



Department
for Transport



Department
of Energy &
Climate Change

Consultation on Implementing the Aviation Emissions Trading System 'Stop the Clock' Decision in UK Regulations



The Scottish
Government



Llywodraeth Cymru
Welsh Government



DOE

Department of
the Environment
www.doeni.gov.uk

March 2013

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Foreword

1. Introduction

Aviation and Climate Change

1. Globally, the aviation sector is responsible for about one to two per cent of greenhouse gas (GHG) emissions¹. In the UK, domestic and international aviation² emissions account for about six per cent of GHG emissions or 22 per cent of the transport sector's GHG. Aviation is, however, likely to make up an increasing proportion of the UK's total GHG emissions as other sectors decarbonise more quickly over time.
2. Government's³ objective is to ensure that the aviation sector makes a significant and cost effective contribution towards reducing global emissions. The emphasis is on action at a global level as the best means of securing UK objectives, with action at European level a second best option and a potential step towards wider international agreement.

Aviation in the EU Emissions Trading System

3. The EU Emissions Trading System (EU ETS) was established under the European Directive 2003/87/EC which entered into force on 25 October 2003. The purpose of the EU ETS is to promote cost-effective reductions in greenhouse gas (GHG) emissions. It supports the EU's commitment to a global carbon market as a key instrument for tackling climate change, and will be central in enabling the EU to achieve its stated goal of reducing emissions by 20% in 2020 compared to 1990 levels.
4. In September 2005, the European Commission adopted a Communication⁴ which considered a variety of policies and instruments, and concluded that in view of the likely future growth in international air traffic, a new market-based instrument at Community level, such as emissions trading, was preferable to other financial measures. The Directive to include aviation in the EU ETS (2008/101/EC)⁵ ("the Aviation Directive") was adopted by the Council of the European Union on 24 October 2008, and aviation was included in the EU ETS for the first time in 2012.
5. Under the aviation ETS all aircraft operators who fly into or out of aerodromes in the European Economic Area (EEA) are required to monitor their carbon emissions each calendar year from 1 January 2010. Aircraft operators are required to then submit an independently verified report of their carbon emissions for these flights, to their respective regulator, by 31 March of the following year. Subsequently, from 30 April

¹ *Reducing Transport Greenhouse Gas Emissions: Trends and Data*, International Transport Forum, 2010, <http://www.internationaltransportforum.org/Pub/pdf/10GHGTrends.pdf>

² There is currently no internationally agreed way of allocating international emissions to individual countries. The percentage shares are based on the percentage of bunker fuel sales to the aviation sector from the UK.

³ Emissions Trading is largely devolved, and the Devolved Administrations of Scotland, Wales and Northern Ireland have been involved throughout the decision-making process. References to the Government in this consultation therefore also cover the Devolved Administrations.

⁴ Document number COM(2005) 459 (2005), *Reducing the Climate Change Impact of Aviation*, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52005DC0459:EN:NOT>.

⁵ Available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32008L0101:EN:NOT>.

2013, aircraft operators must surrender the corresponding number of carbon dioxide (CO₂) allowances and project credits to the Registry, to account for their annual verified emissions in the preceding year. As regards emissions in the period 2010-2012, those requirements were implemented by the Aviation Greenhouse Gas Emissions Trading Scheme Regulations 2010, which continue to have effect by virtue of the transitional provisions in Part 11 of the Greenhouse Gas Emissions Trading Scheme Regulations 2012

The Stop the Clock Decision

6. In November 2012 the European Commission announced that it would “stop the clock” on the implementation of the extra-EEA aspects of the Aviation Emissions Trading System. On 20th November it published its proposed decision, to be agreed through the European co-decision process.
7. The proposal aims to temporarily suspend the enforcement of the obligations of aircraft operators operating flights to or from aerodromes located in the European Economic Area (EEA), (including for this purpose Croatia, Switzerland and the dependent territories of EEA States) and third-party countries under the Aviation ETS. The effect of this is that only aircraft operators’ flights between EEA aerodromes will face enforcement for failing to monitor emissions and submit emissions reports and surrender allowances and project credits for their 2012 emissions.
8. The suspension of compliance obligations is on the condition that aircraft operators return any free allowances that have already been allocated for 2012 in respect of their international flights.
9. The proposal aims to foster goodwill at ICAO and allow negotiations in the International Civil Aviation Organisation (ICAO) to make progress towards reducing aviation emissions, free from the distraction of opposition to the Aviation ETS. Should no “clear and sufficient” progress be made, obligations on international flights will once again apply.
10. However, if there is sufficient progress in ICAO then the Commission states it will propose further legislative action to permanently amend the aviation EU ETS. Article 25a of the EU ETS Directive (2008/101/CE) allows amendments to be made to the scope of the aviation activities covered, in the case of equivalent measures being adopted by one or more third countries, or of a global agreement.
11. The ‘stop the clock’ proposal is currently in the final stages of the EU co-decision process and is expected to be agreed at Plenary between 15th and 18th April. This is also expected to be the date that the Decision comes into force. Consequential amendments are needed to the relevant provisions of the UK regulations to ensure that the UK regulators have the appropriate domestic powers to apply the derogation.

2. Scope of consultation

1. This consultation will cover the UK implementation of the Decision of the European Parliament and of the Council derogating temporarily from Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowance trading within the Community.
2. Specifically, it will ask for comments on:
 - The text of the proposed amendment to the 2012 Regulations.
 - Impacts of the proposed amendment on businesses.

- Impacts on the proposed amendment on competition.
3. The draft amendment to the 2012 Regulations that are the subject of this consultation will apply in England, Wales, Scotland and Northern Ireland.
 4. A consultation-stage Impact Assessment is attached at **Annex A**. The Impact Assessment considers the impacts of a change in UK Regulation relative to a counterfactual where a “Stop the Clock” Decision has been made and the UK takes no action to change its domestic legislation. An Annex to the Impact Assessment provides information on the wider impacts of the “Stop the Clock” Decision itself.

3. Objectives of this consultation

1. This consultation seeks views on the draft statutory instrument: The Greenhouse Gas Emissions Trading Scheme (Amendment) Regulations 2013 (“the proposed regulations”). These Regulations will amend the transitional provisions of the Greenhouse Gas Emissions Trading Scheme Regulations 2012⁽⁶⁾ to reflect Decision of the European Parliament and of the Council derogating temporarily from Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowance trading within the Community “the EU Decision”.
2. As the Decision has not yet been formally adopted, the proposed regulations reflect only the expected version of the Decision which will be decided in the EU Plenary on 15th – 18th April. The regulations may need to be updated if the text of the Decision changes substantially.
3. This consultation document should be considered in conjunction with the Impact Assessment.
4. The consultation will be of particular interest to aircraft operators, aerodrome operators and environmental groups. This consultation is not limited to these stakeholders; any organisation or individual is welcome to respond. The consultation document summarises the key issues that we are seeking views on, however we would also welcome views on any other issues concerning the draft Regulations.
5. This consultation will commence on 18 March 2013 and will run for 2 weeks. This short consultation period reflects the relatively narrow scope of this consultation and the fact that the decision must be implemented in UK law as quickly as possible to provide legal clarity.
6. Following analysis of responses, a Government response will be published and the final Regulations to transpose the EU Decision in full will be laid before Parliament.
7. Policy responsibility for aviation emissions trading is shared between the Department for Transport (DfT) and the Department of Energy & Climate Change (DECC, which has responsibility for the wider EU Emissions Trading System), together with the Scottish Executive, Welsh Assembly Government and the Northern Ireland Executive. HM Treasury has policy responsibility for the auctioning of all emissions allowances in relation to the EU Emissions Trading System. The aviation EU ETS regulators in each part of the United Kingdom are:

England: The Environment Agency

Wales: The Environment Agency. From 1 April Natural Resources Wales will be the Welsh Regulator.

Scotland: The Scottish Environment Protection Agency

⁶ S.I. 2012/3038.

Northern Ireland: The chief inspector⁷ for Northern Ireland

The Civil Aviation Authority will provide advice and assistance to the regulators.

How to Respond

The consultation period began on 18 March 2013 and will run until 1st April 2013. Please ensure that your response reaches us before the closing date. If you would like further copies of this consultation document, it can be found at <http://www.decc.gov.uk/consultations> or you can use the contact details listed below if you would like alternative formats (Braille, audio CD, etc).

When responding, where possible please use the **consultation response form** available to download from the link above. Please email responses to: eu.ets@decc.gsi.gov.uk or if you are unable to submit your response electronically, please send your response to:

Aviation EU ETS Consultation Team
EU Emissions Trading System
Department of Energy and Climate Change (DECC)
3 – 8 Whitehall Place
London SW1A 2AW
Fax: 00 44 207 944 2192
Email: eu.ets@decc.gsi.gov.uk

Respondents in **Scotland, Northern Ireland and Wales** are requested to copy their responses to:

For Scotland

By email: climate.change@scotland.gsi.gov.uk
By post: Climate Change Division
Scottish Government
1G Dockside Victoria Quay
Edinburgh EH6 6QQ
Enquiries: 0131 244 7815

For Northern Ireland

By email: chris.mcwilliams@doeni.gov.uk
By post: Christopher McWilliams
Environmental Policy Division
Department of the Environment
6th Floor, Goodwood House
44 - 48 May Street
Belfast BT1 4NN

For Wales

⁷ “chief inspector” means the chief inspector constituted under regulation 8(3) of the Pollution Prevention and Control Regulations (Northern Ireland) 2003.

By email: climate-change@Wales.gsi.gov.uk
By post: Climate Change Branch
Sustainability, Energy and Climate Change
Welsh Government
Cathays Park
Cardiff, CF10 3NQ

When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

A list of those consulted is attached at Annex C. If you have any suggestions of others who may wish to be involved in this process please contact us.

Freedom of Information

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA), the Freedom of Information (Scotland) Act 2002 (FOISA), the Environmental Information Regulations 2004 or the Environmental Information (Scotland) Regulations.

If you want information that you provide to be treated as confidential, please be aware that, under the FOIA and FOISA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the Data Protection Act (DPA) and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

The Proposals

1. The proposed regulations will amend the Greenhouse Gas Emissions Trading Scheme Regulations 2012 (“The 2012 Regulations”) to constrain the regulators’ powers of enforcement. They will remove the power of the regulators to penalise operators who fail to monitor and report emissions or surrender allowances for their extra-EEA flights prior to 2013, provided that the operator has returned (or not received) free allowances in respect of these flights.
2. The proposed amendments will make the civil penalty provisions of the Aviation Greenhouse Gas Emissions Trading Scheme Regulations 2010 subject to provisions contained in a new regulation 87A of the 2012 Regulations
3. The proposed regulation 87A (1) defines an “international activity” to mean an aviation activity consisting in a flight which departs from, or arrives in, an aerodrome situated in any country or territory other than—
 - (a) an EEA state;
 - (b) Croatia;
 - (b) Switzerland; or
 - (c) a country or territory listed in paragraph (5)
4. “International allowance” is defined as an aviation allowance that has been allocated in consequence of an international activity performed during 2010;
5. “International emissions” are defined as aviation emissions arising from an international activity performed before 2013;
6. 87A (2) states that aircraft operators are not liable for penalties for failing to monitor and report emissions or surrender allowances for their extra-EEA flights prior to 2013.
7. 87A (3) states that 87A (2) is on the condition that aircraft operators have either not received or have returned the free allowances related to their 2012 extra-EEA flights.
8. 87A (4) obligates the regulator to provide notice on how these allowances should be returned.
9. 87A (5) lists the countries or territories referred to in 87A (1).
10. The proposed amendment is based on the expected version of the EU Decision which will be decided in the EU Plenary on 15th – 18th April. The text of the regulations may need to be updated if the text of the Decision changes substantially.

Consultation questions

The order in which the questions are set out in this consultation document corresponds to the order of the draft Regulations.

- Q. 1 Do you have any comments on the text of the proposed amendment to the 2012 Regulations?
- Q. 2 Please explain how the proposed UK Regulations would impact on your business and/or your aircraft operations.
- Q. 3 Please explain how the proposed UK regulations impact on the competitiveness of your business and/or your aircraft operations, in comparison to other businesses.
- Q. 4 Do you believe there is an enforceable alternative method than that proposed here, of implementing the EU Decision in the UK? If so, please outline your preferred method.
- Q. 5 Do you have any additional evidence relating to the costs and benefits associated with the amendment to the Greenhouse Gas Emissions Trading Scheme Regulations 2012?
- Q.6 Do you have any further comments on the proposed regulations?

What will happen next?

A summary of responses, including the next steps, will be published within three months of the consultation closing at <http://www.decc.gov.uk/consultations>. Paper copies will be available on request.

Question and answer brief

The European Commission has published a list of frequently asked questions about the stop the clock proposal. This has been included at Annex D. If you still have questions after you have read this section please contact:

EU Aviation ETS Helpdesk
etaviationhelp@environment-agency.gov.uk

or the Scottish Environment Protection Agency Emissions Trading Helpdesk
emission.trading@sepa.org.uk

Further background information can be found at:

The DECC EU ETS web pages:
<https://www.gov.uk/government/policies/reducing-the-uk-s-greenhouse-gas-emissions-by-80-by-2050/supporting-pages/eu-emissions-trading-system-eu-ets>

The Environment Agency aviation EU ETS web pages:
<http://www.environment-agency.gov.uk/business/topics/pollution/107596.aspx>

The Scottish Environment Protection Agency aviation EU ETS web pages:
http://www.sepa.org.uk/climate_change/solutions/eu_emissions_trading_system/eu_ets_-_aviation.aspx

The Northern Ireland Environment Agency aviation EU ETS web pages:
http://www.doeni.gov.uk/niea/pollution-home/emissionstrading/emission_trading_aviation_system.htm

DfT's aviation environmental issues pages:
<https://www.gov.uk/government/policies/reducing-greenhouse-gases-and-other-emissions-from-transport>

The European Commission's aviation EU ETS pages:
http://ec.europa.eu/environment/climat/aviation_en.htm

Annex A: Impact Assessment

(Available on consultation webpage)

Annex B Consultation principles

The consultation is being conducted in line with the Government's key consultation principles which are listed below. Further information is available on the Better Regulation Executive website at <https://update.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance>

If you have any comments about the consultation process please contact:

Consultation Co-ordinator
Department for Transport
Zone 1/14 Great Minster House
London SW1P 4DR
Email consultation@dft.gsi.gov.uk

Consultation principles

- departments will follow a range of timescales rather than defaulting to a 12-week period, particularly where extensive engagement has occurred before;
- departments will need to give more thought to how they engage with and consult with those who are affected;
- consultation should be 'digital by default', but other forms should be used where these are needed to reach the groups affected by a policy; and
- the principles of the Compact between government and the voluntary and community sector will continue to be respected.

Annex C List of those consulted

Airports and Manufacturers

Airport Operators Association
Association of Electricity Producers
Association of International Couriers & Express Services (AICES)
British Airports Association (BAA)
BAR-UK
BP
British International Freight Association (BIFA)
Burgess Salmon
European Express Association (EEA)
Fed Ex Europe
Lafargecement
Luton Airport
Manchester Airport
Royal Aeronautical Society (RaES)
Siemens
Airbus
British Airways
Civil Aviation Authority
Virgin
Rolls-Royce
Society of British Aerospace Companies (SBAC)

Aviation NGOs

Airport Watch
Aviation Environment Federation
Friends of the Earth
Greenpeace
WWF

Government

Civil Aviation Authority (CAA)

UK-Registered Aircraft Operators

BRITISH AIRWAYS PLC
3M COMPANY
BRITISH MIDLAND AIRWAYS LTD
EASYJET AIRLINE COMPANY LTD
MALAYSIAN AIRLINES

Airline Groups

British Air Transport Association (BATA)
The Board of Airline Representatives in the UK (BAR-UK)
Association of European Airlines (AEA)
European Regions Airline Association (ERAA)
British Business and General Aviation Association (BBGA)
Air Transport Association (IATA)
BA
Virgin
BMI
Society of British Aerospace Companies Ltd
Strategic Aviation Special Interest Group (Local Gov Assoc.)
General Electric - Commercial Aviation Services
Strategic Aviation Special Interest Group (SASIG)

Verifiers

BSI Management Systems
Planet and Prosperity
Future Perfect
UKAS
LRQA
BSI
SGS
CICS
DNV
Gastec
Bureau Veritas
ERM CVS
Ernst and Young (France)
VerifAvia (UK) Ltd

UK-Registered Aircraft Operators

VIRGIN ATLANTIC AIRWAYS LTD
JET2.COM LTD
711 CODY INC
994748 ONTARIO INC
ABBOTT LABORATORIES

INTERNATIONAL JETCLUB LTD
UNITED AIRLINES
AIR CANADA
AIR INDIA
AIR NEW ZEALAND
AIR SOUTH WEST LTD.
AIR TRANSAT
AIRSTAR GROUP
AIRTIME LLC
A J WALTER AVIATION
ALIA ROYAL JORDANIAN
AMERICAN AIRLINES
AMERICAN EXPRESS
AMERICAN INT GROUP
AMGEN
Greenaap Consultants, Ltd.
ANHEUSER BUSCH
ANSCHUTZ
ARAMARK CORPORATION
JELD-WEN, Inc.
ASTRAEUS LTD
ATLANTIC AIRLINES LTD
AURIGNY AIR
AVN AIR
BAE SYSTEMS (OPERATIONS) LTD
BAKEWELL INDUSTRIES
J C BAMFORD EXCAVATORS LTD
BECHTEL
BECTON DICKINSON
BEL AIR
BERWIND AVIATION
BHARAT FORGE LIMITED
BLACK & DECKER
Bond Offshore Helicopters ltd
BRIARWOOD PROD. LTD
BROKERAGE & MANAGMT
BROOM P AVTN SVCS
CAMPBELL SOUP
CARGILL
CATERPILLAR
CATHAY PACIFIC
CATHTON INVESTMENTS LTD
CBAIR
CHARTWELL AVIATION
CHEVRONTEXACO
CIGNA
CITIGROUP

ACE-INA FLIGHT OPS
AEROSERVICIOS EJE
CONTINENTAL AIRLINES
COSTCO WHOLESALE
CRANE COMPANY
CTC AVIATION JET SERVICES LTD
DAIDALOS AVIATION
DARWIN AIRLINE
DATEL DIRECT LTD
DITCO SA
DTC LLC
DUBAI AIR WING
DUKE OF WESTMINSTER
DUNAVANT ENTERPRISES
Air Kilroe Ltd t/a Eastern Airways
EGYPTAIR
EIE EAGLE
ELMET Aviation
Embraer
EMIRATES INTL
ENBRIDGE
ETIHAD AIRWAYS
EVA AIR
EWA WEST
EXECUTIVE JET GROUP
Exxon Mobil Corporation
FALCONAIR LTD
FAYAIR (JERSEY)
FERNCROFT
FERTITTA ENTERPRISES
FJ900
FJR PRIVATE FLIGHT
FLYBE
FLYING LION Ltd
FLYNN FINANCIAL
FORMULA ONE MNGMT
FRANKLIN TEMPLETON
G5 EXECUTIVE
GAMA AVIATION LTD
GE CORPORATE AIR TRP
GENERAL DYNAMICS
GF AIR
GRAHAM CAPITAL MGMT
GRAINGER
SkyFlight Ltd.
GULF AIR
GULFSTREAM SAVANNAH

CLEARWATER FINE FOOD
CONOCOPHILLIPS AVTN
HARRIS
HARSCO Corporation
HAWKER BEECHCRAFT CORPORATION
HBC AVIATION
HEINZ COMPANY
HILL AIR
Home Depot
HONEYWELL MORRISTOWN
ICELAND FROZEN FOODS
INFLITE ENGINEERING
ITT INDUSTRIES
IVANHOE CAPITAL AVIATION
JAPAN AIRLINES CO. LTD
JET AIRWAYS INDIA
JOHNSON SC AND SON
JOLUK AVTN
KANGRA AVIATION (FA)
KENYA AIRWAYS
KERZNER INTL.
KLEIN TOOLS
Kraft Foods Global Inc.
KUWAIT AIRWAYS
Celestial Airways
LEVEL 3 COMMS
LIBERTY AVTN COMPANY
LIBERTY MUTUAL Insurance Company (Co.)
LIBYAN ARAB AIRLINES
LOCKHEED MARTIN CORP
LONDON EXECUTIVE AVIATION LTD
LOWE'S COMPANIES
MARATHON OIL
MASCO
MAZAMA FINANCE
MCCAIN FOODS
Verizon Corporate Services Group
Mellon Bank
MERCK & CO
MGM MIRAGE
MIDAMERICAN ENERGY
MIDWEST AVIATION NE
Monarch Airlines Limited
MONSANTO
MSF AVIATION Ltd
NATIONAL JETS
NATIONWIDE MUTUAL

HAMILTON COMPANIES
HARBERT AVTN
OAKMONT
OCEAN SKY (UK) LTD
OCEAN SKY ACFT MNGT
ONUR AIR TASIMACILIK A.S.
P.M. AIR
PALACE INTL
PATTISON AIRWAYS
PENSKE JET, INC
POLET
PRESIDENTIAL FLIGHT UAE
PROCTER&GAMBLE
PROPINVEST ASSET MGM
QANTAS AIRWAYS
QATAR AIRWAYS
QUALCOMM Incorporated
QUINN AVIATION LTD
RAVENHEAT MANUFACTRG
REMO INVESTMENTS
RJR WINSTON SALEM
ROSS INVESTMENTS
ROYAL BRUNEI AIRLINES
ROYAL JET
South African Airways
SAMARITAN'S PURSE
SHARJAH RULERS FLT
SINGAPORE AIRLINES
SKY AVIATION
CJSC Sky Express""
SLEEPWELL AVTN
SONY AVIATION
SPACE EXPLORATION
SPC AVIATION LTD
SPECSAVERS AVTN
SRILANKAN AIRLINES
Standard and Poors
SUBPRICE LTD
SUZUKI DEL CARIBE
SWAGELOK
SWISS
SYRIAN ARAB AIRLINES
TAG AVIATION UK LTD
TAUBMAN
TEXTRON
THOMAS COOK AIRLINES LIMITED
THUNDER AIR UK LTD

News America Inc
NOCLAF LIMITED
TRANS CAN PIPELINES
TRANSMERIDIAN AVTN
TRUSTAIR LTD
TW AIR
UNITED COMPANY THE
VALERO ENERGY
DENNIS VANGUARD INTL
WA DEVELOPMENTS INTL LTD
Wal-Mart Stores
WESTAIR FLYING
NAUTHIZ PTY LTD
WESTSHORE AVTN MGMT
XAMEX INVESTMENTS
ZENO AIR
AMBRION AVIATION
JETSTEFF AVIATION
Consolidated Press 2
BOMBARDIER INC
RICHARD HAYWARD
CALSPAN
STA (2006) LLP
KEEPFLYING LLP
BANLINE AVIATION
DONINGTON AVIATION
GOODRICH CORP
MCDONALD'S CORP
HERTZ CORP
Tudor Investment Corporation
TUCK AVIATION
EAGLE AIRCRAFT
CASBAH
TELUS COMMUNICATIONS
BOULTBEE AVIATION 3
HAMLIN JET LTD
BANGLADESH BIMAN
BA CITYFLYER LTD
BAA JET MANAGEMENT
CELEUS INVESTMENTS LLC
GTC MANAGEMT BURBANK

PRESTBURY TWO
CONDOR AVIATION
J MAX AIR SERVICES
JOHN MASON ACFT SVCS
MAITON AIR LLP
TOWN & COUNTRY FOOD

TITAN AIRWAYS LTD
TOWER HOUSE CONSULTANTS LIMITED
AZERBAIJAN AIRLINES
Harrah's Operating C
WHITE ROSE AVTN
DIRECT AVIATION MNGT
CLOUD AIR SERVICE
CAYLEY AVIATION
57 AVIATION SERVICES LLC
AMERIPRISE FINANCIAL
AL SALAM 319 LTD.
Can Pacific Railway
SYMPHONY MILLENNIUM
Hershey Company
PALM TREE AVIATION
Tendencia Asset Management
MIDROC AVIATION
MARCO POLO AVTN LTD
TWINWOOD TRANSPORT
JP MORGAN CHASE CY
IBM
SPX CORPORATION
DIRECTV GROUP INC
AIM AVTN
CONSTELLATION LEASING LLC
Vale S/A
COLLEEN
COCA COLA REFRESHMENTS
THE BOEING COMPANY
WORLD IS YOURS
TURKMENISTAN
TAS CORP
TAIL WIND LTD
HOLLY CORP
SHAW COMMUNICATIONS
COSTA AZZOURA
RABBIT RUN
Learjet
KOHLER
ARMAD
WILDERNESS POINT ASS
PAKISTAN INTERNATIONAL AIRLINES
CORP.
CSC TRANSPORTATION
TRAVELERS INDEMNITY CO.
SEAFLIGHT AVIATION LTD
ROWLEY M
BEEHAWK AVIATION

WORTHINGTON INDUSTRY
Invemed AVTN SRVCS
AVIONETA LLC
SAUDI ARABIAN OIL CO./SAUDI ARAMCO
Graham Capital Company
BMIBaby Limited
NETJETS INTL - USA

Grass Green II LLC
TARRANT ADVISORS
Thomson Airways Limited
SANDS AVIATION LLC
ISLAND AVIATION, INC
TIDEWATER INC
THE GHK COMPANY LLC
KILMER MANAGEMENT
FANAIR AVIATION LTD.

FAIRMONT AVIATION
Relational Investors LLC
UZBEKISTAN AIRWAYS
MYSKY LLP
Sheridan Avtn
STC BERMUDA LTD.
ABG AIR LTD
ON TIME AVTN
Liberty Media LLC
AL RUSHAID AVIATION
H.M. THE SULTAN'S FLIGHT
CHC Scotia Ltd
Bristow Helicopters Ltd
Oman Air
AIR ASIA X
DHL Air UK
FOREST AVIATION LTD
Hamilton Aviation
NIGER AIR FORCE
Cardinal Health Avtn
S Botswana
CZAR AVIATION LTD
JATO AVIATION LTD
HCC SERVICE COMPANY
FL510 GMBH
AIRBILL INC.
ALPHA TECHNOLOGIES, INC.
ANADARKO PETROLEUM CORPORATION
BEACON CAPITAL PARTNERS, LLC
BLOOMBERG SERVICES LLC

WYNDHAM WORLDWIDE
VIPER AVIATION LLC
CONANICUT AVIATION
CBS MASS MEDIA CORPORATION
CVS/CAREMARK CORPORATION
DEVON REALTY ADVISORS, LLC
DOMINION RESOURCES SERVICES INC.
ENTERPRISE RENT-A-CAR, ENTERPRISE
HOLDINGS
FELHAM ENTERPRISES INC
FIRST DATA CORPORATION
FIVE STAR AVIATION, LLC
FOREIGN MANUFACTURES FINANCE CORP
FL AVIATION CORPORATION
GANNETT CO., INC.
GENERAL AVILEASING, INC.
GLOBAL PACIFIC AVIATION, INC.
GUIDARA NORDESTE PARTICIPACOES
LTDA
HESS CORPORATION
HUNT CONSOLIDATED INC.
IMS HEALTH
JACKSON NATIONAL LIFE
JUSTRAVL AIRCRAFT MANAGEMENT, INC.
J. C. PENNEY CORPORATION, INC.
MCCORMICK AND COMPANY INC.
MP AIR, INC.
M.J. AIR, LLC
NATIONAL GYPSUM COMPANY
NORDSTROM, INC.
NASCAR, INC.
PARAMOUNT PICTURES CORPORATION
PEABODY ENERGY
PROFESSIONAL JET MANAGEMENT, INC.
RAYTHEON COMPANY
RED WHITE & BLUE PICTURES, INC.
SNAPPER CONSULTING INC.
STARBUCKS CORPORATION
TOUR AIR, INC.
US BANK NA TRUSTEE
WAYNE A REAUD
WINDSOR MEDIA INC.
XEROX CORPORATION
ZIFF BROTHERS INVESTMENT, LLC
ZIMMER INC.
AMY'S KITCHEN INC.
ARIK AIR LTD
SAILS IN CONCERT, INC.

CANADIAN UTILITIES LIMITED
CLEVELAND BROWNS TRANSPORTATION
LLC
OTO DEVELOPMENT, LLC
KANSAS CITY LIFE INSURANCE COMPANY
SIOUX COMPANY LTD
GX AVIATION
PACIFIC JET AVIATION, LLC
L.A.W. AVIATION, LLC
PEGASUS SOUTH, LLC
AvMet
LIMONIA LTD.
HEWLETT-PACKARD COMPANY
LEUCADIA AVIATION, INC.
ROYAL FLIGHT OMAN
KNIGHTSDENE LIMITED
EXECUTIVE AVTN LTD
MARKS & SPENCER PLC
AL Tameer
JANAH MANAGEMENT COMPANY LTD.
Park House Avtn Ltd
NOBLE FOODS LTD
JOHNSON FRANKLIN
Blue Ridge Air, Inc.
Avalon Capital Group
Park Rise Investments Ltd
BZL
AVTRADE UK
BAYHAM LIMITED
BGST LLC
BISSELL LEASING CO LLC
BKF AVIATION LIMITED
Charles Schwab
COCA COLA ENTERPRISE
CONCIERGE AVIATION
Essar Shipping Ports & Logistics Ltd (ESPL)
Felham Enterprises Ltd.
Firefly Entertainment Inc.
Fox Paine and Company, LLC
GEXAIR LTD.
Irving Oil Transport Inc.
LFG Aviation
LINKSAIR LTD
METROJET (MPAMCL)
METROJET LIMITED US
Michel Moreno

ANDROMEDA LTD
WEYERHAEUSER COMPANY
OPA LLC
PACIFIC STREAM
Palm Beach Aviation, Inc.
PRIME AVIATION HOLD.
PRIME LEGACY MGMT
ROCKWELL COLLINS LLC
SGSF Capital Venture LLC
SK TELECOMM
Ty-Tex Exploration Inc.
Waste Management, Inc.
WILLIAMS AVIATION
Zoe Air
AT&T INC
Avenir Worldwide.
TAM AVIATION
FUTURA TRAVELS
KINGS AVIATION
PFIZER INC.
AMAC AEROSPACE
Hangar 8 Ltd
RAVELLO ENTERPRISES
G200 LTD
AV CONSULTANTS ASPEN
MBG, LLC
GALLAGHER ENTERPRISE
Jet Stream Aviation
CRESCENT HEIGHTS, INC.
Frost Administrative Services, Inc.
AEG Air A.V.V.
Olayan Financing Company
VIPJET LIMITED
Heckmann Enterprises Inc
MWM AG
Eastway Aviation LLC
51 NORTH LIMITED
MILBURN WORLD TRAVEL
LOGANAIR
British Midland Regional Limited
MID SOUTH AVIATION
NEW ORION AIR GROUP
NOLA AVIATION
OAKLR Aviation Services LLC

Annex D European Commission Frequently Asked Questions

Brussels, 20 November 2012

1. What exactly is the Commission proposing?

The Commission is proposing a Decision which would derogate from Article 16 of the EU Emissions Trading Directive so that action is not taken against aircraft operators which do not meet the Directive's reporting and compliance obligations arising before the September 2013 ICAO Assembly in respect of flights to or from airports in third countries and airports in Europe. The only condition for this is that they have either not received, or have returned, free allowances received in 2012 granted for such activities to or from such airports. Proper monitoring, reporting and verification of greenhouse gas emissions from such flights is welcomed, but compliance sanctions will not be taken in case of the non-reporting of such emissions.

2. What is the reason for this proposal?

At the International Civil Aviation Organisation (ICAO) Council's meeting of 9 November 2012, significant progress was made in terms of the commitments made to adopt a framework for market-based measures for emissions from international aviation and, recognising that a global market-based measure (MBM) is technically feasible, to make progress on such a global MBM through the high-level group established at that Council meeting.

The EU considers that a global market-based measure for addressing international aviation emissions is within reach at the ICAO Assembly in September 2013, and this proposal is intended to reinforce the positive momentum for the 2013 Assembly to agree on applying such a global market-based measure, and adopting a framework for facilitating States' application of MBMs to international aviation pending the global measure's application. This proposal to "stop the clock" for flights to and from Europe demonstrates the EU's strong political commitment to facilitate and drive forward the successful conclusion of these ICAO processes.

3. What does the Commission expect from the 2013 ICAO Assembly?

The Assembly should agree on a global market-based measure (MBM) with a realistic timetable and roadmap for it to apply, alongside endorsing an ICAO framework for facilitating States' application of market based measures to international aviation pending application of the Global measure. Building on the 2010 ICAO Resolution and its recognition of the role of existing MBMs for international aviation prior to 2020, this framework would urge States to avoid market distortions, limit administrative complexity, and promote comprehensive coverage of international aviation emissions, harmonisation of measures and linkage between current and future MBMs.

There should also be progress on the development, submission and review of State action plans, outlining States' respective policies and actions, including annual reporting on

international aviation CO₂ emissions to ICAO, and information in relation to achieving the Resolution's global goals. Specific capacity building should be available for countries which need this.

4. Why does the Commission consider that a framework for international flights according to which States regulate departing flights makes sense?

Firstly, this is one of the approaches which have been considered practical in ICAO. It provides the basis for a framework which, over time, would have comprehensive coverage of aviation emissions, and it is workable.

This approach is a practical way to further reconcile views on non-discriminatory action and common but differentiated responsibilities and respective capabilities because equal responsibility is taken by the country of arrival and departure, and the country of departure can take actions which it considers appropriate to limit the growth of aviation emissions from departing flights. In addition, this is also the coverage of international aviation emissions that has been foreseen in proposals outside the EU for economy-wide climate change legislation.

From the perspective of the airline, it has the advantage that every flight it operates it is reported to only one regulator, and it has the assurance that all other airlines operating the same flights are regulated in a consistent manner.

Finally, this approach is consistent with the EU commitment to a 20% reduction in emissions below 1990 levels, which includes CO₂ emissions from international flights from the EU (see question 10 below).

5. What about flights between airports in the EU?

The Directive continues to apply in full to flights between airports in the EU and closely connected areas with a shared commitment to tackle climate change. All airlines which have operated to such airports in 2011 and in 2012 are therefore required to comply with monitoring, reporting and verification requirements. By 30 April 2013, all airlines which operated such flights in 2012 are required to surrender allowances or international credits in respect of emissions from those flights.

6. What will be enforced in the period after April 2013?

This proposal should be agreed between the European Parliament and Council by early 2013, and the Commission will do everything it can to facilitate this process. The Commission confirms that pending completion of the legislative process, aircraft operators which have either not received, or have returned, free allowances received in 2012 for cancellation should not expect the Commission to require enforcement activities to be taken against them by Member States in respect of reporting emissions or surrendering allowances for flights to or from third countries and airports in EU and closely connected areas.

7. What will happen after the 2013 ICAO Assembly?

This Decision gives space for progress to be made at the ICAO Assembly that takes place in September 2013. In the context of such progress, Article 25a of the Directive would enable further amendments to be made to the aviation activities covered by the EU ETS with obligations arising after 1 January 2014. Airlines which intend to operate flights to and from EU and EFTA airports and in closely connected areas in 2013 should be aware that, in the absence of such modifications, they are responsible for emissions from these flights. Free

allowances issued in February 2013 in respect of 2013 emissions are also subject to potential modification from measures adopted pursuant to Article 25a.

8. How does this affect the auctioning of aviation allowances?

The percentage of auctioning remains at 15% as laid down in the Directive. Consequently, a lower quantity of aviation allowances will be auctioned for 2012 that proportionately reflects the lower number of total allowances in circulation.

9. What about charges that airlines have already made on airlines passengers?

The Commission has considered that the aviation industry is expected to pass on, to a large extent, the value of allowances to their customers. The impact that EU ETS inclusion has on ticket prices is considered to be rather limited¹. Airlines clearly benefit financially from charges already paid by passengers which airlines do then not need to use for allowances. It is a question for individual airlines as to how this financial benefit is used to invest in emission reductions or returned to passengers.

10. What does this proposal mean for the EU's overall 20% greenhouse gas reduction commitment for 2020?

Aviation needs to decouple emissions from traffic growth. Emissions trading provides flexibility for operators in when and how they do this. The EU's commitment to reduce its emissions by 20% compared to 1990 levels includes CO₂ emissions from international flights from the EU between 2013 and 2020². Since this proposal applies only to emissions taking place in 2012 it does not undermine the EU's 20% reduction commitment by 2020.

11. What does this mean in respect of sustainable biofuels used by airlines in 2012?

Flights using a proportion of sustainable biofuels have already taken place across the Atlantic, and commercial services within Europe using sustainable biofuels are entering into operation.

The development of sustainable biofuels is encouraged by the EU ETS because they are considered to have zero emissions for compliance purposes. To the extent biofuels are used by airlines, aircraft operators do not need to surrender any allowances or international credits in respect of the proportion of biofuels used during their flights. This provides an incentive for airlines to use biofuels and also incentivises fuel producers to invest in the production of sustainable biofuels. No such incentive applies for the use of biofuels for flights to which the EU ETS does not apply.

12. What about other actions that the EU takes to reduce aviation emissions?

The EU has adopted a 'comprehensive approach' to reducing environmental impacts of aviation, and market based instruments such as the EU ETS belong to this. Other aspects include air traffic management measures, such as the Single European Sky programme; promotion of the research and development in cleaner aeronautics, for instance with the Clean Sky Programme and through work to promote the development of sustainable biofuels. In this regard, it should be noted that the Commission supported the aviation industry with €109 million for sustainable aviation in 2011 alone. The EU and its Member States are responsible for a majority of the Action Plans which have so far been submitted to ICAO.

13. Why is a proposal being made for aviation but not for other sectors of the economy?

All sectors of the economy should contribute to tackling climate change. This proposal for temporarily deferring aviation's contribution is only justified because of the clear prospects for achieving global outcomes through ICAO that should lead to a greater environmental benefit than the application of the EU ETS as it stands now.

15. 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