

Frequently Asked Questions

Commission proposal for European Regional Airspace Approach for the EU Emission Trading for Aviation

1. THE OUTCOME OF THE 2013 ICAO ASSEMBLY¹

1.1. What has been discussed and agreed at the 2013 Assembly relating to the global MBM?

After two weeks of difficult and intense negotiations, the 191 ICAO Member States agreed at the ICAO Assembly to develop a global market based measure to limit CO₂ emissions from international aviation, which should be ready for implementation by 2020. This is an important achievement. The agreed ICAO Assembly Resolution foresees a decision on the actual implementation of the global MBM scheme at the next ICAO Assembly in 2016. In the coming three years substantive progress on the design of the scheme needs to be made at a technical level. The EU needs to be ready and prepared to contribute actively to the work on the development of the global scheme together with its ICAO partners and other stakeholders.

1.2. What is the 2013 ICAO Assembly outcome concerning the MBM Framework?

The Assembly did not agree to new language on a meaningful framework for national and regional measures to be applied prior to a global MBM taking effect. Unusually for an ICAO Assembly, roll-call voting was used on the drafting options for implementing national and/or regional schemes. Many non-EU States took the view that no State has the right to regulate air carriers from another State without the prior agreement of that State. A proposal including similar language as in the 2010 Resolution on mutual agreement and on a de minimis threshold² of 1% for developing countries for the application of interim market based measures was put forward by Russia in association with several other States (including Brazil, China India and South Africa) and passed by a vote of 97-39. The EU and several other major aviation countries voted against the proposal, and as in 2007 and 2010 the ECAC States reaffirmed States' sovereign rights to regulate and take appropriate measures to mitigate aviation emissions.

1.3. Does the resolution cover further aspects such as aspirational goals?

As in 2010, ICAO confirmed once again a global aspirational goal to limit international aviation emissions at 2020 levels ("Carbon neutral growth"). In addition it confirmed that a comprehensive package of measures for tackling the climate change impact of international civil aviation is necessary, including technological and operational measures, and sustainable alternative jet fuels, in addition to market based measures, such as emissions trading.

With respect to addressing the wider environmental impacts of aviation, other important decisions were taken at the ICAO Assembly. This included endorsement of a more stringent international technical standard for aircraft noise, and going forward with a programme of technical work towards new standards for CO₂ and particulates emitted by aircraft.

¹ The Resolution A38-17/2 of the 2013 ICAO Assembly with regard to Climate Change can be found at: http://www.icao.int/Meetings/a38/Documents/WP/wp430_en.pdf

² The list of countries ranked by their share in international aviation can be found on http://www.icao.int/publications/Documents/10001_en.pdf, Table 5 on page 88.

1.4. Will the EU submit reservations?

In line with longstanding EU positions, the EU signalled its intention to submit formal reservations on the following parts of the Resolution: (i) the ambition level of aspirational goals; (ii) the totality of the amended framework language on national and regional MBMs, and (iii) the inclusion of a reference to the UNFCCC principle of "common but differentiated responsibilities and respective capabilities" (CBDR-RC) in the annex, which contains a list of guiding principles for MBMs.

The reservation text will be available at:

http://ec.europa.eu/clima/policies/transport/aviation/documentation_en.htm

2. THE PROPOSAL BY THE EUROPEAN COMMISSION – REASONING AND TIMELINE

2.1. What is the reason for this proposal?

The 2013 ICAO Assembly has decided on a roadmap for the development of a global market-based mechanism (MBM) to tackle aviation emissions to be finalised at the next ICAO Assembly in 2016 and to be implemented by 2020. In response to this progress and to promote further momentum towards the successful establishment of a global MBM, amendments should be made to the aviation activities covered by the European Union Emissions Trading System (EU ETS).

This proposal follows on from the 'stop the clock' Decision, No. 377/2013/EU³, which was adopted in order to promote progress on global action through ICAO. As with Decision No. 377/2013/EU, it is important that this proposal is agreed swiftly between the European Parliament and Council, so as to be in place in time before the deadline for the next surrendering of allowances due by 30 April 2014.

2.2. How long might the proposal take to be agreed?

The proposal from the Commission involves legislation to be adopted through co-decision, which requires approval by EU Member States and the European Parliament. This proposal should be agreed between the European Parliament and Council during the 1st quarter of 2014 and enter into force at the date of its publication in the Official Journal.

2.3. Does the legislation require transposition into national law?

The proposal would require Member States to adopt and publish the necessary laws, regulations, and administrative provisions within 3 months from its entry into force.

³ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32013D0377:EN:NOT>

3. GEOGRAPHICAL SCOPE OF THE PROPOSAL FOR 2014 TO 2020 EMISSIONS

3.1. What is the geographical scope of the proposal?

Concerning the period 2014 to 2020, the Commission proposes that the EU ETS would continue to fully cover emissions from all flights between airports in the EEA, including flights between airports in the EEA and airports in outermost regions of the EEA⁴.

In addition, flights between airports in the EEA and airports in third countries would generally be covered in proportion to the distance travelled within the European region. This proportion would cover the distance from 12 nm from the furthest point on the outer coastline of an EEA territory to the EEA aerodrome of departure or arrival with the exception of intermediate distances over third countries or sea areas between EEA Member States' territories that exceed 400 nautical miles.

Please note that, as explained in section 4, a special exemption is proposed for 2013 emissions from flights to and from 3rd countries.

Flights between airports in the EEA and airports in least developed countries, low-income countries, and lower-middle income countries, which have a share of less than 1 % in international aviation, are proposed to be fully exempted from the EU ETS.

Emissions from flights between airports in outermost regions and third countries, and emissions from flights between airports in the EEA and EEA Member countries' overseas countries and territories⁵, which are not part of the EEA, would not be covered.

The first table in Annex 1 provides an overview for the emissions coverage for all different types of flights for the period from 2014 to 2020.

3.2. In which ways do compliance obligations change for flights to and from third countries?

Flights on routes between airports in the EEA and airports in third countries would only be covered with regard to distance travelled within the EEA:

The proportional coverage for flights to and from third countries would include emissions over land and adjacent sea areas between EEA countries (Channel, Irish Sea, North Sea, Baltic Sea, Mediterranean Sea, etc). However, it would exclude:

- emissions over any third country area (Switzerland, Kaliningrad, Serbia, Bosnia, Montenegro, Albania);

⁴ Outermost regions of the Union as defined in Article 349 of the Treaty on the Functioning of the European Union; see also section 2.1.1. of the Guidance on the implementation of Decision No 377/2013/EU, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2013:289:0001:0007:EN:PDF>, for a list of outermost regions. Please note that Mayotte will become an outermost region with effect of 1st January 2014.

⁵ Please see section 2.1.2. of the Guidance on the implementation of Decision No 377/2013/EU for a list of overseas' countries and territories: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2013:289:0001:0007:EN:PDF>. Please note that Mayotte will become an outermost region with effect of 1st January 2014.

- emissions over further sea areas between Iceland and other EEA Member States; Azores and EEA Member States including mainland Portugal; Canaries and EEA Member States including mainland Spain;
- emissions over sea areas between mainland Europe and dependencies and territories, and over those dependencies and territories (e.g. Greenland and the seas between Greenland and mainland Europe, Faroe Islands and the seas between them and mainland Europe).

This approach would limit coverage to the emissions within the EEA and give equal treatment to flights over the regional European area whether they come from an EEA aerodrome or a third country. These exclusions are considered appropriate to make coverage more acceptable to third countries across the Atlantic because it only extend 12 nautical miles beyond the outer coastlines of UK, Ireland, France, Spain and Portugal.

Furthermore, emissions from flights between the outermost regions of the Union as defined in Article 349 of the Treaty on the Functioning of the European Union and countries outside the EEA would be fully exempted.

Annex 2 contains a graph to illustrate the coverage of 3rd country flights.

3.3. Are there additional exemptions for flights to and from "developing states"?

Without prejudice to the global market-based measure applying from 2020, emissions from flights to and from countries which are developing countries and whose share of total revenue ton kilometres of international civil aviation activities is less than 1% would be exempted for the period 2014 to 2020. Countries considered to be developing for the purposes of this proposal should be those which benefit at the time of adoption of this proposal from preferential access to the Union market in accordance with Regulation (EU) No 978/2012 of the European Parliament and of the Council, that is those which are not classified in 2013 by the World Bank as high-income or upper-middle income country or are a least developed country.

3.4. What are the changes for the period from 2014 to 2020 compared to obligations for 2012 emissions?

There are three changes compared to the coverage of 2012 emissions:

- Flights to and from third countries are covered in proportion to their distance travelled within the EEA (with the exception of flights to and from least developed countries and low income countries that remain fully exempted).
- Flights to and from Switzerland are only covered in proportion to their distance travelled within the European region.
- Flights to and from overseas countries and territories of EEA member countries are fully exempted.

4. GEOGRAPHICAL SCOPE FOR 2013 EMISSIONS

4.1. Are there special exemptions for 2013 emissions?

Emissions from flights operated in 2013 to and from 3rd countries are fully exempted from the EU ETS. *The second table in Annex 1 shows the emissions coverage for 2013.*

4.2. Why are flights to and from third countries fully exempted for 2013 emissions?

Implementation of the proposed amendment will require some adjustment to calculations regarding reporting of emissions, free allocation and auctioning shares (see following sections) which will need to correspond to the new scope of traffic covered. For implementing these adjustments and making sure the necessary technical preparations are duly completed it is proposed that 2013 emissions from flights to and from third countries would be fully exempted.

This also means that ETS would not apply to third country traffic retroactively for the year during which the ICAO negotiations on the global MBM were on-going.

4.3. For which flights operated in 2013 do compliance obligations remain unchanged?

The EU ETS will continue to be enforced in full respect for the flights between airports in the EEA, including flights to and from outermost regions.

5. MONITORING, REPORTING, VERIFICATION AND SURRENDERING

5.1. When will be the next compliance dates according to the proposal?

There will be an extraordinary two-year compliance cycle with regard to aviation emissions from 2013 and 2014. These emissions only need to be reported by 30 March 2015 (two emission reports) and allowances to be surrendered by 30 April 2015.

Starting with emissions of 2015, the annual compliance cycle will resume.

5.2. How to report third-country flights operated from 2014-2020?

Aircraft operators have the choice between two different methods for emissions reporting:

5.2.1. *Reporting based on current MRV system*

The requirements set out in Directive 2003/87/EC⁶ for emissions from flights to and from countries outside the EEA are considered as satisfied for 2014 to 2020, when obligations are met in respect of a certain percentage of the emissions from flights to and from airports in third countries. These percentages will be set out in the Annex to the amending Directive, and have been calculated by Eurocontrol on the basis of the proportion of the Great Circle Distance between the main airports in the EEA and in third

⁶ Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32)

countries, that is not more than 12 nautical miles beyond the furthest point of EEA coastline.

The process of applying percentages for flights to and from third countries is designed to be workable and pragmatic, using existing reporting categories applicable since 2010. Working on the basis of country-pairs⁷ means that figures are needed for flights on the routes from each Member State to third countries. Where flights operate to multiple time zones in a third country, a percentage shall be included for each timezone to which flights operate.

The template for reporting annual emissions will be updated to include these percentages. Aircraft operators will continue to insert the emissions for the full flight. The final emissions figure will only cover the percentage of the total emissions from a third-country flight. That means no account is taken of the emissions not covered by that percentage. Verification of the report remains required.

b) Reporting based on small emitters tool

To provide further flexibility concerning monitoring, reporting and verification (MRV), it is proposed to offer a choice to aircraft operators in respect of flights to and from third countries.

Relating such flights, an aircraft operator should be able to choose not to report emissions from these flights based on the percentage of the actual total flight emissions but instead to rely upon a determination of estimated emissions taking place not beyond EEA Member countries from such flights that is as accurate as possible.

This calculation shall be carried out by the respective Member States' competent authority and take into account figures from the small emitters tool approved by the Commission and populated by Eurocontrol with data from its ETS Support Facility. Calculations of emissions made in these circumstances shall be considered to be the verified emissions of third country flights operated by the aircraft operator for the purposes of Articles 11a, 12, 14 and 28a. That means no verification is needed for these flights.

5.3. Exemptions for small emitters

5.3.1. Small non-commercial aircraft operators emitting less than 1 000 t

An additional simplification in this proposal is to provide that no enforcement shall be taken against non-commercial aircraft operators in respect of emissions from small aircraft operators emitting less than 1000 tonnes CO₂ per annum.

This is expected to reduce the number of aircraft operators regulated by Member States by around 2200 representing 0.2% of emissions. Alongside other measures being taken to simplify administration for small aircraft operators, this is a significant lightening of administrative tasks for aircraft operators and for Member States' competent authorities, in line with the EU's better regulation agenda.

⁷ Country pair means that there is a single percentage for flights to each third country. This is defined based on the GCD from the aerodrome in the relevant EEA Member countries with the highest number of flights to and from all destinations in a third country in 2012 ("the reference EEA Member countries aerodrome") to the aerodrome in the relevant third country with the highest number of flights to and from all destinations in the EEA Member countries in 2012 ("the reference third country aerodrome").

5.3.2. *Small aircraft operators emitting less than 25 000 t*

As of 2013 small emitters emitting less than 25 000t – whether commercial or non-commercial – can use simplified procedures.

By way of derogation from Articles 3g, 12, 15 and 18a of the ETS Directive, where an aircraft operator has total annual emissions lower than 25000 tons, its emissions shall be considered to be verified, if determined using the small emitters tool approved by the European Commission and populated by Eurocontrol with data from its ETS Support Facility.

5.3.3. *Small non-commercial aircraft operators emitting less than 25 000 t*

In addition, Member States may implement further simplified procedures for small non-commercial aircraft operators as long as there is no less accuracy than the small emitters tool provides.

6. FREE ALLOWANCES

6.1. How is the number of free allocations adjusted?

The number of free allowances will be reduced in proportion to distances not covered on flights to and from 3rd countries.

Reduction in free allocations for a flight to and from a 3rd country =

= (100% minus coverage percentage) multiplied by the benchmark multiplied by verified 2010 tonne kilometre (tkm) reported for flights to and from this 3rd country.

The sum of these reductions will be deducted from the free allocations calculated by the Member States in 2011.

Member States will have to recalculate the free allocations for the year 2013 and the years 2014 to 2020 (according to different scopes as explained in sections 3 and 4).

7. AMOUNT OF ALLOWANCES TO BE AUCTIONED AND AUCTIONING SHARES

7.1. What effect does the proposal have on the total number of aviation allowances to be auctioned?

The percentage of aviation allowances to be auctioned remains at 15% as laid down in Article 3d of the ETS Directive. The proposal foresees Member States to auction a number of aviation allowances reduced in proportion to the reduction in the total number of aviation allowances issued. Consequently, a lower quantity of aviation allowances will be auctioned for the years 2013 to 2020, which proportionately reflects the lower number of total aviation allowances in circulation.

7.2. What effect does the proposal have on the Member States' auctioning shares?

The proposal foresees that the number of allowances to be auctioned by each Member State in respect of the period from 2013 to 2020 shall be reduced to correspond with its share of attributed aviation emissions resulting from the application of the reduced coverage of emissions from flights to and from 3rd countries.

7.3. What does this change mean in respect of auctioning volumes and calendars?

The auctions of aviation allowances will be adjusted to reflect the lower volume of aviation allowances that will be auctioned for the years 2013 to 2020.

Further news on the timing of the auctions will be published on the regulatory updates.

8. REVIEW IN 2016

Following the 2016 ICAO Assembly, the Commission shall report to the European Parliament and the Council on the actions to implement the global market-based measure to apply to emissions from 2020, together with proposals as appropriate.

After the 2016 ICAO Assembly, the ETS Directive should be amended as appropriate to provide for the implementation of this global MBM. The global MBM to apply from 2020 onwards should, in terms of the recognition of early action called for by IATA, take offsetting of emissions outside the aviation sector under the EU ETS into account, as well as emission reductions within the sector. Paragraph 26 of ICAO Resolution A38/17-2 calls for these emission reductions to be reported to ICAO.

In the event that a global measure will not apply from 2020, that report shall consider the appropriate scope for coverage of emissions from activity to and from third countries in the continued absence of such a global measure. In its report, the Commission shall also consider solutions to other issues that may arise in the application of this derogation, while preserving equal treatment for all operators on the same route.

9. WHERE CAN I FIND FURTHER INFORMATION?

Aviation and climate change:

http://ec.europa.eu/clima/policies/transport/aviation/index_en.htm

EU ETS:

http://ec.europa.eu/clima/policies/ets/index_en.htm

Annex 1

EU ETS coverage 2014 to 2020

To aerodromes in /from aerodromes in	EEA (but not outermost regions)	Outermost regions of EEA Member countries	Third countries with a share of more than 1 % in international aviation	High- and upper-middle-income countries with a share of less than 1 % in international aviation	Lower-middle- and low-income countries with a share of less than 1 % in international aviation	Overseas countries and territories of EEA Member countries
EEA (but not outermost regions)	100 %	100 %	Proportional	Proportional	0 %	0 %
Outermost regions of EEA Member countries	100 %	100 %	0 %	0 %	0 %	0 %
Third countries with a share of more than 1 % in international aviation	Proportional	0 %	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>
High- and upper-middle-income countries with a share of less than 1 % in international aviation	Proportional	0 %	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>
Lower-middle- and low-income countries with a share of less than 1 % in international aviation	0 %	0 %	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>
Overseas countries and territories of EEA Member countries	0 %	0 %	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>

EU ETS coverage 2013

To aerodromes in /from aerodromes in	EEA (but not outermost regions)	Outermost regions of EEA Member countries	Third countries with a share of more than 1 % in international aviation	High- and upper- middle-income countries with a share of less than 1 % in international aviation	Lower-middle- and low- income countries with a share of less than 1 % in international aviation	Overseas countries and territories of EEA Member countries
EEA (but not outermost regions)	100 %	100 %	0 %	0 %	0 %	0 %
Outermost regions of EEA Member countries	100 %	100 %	0 %	0 %	0 %	0 %
Third countries with a share of more than 1 % in international aviation	0 %	0 %	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>
High- and upper- middle-income countries with a share of less than 1 % in international aviation	0 %	0 %	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>
Lower-middle- and low- income countries with a share of less than 1 % in international aviation	0 %	0 %	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>
Overseas countries and territories of EEA Member countries	0 %	0 %	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>

Annex 2

Coverage of flights between aerodromes in the EEA and aerodromes in third countries

