

Opinion of the European Economic and Social Committee on the Proposal for a Directive of the European Parliament and of the Council amending 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

COM(2013) 722 final — 2013/0344 (COD)

(2014/C 177/16)

Rapporteur-general: **Jan Simons**

On 24 October 2013, the European Parliament and on 18 November 2013 the Council decided to consult the European Economic and Social Committee, under Articles 192(1) and 304 of the Treaty on the Functioning of the European Union, on the

Proposal for a Directive of the European Parliament and of the Council amending 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

COM(2013) 722 final — 2013/0344 (COD).

On 12 November 2013, the Bureau of the European Economic and Social Committee instructed the Section for Agriculture, Rural Development and the Environment to prepare the Committee's work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee appointed Mr Simons as rapporteur-general at its 495th plenary session, held on 21 and 22 January 2014 (meeting of 22 January), and adopted the following opinion by 173 votes to 4 with 7 abstentions.

1. Conclusions and recommendations

1.1 In the interests of legal certainty for aircraft operators and national authorities, the Committee advises that the proposals be accepted for the continued implementation of the 'stop the clock' decision in 2013 and for extending the 2013 emission rights surrender and reporting deadlines by one year.

1.2 The following should also be accepted: the exemption of small, non-commercial aircraft operators that produce hardly any CO₂ emissions, and allowing small companies that do not qualify for the exemption to make use of the simplified administrative procedures.

1.3 This does not, however, apply to the parts of the proposal concerning flights to and from third countries for the period 2014-2020. It is in the interest of all parties to avoid an aviation and/or trade war and therefore encourage negotiations first to find a global solution.

1.4 As flights between aerodromes in the EEA will continue to be subject to the EU's ETS rules for aviation, the Committee calls on the EEA institutions:

- to introduce the Single European Sky without delay in order to end unnecessary emissions resulting from re-routing and delays caused by air traffic control⁽¹⁾;
- to conduct intensive multilateral and bilateral discussions with a view to introducing interregional MBM systems in addition to that of the EEA by 2016.

2. Introduction

2.1 Emissions from aviation, although relatively low at about 5% of the total, are one of the fastest growing sources of greenhouse gas emissions and have nearly doubled in the last 20 years. The technological potential for emissions reduction is limited in the aviation sector, but airlines worldwide are willing and able to contribute to emission reductions by offsetting their strong emission growth through funding emission reductions in other sectors, inter alia using market-based measures (MBMs).

⁽¹⁾ EC/549/2004.
EC/1070/2009.

2.2 Partly at the instigation of the EU, inter alia through the suspension of Directive 2008/101/EC (directive including aviation activities in the greenhouse gas emission allowance trading scheme) for operators flying to or from the European Economic Area (EEA) by the 'stop the clock' decision of early 2013, the International Civil Aviation Organization (ICAO) Assembly decided on 4 October 2013, in line with the roadmap adopted for 2016 — the date of the next three-yearly ICAO meeting — to draw up a worldwide market-based mechanism for international aviation emissions and if approved, apply it from 2020. Until then countries or groups of countries like the EU may take interim measures, but no compromise was reached on the detailed arrangements.

2.3 These developments are in line with statements in previous Committee opinions ⁽²⁾: 'It will be necessary to work through the International Civil Aviation Organization (ICAO) in order to ensure the worldwide application of an Emissions Trading Scheme (ETS); as a practical first step, an intra-EU ETS could be a very feasible option, if this proves appropriate in the course of the negotiations' (2006); 'By bringing aviation within the remit of the European Emissions Trading Scheme (ETS) the scheme is itself potentially strengthened and made more robust as the pre-eminent model for tackling CO₂ emissions at a global level' (2007); and more recently 'The Committee accordingly welcomes initiative, which provides for a moratorium on the application of the Emissions Trading Scheme (ETS) to airlines operating flights into and out of the European Economic Area, pending the completion of the global negotiations' (2013).

3. Gist of the Commission document

3.1 The European Commission proposes that the geographical scope of the EU emissions trading system for aviation be adapted for the period leading up to the introduction of a global trading system, in the light of the results of the Assembly of the International Civil Aviation Organization (ICAO) of 24 September to 4 October 2013.

3.2 The Commission proposal aims to give a further impetus to the development of a global system. The proposal makes no distinction between companies on the basis of nationality.

3.3 Originally the EU's ETS applied to all flights to and from airports within the EEA and flights to and from third countries. From 2012, however, as a consequence of Decision No 377/2013/EU (the 'stop the clock' decision), the system temporarily applied only to flights within the EEA, and not to flights to and from third countries.

3.4 The Commission proposes that this approach be continued in 2013. It is also proposed that the 2013 emission rights surrender and reporting deadlines for airlines be extended for one year.

3.5 It is proposed that, for 2014 to 2020, the rules be extended beyond the arrangements for 2013 to include that part of flights to and from countries outside the EEA which takes place above the territory of EEA countries. The proposal describes how this can be done in practice.

3.6 The proposal would have three other consequences:

- flights between aerodromes in the EEA remain fully covered, as under the original Directive and Decision No. 377/2013/EU;
- flights to and from third countries which are not developed countries and which emit less than 1% of global aviation emissions would be exempted. This would exclude routes to around 80 countries on a non-discriminatory basis;
- flights to and from third countries are responsible for emissions taking place not beyond EEA countries, as from 2014. A simplified procedure is proposed to determine the relevant proportion of emissions of a given flight which is covered by the ETS. It is proposed that operators can choose between approaches to monitoring, reporting and verification (MRV) methodology for compliance.

⁽²⁾ OJ C 185, 8.8.2006, p. 97; OJ C 175, 27.7.2007, p. 47; OJ C 133, 9.5.2013, pp. 30-32.

3.7 Finally, the Commission proposes that small, non-commercial operators with very low CO₂ emissions be exempted from the EU's ETS for aviation. Small companies that do not qualify for the exemption are allowed to make use of the simplified administrative procedures.

4. General comments

4.1 As a consequence of the 'stop the clock' decision, the EU's ETS temporarily applies only to flights within the EEA, and not to flights to and from third countries. The Commission proposes that this approach be continued in 2013. It is also proposed that the 2013 emission rights surrender and reporting deadlines for airlines be extended for one year. The Committee considers these proposals to be very sensible with a view to ensuring legal certainty for operators and national authorities and therefore recommends that they be adopted.

4.2 As flights between aerodromes in the EEA will continue to be subject to the EU's ETS rules for aviation, the Committee calls on the EU and EEA institutions to introduce the Single European Sky⁽³⁾ without delay in order to end unnecessary emissions resulting from re-routing and delays caused by air traffic control.

4.3 The Committee warmly welcomes the exemption of small, non-commercial aircraft operators that produce hardly any CO₂ emissions, and allowing small companies that do not qualify for the exemption to make use of the simplified administrative procedures.

4.4 This does not, however, apply to the parts of the proposal concerning flights to and from third countries for the period 2014-2020. It is in the interest of all parties to avoid an aviation and/or trade war and therefore encourage negotiations first to find a global solution.

4.4.1 It is clear just from reading the information contained in the impact assessment concerning the ICAO discussions in 2013 that, in view of the standpoints and relationships of the members of that organisation, very careful manoeuvring will be needed if the planned global outcome is to be achieved in 2016. We have never been so close to the goal but there is an historic record of delay and success cannot be guaranteed!

4.4.2 To tell third countries directly and indirectly — because this is what unilateral EU action will amount to if the proposal is adopted — that their airlines will have to pay for CO₂ emissions in EEA airspace would be challenging and should be considered only after bilateral and/or multilateral negotiations according to ICAO resolution Art. 16 a), in order to avoid the risk of a worldwide aviation/trade war.

4.4.3 Although legally the EEA is entitled to apply the proposals, the US administration is also entitled, on the basis of the Emissions Trading Scheme Prohibition Act ('Thune Bill') to prohibit airlines registered in the USA from taking part in the EU's ETS, quite apart from possible Chinese and Indian reactions, in the light of their opposition to the ICAO Resolution of 4 October 2013. At this stage, however, it is not necessary to modify the content of the Commission's proposal.

5. Specific comments

5.1 It would appear that the definitions of 'extra-EEA flights' and 'intra-EEA flights' in Annex I, Glossary of the Impact Assessment, to SWD (2013) 430 final (p. 51 of EN version) have been inadvertently switched.

Brussels, 22 January 2014.

The President
of the European Economic and Social Committee
Henri MALOSSE

⁽³⁾ EC/549/2004.
EC/1070/2009.