



February 7, 2014

The Honorable Anthony Foxx  
Secretary  
U.S. Department of Transportation  
800 Independence Avenue, SW  
Washington, DC 20591

Dear Mr. Secretary:

We would first like to commend your leadership at the 38<sup>th</sup> Assembly of the International Civil Aviation Organization (ICAO), working with your colleagues in the U.S. government and allies around the world to reach a historic global aviation emissions agreement. That agreement appropriately reinforced that technology, operations and infrastructure measures, which reduce emissions within the aviation sector and bring benefits to the flying and shipping public and the U.S. economy, are to remain the primary focus of our efforts. The agreement also confirmed that a globally-agreed market-based measure (MBM) could serve as a “gap-filler” should the global industry not be able to achieve carbon neutral growth from 2020 through concerted industry and government technology, operations and infrastructure initiatives.

Our organizations remain committed to the agreement reached at ICAO and to the work being undertaken to develop proposals for a potential global MBM. However, Europe’s pending “airspace” proposal for the unilaterally-imposed European Union Emissions Trading Scheme (EU ETS) threatens this agreement and places U.S. airlines and aircraft operators in an untenable compliance situation. Accordingly, we urge you to use your good offices and the specific negotiating authority identified in the European Union Emissions Trading Scheme Prohibition Act of 2012 (ETS Prohibition Act) to press your European counterparts to continue the stay on the extraterritorial application of the ETS and to stay pending deadlines while the legislation needed to extend the “stop the clock” is being considered.

As you know, the agreement reached at ICAO to develop proposals for a global MBM also included provisions regarding the role that MBMs might play in the meantime. The ICAO Assembly confirmed that any such measures should be consistent with the principles set forth in the Assembly Resolution and undertaken only under consent between countries. The ICAO States firmly rejected the “airspace” proposal, whereby one country (or group of countries) might be able to cover portions of international flights without consent from the country of registry. The European “airspace” proposal, which was recently endorsed by the Environment Committee of the European Parliament, goes directly against this international agreement, while placing U.S. airlines, aircraft operators and the traveling and shipping public at economic risk. Indeed, the proposal calls for a hefty and unjustified tax on passengers and aircraft operators for the benefit of EU coffers, which inevitably will negatively impact commerce and economic growth. Further, should the full European Parliament and Council approve this proposal, it will undermine the ICAO agreement and the positive way forward we have forged on this important issue. We seek your assistance in averting this outcome.

Further, while European officials are debating this legislation, the previous one-year stay (i.e., “stop the clock”) on the full extraterritorial application of the EU ETS has ended. With the stay lifted, U.S. airlines and aircraft operators are obligated under the ETS to report to the European States their 2013 emissions for all flights to, from and within Europe at the end of March and to surrender emissions “allowances” for the entirety of those flights at the end of April. We have been advised that the legislative process in Europe will not be completed before these obligations kick in. In the face of threats from EU Member States to enforce the full EU ETS<sup>1</sup>, we are urging the European Commission to issue a clarification that the deadlines will not apply so U.S. airlines and aircraft operators are not subject to confusion about their legal obligations and/or the undue obligations themselves. Again, we seek your support to help ensure that appropriate relief is given from these inappropriate deadlines.

Although the U.S. airlines and aircraft operators contribute only two percent to our nation’s greenhouse gas emissions inventory, we are working together across the aviation industry to implement measures to further improve our fuel efficiency and reduce the industry’s carbon dioxide emissions output and potential climate change impacts, while allowing aviation to continue to serve as a key contributor to the U.S. economy. Your efforts to support the agreement reached at ICAO and to push back against the unilateral application of the EU ETS to U.S. airlines and operators will help secure these important objectives.

Sincerely,

Aerospace Industries Association  
Airlines for America  
Air Line Pilots Association  
Airports Council International – North America  
Cargo Airline Association  
General Aviation Manufacturers Association  
Global Business Travel Association  
Independent Pilots Association  
National Air Carrier Association  
National Business Aviation Association

cc: Administrator Huerta, FAA  
Special Envoy Stern, U.S. Department of State  
Acting Assistant Administrator Burleson, FAA

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<sup>1</sup> Indeed, recently issued guidance from the United Kingdom states that “current UK and EU law remains in force until changed and penalties apply for failure to submit a verified emissions report by 31 March 2014 and to surrender allowances by 30 April 2014. Unless and until changed, reporting and surrender obligations for 2013 are for the full scope of the Directive and include flights to and from the EEA.” UK Environment Agency, *EU ETS Aviation Newsletter* (2 January 2014).