

Revised and updated version

Frequently Asked Questions

Commission proposal for a European Regional Airspace Approach for EU emissions trading for aviation

1. What is the reason for this proposal?

On 4 October 2013 the Assembly of the International Civil Aviation Organization (ICAO) decided on a roadmap for the development of a global market-based mechanism (MBM) to tackle aviation emissions.¹ This is an important achievement and follows years of pressure from the EU for international action. The mechanism 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, amendments should be made to the aviation activities covered by the European Union Emissions Trading System (EU ETS). This proposal would therefore amend the 2003 ETS Directive.² The proposal follows on from the April 2013 'stop the clock' Decision,³ which was adopted to promote progress on global action through ICAO.

BACKGROUND ON THE 2013 ICAO ASSEMBLY

2. What was the outcome of the ICAO Assembly concerning the use of regional market-based measures before the global mechanism takes effect?

The Resolution⁴ passed by the ICAO Assembly states that countries or groups of countries implementing market-based measures before the global MBM takes effect should engage in consultation with partners to increase understanding of the chosen approach and should consider applying a *de minimis* threshold to exclude developing countries contributing less than 1% of global aviation emissions.

¹ See Article 18 ff of ICAO Resolution A38-18, http://www.icao.int/Meetings/a38/Documents/WP/wp430_en.pdf.

² 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)

³ Decision No. 377/2013/EU

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

⁴ See Article 16 of ICAO Resolution A38-18, http://www.icao.int/Meetings/a38/Documents/WP/wp430_en.pdf

The EU and several other major aviation countries voted against this part of the text, and as in 2007 and 2010 the European Civil Aviation Conference (ECAC) States reaffirmed States' sovereign rights to regulate and take appropriate measures to mitigate aviation emissions.

3. Does the ICAO Resolution cover further aspects such as aspirational goals?

As in 2010, the ICAO Assembly confirmed 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.

Other important decisions were taken with respect to addressing the wider environmental impacts of aviation. These include endorsement of a more stringent international technical standard for aircraft noise, and moving forward with a programme of technical work on new standards for CO₂ and particulates emitted by aircraft.

4. Will the EU submit reservations on the ICAO Resolution?

In line with its longstanding positions, the EU signalled its intention to submit formal reservations on the following parts of the Resolution:

- the ambition level of aspirational goals;
- the totality of the amended framework language on use of national and regional MBMs;
- the inclusion of a reference to the UNFCCC principle of 'common but differentiated responsibilities and respective capabilities' 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

LEGISLATIVE PROCEDURE

5. When might the Commission's proposal be agreed?

The Commission's proposal involves legislation to be adopted through the co-decision procedure, which requires approval by the European Parliament and the Council. As with this year's decision to 'stop the clock,' it is important that the new proposal is agreed swiftly so it is in place in time before the deadline for the next surrendering of allowances due by 30 April 2014. The Commission would therefore like it to be agreed by March 2014.

6. Does the legislation require transposition into national law?

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

GEOGRAPHICAL SCOPE OF THE PROPOSAL

7. 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 European Economic Area (EEA), including flights between airports in the EEA and airports in outermost regions of the EEA⁵.

In addition, flights between the EEA and third countries would generally be covered in proportion to the distance travelled within the European region. This proportion would cover the distance from 12 nautical miles 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 question 11, a special exemption is proposed for 2013 emissions from flights to and from third countries.

To accommodate the special circumstances of developing countries, it is proposed that flights between the EEA and least developed countries, low-income countries, and lower-middle income countries which benefit from the EU's Generalised System of Preferences⁶ and have a share of less than 1 % in international aviation activity be fully exempted from the EU ETS.

Please see also question 9; and Annex 5 for the provisional list of the countries to/from which routes would benefit from this exemption.

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 territories⁷, which are not part of the EEA, would not be covered.

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

See Annex 2 for a list of the outermost regions of the EEA and Annex 3 for a list of the overseas countries and territories of EEA Member countries.

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

Flights on routes between the EEA and third countries would be covered only for the 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 (English Channel, Irish Sea, North Sea, Baltic Sea, Mediterranean Sea, etc).

⁵ See Article 349 of the Treaty on the Functioning of the European Union (TFEU) for a list of the outermost regions of the EU and Annex 2 for a complete list of the outermost regions of the EEA.

⁶ In accordance with Regulation (EU) No 978/2012

⁷ See Annex 3 for a list of the overseas' countries and territories of EEA Member countries.

However, it would exclude emissions over:

- Any third country area (Switzerland, Kaliningrad, Serbia, Bosnia and Herzegovina, Montenegro, Albania);
- Further sea areas between Iceland and other EEA Member States; the Azores and EEA Member States including mainland Portugal; Canary Islands and EEA Member States including mainland Spain;
- 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 that take place 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.

Furthermore, emissions from flights between the outermost regions of the EEA and countries outside the EEA would be fully exempted.

Annex 4 illustrates the coverage of third country flights.

9. Are there additional exemptions for flights on routes to and from 'developing states'?

Without prejudice to the global market-based measure that will apply 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 are those which, when the proposal is adopted, benefit from the Generalised System of Preferences⁸ for access to the Union market

It is important to note that this exemption applies only to flights on routes to and from these countries and is NOT a general exemption for operators from these countries. It means that, irrespective of their nationality, all airlines operating on routes to and from these countries will benefit from this exemption.

See Annex 5 for the provisional list of countries to/from which it is proposed that routes be exempted from the EU ETS for 2014 to 2020.

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

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

- Flights to and from third countries are covered in proportion to their distance travelled within the European Regional Airspace (with the exception of flights to and from least developed countries and low income countries, which remain fully exempted).

⁸ in accordance with Regulation (EU) No 978/2012 of the European Parliament and of the Council.

- Flights to and from Switzerland are only covered in proportion to their distance travelled within the European Regional Airspace.
- Flights to and from overseas countries and territories of EEA member countries are fully exempted.
- Aircraft operators no longer have the possibility to 'participate' voluntarily in the full scope of the EU ETS.

GEOGRAPHICAL SCOPE FOR 2013 EMISSIONS

11. Are there special exemptions for 2013 emissions?

Emissions from flights operated in 2013 to and from third countries are fully exempted from the EU ETS.

The second table in Annex 1 shows the emissions coverage for 2013.

12. 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. To implement these adjustments and ensure the necessary technical preparations are duly completed, it is proposed that 2013 emissions from flights to and from third countries be fully exempted.

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

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

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

MONITORING, REPORTING, VERIFICATION AND SURRENDERING

14. When are the next compliance dates according to the proposal?

There will be an extraordinary two-year compliance cycle for aviation emissions from 2013 and 2014. These emissions need to be reported only by 31 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.

15. What will be enforced in the period after April 2014?

The proposal should be agreed between the European Parliament and Council by April 2014, and the Commission will do everything it can to facilitate this process.

The Commission confirms that pending completion of the legislative process, aircraft operators should not expect the Commission to require enforcement activities to be

taken against them by Member States in respect of not having reported emissions or surrendered allowances before 31 March 2014 and 30 April 2014 respectively with regards to flights operated during 2013.

16. How should emissions be reported from third-country flights operated from 2014 to 2020?

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

a) Reporting based on current MRV system

The requirements set out in the ETS Directive⁹ for emissions from flights to and from countries outside the EEA are considered as satisfied for 2014 to 2020 if obligations are met in respect of a certain percentage of the emissions from flights to and from airports in third countries. These percentages (hereafter 'coverage percentage') will be set out in the Annex to the amending Directive. They will be calculated by Eurocontrol on the basis of the Great Circle Distance between the main airports in the EEA and in third countries (hereafter 'total GCD'). As set out in detail in the Annex to the Commission proposal, the coverage percentage reflects that portion of the total GCD that is from not more than 12 nautical miles beyond the furthest point of the EEA coastline to the EEA airport of departure or arrival (excluding third country areas and excluding sea areas in excess of 400 nautical miles).

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-pairs¹⁰ 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 will 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 cover only 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, it is proposed to offer a choice to all aircraft operators in respect of flights to and from third countries.

⁹ 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)

¹⁰ Country pair means that there is a single percentage for flights to each third country. This is defined based on the Great Circle Distance 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').

Regarding 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 within 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 European 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 of the 2003 ETS Directive. That means no verification is needed for these flights.

17. Are new exemptions proposed for small emitters?

a) Small non-commercial aircraft operators emitting less than 1 000 tonnes per year

An additional simplification in the proposal is that no enforcement action will be taken regarding non-commercial aircraft operators emitting less than 1000 tonnes of CO₂ per annum.

This is expected to reduce the number of aircraft operators regulated by Member States by around 2,200, 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.

b) Small aircraft operators emitting less than 25 000 tonnes per year

As of 2013, small operators – whether commercial or non-commercial – emitting less than 25 000 tonnes of CO₂ per year 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 25 000 tonnes, 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.

c) Small non-commercial aircraft operators emitting less than 25 000 tonnes per year

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.

FREE ALLOWANCES

18. 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 third countries.

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

= (100% minus coverage percentage) multiplied by the benchmark multiplied by verified 2010 tonne kilometre (tkm) reported for flights to and from this third 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 questions 7 and 11).

19. To which extent can aircraft operators surrender CERs and ERUs from 2013 to 2020?

Article 11a of the 2003 ETS Directive allows aircraft operators to use CERs¹¹ and ERUs¹² 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.

NUMBER OF ALLOWANCES TO BE AUCTIONED AND AUCTIONING SHARES

20. 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 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 issued. Consequently, a lower quantity of aviation allowances will be auctioned for 2013 and 2014 to 2020, which proportionately reflects the lower number of total aviation allowances in circulation.

21. 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 2013 and 2014 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 third countries.

22. 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 through [regulatory updates](#) on the DG CLIMA website.

REVIEW IN 2016

23. What will happen when the global MBM is agreed in 2016?

¹¹ Certified Emission Reductions from the Kyoto Protocol's Clean Development Mechanism

¹² Emission Reduction Units from the Kyoto Protocol's Joint Implementation mechanism

Following the 2016 ICAO Assembly, the Commission will 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 the global MBM. The global MBM should, in terms of the recognition of early action called for by the International Air Transport Association (IATA), take into account offsetting of emissions outside the aviation sector under the EU ETS 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 did not apply from 2020, that report to the European Parliament and Council would consider the appropriate scope for coverage of emissions from activities to and from third countries in the continued absence of such a global measure. In its report, the Commission will 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.

FURTHER INFORMATION:

[Reducing emissions from aviation](#)

[The EU Emissions Trading System](#)

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>

Proportional = Emissions coverage in proportion to distance within European Regional Airspace (as defined in the Annex to the Commission proposal)

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

List of the outermost regions of the EEA¹³

The territorial scope of the EEA includes the following outermost regions:

ES	Canary Islands, Ceuta, Melilla
FI	Aland Islands
FR	French Guiana, Guadeloupe, Martinique, Réunion, Saint Martin
PT	Azores, Madeira
NO	Jan Mayen
UK	Gibraltar

¹³ 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>. Please note that Mayotte will become an outermost region with effect of 1st January 2014.

Annex 3

List of overseas countries and territories of EEA Member countries¹⁴

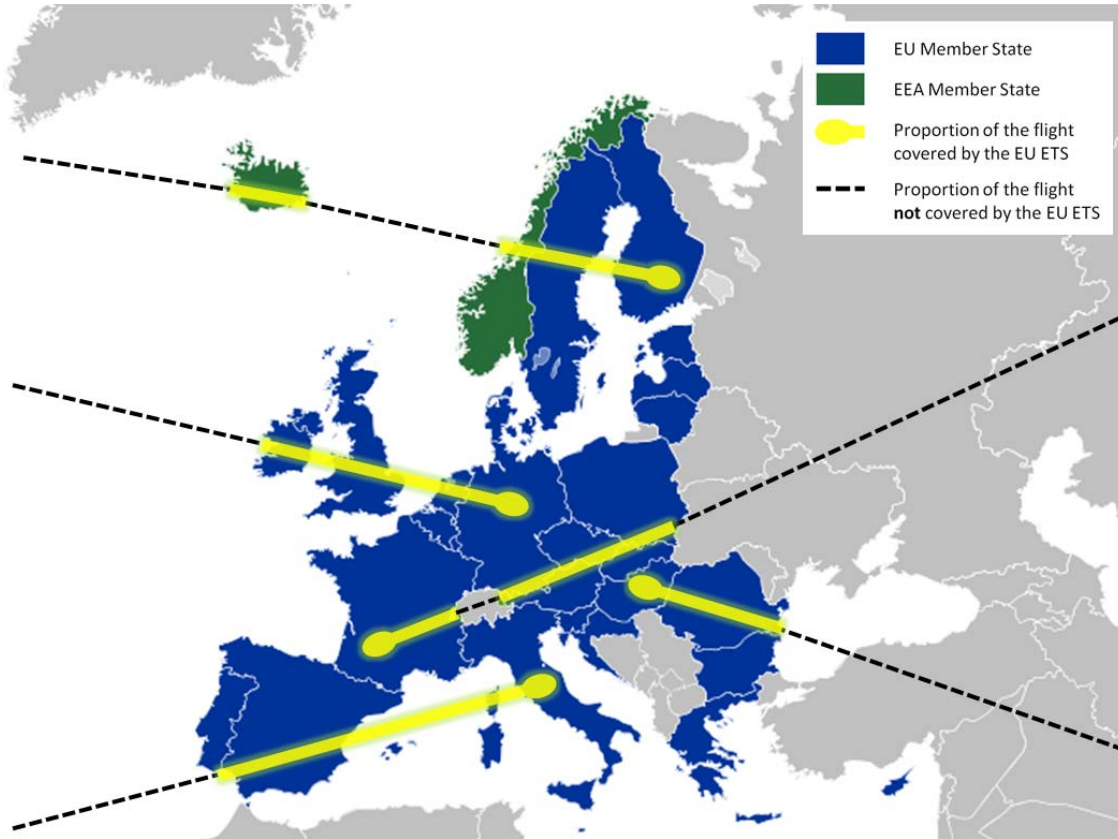
These countries and territories belong to EEA Member countries but are not part of the EEA:

Greenland	Faroe Islands
French Polynesia	Saint Barthélemy
Mayotte	Saint Pierre and Miquelon
New Caledonia	Wallis and Futuna
Aruba	Sint Eustatius
Bonaire	Curaçao
Saba	Sint Maarten
Svalbard	
Anguilla	Jersey
Bermuda	Montserrat
British Antarctic Territory	Pitcairn, Henderson, Ducie and Oeno Islands
British Indian Ocean Territory	Saint Helena
British Virgin Islands	Ascension and Tristan da Cunha
Cayman Islands	South Georgia and the South Sandwich Islands
Falkland Islands	Turks and Caicos Islands
Bailiwick of Guernsey	Akrotiri
Isle of Man	Dhekelia

¹⁴ See also 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.

Annex 4

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



Annex 5

Provisional list of countries referred to in recital 10 and the Annex to Commission proposal COM(2013)722 to amend Directive 2003/87/EC, to/from which it is proposed that routes be exempted from the EU ETS for the period from 2014 to 2020

This list is based on Annex II of the EU's Generalised System of Preferences (GSP) Regulation No 978/2012¹⁵ which lists the GSP beneficiary countries of the general arrangement referred to in point (a) of Article 1(2) of this Regulation.

This list does not include GSP beneficiary countries whose share of total revenue ton kilometres of international civil aviation activities is more than 1% according to ICAO statistics¹⁶, nor countries to which there are no direct flights to or from airports located in the European Economic Area.

Afghanistan	Madagascar
Angola	Malawi
Armenia	Maldives
Bangladesh	Mali
Benin	Mauritania
Bhutan	Mongolia
Bolivia	Mozambique
Burkina Faso	Myanmar
Burundi	Nepal
Cambodia	Nicaragua
Cape Verde	Niger
Central African Republic	Nigeria
Chad	Pakistan
Colombia	Panama
Comoros	Paraguay
Congo, Dem. Rep	Peru
Congo, Rep.	Philippines
Costa Rica	Rwanda
Djibouti	São Tomé and Príncipe

¹⁵ Regulation (EU) No 978/2012 of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008, OJ L 303, 31.10.2012, p. 1, http://trade.ec.europa.eu/doclib/docs/2012/october/tradoc_150025.pdf, and

Commission delegated Regulation (EU) No 154/2013 of 18 December 2012 amending Annex II to Regulation (EU) No 978/2012 of the European Parliament and of the Council applying a scheme of generalised tariff preferences, OJ L 48, 21.2.2013, p.1, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:048:0001:0004:en:PDF>.

¹⁶ The ICAO list of countries ranked by shares of international aviation activity can be found on http://www.icao.int/publications/Documents/10001_en.pdf, Table 5 on page 88.

Ecuador	Senegal
El Salvador	Sierra Leone
Equatorial Guinea	Somalia
Eritrea	Sri Lanka
Ethiopia	Sudan
Gambia, The	Syrian Arab Republic
Georgia	Tajikistan
Guatemala	Tanzania
Guinea	Timor-Leste
Guinea-Bissau	Togo
Haiti	Turkmenistan
Honduras	Uganda
Indonesia	Ukraine
Iraq	Uzbekistan
Kyrgyz Republic	Vietnam
Lao PDR	Yemen, Rep.
Lesotho	Zambia
Liberia	