

FAQ relating to revision of Annexes of the Agreement between the European Union and the Swiss Confederation on the linking of their Greenhouse Gas Emission Trading Systems (Linking Agreement) (Part 1)

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1 General

1.1 What is the objective of linking the EU and Swiss ETS?

Linking compatible emissions trading systems enables participants in one system to use units from another system for compliance purposes. It demonstrates the wish of the parties involved to advance climate action by cooperation. Linking the Swiss and the EU ETS creates a level playing field for companies involved, harmonises carbon prices between the EU and Switzerland and creates a broader carbon market.

1.2 How does the linking work between the EU and Swiss ETS?

The Linking Agreement provides for the mutual recognition of emission allowances that have been issued under the EU or Swiss ETS for compliance purposes. To this end, a link between the registry systems of both ETS is established to allow for the transfer of allowances. Annex I of the Agreement lays down the essential criteria that both sides have to comply with to ensure compatibility of the systems and implement the Linking Agreement. They concern the inclusion of stationary and aircraft operators, the operation of the respective registries as well as the auctioning of emission allowances. A Joint Committee composed of representatives of the EU and Switzerland will administer the Agreement and ensure its proper implementation. Where parties develop legislation of relevance to the Agreement, the Joint Committee may decide to modify the Annexes to safeguard compatibility of both ETS, including the integrity and orderly functioning of their carbon markets.

To this end, the Linking Agreement provides for the provisional application of certain provisions even before the Linking Agreement enters into force to ensure that the potentially necessary adjustments to the Annexes of the Linking Agreement can be agreed.

1.3 When will the Linking Agreement enter into force?

The Agreement was approved by the Council in January 2018. The Swiss Parliament approved it on 22 March 2019. It is planned to exchange the instruments of ratification before the end of 2019 so that the Agreement can enter into force on 1 January 2020.

1.4 Why are the Annexes I and II to the Agreement being revised before the Agreement is in force?

The Linking Agreement was signed late 2017. Since then, provisions on the emission trading systems in the EU and Switzerland have been or are in the process of being amended. Relevant legislative developments must be reflected in the Annexes, which, for this reason have to be revised. The Joint Committee established by the Linking Agreement is set to adopt the amendments to the Annexes in December.

1.5 What is the process in the EU that allows the Agreement to enter into force?

In order to allow the Joint Committee (see 1.4.) to amend the Annexes to the Linking Agreement, the Council has to adopt a decision that defines the position of the party representing the EU in the Joint Committee established by the Linking Agreement (i.e. the Commission). The Council Decision is based on a Commission proposal that reflects the discussions on the amendments between both parties. Once the Council has adopted its Decision, the Joint Committee may adopt the amendments of the Annexes to the Linking Agreement. The adoption of the amendments is expected to constitute a situation, where the Parties consider all conditions for linking as set out in the Linking Agreement to have been fulfilled. Consequently, the Parties may then exchange the instruments of ratification or approval of the Linking Agreement so it could enter into force on 1 January of the year following the exchange of the instruments of ratification.

1.6 When can EU and Swiss operators surrender Swiss or EU allowances for the first time?

On condition that the Linking Agreement enters into force on 1 January 2020, emissions covered by both ETS (stationary installations and aviation operators) as from 1 January 2020

are eligible to be accounted for under the linked systems. This means that emissions occurring in 2020 can be compensated by allowances stemming from either ETS in the compliance cycle that ends in April 2021.

Other restrictions, as laid down in the EU ETS Directive¹ and the Swiss CO₂ Act² as well as the CO₂ Ordinance³ do apply, too. For example, only aviation operators are allowed to use EU Aviation Allowances (EUAA) or Swiss Aviation Allowances (CHUA) to achieve compliance for their 2020 emissions. Furthermore, allowances issued as from 2021 (i.e. the 4th trading period in the EU ETS and the 3rd trading period in the CH ETS) cannot be used for compliance for 2020 emissions.

1.7 How will changes for the 4th trading period of the EU ETS (2021–2030) be accounted for in the Linking Agreement?

Annex I to the Agreement will be reviewed in accordance with the Linking Agreement to maintain the current compatibility of the EU ETS and the ETS of Switzerland for the period as from 2021. The Joint Committee will ensure that the revision of Annex I to the Agreement safeguards and ensures the integrity and compatibility of the linked systems. Carbon leakage and distortion of competition between linked systems will be avoided.

2 Registry Link

2.1 When will transfers of allowances between the EU and the CH ETS be possible?

Provided that the Linking Agreement enters into force on 1 January 2020, transfers of allowances between the EU and Swiss ETS may take place in May 2020 or as soon as possible thereafter by means of a provisional link between the registry systems of the EU and Switzerland. Market participants will be informed in due time on the relevant timeframes for transfers of allowances from one system to the other in order to provide the necessary certainty and trust.

2.2 When will the provisional arrangement replaced by a final one?

The Parties to the Linking Agreement are working towards a final arrangement that should replace the provisional arrangement to be implemented as from May 2020 or as soon as possible thereafter. However, due to a number of important general considerations not directly related to linking the EU ETS with the Swiss ETS, it would be premature to indicate any concrete date when this might be the case.

2.3 How does the registry link affect the transfer of Kyoto units between the Union Registry and the Swiss registry?

Kyoto units between the Union Registry and the Swiss registry are transferred via the International Transaction Log (ITL) of the UN Climate Change Secretariat (UNFCCC). Since this a separate system, these transfers will not be affected by the provisional arrangement foreseen for the transfer of emission allowances, which are issued under either ETS, between the Union Registry and the Swiss registry.

¹ Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).

² Bundesbeschluss über die Genehmigung des Abkommens zwischen der Schweiz und der Europäischen Union zur Verknüpfung der Emissionshandelssysteme und über seine Umsetzung (Änderung des CO₂-Gesetzes) vom 22. März 2019

³ The CO₂ ordinance is expected to be adopted in November 2019.

3 Aviation

3.1 Which flights will be covered by the EU ETS and the Swiss ETS once the Linking Agreement is in force?

In accordance with Annex I Part B of the Linking Agreement, the scope of flights covered by the linked system encompasses all flights departing from and arriving to an aerodrome situated in the territory of the EEA and Switzerland. The scope of the aviation sector under the EU ETS is expanded by flights departing from an aerodrome in the EEA and arriving at an aerodrome in Switzerland. The Swiss ETS will apply for flights within Switzerland and for flights from Switzerland to an aerodrome situated in the EEA. Swiss de minimis rules do not apply, if the aircraft operator has surrendering obligations in the EU ETS.

3.2 Who is the competent authority for aviation operators operating flights under the EU and Swiss ETS?

Aircraft operators will report to one competent authority on their obligations under the EU as well as the Swiss ETS. Pursuant to Article 25a of Directive 2003/87/EC, the aircraft operator's list published by the European Commission in accordance with Article 18a(3) of the EU ETS Directive will specify the administering State, including Switzerland, for each aircraft operator. Aircraft operators attributed to Switzerland for the first time after the entry into force of this Agreement shall be administered by Switzerland after 30 April of the year of attribution and before 1 August of the year of attribution.

3.3 Do aircraft operators operating flights under the EU and Swiss ETS need two aircraft operator holding accounts, one in the Union Registry and one in the Swiss registry, to surrender allowances under the respective systems?

Aircraft operators will have only one aircraft operator holding account in relation to their obligations under the EU as well as and the Swiss ETS. For an aircraft operator administered by an EEA member state, such an account will be in the Union Registry. For an aircraft operator administered by Switzerland, such an account will be in the Swiss registry.

3.4 How will free allocations be allocated to aircraft operators that receive both an EU and a Swiss allocation?

For aircraft operators with an aircraft operator holding account in the Union Registry, any Swiss free allocation will be transferred by the Swiss competent authorities to the aircraft operator holding account in the Union Registry. Vice versa, for aircraft operators with an operator account in the Swiss registry, the European Commission will ensure, as from 2021, any EU free allocation to be transferred to the operator account in the Swiss Registry. In 2020, and due to the fact that Swiss competent authorities will only start to administer aircraft operators attributed to Switzerland for the first time after the entry into force of the Linking Agreement after 30 April 2020, competent authorities of EEA Member States that currently administer those aircraft operators will transfer the corresponding amount of free allowances to their accounts.

3.5 How will compliance towards both systems be assessed?

When assessing compliance of aircraft operators in the EU ETS on the basis of the amount of surrendered allowances, competent authorities of EEA Member States will first account towards emissions covered by the ETS of Switzerland and use the remaining amount of surrendered allowances to account towards emissions covered by the EU ETS. Vice versa, when assessing compliance in the Swiss ETS, Swiss competent authorities will first account towards emissions covered by the EU ETS and use the remaining amount of surrendered allowances to account towards emissions covered by the Swiss ETS.

4 Auctioning

4.1 With regards to auctioning, what is changing when the Linking Agreement is in force?

Separate auctions will be held for EU and Swiss allowances, respectively. All entities in the EEA that are admitted to bid in auctions in the EU shall be eligible to apply for admission to bid in auctions of Swiss allowances operated by the Swiss Federal Office of the Environment. Accordingly, entities that participate in Swiss auctions shall be eligible to apply for admission to bid in auctions conducted in the EU.