

Frequently Asked Questions

Regulation (EU) 2017/2392 amending the EU Emissions Trading System for aviation¹

1. Why has this Regulation been adopted?

In 2013, the EU proposed to revise the scope of aviation activities covered by the European Union Emissions Trading System (EU ETS), in order to support the development of a global measure to reduce aviation emissions. These amendments are set out in EU Regulation 421/2014, covering emissions in the years 2013-16. The Regulation limited the scope of the EU ETS for aviation to emissions from flights departing and arriving in aerodromes located in the European Economic Area (EEA).

The Commission has welcomed the adoption of a Resolution by the 2016 International Civil Aviation Organization (ICAO) Assembly on the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA). CORSIA is a global market-based measure that aims to stabilize international aviation emissions at 2020 levels through carbon offsetting (also referred to as "carbon neutral growth"). Work still remains for ICAO to develop the scheme's rules and for participating countries to enact relevant domestic measures. The Commission is actively supporting this process and contributing to it with the goal of a robust and credible CORSIA rulebook and governance system with effective and timely implementation.

In light of the above, and in order to further support the ICAO process and remaining work on CORSIA, the new Regulation (EU) 2017/2392 amends the EU ETS Directive and maintains the current approach for aviation under the ETS beyond 2016 until 2023, keeping the scope limited to intra-EEA flights (Recital 8, Article 28a).

2. What will happen to the EU Emissions Trading System (ETS) for aviation once the global measure comes into force? How will the ICAO scheme be implemented in the EU?

The Regulation envisages a review once there is more certainty about the nature and content of the ICAO legal instruments for the global scheme and the steps taken by third countries for its implementation. The European Commission will report on these developments² and propose for the scheme to be implemented through the EU ETS Directive in European Union law. The review would also consider the rules applicable to flights within

¹ Regulation (EU) 2017/2392 of the European Parliament and of the Council of 13 December 2017 amending Directive 2003/87/EC to continue current limitations of scope for aviation activities and to prepare to implement a global market-based measure from 2021 http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2017.350.01.0007.01.ENG

² See Article 28b on the different elements the Commission will have to report about.

the EEA as appropriate, and take due account of the necessary consistency with EU climate objectives and commitments under the Paris Agreement (recital 11 and Article 28b).

The Regulation also empowers the Commission to adopt delegated legislation on monitoring, reporting and verification of emissions for the purpose of the global scheme. This will facilitate gathering additional 2019 and 2020 emissions data for the purpose of setting the baseline under CORSIA (Recital 12, Article 28c).

3. Will the EU ETS revert back to its original full scope if there is no review?

As explained under question 2, above, once there is more clarity about the nature and content of the legal instruments adopted by ICAO for the implementation of the CORSIA, the Commission intends to present a further assessment and review of the EU ETS to the Council and the European Parliament (Recital 11 and Article 28b). To facilitate this revision, the EU ETS would continue its current approach (intra-EEA scope) until 31 December 2023. In the absence of an amendment the EU ETS would revert to its full scope from 1 January 2024.

4. Does the Regulation require transposition into national law?

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. Nevertheless, Member States may still need to adjust their existing national legislation so that it matches the new Regulation.

5. Which flights are covered by the EU Emissions Trading System from 2017?

The scope of the new Regulation (EU) 2017/2392 is exactly the same as the Regulation covering the period 2013-16.

In particular,

- flights of commercial airlines of all nationalities that take off and land in an aerodrome in the European Economic Area (EEA) would be covered by the ETS;
- flights that take off or land outside the EEA would be exempted;
- flights between an aerodrome in an outermost region and an aerodrome outside the outermost region would be exempted;
- flights within one outermost region would be covered;
- flights between an aerodrome in the EEA and offshore installations of EEA countries that are outside territorial waters, such as oil and gas production or exploration platforms, would also be covered.

For more detail about the territories included in the geographic scope of the EU ETS for aviation, please see Questions 4 and 5 in the [FAQ on Regulation 421/2014](#).

6. Which exemptions and simplifications apply to small emitters?

The Regulation maintains the same exemptions as in the period 2013-16.

For flights performed by non-commercial aircraft operators with total annual emissions lower than 1 000 tonnes CO₂ per year, the Regulation extends the exemption until 2030. The other exemptions continue to apply.

The Regulation also simplifies monitoring, reporting and verification requirements for operators emitting less than 3 000 tonnes of CO₂ per year under the current geographic scope (intra-EEA) of the EU ETS. These operators will be able to report their emissions using the small emitters tool populated by Eurocontrol. Verification of the reported emissions is not required in this case.

7. What will be the free allocation?

Allocation will continue to be adjusted in the same manner as in the period 2013-2016. This means that, in general, aircraft operators would receive the same number of allowances as they did in 2016 for every year between 2017 and 2020. In the absence of a revision, the number of free allowances will be reduced every year from 2021 in line with the linear reduction factor applicable to all other sectors in the EU ETS (Article 28a).

If an aircraft operator benefits from an allocation from the special reserve, it will also receive those allowances (see Question 9).

Member States will publish the allocations for the period 2017-2023 before 1 September 2018.

8. Which amount of allowances will be auctioned?

The number of allowances to be auctioned every year will be calculated in the same manner as for the period 2013-2016. For more information, please see Question 1 on the [Auctioning page](#).

9. What happens with the allocation from the special reserve?

Aircraft operators that successfully applied for allowances from the special reserve are receiving these allowances from 2017 onwards. The allowances to be issued are reduced in proportion to the intra-EEA scope, as it was the case for free allocation in the 2013-2016 period. This is to account for the fact that the obligations would continue to be intra-EEA scope beyond 2016. The allowances for the period 2013-2020 would be issued in four equal parts, every year between 2017 and 2020 (thus, twice the annual amount every year). From 2021, these allocations will take place each year, and the linear reduction factor will apply. Allowances not allocated from the special reserve will be cancelled, as provided for in the legislation.

10. Will there be a new allocation from the special reserve?

No, the allocation from the special reserve is a one off allocation based on 2014 activity. No new allocation will take place before the next review of the legislation.

11. Should aircraft operators submit new tonne-kilometre (TKM) data reports?

No, no TKM data should be submitted to competent authorities, as no new allocation will be calculated before the next review (Article 28b) sets the rules for the next period. The free allocation will continue to be issued as explained under Question 7.

12. Are there any other changes that affect the allocation?

According to the Regulation (amendment to Article 12(3)), from 2021 installations will be allowed to use aviation allowances for compliance; until 2020 they will continue using installations' allowances only. Aircraft operators will continue being able to use aviation and installations' allowances.

13. What is the situation as regards flights between Switzerland and the EEA?

The Regulation establishes that the temporary derogation determining the scope of the EU ETS for the period from 2013 to 2023 will apply to countries with whom a bilateral agreement has been reached in line with the terms of such agreement. The EU and Switzerland have signed in November 2017 an Agreement³ to link the EU ETS and the Swiss ETS. As a consequence of the Linking Agreement flights from the EEA to Switzerland will be covered by the EU ETS and flights from Switzerland to the EEA will be covered by the Swiss ETS. The Agreement will enter into force on the 1st of January of the year after the Parties deposit the instruments of ratification of the Agreement. The entry into force is not expected before 2020.

14. Where can I find the text of the Regulation?

The Regulation has been published in the Official Journal on 29 December 2017⁴.

³ http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2017.322.01.0003.01.ENG&toc=OJ:L:2017:322:TOC

⁴ http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2017.350.01.0007.01.ENG