

## Frequently Asked Questions

### 2013-2016 Regulation amending the EU Emissions Trading System for aviation<sup>1</sup>

#### 1. What is the reason for this Regulation?

On 4 October 2013 the Assembly of the International Civil Aviation Organization (ICAO) agreed on a roadmap for developing a global market-based mechanism (MBM) to tackle aviation emissions.<sup>2</sup> This is an important achievement and follows years of pressure from the EU for international action. The global MBM is to be finalised at the next ICAO Assembly in 2016 and implemented by 2020.

In response to this progress and to promote further momentum towards the successful establishment of the global MBM, the EU has decided to make amendments to the aviation activities covered by the European Union Emissions Trading System (EU ETS). This Regulation therefore amends the EU ETS Directive<sup>3</sup> for 2013-2016. It follows on from the April 2013 'stop the clock' Decision<sup>4</sup> that was adopted to promote progress on global action at the 2013 ICAO Assembly.

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<sup>1</sup> [Regulation \(EU\) No 421/2014 of the European Parliament and the Council of 16 April 2014 amending the Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community, in view of the implementation by 2020 of an international agreement applying a single global market-based measure to international aviation emissions](#)

<sup>2</sup> See Article 18 ff of ICAO Resolution A38-18, [http://www.icao.int/Meetings/a38/Documents/WP/wp430\\_en.pdf](http://www.icao.int/Meetings/a38/Documents/WP/wp430_en.pdf)

<sup>3</sup> 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) as amended by Directive 2008/101/EC of the European Parliament and of the Council of 19 November 2008 amending Directive 2003/87/EC so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Community (OJ L 8, 13/01/2009, p. 3)

<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32008L0101>

<sup>4</sup> Decision No. 377/2013/EU, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32013D0377:EN:NOT>

## 2. When did the Regulation enter into force?

The Regulation entered into force on 30 April 2014 upon its publication in the Official Journal.

## 3. Does the Regulation require transposition into national law?

No, a Regulation is a legislative act that becomes immediately and simultaneously enforceable as law in all Member States. Regulations are directly applicable and do not need to be transposed into national law.

When a Regulation comes into force, it overrides all national laws dealing with the same subject matter. Nevertheless, Member States still need to adjust their existing national legislation so that it does not contradict the new Regulation.

## GEOGRAPHICAL SCOPE OF THE REGULATION

### 4. Which flights are covered under the EU ETS for the period from 1 January 2013 to 31 December 2016?

#### *(a) Flights between aerodromes in the EEA (but not in outermost regions)*

Emissions from flights between aerodromes in the European Economic Area (EEA) remain fully covered under the EU ETS. However, there is an exemption for flights that are operated between an aerodrome in an outermost region and an aerodrome outside the outermost region of arrival and departure. See questions 4.(b) and 5 for more details on the coverage of emissions from flights that depart or arrive in aerodromes in outermost regions of the EU .

Furthermore, it should be noted:

- The following territories of Member States are part of the EEA:

ES	Ceuta and Melilla
FI	Aland Islands
NO	Jan Mayen
UK	Gibraltar

Flights between aerodromes in these territories and any aerodromes in the EEA remain fully covered in the EU ETS, with the exception of those in outermost regions.

- The airport Basel-Mulhouse-Freiburg (ICAO Aerodrome Codes LFSB und LSZM) is in French territory and so is an aerodrome within the EEA.
- Flights between any aerodromes in the EEA and offshore installations of EEA countries that are outside territorial waters, such as oil and gas production or exploration platforms, also remain fully covered under the EU ETS.

*(b) Flights between aerodromes in the same outermost region*

The EU currently includes nine outermost regions (in the meaning of Article 349 TFEU):

ES	Canary Islands
FR	French Guiana Guadeloupe Martinique Mayotte ( <i>from 2014</i> ) Réunion Saint-Martin
PT	Azores Madeira

Emissions from flights between aerodromes in the **same** outermost region remain fully covered under the EU ETS.<sup>5</sup>

However, as explained in question 5, flights between an aerodrome located in an outermost region and an aerodrome outside the outermost region of departure or arrival are temporarily excluded from the scope of the EU ETS.

*(c) Flights between aerodromes in Croatia and aerodromes elsewhere in the EEA (but not in outermost regions)*

Emissions from flights between aerodromes in Croatia and aerodromes elsewhere in the EEA – with the exception of those in outermost regions – remain fully covered under the EU ETS as from 1 January 2013.

Following the accession of Croatia to the EU on 1 July 2013, emissions from flights between aerodromes in Croatia from 1 July to 31 December 2013 shall be reported. There is no surrendering obligation for these emissions. Emissions from flights within Croatia are fully covered – with regard to both reporting and surrendering obligations – from 1 January 2014 onwards.

[See detailed information on Croatia-specific monitoring and reporting requirements for 2013 emissions.](#)

**5. Which flights are excluded from the EU ETS for the period from 1 January 2013 to 31 December 2016?**

For the period 1 January 2013-31 December 2016, the following flights are excluded from the scope of the EU ETS:

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<sup>5</sup> Regarding compliance obligations for flights within an outermost region, it should be noted that, according to Annex I of the EU ETS Directive, the following aviation activities are excluded from the EU ETS:

- Flights performed in the framework of public service obligations imposed in accordance with Regulation (EEC) No 2408/92 on routes within outermost regions;
- Flights terminating at the aerodrome from which the aircraft has taken off and during which no intermediate landing has been made.

- Flights between an aerodrome in the EEA and an aerodrome in a country or territory outside the EEA.
- Flights between an aerodrome in an outermost region of the EU and an aerodrome in the EEA but outside the outermost region of arrival or departure.

It should also be noted that the following (overseas) countries and territories of Member States are not part of the EEA. Flights from aerodromes in the EEA to aerodromes in these countries and territories are therefore excluded from the EU ETS for 2013-2016.

DK	Greenland Faeroe Islands
FR	French Polynesia Mayotte ( <i>until 2013; from 2014 Mayotte is considered an outermost region</i> ) New Caledonia Saint Barthélemy Saint Pierre and Miquelon Wallis and Futuna
NL	Aruba Bonaire Saba Sint Eustatius Curaçao Sint Maarten
NO	Svalbard
UK	Anguilla Bermuda British Antarctic Territory British Indian Ocean Territory British Virgin Islands Cayman Islands Falkland Islands Bailiwick of Guernsey Isle of Man Jersey Montserrat Pitcairn, Henderson, Ducie and Oeno Islands Saint Helena Ascension and Tristan da Cunha South Georgia and the South Sandwich Islands Turks and Caicos Islands Akrotiri Dhekelia

## MONITORING, REPORTING, VERIFICATION AND SURRENDERING

### 6. What are the compliance dates for aviation emissions from 2013?

Aircraft operators are required to report 2013 aviation emissions – based on the reduced scope of the EU ETS – by 31 March 2015 and to surrender a corresponding amount of allowances by 30 April 2015.

The reporting and surrendering deadlines for aviation emissions from 2013 and 2014 will therefore be the same dates in 2015. However, two separate annual reports have to be submitted.

## **7. Does the Regulation provide for a new exemption for non-commercial aircraft operators?**

The Regulation introduces a temporary exemption for flights performed by non-commercial aircraft operators with total annual emissions lower than 1 000 tonnes CO<sub>2</sub> per year. The exemption applies from 1 January 2013 to 31 December 2020.

The threshold of 1 000 tonnes CO<sub>2</sub> is based on the full scope of the EU ETS as defined in Annex I to the EU ETS Directive. This means that aircraft operators will only benefit from the exemption if they emit less than 1 000 tonnes CO<sub>2</sub> based on the full scope of the EU ETS.

## **8. Are there other changes to the exclusion of certain aviation activities from the scope of the EU ETS (as listed in Annex I of the EU ETS Directive)?**

All other provisions excluding certain flights from the scope of the EU ETS will remain in force. These exceptions are laid down in [Annex I](#) to the EU ETS Directive.

In particular, it should be noted that the de-minimis exemption for commercial operators – with either fewer than 243 flights per period for three consecutive four-month periods or flights with total annual emissions lower than 10 000 tonnes CO<sub>2</sub> per year – remains unchanged from the original Directive and is based on the full scope of the EU ETS as defined in Annex I to the EU ETS Directive.

## **9. Does the Regulation contain new simplifications for small emitters?**

### *a) Aircraft operators emitting less than 25 000 tonnes CO<sub>2</sub> per year*

From the entry into force of the new Regulation, aircraft operators emitting less than 25 000 tonnes of CO<sub>2</sub> per year, both commercial and non-commercial, can choose an alternative to verification by an independent verifier. The alternative involves determining their emissions by using the [small emitters tool](#) approved under Commission Regulation No 606/2010. In such cases, data used for determining emissions must originate from Eurocontrol. As a result, aircraft operators taking advantage of this simpler method need to use data from the [ETS Support Facility](#), without any modification,

Of the two types of small emitters defined by Article 54 of Regulation No 601/2012, this simplification only applies to aircraft operators operating flights with total annual emissions lower than 25 000 tonnes CO<sub>2</sub> per year.

It should be noted that the exemption threshold of 25 000 tonnes CO<sub>2</sub> per year is based on the full scope of the EU ETS as defined in Annex I to the EU ETS Directive.

### *b) Non-commercial aircraft operators emitting less than 25 000 tonnes CO<sub>2</sub> per year*

In addition, Member States may implement further simplified procedures for non-commercial aircraft operators emitting less than 25,000t CO<sub>2</sub> per year as long as they provide no less accuracy than the small emitters tool provides.

## **10. What is the impact of the Regulation on monitoring plans (Article 3g EU ETS Directive)?**

Aircraft operators do not need to change existing monitoring plans for emissions or tonne-kilometre data.

Aircraft operators operating only flights that according to the Regulation are excluded from the EU ETS, are exempted from the obligation to submit monitoring plans for emissions.

## **11. Will there be changes to the Aircraft Operator List?**

No, this Regulation will not lead to changes to the Aircraft Operator List.

It should be noted that aircraft operators that do not perform an aviation activity as listed in [Annex I](#) to the EU ETS Directive are excluded from the scope of the EU ETS, irrespective of whether they are included in the Aircraft Operator List or not.

## **FREE ALLOWANCES**

## **12. How is the number of free allocations adjusted (Art 3e(5) EU ETS Directive)?**

The number of free allowances to be issued to aircraft operators in each year from 2013 to 2016 will be reduced in proportion to the reduced scope.

Temporary reduction in free allocation =

= *Verified tonne kilometres (tkm) reported in 2010 for flights, which are temporarily exempted according to the Regulation, multiplied by the [benchmark](#)*

This temporary reduction will be deducted from the free allowances calculated by the Member States in 2011.

Member States will have to recalculate the free allocations to be issued for the years 2013 to 2016 and publish them before 1 September 2014.

Once the number of free allowances is adjusted, the issuance will take place according to the national procedures and the procedures laid down in the Registry Regulation. The issuance of the free allowances for 2013 and 2014 will take place well in time before the surrendering deadline on 30 April 2015.

## **13. Which is the impact of the Regulation on the special reserve (Art 3f EU ETS Directive)?**

According to the Regulation, the number of allowances issued to aircraft operators that are allocated from the special reserve foreseen in Article 3f of the EU ETS Directive should be reduced in proportion to the reduced scope. The Regulation also establishes that, as a consequence, allowances not allocated from the special reserve due to the reduced scope should be cancelled.

Operators eligible to receive free allocation from the special reserve are those which started performing aviation activities after 2010 or whose tonne-kilometre data increases by an average of more than 18% annually between 2010 and 2014. In both cases, this activity (or additional activity) shall not be in whole or in part a continuation of an aviation activity performed by another aircraft operator.

Applications for free allocation from the special reserve shall include 2014 verified tonne-kilometre data corresponding to the full scope of the EU ETS Directive (i.e. all flights that depart from or arrive in an aerodrome located in the EEA), as well as the additional data and evidences mentioned in Article 3f(3) of the Directive. Applications should be submitted to the competent authority before 30 June 2015. Final decisions on the free allocation by the competent authorities will be adopted in 2016, and allowances will be issued from 2017 onwards.

#### **14. To what extent can aircraft operators surrender CERs and ERUs from 2013 to 2020?**

Article 11a of the EU ETS Directive allows aircraft operators to use CERs<sup>6</sup> and ERUs<sup>7</sup> for compliance up to an amount corresponding to a percentage, which shall not be set below 1.5 %, of their verified emissions during the period from 2013 to 2020.

Article 1 (5) of Commission Regulation (EU) No 1123/2013 of 8 November 2013 on determining international credit entitlements pursuant to Directive 2003/87/EC (the ETS Directive) specifies that each aircraft operator shall be entitled to use international credits up to a maximum of 1.5 % of its verified emissions during the period from 2013 to 2020. Therefore, from 2013 to 2016 this entitlement will be 1.5% of verified emissions according to the intra-EEA scope, as defined in question 4.

#### **NUMBER OF ALLOWANCES TO BE AUCTIONED AND AUCTIONING SHARES**

#### **15. What effect does the Regulation have on the total number of aviation allowances to be auctioned (Article 3d EU ETS Directive)?**

The percentage of aviation allowances to be auctioned remains at 15% as laid down in Article 3d of the ETS Directive. The Regulation stipulates that Member States will auction a number of aviation allowances that is reduced in proportion to the reduction in the total number of aviation allowances to be issued. Consequently, a lower quantity of aviation allowances will be auctioned for 2013 to 2016 which proportionately reflects the lower number of total aviation allowances in circulation.

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<sup>6</sup> Certified Emission Reductions from the Kyoto Protocol's Clean Development Mechanism

<sup>7</sup> Emission Reduction Units from the Kyoto Protocol's Joint Implementation Mechanism

**16. What effect does the Regulation have on the Member States' auctioning shares?**

The number of allowances to be auctioned by each Member State for 2013 to 2016 will be reduced to correspond to its share of attributed aviation emissions resulting from the application of the reduced coverage of emissions from flights to and from third countries.

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

The auctioning volumes will be reduced to reflect the lower number of aviation allowances to be auctioned for the years 2013 to 2016.

Further news on the timing of the auctions will be published through [regulatory updates](#) on the DG CLIMA website.

**FURTHER INFORMATION:**

[Reducing emissions from aviation](#)

[The EU Emissions Trading System](#)