

Sujet: TEST - Special EU ETS Newsletter
De : Julien Dufour <julien.dufour@verifavia.com>
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Pour : julien.dufour@verifavia.com

Special EU ETS Newsletter



Q&A on the European Commission's proposal to temporarily suspend intercontinental flights from the EU ETS

Attention

As you may already be aware, the European Commission (EC) proposed on Monday 12 November that all intercontinental flights should be suspended from the EU ETS for a period of one year. This initiative followed the discussions that took place two weeks ago at ICAO on a global market-based mechanism (MBM) to regulate greenhouse gas emissions from international aviation. On Tuesday 20 November, the EC presented its [legislative proposal](#).

The aim of this special newsletter is to give you an update of the situation and an overview of how this legislative proposal from the EC might affect your EU ETS compliance activities.

Disclaimer

The information below has been collected from official information provided by the EC and through informal discussions with the EC and Competent Authorities (CA) and its accuracy cannot be guaranteed. We recommend you contact your CA directly for the exact requirements you must follow. Also, until the legislative proposal has been approved by the EU States and passed at the European Parliament, part of these rules might change and VerifAvia cannot be held responsible for any incorrect information provided.

What exactly has been proposed?

The EC proposed that intercontinental flights (i.e. flights between the European Economic Area (EEA) and third countries) should be excluded from the EU ETS for a period of one year, i.e. until after the completion of the next ICAO Assembly in October 2013. This is conditional on ICAO reaching an agreement on a global carbon reduction scheme. If not, the suspension would be lifted.

This possibly means that aircraft operators operating exclusively intercontinental flights (i.e. no intra-EEA flights) would be exempt from surrendering EU ETS allowances for at least a period of one year. Aircraft operators operating both intra-EEA and intercontinental flights would have to surrender allowances for intra-EEA flights, but possibly not for intercontinental flights. In short, this proposal might not have any impact on aircraft operators operating exclusively intra-EEA flights.

What if I only operate intercontinental (EEA to / from non-EEA) flights?

Operators operating only intercontinental flights would not need to surrender allowances corresponding to the 2012 emissions by 30 April 2013. These operators could still submit a verified 2012 annual emissions report by 31 March 2013 but non-compliance penalties would not be enforced. The condition for this is that they return the allowances that may have been allocated to them in relation to intercontinental flights.

However, these operators would still need to keep monitoring their flights and emissions as per their approved monitoring plan and the EU ETS regulations in 2013, in case intercontinental flights are integrated back into the EU ETS in November 2013.

What if I only operate intra-EEA flights?

Operators operating intra-EEA flights only would continue to monitor and report their emissions. A verified 2012 annual emissions report would be required by 31 March 2013, and allowances corresponding to the 2012 emissions would have to be surrendered by 30 April 2013. The proposal would not have any effect.

What if I am a non-commercial operator operating both intercontinental and intra-EEA flights?

Non-commercial operators operating both intercontinental and intra-EEA flights would have to report intra-EEA flights only, the reporting of the intercontinental flights becoming optional as penalties for non-compliance would not be enforced. The condition for this is that they return the allowances that may have been allocated to them in relation to intercontinental flights.

As long as a non-commercial operator operates at least one intra-EEA flight during the 2012 monitoring period, it would have to submit a verified 2012 annual emissions report by 31 March 2013, and surrender allowances by 30 April 2013.

What if I am a non-EU commercial operator operating occasional intra-EEA flights?

Intercontinental flights would still be taken into account when calculating the number of flights per four-month period and the amount of annual emissions to determine whether a commercial operator is above or below the *de minimis* threshold. This means that **commercial operators from outside of the EU which operate occasional unscheduled intra-EEA flights (e.g. technical stops) or triangular commercial flights that include an intra-EEA sector would still need to monitor and report these flights if they are above the *de minimis* threshold.**

In general, commercial operators above the *de minimis* threshold would have to monitor and report intra-EEA flights, and surrender allowances for intra-EEA flights only, if they return the allowances that may have been allocated to them in relation to intercontinental flights. These operators could still add their international flights to their verified 2012 annual emissions report but non-compliance penalties would not be enforced if they do not do so.

What will happen to the free allowances?

Operators performing intercontinental flights must return the allocated free allowances that correspond to the reported 2010 tonne-kilometre data in relation to intercontinental flights if they choose not to surrender allowances corresponding to their 2012 emissions.

Operators who choose not to return the free allowances would have the obligation to surrender allowances for all flights (intra-EEA and intercontinental flights) by 30 April 2013 because they would be deemed to have chosen to participate in the EU ETS.

What about MRV?

Monitoring, Reporting and Verification (MRV) would still be required for intercontinental flights but the non-compliance penalties would not be enforced. The condition for this is that operators return the allowances that may have been allocated to them in relation to intercontinental flights.

It is possible that some CAs will decide to keep requiring the MRV for intercontinental flights, although the surrendering of allowances could be waived. Aircraft operators are advised to contact their CA for clarification.

MRV would still be a mandatory requirement for intra-EEA flights, except for commercial operators below the *de minimis* threshold. However, some CAs might require a verification to confirm the *de minimis* status.

What will happen in November 2013?

If there is not an international agreement to design and implement a global system to tackle aircraft emissions at the next ICAO Assembly scheduled in September/October 2013 to the satisfaction of the EU, intercontinental flights will automatically be put back to the EU ETS by law for the entire 2013 period. Aircraft operators would then be required to submit a 2013 annual emissions report that includes both intra-EEA and intercontinental flights, and surrender allowances by 30 April 2014. In case of an acceptable agreement by ICAO, the suspension of intercontinental flights might be extended. Intra-EEA flights would continue to be subject to the EU ETS.

What's next?

The legislative proposal was published on 20 November 2012. At this stage, this is only a proposal from the EC and the legislative process might take several months to be completed. CAs might show some difference in the interpretation of some aspects of the legislative proposal. In any case, operators are strongly advised to contact their CA for clarification.

Until the new rules come into force, the old rules continue to apply. Operators are strongly advised to keep monitoring their 2012 emissions on all Annex 1 flights until further clarification is received from their CA.

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I hope this helps.

Yours sincerely,

Julien Dufour
CEO & EU ETS Lead Auditor
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