

Global Transportation Finance Newsletter

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United Kingdom Cape Town Convention Update

The Cape Town Convention and Aircraft Protocol (the **Cape Town Convention**) entered into force in the United Kingdom on 1 November 2015. In addition to entering into force in England, Scotland, Wales and Northern Ireland on this date, the Cape Town Convention also entered into force in the Cayman Islands, Gibraltar and the Bailiwick of Guernsey. In addition to the traditional benefits provided to aircraft financiers under the Cape Town Convention, the implementation of the Cape Town Convention in the United Kingdom means an end to historically vexed *lex situs* rules in the context of United Kingdom Cape Town Convention interests. Prior to the entry into force of the Cape Town Convention in the United Kingdom, it was a requirement for valid creation of a security interest in an aircraft, pursuant to an English law mortgage, that the security interest was also validly created pursuant to the law of the location of the aircraft object the subject of the mortgage (the *lex situs*) at the time the security interest was purported to be created. For a security interest to be validly created pursuant to the Cape Town Convention, no reference is made to the *lex situs*, and the United Kingdom's implementing rules expressly state that the *lex situs* rules do not apply in the context of creating a Cape Town Convention security interest pursuant to English law. It is also of note that, in the United Kingdom, the Civil Aviation Authority (**CAA**) requires that IDERAs be filed in a specific form (a CA50), which differs slightly from the form appended to the Aircraft Protocol, and that the nomination of a certified designee, in relation to an IDERA, must be submitted on another specific form (a CA52). An IDERA recordation fee is also payable to the CAA.

The Evolving Paradigm of Aircraft ABS and the Purchase of E-Notes by Third Parties

Historically, aircraft asset-backed securitizations (**ABS**) have provided operating lessors the opportunity to finance large portfolios of commercial aircraft with very attractive debt pricing. In these transactions, an operating lessor typically sells a large portfolio of aircraft to a bankruptcy remote special purpose vehicle (the **Issuer**), with the Issuer financing the purchase of the aircraft portfolio with the issuance of (i) investment-grade rated bonds in a capital markets offering¹ and (ii) E-notes to the party taking the residual risk in the underlying aircraft assets, which has oftentimes been the sponsoring operating lessor. The Issuer in turn contracts with a servicer that is recognized and experienced in the management and remarketing of aircraft assets (the **Servicer**) (typically the sponsoring operating lessor) to

Recent Accolades

Congratulations to our UK GTF Partners, Gavin Hill, Neil Poland and David Brookes, who were individually recognized for their skill and industry knowledge in the *Legal 500 United Kingdom* 2015 listings. This recognition makes a pair with the *Legal 500 US* 2015 recognition of our U.S. GTF Shareholders, Cameron Gee, Dean Gerber, Geoffrey Kass, Jack Bycraft and Ronald Scheinberg, in the same Asset Finance & Leasing category.

Vedder Price GTF ranked in the Top 10 in five categories of the *Airfinance Journal Guide to Aviation Lawyers* 2015 Legal Survey: Top Law Firms by Score, Top Law Firms by Number of Deals, Latin American Deals, North American Deals, and Capital Markets Deals.

provide aircraft and lease management and remarketing services for the aircraft portfolio. Subject to a limited universe of actions that require Issuer board approval, the day-to-day decision making regarding the aircraft portfolio is managed exclusively by the Servicer. The Servicer's experience and reputation in the successful and active management of aircraft assets, and the fact that the Servicer has broad and exclusive lease management and remarketing rights, are key components of both the rating agencies' issuance of an investment-grade debt rating and the bond investor's decision to purchase the bonds. Accordingly, this strong Servicer role is an integral part of ABS technology.

The resurgence of aircraft ABS over the course of the past three years has led many operating lessors to utilize ABS technology as a means to dispose of a portfolio of aircraft by selling the E-notes (an **Equity Disposition ABS**), rather than merely financing the portfolio and retaining the E-notes, and residual risk, for its own account. While the E-notes are intended to provide the investors the economic equivalent of an equity return and typically afford the investors the right to elect the directors of the Issuer, they are not generally structured to provide the investors the same control rights that the owner of a portfolio of aircraft would typically enjoy in a non-ABS structure, as these control rights have traditionally resided with the Servicer as part of the ABS technology. Because the sponsoring operating lessor has typically filled the Servicer role and also retained any E-notes (or related entities with the same economic interests filled both roles), the E-note holder has had little incentive to evaluate or question its level of control. The increased incidence of Equity Disposition ABS transactions has thus created an inherent tension between the E-note investors and the sponsoring operating lessor Servicer as E-note investors have, with varying degrees of success, begun to seek increased control rights in certain circumstances that would otherwise be more consistent with traditional equity investor roles. The purpose of this article is to explore some of the areas in which E-note investors have sought to have more control over aircraft portfolio decisions.

Control Rights—Traditional ABS Technology

In an ABS transaction in which the operating lessor retains the equity and services the portfolio (a **Sponsor/Servicer ABS**), the Servicer generally can manage the portfolio without input from the Issuer other than with respect to:

- asset dispositions;
- entering into leases that do not contain core lease provisions;
- entering into leases that would result in a breach of concentration limits;
- approval of the annual budget and capital expenditures outside of the approved budget;
- entering into certain affiliated transactions; and
- committing to acquire assets.

The intent is that the Servicer is given broad authority to manage the portfolio. In a Sponsor/Servicer ABS these provisions have become fairly standard and are not subject to negotiation inasmuch as the Sponsor controls both the Issuer and the Servicer in a Sponsor/Servicer ABS.

Control Rights—Equity Disposition ABS

In recent Equity Disposition ABS transactions, the E-note investors have sought to have more input into the asset management decisions that otherwise would be decided independently by the Servicer under traditional ABS technology. The means and level of input that E-note investors have exerted have been colored by many factors. Single E-note investors that purchased 100 percent of the issued E-notes have sought more control than syndicate investors in E-notes. E-note investors in transactions involving portfolios with older aircraft, and/or shorter remaining lease terms where the need for active management was more likely, have sought more control than E-note investors of more "stable" portfolios (i.e., newer aircraft and/or longer remaining lease terms). Finally, E-note investors with prior experience in principal aircraft (metal) investing and/or aircraft servicing experience have sought more control than financial investors.

The main areas in which the E-note investors have sought to participate in decisions include:

- lease rates and economics;
- substitution of engines in lieu of paying maintenance reserve disbursements;
- significant capital expenditures;
- lease-end adjustments and buyout of return conditions;
- transactions between the Servicer and Issuer (i.e.,

- conflict of interest management);
- early lease terminations; and
- timing of lease default enforcement.

While the success achieved by E-note investors that have sought increased rights has varied significantly, it is safe to say that in all instances the balance of decision making authority with regard to the day-to-day management of the aircraft portfolio has continued to rest with the Servicer, even in Equity Disposition ABS transactions. This is understandable given that the Servicer tends to have significant concerns regarding broader issues that are external to the ABS, including market reputation, lessee relationships and nondiscrimination obligations to other customers that use the Servicer to service portfolios.

Standard of Care

Given the broad portfolio management powers afforded a Servicer in an ABS transaction, the servicing agreement imposes a “Standard of Care” that the Servicer must live up to in the performance of the services. The Standard of Care imposed in Sponsor/Servicer ABS transactions generally has contained two components: (i) a general standard of care tied to industry standards and (ii) a more specific standard of care tied to what the Servicer does with its own assets. An example of this Standard of Care is set forth below:

“**Standard of Care**” means reasonable care and diligence at all times consistent with the reasonable commercial practice of a prudent international aircraft lessor involved in the management, servicing and marketing of commercial jet aircraft and related assets, but in any case no less reasonable care and diligence than it would use with respect to the other aircraft that are owned by the Servicer directly or indirectly.

In certain recent Equity Disposition ABS transactions, the Standard of Care has included only the first component, particularly where the Issuer was successful in negotiating increased control rights in circumstances in which the Issuer could direct the Servicer to take actions that the Servicer would not take with respect to its own aircraft. An example of such a Standard of Care is set forth below:

“**Standard of Care**” means reasonable care and

diligence at all times consistent with the reasonable commercial practice of a prudent international aircraft lessor involved in the management, servicing and marketing of commercial jet aircraft and related assets, but subject to any directions given by the Issuer in accordance with this Agreement.

The takeaway here is that, to the extent the Servicer is willing to allow the Issuer increased rights in an Equity Disposition ABS, the Standard of Care may be adjusted to reflect these increased Issuer rights.

* * *

While there have not been a sufficient number of Equity Disposition ABS completed such that standard market practice has developed regarding control rights in Equity Disposition ABS, it is clear that there has been a paradigm shift in the negotiations and documentation as E-note investors seek to assert more control over aircraft portfolio investment decisions. Rather than a standard market practice developing, the ways in which E-note investors seek to have additional control over portfolio management will likely develop on a bespoke basis driven by the nature of the portfolio that is being managed, the identity and interests of the E-note investors and the E-note investors’ prior experience in aircraft investing and servicing. Regardless of these developments, the Servicer will continue to play the primary role in portfolio management decisions in ABS.



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¹ This is typically a multitranche debt offering, which often includes a non-investment grade tranche.

Structuring Aircraft Investments with Luxembourg Securitisation Undertakings

Overview

The Luxembourg Law of 22 March 2004 on securitisation (the **Securitisation Law**) permits a wide range of securitisation activity – “securitisation” being defined as any “transaction by which a securitisation undertaking acquires or assumes, directly or indirectly, risks relating to claims, other assets, or obligations assumed by third parties or inherent to all or part of the activities of third parties and issues securities, whose value or yield depends on such risks.”

Luxembourg securitisation undertakings have been used increasingly over the last two to three years as direct investment vehicles on aviation transactions, partly because they make very good sense from a legal, regulatory and tax point of view and partly because German KG arrangers have recognised an opportunity to broaden and/or internationalise their (historically domestic) investment base.

The securitisation undertaking (defined under the Securitisation Law to mean in broad terms an investor or participant in a “securitisation”) is usually a Luxembourg-incorporated public limited company (S.A.) or private limited liability company (S.à r.l.), and usually will participate as the (or a) shareholder of the aircraft owner or as a subordinated lender (mezzanine or junior) to the aircraft owner.

A securitisation undertaking can (if authorised by its articles of incorporation) create one or more “compartments”, which correspond to a distinct part of the securitisation undertaking’s assets and liabilities. This means that a single S.à r.l. can create multiple units to hold multiple aircraft. Although a compartment does not have separate legal personality, its assets are ring-fenced under the Securitisation Law.

Investor Protections

The Securitisation Law is designed to protect the integrity of the securitisation undertaking and its investors for the following principal reasons:

- there is no restriction on the type of investor.

- there is no regulatory oversight by the CSSF (Luxembourg Supervisory Commission of the Financial Sector), unless a securitisation vehicle issues securities to the public on a continuous basis.¹
- the scope of permitted activities for a securitisation undertaking is very wide.

Protection is afforded to both the securitisation undertaking and the compartments (if created).

Securitisation undertaking-level protection

- the rights of investors and creditors are limited to the assets of a securitisation undertaking.
- a securitisation undertaking is entitled to assign assets only in accordance with its constitutive documents, which normally will mean assignments to investors only.
- a securitisation undertaking cannot in any circumstances grant security over its assets or transfer its assets for guarantee purposes, except to secure obligations to its investors. This means, for example, that no security (for example, a security interest in the shares of the aircraft owner) can be granted to an aircraft financier on a deal that involves conventional debt financing. Any such security would be void as a matter of Luxembourg law.
- the Securitisation Law specifically provides that investors and creditors can agree to subordination and non-petitioning covenants (nothing unusual about that), and that any proceedings in breach of such covenants will be inadmissible. Aircraft financiers will need to consider carefully any request to agree to any such subordination/non-petitioning, given the permanent consequences.

Compartment-level Protection

As noted above, a compartment does not have separate legal personality. That said, its assets are ring-fenced by the Securitisation Law and its position as against investors and third party creditors is protected. The Securitisation Law specifically provides as follows:

- the rights of investors and creditors are limited to the assets of a compartment.
- the assets of a securitisation compartment are exclusively available to satisfy the investors and creditors in relation to that compartment.

- each compartment is separate and distinct from the other compartments (unless otherwise agreed in the securitisation undertaking's constitutive documents).

Each of the principles set out above also applies in the context of insolvency. This means that there are effective ring-fencing protections and cross-contamination (as between the compartments) protections.

Tax

The tax treatment of Luxembourg securitisation undertakings is another attraction for investors, particularly in terms of the ability to achieve almost complete tax neutrality. The following points are worth highlighting:

- although a securitisation undertaking (created as a corporate entity) is subject to Luxembourg corporate taxation, all money paid out to investors and other creditors qualifies as interest on debt (however paid), and as a result is fully deductible for tax purposes.
- distributions to investors in a securitisation undertaking are exempt from Luxembourg withholding tax.

Conclusion

Aircraft investors have many choices as far as investment type and structuring are concerned. A Luxembourg securitisation vehicle is an attractive option in that it allows investment in one or more aircraft in a way that is comparatively simple and certain (in terms of the legal and regulatory framework), and offers the added benefits of enhanced/enshrined bankruptcy protection and tax neutrality.



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EU ETS UPDATE: Aviation Emissions Making Headlines Ahead of Another Important Political Crossroads

Carbon emissions from the aviation sector have a highly emotive and clearly visible profile compared to many other industries. During 2015, the aviation sector will emit approximately 757 million tons of carbon dioxide (CO₂),¹ representing between two and three percent of the world's anthropogenic carbon emissions,² just slightly less than the entire carbon footprint of major industrialized countries such as Canada, South Korea and Germany. Many climate change scientists believe that the effects of aviation CO₂ and other greenhouse gas emissions could be of a magnitude three or four times greater than calculated, by virtue of being deposited at high altitude and taking much longer to be absorbed by the Earth's ecosystems than they would if deposited at sea level.³

The White House has estimated the "social cost" of carbon emissions at \$36 per metric ton.⁴ Based on this calculation, the annual cost to society resulting from current aviation CO₂ emissions is approximately \$27 billion. At present, very little of this societal cost is paid for by the air transport industry. To date, only the European Union (EU) has enforced stringent aviation compliance measures under its Emissions Trading Scheme (EU ETS),⁵ whereby aircraft operators are legally required to account for their intra-European CO₂ emissions. Even under EU ETS, up to 85 percent of compliance costs are currently subsidized by the EU by way of free carbon allowances. Most other carbon-intensive industries regulated under EU ETS receive no such financial support or social impact relief. As a result, aviation emissions have become a highly charged global issue, with a critical crossroads approaching by the end of 2016.

Evolution of a Global Controversy

In order to meet its commitments under the Kyoto Protocol to the United Nations Framework Convention on Climate Change,⁶ the EU decided in 2008 to expand its flagship emissions trading scheme to include aviation activities.⁷ This triggered considerable international backlash against the EU for unilaterally regulating emissions occurring within other sovereign territories and within international air space. In response, the United States enacted the European Union Emissions Trading Scheme Prohibition Act of 2011 (similar to prohibitions by India and China against their airlines participating in EU ETS) and also led to the formation of a "Coalition of the Unwilling" comprised

¹ This is outside the scope of this article.

of over 20 countries that initially refused to comply with EU ETS and considered several potential countermeasures ranging from airspace overflight restrictions to Airbus order cancellations and boycotts.

EU bureaucrats failed to see the signs of such a backlash brewing, and by November 2012 were forced to hastily back down by enacting a temporary 12-month measure to “Stop the Clock” on international emissions until after the ICAO Assembly held in Autumn 2013. “Stop the Clock” reduced aviation emissions for flights commencing or terminating in Europe from a 100 percent compliance target to 40 percent compliance figure overnight. However, EU ETS remained in full force and effect for all intra-European flights, even for operators based outside the EU. Many European airlines, particularly low-cost carriers, saw this measure as penalizing European airlines by increasing their compliance costs relative to those of their international competitors.

The EU’s intent had been to give ICAO time to devise a global aviation emissions reduction scheme that was equivalent to EU ETS measures and ready for implementation by 2020. If ICAO failed to devise such a scheme by the Autumn 2013 ICAO Assembly, the EU planned to revert to “full scope” EU ETS as originally enacted prior to the 2012 “Stop the Clock” decision. However, rather than come up with an alternative scheme to EU ETS, ICAO members used the 2013 Assembly to admonish the EU ETS and to give themselves another three years to decide what a global aviation emissions reduction scheme might look like, a process that at that stage had already taken 16 years.⁸ The EU once again was forced to concede, and in April 2014, the European Parliament voted to extend the “Stop the Clock” derogation to the next ICAO Triennial Assembly in Autumn 2016. The EU also enacted amendments to EU ETS to increase compliance thresholds and exclude many small aircraft operator emitters where the cost of enforcement vastly outweighed any potential noncompliance penalty recoveries.

A Patchwork Quilt of Administration and Enforcement

The framework of EU ETS was based on a bureaucratic European scheme designed for stationary installations such as power plants and steel mills. As such, many contend that it was not the best starting place for an aviation emissions scheme. EU ETS is politically complicated and technically cumbersome, only being fully understood in most parts by civil servants and a few accredited verifiers and specialist commodity traders. Unlike Eurocontrol, which is centrally administered and regulated, EU ETS compliance is delegated among the 28 EU member states plus Iceland, Norway and Lichtenstein (collectively, the **EEA States**). Each EEA State has transcribed the EU ETS Directives

into its local laws differently, effectively creating 31 different variations of the emissions trading scheme. Administration under the scheme mostly has been delegated to non-aviation entities such as environmental agencies and even ministries for agriculture, fishing and forestry. Each EEA State has different administration requirements and local laws concerning enforcement. Many international airlines face confusion as to which regulatory authority is assigned to regulate them, with some authorities being far more helpful, organized and pragmatic than others. Non-EU aircraft operators are generally assigned to the regulator in the EU country to where they historically have had the greatest number of scheduled flights.

The three basic common denominators of compliance and enforcement under EU ETS are that: (1) covered operators must report their annual CO₂ emissions by March 31 of the following year, (2) sufficient allowances commensurate with each year’s emissions must be surrendered by April 30 of the following year and (3) a statutory penalty of €100 per ton (or the local currency equivalent) is enforced for non-compliance. Each EEA State also has the right to enforce local civil penalties for non-compliance in addition to EU ETS statutory penalties. Local penalties, if applicable, vary from state to state. For example, local penalties in the UK are capped at around £63,000, while in Spain each potential offense carries a maximum penalty of €2,000,000, which could have crippling financial implications for a single aircraft operator. As indicated above, there are also different levels of enforcement codified under the various EEA States’ domestic laws. For example, under the UK’s Greenhouse Gas Emissions Trading Regulations, the Civil Aviation Authority has the right of seizure, detention and sale of aircraft in the event of persistent EU ETS aviation noncompliance, whereas the authorities in most other EEA States do not.

Covered aircraft operators were effectively given a two-year compliance holiday after 2012, but were required to submit 2013 and 2014 emissions reports by March 31, 2015 and surrender sufficient emissions allowances by April 30, 2015. Aircraft operators failing to meet these deadlines are being sent enforcement notices and penalty calculations (based on Eurocontrol flight data) by the relevant regulatory authority. Each EEA State has its own appeal procedures, and in some countries it can take years to determine and adjudicate noncompliance.

EU Governments Begin Cracking the Whip

The UK, Germany, Belgium and the Netherlands proactively have issued penalty notices against European and international aircraft operators since 2014, and are currently pursuing enforcement measures. Civil penalty appeals brought by Jet Airways against the UK regulator,

which could be considered a potential test case of EU ETS enforcement against international carriers, were dismissed in March and October 2015. In the latter appeal, Jet Airways unsuccessfully argued that force majeure compelled it to follow the Indian Government's mandate against EU ETS participation. It was found that Jet Airways was not bound under Indian law not to comply with EU ETS, political motivations notwithstanding, and that there was no external force compelling Jet Airways to make intra-EU flights. Jet Airways has since paid the statutory penalty. While all Chinese international airlines now appear to be compliant under EU ETS according to the European Union Transaction Log (EUTL), it remains unclear whether the EEA States have been instructed not to enforce statutory penalties against Chinese carriers in order to encourage compliance. Belgium recently levied a fine of €1,400,000 against Saudia⁹ for noncompliance in 2012 and, while the penalty may have been paid, the airline appears to be absent from the EUTL, thus potentially calling its compliance into question. The UK, Belgium and the Netherlands have published lists of noncompliant operators; however, it is understood that these lists are incomplete in that the names of a number of offenders have yet to be published due to ongoing investigations and appeals. In April 2014, the German authorities ordered 61 operators from Russia, the United States and other countries to pay fines totalling €2,700,000¹⁰ for breaching EU ETS regulations; however, the authorities declined to name the noncompliant operators.

Aircraft lessors and financiers should be concerned if their airline customers do not comply with EU ETS, and could feel compelled to repossess aircraft rather than risk being dragged into EU ETS enforcement proceedings (which could significantly jeopardize lessor and lender rights) and face exposure to fleet-wide liens that could give rise to aircraft detention and sale, much the way Eurocontrol liens may be enforced. While it is possible that EEA States may continue to administer a light touch so as not to antagonize the ICAO process toward a potential global emissions trading scheme, it also is unlikely that the increasingly strident political forces at work within the EU will allow this situation to continue indefinitely. In fact, aircraft operators constitute the only delinquent participants in EU ETS. The European Commission's Director-General for Climate Action has intimated that once diplomatic avenues to bring delinquent flag carriers into compliance are exhausted, then legal proceedings would commence.

To call the proposals being discussed in ICAO a "global" scheme is somewhat misleading, as the scheme will, if implemented, only cover emissions from international flights and not domestic flights. For example, fully 60 percent of all flights departing and arriving in the United States are domestic flights, and therefore would not be

covered under the proposed ICAO scheme. The recent proposed endangerment finding by the U.S. Environmental Protection Agency (EPA) concerning aviation emissions has triggered a rulemaking process that ultimately could fill this gap, though it is too early to tell who will be bound by the EPA's final regulations (i.e., only U.S. domestic or also international operators), which aircraft models will be covered, and whether the EPA rules will be promulgated in time to dovetail with the ICAO process or stand on their own as yet another layer of complexity for operators forced to comply with differing standards around the globe.

Many industry insiders believe it is unlikely that a workable global emissions reduction scheme can be devised by the time of the next ICAO Assembly in Autumn 2016. The biggest hurdle is conflict between developed and developing nations over who should bear the greater proportion of compliance cost. It will be quite difficult to resolve the tension between the UN's principle of "Combined but Differentiating Responsibilities and Respective Capabilities" and the Chicago Convention's guiding principle of creating a level playing field regardless of State of domicile. Any proposals to operate a phased-in route-based system may antagonize the United States while potentially benefitting other countries, particularly those in the Middle East and Asia, which are rapidly making significant economic inroads into markets historically governed by bilateral aviation agreements.

The November 2015 Paris climate change convention is likely to pave a critical 2016 path forward for ICAO. There is growing concern within the aviation industry that time is rapidly running out and that ICAO needs to redouble its efforts to find unity and an agreement that will lead to aviation carbon neutrality from 2020 onwards. Meanwhile, the United States and China have both recently set ambitious national greenhouse gas reduction targets that may be difficult to achieve if they are to include international and domestic aviation activities. A question therefore remains whether any aspirational ICAO global emissions reduction scheme will be ambitious enough to contribute to limiting global temperature rises to within 2 degrees Celsius,¹¹ considering the meteoric increase in aviation activities and the current low price of oil.

What Aircraft Lessors and Financiers Should Be Doing Now

Lessors and financiers of aircraft operated by customers covered under EU ETS should be taking a proactive interest in EU ETS monitoring and reporting and ensuring contractual covenant compliance. If no agreement on a global emissions reduction scheme is reached at ICAO's next Assembly in Autumn 2016, then the EU may feel emboldened and legally obligated to reintroduce "full-

scope” EU ETS covering all flights within, to and from the EU, regardless of origin, end point, operator domicile or aircraft registry. This could have wide-ranging consequences for aircraft operators and owners, including heightened risks of lease and loan defaults, imposition of significant monetary penalties and (in extreme cases) crippling operating bans and (of even graver concern) threats to possession and ownership. Absent clear and practical EU ETS compliance covenants in lease and loan agreements, aircraft lessors and financiers may find themselves in a difficult recovery position should the EU reintroduce “full-scope” EU ETS, as threatened. Aircraft lessors and financiers therefore should be closely following developments over the next 12 months, as a reversion to “full scope” EU ETS likely will result in further airline defaults. Proactive risk management is therefore advisable.

¹⁰ Transport & Environment, 30 May 2014, <http://www.transportenvironment.org/news/netherlands-and-germany-fine-foreign-airlines-over-ets>.

¹¹ From pre-industrial times, this being the UNFCCC consensus target. “We must limit global temperature rise to 2 degrees.” UN Secretary-General Ban Ki-moon, Remarks at the Council on Foreign Relations, February 2013, <http://www.un.org/en/globalissues/climatechange/>.



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¹ IATA, June 2015.

² D.S. Lee, L.L. Lim and B. Owen, “Mitigating Future Aviation CO₂ Emissions –Timing is Everything”, www.cate.mmu.ac.uk/docs/mitigating-future-aviation-co2-emissions.pdf.

³ Directive 2008/101/EC of the European Parliament and of the Council, 19.

⁴ https://www.whitehouse.gov/sites/default/files/omb/inforeg/social_cost_of_carbon_for_ria_2013_update.pdf.

⁵ http://ec.europa.eu/clima/policies/ets/index_en.htm.

⁶ http://unfccc.int/kyoto_protocol/items/2830.php.

⁷ By enacting Directive 2008/101/EC, which amended Directive 2003/87/EC (collectively, the EU ETS Directives).

⁸ Euractiv, 17 July 2014, <http://www.euractiv.com/sections/aviation/icao-under-pressure-forge-deal-aviation-emissions-303563>.

⁹ Euractiv, 19 May 2015, <http://www.euractiv.com/sections/transport/first-major-airline-fined-breaking-aviation-ets-law-314673>.

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