide to purchase carbon credits and transit towards a state of net-zero emissions (in addition to science-based mitigation of value chain emissions) to ‘support society to achieve net-zero emissions by 2050.’^{xxxiii}
- b. At net-zero: Organisations with ‘residual emissions within their value chain are expected to neutralise those emissions with an equivalent amount of carbon dioxide removals at their net-zero target date, and these removals can be sourced from carbon credits.’^{xxxiv}

A regulated carbon market places the responsibility on the sector to mitigate emissions (demand side) and allows for the purchase or trading of carbon emissions through the creation of carbon credits (supply side).^{xxxv} The active regulated carbon offset scheme is the United Nations Clean Development Mechanism^{xxxvi}, the basis of offsets for States that are signatories to the Kyoto Protocol and purchasers in the European Union Emissions Trading Scheme.

This paper argues that carbon markets occupy a unique position at the intersection of environmental law, energy law, and aviation law. Environmentally, they serve as market-based regulatory instruments internalising pollution costs. Energetically, they function as transitional finance mechanisms supporting low-carbon fuel adoption. Legally, within aviation law, they operate as compliance tools facilitating adherence to international obligations. Nevertheless, this bridging function can only succeed if carbon markets are embedded within coherent legal frameworks across all three areas. Fragmented regulation risks reducing carbon credits to voluntary corporate instruments rather than enforceable components of climate governance.

6. Nigeria's Emerging Carbon Credit Market: Legal and Institutional Challenges

With the approval of the President of Nigeria, authorising the adoption of a National Carbon Market Framework (NCMF).^{xxxvii} There is a glimpse of hope. It is a plausible development operationalising the 2021 Climate Change Act. This very act of the President positions Nigeria within the framework of Article 6 of the Paris Agreement and the Voluntary Carbon Market (VCM), outlining plans for institutional architecture, fiscal incentives, ownership rules, and benefit-sharing mechanisms^{xxxviii}. This is a clear reflection of a thoughtful shift from an intellectual policy objective to market-oriented climate governance projected to monetise emissions reductions at the same time proceed with sustainable development goals.

According to the Federal Government, "The goal is to establish and manage Nigeria's participation in carbon markets, enabling the nation to unlock between \$2.5 billion and \$3 billion annually in carbon finance over the next decade to help meet climate goals."^{xxxix} This is a laudable idea; nonetheless, it is still basically a non-binding legal framework. While it expresses a vibrant desire to create Nigeria as a leading centre for high-integrity carbon market investments, its provisions are mostly aspirational.

The background gave guidelines and operational procedures for voluntary carbon markets, fiscal incentives, and benefit-sharing; in spite of all these, it failed to create legally enforceable obligations. It is important to note that implementation of the carbon market is hinged on ministerial discretion, memoranda of understanding, and voluntary cooperation among stakeholders. The dependence on ministerial discretion rather than legal compulsion risks unpredictable application, weak compliance, and inadequate investor confidence. Without legislative authority, instruments for monitoring, reporting, and verification (MRV), dispute resolution, or sanctions for non-compliance, the carbon market lacks the force necessary to ensure credibility and accountability in Nigeria's carbon transactions.

The NCMF increases another institutional layer to Nigeria's already complex environmental and climate governance network: The National Council on Climate Change (NCCC), the Climate Change Secretariat, and the proposed Carbon Market Governance Committee. Proliferation of harmonising bodies risks jurisdictional ambiguity, duplication, and bureaucratic delays. This paper strongly argues that all environmental/climate governance legal and institutional framework be synergised, the emissions from the aviation sector leading to climate change and all other pollutant sectors should be regulated by a unified, robust legal framework.

7. Conclusion

Aviation emissions regulation in Nigeria cannot be effectively addressed through isolated legal frameworks. Generally, environmental challenges cannot be sufficiently addressed through fragmented statutory and institutional frameworks. Environmental protection obligations, energy transition requirements, and international aviation compliance requirements intersect in ways that necessitate synchronised legal responses.

Carbon credit markets present a hopeful regulatory bridge across these areas, but remain underdeveloped due to legal proliferation and institutional weaknesses. Integrating carbon markets into enforceable environmental law, adaptive energy regulation, and harmonised aviation compliance frameworks will help Nigeria align aviation sector growth with environmental law, energy law, and aviation law. Environmentally, they serve as market-based regulatory instruments internalising pollution costs. Under energy law, they function as transitional finance mechanisms supporting low-carbon fuel adoption. Legally, within aviation law, they operate as compliance tools facilitating adherence to international obligations.

This paper concludes that the carbon credit market bridging function can only succeed if carbon markets are embedded within coherent legal frameworks across all three areas. Fragmented regulation risks reducing carbon credits to voluntary corporate instruments rather than making them enforceable under environmental law and components of climate governance.

8. Recommendations

This paper recommends that, first, Nigeria should integrate carbon markets into enforceable environmental law, adaptive energy regulation, and coordinated aviation compliance frameworks. Secondly, aviation emissions should be explicitly integrated into national environmental and climate accounting frameworks. Thirdly, energy law reform should recognise SAF as a regulated fuel category supported by fiscal and market-based incentives. Finally, aviation regulations should domesticate ICAO climate instruments to provide predictable compliance pathways for airlines.

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