



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 9 January 2007

5154/07

**Interinstitutional File:
2006/0304 (COD)**

**ENV 7
AVIATION 15
MI 7
IND 3
ENER 8
CODEC 11**

PROPOSAL

from: European Commission
dated: 22 December 2006

Subject: Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/87/EC so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Community

Delegations will find attached a proposal from the Commission, submitted under a covering letter from Mr Jordi AYET PUIGARNAU, Director, to Mr Javier SOLANA, Secretary-General/High Representative.

Encl.: COM(2006) 818 final



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 20.12.2006
COM(2006) 818 final

2006/0304 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**amending Directive 2003/87/EC so as to include aviation activities in the scheme for
greenhouse gas emission allowance trading within the Community**

(presented by the Commission)

{SEC(2006) 1684}

{SEC(2006) 1685}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

Air transport has become an integral part of society in the 21st century, enabling both passengers and freight to travel long distances at an unprecedented speed and contributing to European and global integration. Unfortunately, aviation also contributes to climate change. In 2004 greenhouse gas emissions from the Community's share of international aviation increased by a further 7.5% compared with 2003, resulting in a cumulative growth of 87% since 1990. If this continues, there is a risk that growth in the Community's share of international aviation emissions could by 2012 offset more than a quarter of the environmental benefits of the reductions required by the Community's target under the Kyoto Protocol. Since international aviation is not yet covered by the Kyoto Protocol, this growth currently has no legal implications. Nonetheless, this does not lessen its environmental implications which will have to be addressed as part of any effective forward-looking climate policy.

The objective of this proposal is to address the growing climate change impact attributable to aviation by including aviation in the Community emissions trading scheme (the "Community scheme").

- **General context**

On 27 September 2005 the Commission adopted a Communication on Reducing the Climate Change Impact of Aviation. The key conclusion drawn in the Communication was that, in view of the likely future growth in air traffic, further policies and measures are needed to address the climate impact of aviation. Having analysed a number of options, the Commission decided to pursue a new market-based instrument at Community level in preference to other financial measures such as tax and charges and considered that *"...the best way forward from an economic and environmental point of view, lies in including the climate impact of the aviation sector in the [Community] scheme"*. On the basis of this conclusion, the Commission announced that it intended to present a legislative proposal to this effect and invited the other Community institutions to consider the policy and design recommendations made in the Communication. The present proposal aims at implementing this key pillar of the strategy without affecting its other means of addressing climate change through a comprehensive approach based on improved technology and utilisation of aircraft (including improvements in air traffic management, research etc.)¹.

On 2 December 2005 the Council of Environment Ministers adopted conclusions recognising that the inclusion of the aviation sector in the Community scheme seems to be the best way forward and urged the Commission to bring forward a legislative proposal by the end of 2006. The European Council confirmed the key conclusions reached by the Environment Council. On 21 April 2006 the European Economic and

¹ See in particular section 5 of COM(2005) 459.

Social Committee adopted an opinion on the Communication expressing its view that inclusion of aviation in the Community scheme could be a very feasible option. On 4 July 2006 the European Parliament adopted a Resolution welcoming the Commission's Communication and recognising that emissions trading has the potential to play a role as part of a comprehensive package of measures to address the climate impact of aviation, provided it is appropriately designed.

The ultimate objective of the United Nations Framework Convention on Climate Change is to stabilise greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. The Community has repeatedly stated that the overall global annual mean surface temperature increase should not exceed 2°C above pre-industrial levels. All sectors of the Community economy should be subject to policies and measures designed to generate the substantial reductions in greenhouse gas emissions compared with 1990 levels which are needed to meet this target.

The limitation and reduction targets adopted under the Kyoto Protocol include emissions from domestic aviation but not emissions from international flights. Instead the Kyoto Protocol places an obligation on the parties to "*pursue limitation or reduction of emissions of greenhouse gases...from aviation...bunker fuels, working through the International Civil Aviation Organization...*". At the sixth meeting of the ICAO Committee on Aviation Environmental Protection in 2004, it was agreed that an aviation-specific emissions trading system based on a new legal instrument under ICAO auspices "*...seemed sufficiently unattractive that it should not be pursued further*". However, Resolution 35-5 of the ICAO Assembly instead endorsed open emissions trading and requested the development of non-binding guidance for use by states, as appropriate, to incorporate emissions from international aviation into their emissions trading schemes. The Commission and Member States are participating in and supporting this work which is scheduled for finalisation by ICAO in 2007. The ICAO Assembly in September 2007 will discuss this issue. In any case, this proposal is not expected to enter into force before that date. The final ICAO guidance will be taken into account, as appropriate, during the co-decision procedure. The objective of this proposal is to provide a model for aviation emissions trading that can be a point of reference in the EU's contacts with key international partners and to promote the development of similar systems worldwide. The Commission also supports the objective of a global agreement aimed at effectively tackling aviation emissions at global level.

- **Existing provisions in the area of the proposal**

Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (as amended). This proposal aims to amend Directive 2003/87/EC to include aviation in the Community scheme.

- **Consistency with other policies and objectives of the Union**

The proposal aims to protect, preserve and improve the quality of the environment by reducing the climate impact of aviation. It is consistent with the common transport policy as it encourages the sustainable development of air transport.

2. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

• Consultation of interested parties

Consultation methods, main sectors targeted and general profile of respondents

The September 2005 Communication was informed by an open public conference on aviation and climate change during Green Week 2005.

To follow-up the Communication, an Aviation Working Group was set up as part of the second phase of the European Climate Change Programme (ECCP II) to advise the Commission on ways of including aviation in the Community scheme. The Group consisted of experts from Member States and key stakeholders including industry, consumer and environmental organisations.

Summary of responses and how they have been taken into account

The information gathered through stakeholder consultation has been taken into account in the design of the proposed scheme. Details of how this was done are set out in the impact assessment report.

An open consultation was conducted over the internet from 11 March 2005 to 06 May 2005. The Commission received 5 758 responses. The results are available on http://ec.europa.eu/environment/climat/aviation_en.htm.

• Collection and use of expertise

Scientific/expertise domains concerned

(1) Climate change science; (2) expertise from the aviation industry including aircraft manufacturers, airport authorities and airlines; (3) modelling expertise; (4) emissions estimates and air traffic data.

Methodology used

Modelling with formal mathematical models and calculations based on statistical data.

Main organisations/ experts consulted

National, regional and local administrations, industry associations, trade organisations, environmental organisations, consumer organisations, science and research institutes and other Commission directorate-generals.

Summary of advice received and used

There was unanimous agreement that aviation contributes to climate change and recognition that action needs to be taken to address this. In this respect, emissions trading was preferred to taxes or charges. As regards the design of the scheme, it was widely accepted that the obligations under the scheme should apply to aircraft operators. Although there was no consensus on the geographical scope of the scheme, there was broad consensus that the quantity of allowances and the process

for their allocation should be harmonised. The majority of the parties consulted considered that the scheme should be an open trading scheme but should not adversely affect the accounting system used in the Community scheme.

Means used to make the expert advice publicly available

The final report and the agendas, background papers and presentations from each meeting of the Aviation Working Group are publicly available on the internet at http://ec.europa.eu/environment/climat/aviation_en.htm. Position papers submitted by stakeholders to complement the views recorded in the minutes are also available on the same website.

- **Impact assessment**

The September 2005 Communication was accompanied by an impact assessment which evaluated different policy options potentially available to reduce the climate impact of aviation. It concluded that emissions trading is the most efficient solution, both environmentally and economically.

A further impact assessment accompanies this proposal. It considers the specific design options and policy choices for including aviation in the Community scheme. It concludes that since every airline on each route covered by the scheme would be treated equally, airlines can be expected to pass on, to a large extent or even in full, compliance costs to customers. This would have only a small effect on forecasted demand growth: from business-as-usual levels of 142% to a minimum of 135% over the period 2005 to 2020 for all departing and arriving flights. Competition between airlines would not be significantly affected. The main difference between airlines is the length of journey undertaken, the age of the aircraft used and the payload carried. Therefore, carriers travelling shorter distances, using older aircraft or carrying fewer passengers or less freight would be affected to a greater extent than more fuel-efficient carriers. Competition between airports and tourism would not be significantly affected. However, any risk to the latter would likely be decreased by including all departing and arriving flights in the scheme.

The Commission carried out an impact assessment, as listed in its Work Programme: the report is available at http://ec.europa.eu/environment/climat/aviation_en.htm.

3. **LEGAL ELEMENTS OF THE PROPOSAL**

- **Summary of the proposed action**

The proposed Directive would amend Directive 2003/87/EC to include aviation in the Community scheme.

The existing Community scheme works by allocating to operators a number of allowances each giving them a right to emit one tonne of carbon dioxide per year. The total number of allowances allocated sets a limit on the overall emissions from participants in the scheme. By 30 April each year operators must surrender allowances to cover their actual emissions. Operators can trade allowances so that emissions reductions can be made where they are most cost-effective.

The requirements to monitor and report emissions will take effect from 2010. From 2011 emissions from the aviation sector will be subject to a cap and aircraft operators will be required to surrender allowances to cover their emissions.

Key aspects are:

- Aircraft operators will be the entities responsible for complying with the obligations imposed by the scheme;
- The scheme will cover all flights arriving at or departing from an airport in the Community as of 1 January 2012. Flights between EU airports will be covered from 1 January 2011;
- Flights by State aircraft, flights under visual flight rules, circular flights, flights for testing navigation equipment or for training purposes, rescue flights and flights by aircraft with a maximum take-off weight of less than 5 700 kg will be excluded from the scheme;
- To address other gases, by the end of 2008, the Commission will put forward a proposal to address the nitrogen oxide emissions from aviation after a thorough impact assessment;
- In order to avoid duplication and an excessive administrative burden on aircraft operators, each aircraft operator, including operators from third countries, will be administered by one Member State only;
- In contrast to the existing scheme, the method of allocating allowances will be harmonised across the Community;
- The total number of allowances to be allocated to the aviation sector will be determined at Community level by reference to average emissions from aviation in the years 2004-2006;
- A fixed percentage of the total quantity of allowances will be allocated free of charge on the basis of a benchmark to aircraft operators which submit an application (the earliest application relating to 2008 data). For the period 2011-2012 this percentage will correspond to the average percentage proposed by the Member States including auctioning in their national allocation plans. Thereafter this will be reviewed in the light of the results of the general review of the emissions trading scheme;
- The details of how auctioning will work such as appropriate design and timing will be set out in a Commission Regulation. Auctioning proceeds should be used to mitigate and adapt to the impacts of climate change and to cover administrative costs;
- Like other participants in the Community scheme, aircraft operators will have to monitor their emissions of carbon dioxide and report them to the competent authority of its administering Member State by 31 March each year. The reports must be verified to make sure that they are accurate. The basic principles for monitoring, reporting and verifying emissions set out in the proposal will be elaborated by guidelines;

- Aircraft operators will be able to buy allowances from other sectors in the Community scheme for use to cover their emissions;
- Aircraft operators will also be able to use project credits – so-called Emission Reduction Units (ERUs) and Certified Emission Reductions (CERs) - from the Joint Implementation or Clean Development Mechanisms (JI/CDM) up to a harmonised limit equivalent to the average of the limits prescribed by Member States in their national allocation plans for other sectors in the Community scheme;
- Domestic aviation will be included in the scheme and treated in the same way as international aviation;
- Special consideration to the treatment of air services to remote or isolated regions, which are particularly dependent on air transport services, can best be given within the framework of existing measures such as public service obligations and aid having a social character under Article 87(2) of the Treaty.

- **Legal basis**

The legal basis for the proposal is Article 175 of the Treaty (which was also the legal basis for Directive 2003/87/EC).

- **Subsidiarity principle**

The subsidiarity principle applies insofar as the proposal does not fall under the exclusive competence of the Community.

The objectives of the proposal cannot be sufficiently achieved by the Member States for the following reasons.

- The economic benefits from emissions trading will only be obtained if allowances can be traded and accepted across the Community. To achieve this, the establishment of a common framework is necessary.
- Given the high level of integration in the Community air transport market, distortions of competition could be created if different policies were applied in Member States.

Community action will better achieve the objectives of the proposal for the following reasons:

- Harmonised action to reduce the climate change impact of aviation can best be achieved by adopting legislation at Community level. As all airlines operating from Community airports would be treated in the same way, distortions of competition would be minimised.
- The Council and the European Parliament have called for the Commission to propose Community action and recognised the potential of emissions trading. Directive 2003/87/EC needs to be amended to include aviation in the Community scheme.

- The Community is a major player in global aviation, accounting for about half of the carbon dioxide emissions from international aviation reported by developed countries to the UNFCCC.
- The proposal amends the Community scheme to establish a common framework but will leave implementation and enforcement tasks to Member States which are better placed to perform them.

The proposal therefore complies with the subsidiarity principle.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reasons:

- Only the elements that are necessary to ensure that the scheme functions properly and to prevent distortions of competition which could result from differences in treatment of aircraft operators between Member States are regulated by the proposal. To ensure consistency and reduce implementation costs, the proposal makes use of the existing architecture of the Community scheme as much as possible. Where the procedures applied in the existing scheme are not appropriate for the aviation sector, special provision has been made whilst preserving the simplicity and environmental integrity of the scheme.
- Emissions trading can be used to achieve an environmental benefit at a lower cost than other means and is therefore the most cost-effective way of addressing greenhouse gas emissions from aviation.

- **Choice of instrument**

Proposed instruments: Directive.

Other means would not be adequate for the following reason.

As the Directive amends another Directive in order to include aviation in the Community scheme, other instruments would not have been appropriate.

4. BUDGETARY IMPLICATION

Expenditure on activities under this Directive will be covered by the financial instrument for the environment (LIFE+ for 2007-2013). No additional amount is requested.

5. ADDITIONAL INFORMATION

- **Review/revision/sunset clause**

The proposal includes a revision clause.

- **Correlation table**

The Member States are required to communicate to the Commission the text of national provisions transposing the Directive as well as a correlation table between those provisions and this Directive.

- **European Economic Area**

The proposed act concerns an EEA matter and should therefore extend to the European Economic Area.

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 2003/87/EC so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Community

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission²,

Having regard to the opinion of the European Economic and Social Committee³,

Having regard to the opinion of the Committee of the Regions⁴,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁵,

Whereas:

- (1) Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC⁶ established a scheme for greenhouse gas emission allowance trading within the Community in order to promote reductions of greenhouse gas emissions in a cost-effective and economically efficient manner.
- (2) The ultimate objective of the United Nations Framework Convention on Climate Change, which was approved on behalf of the European Community by Council Decision 94/69/EC of 15 December 1993 concerning the conclusion of the United Nations Framework Convention on Climate Change⁷, is to stabilise greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. The Community has repeatedly stated that, with a view to meeting this objective, the overall global annual mean

² OJ C , , p. .

³ OJ C , , p. .

⁴ OJ C , , p. .

⁵ OJ C , , p. .

⁶ OJ L 275, 25.10.2003, p. 32. Directive as amended by Directive 2004/101/EC (OJ L 338, 13.11.2004, p. 18).

⁷ OJ L 33, 7.2.1994, p. 11.

surface temperature increase should not exceed 2°C above pre-industrial levels. Recent scientific research and work indicate that keeping this long-term temperature objective within reach will require global greenhouse gas emissions to peak within two decades followed by substantial reductions in the order of at least 15%, and perhaps by as much as 50%, compared with 1990 levels. The levels of quantified reductions for States to make from 2013 to achieve the objective of stabilising greenhouse gas concentrations have not yet been fixed in the international climate change process. Whilst this Directive should be consistent with the EU's contribution to the long-term temperature objective, the methods and basis for allocation of allowances to aircraft operators under this Directive beyond that date should be kept under review in the light of scientific developments and the political developments at the international level.

- (3) The United Nations Framework Convention on Climate Change requires all parties to formulate and implement national and, where appropriate, regional programmes containing measures to mitigate climate change.
- (4) The Kyoto Protocol, which was approved by Council Decision 2002/358/EC of 25 April 2002 concerning the approval, on behalf of the European Community, of the Kyoto Protocol to the United Nations Framework Convention on Climate Change and the joint fulfilment of commitments thereunder⁸, requires developed countries to pursue the limitation or reduction of emissions of greenhouse gases not controlled by the Montreal Protocol from aviation, working through the International Civil Aviation Organisation (ICAO).
- (5) While the Community is not a contracting Party to the 1944 Chicago Convention, all Member States are contracting Parties to that Convention and members of ICAO, and continue to support work on the development of market-based instruments working with other states at global level. At the sixth meeting of the ICAO Committee on Aviation Environmental Protection in 2004, it was agreed that an aviation-specific emissions trading system based on a new legal instrument under ICAO auspices seemed sufficiently unattractive that it should not be pursued further. Consequently, Resolution 35-5 of the ICAO Assembly does not propose a new legal instrument but instead endorses open emissions trading and the possibility for States to incorporate emissions from international aviation into their emissions trading schemes.
- (6) The Sixth Community Environment Action Programme established by Decision No 1600/2002/EC of the European Parliament and of the Council⁹ provided for the Community to identify and undertake specific actions to reduce greenhouse gas emissions from aviation, if no such action was agreed within the ICAO by 2002. In its conclusions of October 2002, December 2003 and October 2004, the Council has repeatedly called upon the Commission to propose action to reduce the climate change impact of international air transport.
- (7) Policies and measures should be implemented at Member State and Community level across all sectors of the Community economy, and not only within the industry and energy sectors, in order to generate the substantial reductions needed. If the climate

⁸ OJ L 130, 15.5.2002, p. 1.

⁹ OJ L 242, 10.9.2002, p. 1.

change impact of the aviation sector continues to grow at the current rate, it would significantly undermine reductions made by other sectors to combat climate change.

- (8) In its Communication of 27 September 2005¹⁰ the Commission adopted a strategy for reducing the climate impact of aviation. As part of a comprehensive package of measures, the strategy proposed the inclusion of aviation in the Community scheme for greenhouse gas emission allowance trading and provided for the creation of a multi-stakeholder working group on aviation as part of the second phase of the European Climate Change Programme to consider ways of including aviation in the Community scheme. In its conclusions of December 2005 the Council recognised that, from an economic and environmental point of view, the inclusion of the aviation sector in the Community scheme seems to be the best way forward and called on the Commission to bring forward a legislative proposal by the end of 2006. In its Resolution of 4 July 2006 the European Parliament recognised that emissions trading has the potential to play a role as part of a comprehensive package of measures to address the climate impact of aviation, provided that it is appropriately designed.
- (9) The objective of this Directive is to reduce the climate change impact attributable to aviation by including emissions from aviation activities in the Community scheme.
- (10) Aircraft operators have the most direct control over the type of aircraft in operation and the way in which they are flown and should therefore be responsible for complying with the obligations imposed by this Directive. An operator may be identified by the use of an ICAO designator or any other recognised designator used in the identification of the flight. If the identity of the operator is not known, the owner of the aircraft should be regarded as the aircraft operator unless it proves which other person was the operator.
- (11) From 2011, emissions from flights between airports in the Community should be included in the Community scheme. From 2012, emissions from all flights arriving at and departing from Community airports should be included. The Community scheme can thereby serve as a model for the expansion of the scheme worldwide. If a third country adopts measures for reducing the climate impact of flights to a Community airport departing from that country which are at least equivalent to the requirements of this Directive, the scope of the Community scheme should be amended to exclude flights arriving in the Community from that country.
- (12) Aviation has an impact on the global climate through releases of carbon dioxide, nitrogen oxides, water vapour and sulphate and soot particles. The Intergovernmental Panel on Climate Change has estimated that the total impact of aviation currently is two to four times higher than the effect of its past carbon dioxide emissions alone. Recent Community research indicates that the total impact of aviation could be around two times higher than the impact of carbon dioxide alone. However, none of these estimates takes into account the highly uncertain cirrus cloud effects. In accordance with Article 174(2) of the Treaty, Community environment policy must be based on the precautionary principle and therefore all impacts of aviation should be addressed to the extent possible. Pending scientific progress to identify suitable metrics for comparing the different impacts, a pragmatic and precautionary approach is required.

¹⁰ COM(2005) 459.

Emissions of nitrogen oxides will be addressed in other legislation to be presented by the Commission.

- (13) In order to avoid distortions of competition, a harmonised allocation methodology should be specified. To ensure access to the market for new aircraft operators, a proportion of allowances will be allocated by auction in accordance with rules to be developed by the Commission. Aircraft operators that cease operations should continue to be issued with allowances until the end of the period for which free allowances have already been allocated.
- (14) Aviation contributes to the overall climate change impact of human activities. Proceeds from the auctioning of allowances should be used to mitigate greenhouse gas emissions, to adapt to the impacts of climate change, to fund research and development for mitigation and adaptation, and to cover the costs of administering the scheme. The use of auctioning proceeds should in particular fund contributions to the Global Energy Efficiency and Renewable Energy Fund, and measures to avoid deforestation and facilitate adaptation in developing countries. Provisions for the use of funds from the auctioning should be notified to the Commission. Such notification does not release Member States from the obligation laid down in Article 88(3) of the Treaty, to notify certain national measures. The Directive does not prejudice the outcome of any future State aid procedures that may be undertaken in accordance with Articles 87 and 88 of the Treaty.
- (15) To increase the cost-effectiveness of the scheme, aircraft operators should be able to use CERs and ERUs from project activities to meet obligations to surrender allowances up to a harmonised limit.
- (16) In order to reduce the administrative burden on aircraft operators, one Member State should be responsible for each aircraft operator. Member States should be required to ensure that aircraft operators which were issued with an operating licence in that State, or aircraft operators without an operating licence or from third countries whose emissions in a base year are mostly attributable to that Member State, comply with the requirements of this Directive.
- (17) To maintain the integrity of the accounting system for the Community scheme in view of the fact that emissions from international aviation are not yet integrated into Member States' commitments under the Kyoto Protocol, allowances allocated to the aviation sector should only be used to meet the obligations placed on aircraft operators to surrender allowances under this Directive. However, aircraft operators should be able to exchange an allowance issued to the aviation sector for an allowance which can be used by all operators in the scheme through their registry administrator.
- (18) The European Organisation for the Safety of Air Navigation (Eurocontrol), may possess information which could assist Member States or the Commission in discharging their obligations under this Directive.
- (19) The provisions of the Community scheme relating to monitoring, reporting and verifying emissions and to penalties applicable to operators should also apply to aircraft operators.

- (20) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission¹¹.
- (21) In particular power should be conferred on the Commission to adopt measures for the auctioning of allowances not required to be issued for free and to amend the aviation activities listed in Annex I where a third country introduces measures to reduce the climate change impact of aviation. Since those measures are of general scope and are designed to amend non-essential elements of this Directive and to supplement this Directive by the addition or modification of new non-essential elements, they should be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (22) Since the objective of the proposed action cannot be achieved by the Member States acting individually, and can therefore, by reason of the scale and effects of the proposed action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.
- (23) Directive 2003/87/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1
Amendments to Directive 2003/87/EC

Directive 2003/87/EC is amended as follows:

- (1) The following heading of Chapter I is inserted before Article 1:

**“Chapter I
General Provisions”**

- (2) Article 3 is amended as follows:

- (a) in point (b), the following is added: “or the release from an aircraft performing an aviation activity listed in Annex I of the gases specified in respect of that activity”;
- (b) the following points are added:
- “(o) 'aircraft operator' means the person who operates an aircraft at the time it performs an aviation activity listed in Annex I or, where the operator is not known or is not identified by the owner of the aircraft, the owner of the aircraft;

¹¹ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

- (p) 'administering Member State' means the Member State responsible for administering the scheme in respect of an aircraft operator in accordance with Article 18a;
 - (q) 'attributed aviation emissions' means emissions from all flights falling within the aviation activities listed in Annex I which depart from a Member State or arrive in the Member State from a third country;
 - (r) 'historical aviation emissions' means the mean average of the annual emissions in the calendar years 2004, 2005 and 2006 from aircraft performing an aviation activity listed in Annex I.”
- (3) The following Chapter II and heading of Chapter III and Article 3e are inserted after Article 3:

“Chapter II Aviation

Article 3a Scope of Chapter II

The provisions of this Chapter shall apply to the allocation and issue of allowances in respect of aviation activities listed in Annex I.

Article 3b Total quantity of allowances for aviation

1. For the period from 1 January 2011 to 31 December 2012, the total quantity of allowances to be allocated to aircraft operators shall be equivalent to 100% of the sum of the historical aviation emissions in relation to each year.
2. For the period referred to in Article 11(2) beginning on 1 January 2013, the total quantity of allowances to be allocated to aircraft operators shall be equivalent to 100% of the historical aviation emissions multiplied by the number of years in the period.
3. For the second period referred to in Article 11(2) and each subsequent period, the total quantity of allowances to be allocated to aircraft operators shall be equivalent to 100% of the historical aviation emissions multiplied by the number of years in the period.
4. Within six months of the entry into force of this Directive, the Commission shall decide on the historical aviation emissions based on best available data.

Article 3c
Method of allocation of allowances for aviation

1. In the period referred to in Article 3b(1), a percentage of allowances shall be auctioned. The percentage shall correspond to the average percentage proposed by the Member States including auctioning in their national allocation plans under Chapter III for the relevant period.
2. For future periods, the percentage to be auctioned shall take into account the general review of this Directive.
3. The Commission shall adopt a Regulation containing detailed provisions for the auctioning by Member States of allowances not required to be issued free of charge in accordance with paragraphs 1 and 2. The number of allowances to be auctioned in each period by each Member State shall be proportionate to its share of the total attributed aviation emissions for all Member States for the reference year reported pursuant to Article 14(3) and verified pursuant to Article 15. For the period referred to in Article 3b(1), the reference year shall be 2010 and for each subsequent period referred to in Article 3b the reference year shall be the calendar year ending 24 months before the start of the period to which the auction relates.

That Regulation, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(2a).

4. Revenues generated from the auctioning of allowances in accordance with paragraph 3 shall be used to mitigate greenhouse gas emissions, to adapt to the impacts of climate change, to fund research and development for mitigation and adaptation, and to cover the costs of the administering Member State in relation to this Directive. Member States shall inform the Commission of measures taken pursuant to this paragraph.
5. Information provided to the Commission on the basis of this Directive does not free Member States from the notification obligation pursuant to Article 88(3) of the Treaty.

Article 3d
Allocation and issue of allowances to aircraft operators

1. For each period referred to in Article 3b, each aircraft operator may apply for an allocation of allowances that are to be allocated free of charge in accordance with Article 3c. An application may be made by submitting to the administering Member State verified tonne-kilometre data for the aviation activities listed in Annex I performed by that operator for the calendar year ending twenty four months before the start of the period to which it relates in accordance with Annexes IV and V. Any application must be made at least twenty one months before the start of the period to which it relates.

2. At least eighteen months before the start of the period to which the application relates Member States shall submit applications received under paragraph 1 to the Commission.
3. At least fifteen months before the start of each period referred to in Article 3b, the Commission shall decide on the following:
 - (a) the total quantity of allowances to be allocated for that period in accordance with Article 3b;
 - (b) the number of allowances to be allocated free of charge in that period in accordance with Article 3c;
 - (c) the benchmark to be used to allocate allowances free of charge to aircraft operators whose applications were submitted to the Commission in accordance with paragraph 2.

The benchmark referred to in point (c) shall be calculated by dividing the number of allowances referred to in point (b) by the sum of the tonne-kilometre data included in applications submitted to the Commission in accordance with paragraph 2.

4. Within three months of the date on which the Commission adopts a decision under paragraph 3, each administering Member State shall calculate and publish:
 - (a) the total allocation of allowances for the period to each aircraft operator whose application it submitted to the Commission in accordance with paragraph 2, calculated by multiplying the tonne-kilometre data included in the application by the benchmark published under point (c) of paragraph 3; and
 - (b) the allocation of allowances to each aircraft operator for each year which shall be determined by dividing its total allocation of allowances for the period calculated under point (a) by the number of years in the period for which that aircraft operator is performing an aviation activity listed in Annex I.
5. By 28 February 2011 and by 28 February in each subsequent year, the competent authority of the administering Member State shall issue to each aircraft operator the number of allowances allocated to that aircraft operator for that year.

Chapter III

Stationary installations

Article 3e *Scope of Chapter III*

The provisions of this Chapter shall apply to greenhouse gas emissions permits and the allocation and issue of allowances in respect of activities listed in Annex I other than aviation activities.”

- (4) In Article 6(2)(e), after “allowances” the words “, other than allowances issued under Chapter II,” are inserted.
- (5) The following heading of Chapter IV is inserted after Article 11:

“Chapter IV Provisions applying to aviation and stationary installations”

- (6) In Article 11a the following paragraph 1a is inserted:

“1a. Subject to paragraph 3, during each period referred to in Article 3b, Member States shall allow each aircraft operator to use CERs and ERUs from project activities up to a percentage of the number of allowances it is required to surrender pursuant to Article 12(2a); this percentage being the average of the percentages specified by Member States for the period in accordance with paragraph 1.

The Commission shall publish this percentage at least six months before the start of each period referred to in Article 3b.”

- (7) In Article 11b(2), the word “installations” is replaced by “activities”.

- (8) Article 12 is amended as follows:

- (a) in paragraph 2, after “purpose” the words “of meeting an aircraft operator's obligations under paragraph 2a or” are inserted;
- (b) the following paragraph 2a is inserted:

“2a. Administering Member States shall ensure that, by 30 April each year at the latest, each aircraft operator surrenders a number of allowances equal to the total emissions during the preceding calendar year from aviation activities listed in Annex I for which it is the aircraft operator, as verified in accordance with Article 15. Member States shall ensure that allowances surrendered in accordance with this paragraph are subsequently cancelled.”

- (c) in paragraph (3), after “allowances” the words “, other than allowances issued under Chapter II,” are inserted.

- (9) In Article 13(3), “Article 12(3)” is replaced by “Article 12(2a) or (3)”.

- (10) Article 14 is amended as follows:

- (a) in paragraph 1:
- (i) after “those activities” the words “and of tonne-kilometre data for the purpose of an application under Article 3d” are inserted”;
- (ii) the words “, by 30 September 2003” are deleted; and
- (b) in paragraph 3:
- (i) the word “of an installation” is replaced by “or aircraft operator”;

- (ii) the words “from that installation during each calendar year” are replaced by “during each calendar year from the installation, or, from 1 January 2010, the aircraft, which it operates”.

(11) Article 15 is amended as follows:

(a) in the first paragraph:

- (i) the word “operators” is replaced by “operators and aircraft operators”;
- (ii) after “Annex V” the words “and any detailed provisions adopted by the Commission in accordance with this paragraph” are inserted;

(b) in the second paragraph:

- (i) the word “operator” is replaced by “operators and aircraft operators”;
- (ii) after “Annex V” the words “and any detailed provisions adopted by the Commission in accordance with this paragraph” are inserted; and

(c) after the second paragraph, add the following paragraph:

“The Commission may adopt detailed provisions for the verification of reports submitted by aircraft operators pursuant to Article 14(3) and applications under Article 3d in accordance with the regulatory procedure referred to in Article 23(2).”

(12) Article 16 is amended as follows:

(a) in paragraph 1, the words “by 31 December 2003 at the latest,” are deleted;

(b) in paragraph 2:

- (i) the word “operators” is replaced by “operators and aircraft operators”;
- (ii) the words “Article 12(3)” are replaced by the words “this Directive”; and

(c) in paragraph 3:

- (i) the word “operator” is replaced by “operator or aircraft operator”;
- (ii) in the second sentence, the words “by that installation” are deleted.

(13) The following Articles 18a and 18b are inserted:

*“Article 18a
Administering Member State*

1. The administering Member State in respect of an aircraft operator shall be:

- (a) in the case of an aircraft operator with a valid operating licence granted by a Member State in accordance with the provisions of Council Regulation (EEC)

No 2407/92 of 23 July 1992 on licensing of air carriers¹², the Member State which granted the operating licence in respect of that aircraft operator; and

- (b) in all other cases, the Member State with the greatest estimated attributed aviation emissions from flights performed by that aircraft operator in the base year.
2. Based on best available information, the Commission shall:
- (a) by 1 February 2009, publish a list of aircraft operators which performed an aviation activity listed in Annex I on or after 1 January 2006 specifying the administering Member State for each aircraft operator in accordance with paragraph 1; and
 - (b) by 1 February in each subsequent year, update the list to include aircraft operators which have subsequently performed an aviation activity listed in Annex I.
3. For the purposes of paragraph 1, 'base year' means, in relation to an operator which started operating in the Community after 1 January 2006, the first calendar year of operation; and in all other cases, the calendar year starting on 1 January 2006.

Article 18b
Assistance from Eurocontrol

For the purposes of carrying out its obligations under Articles 3b(4) and 18a, the Commission may request the assistance of Eurocontrol and may conclude to that effect any appropriate agreements with that organisation.”

- (14) In Article 19(3), the following words are added: “and provisions to take account of the inclusion of aviation activities in the Community scheme. The Regulation shall allow for aircraft operators to request their registry administrator to exchange an allowance issued under Chapter II for an allowance equivalent to those issued under Chapter III. Administrators shall make such an exchange on request.”
- (15) In Article 23, the following paragraph 2a is inserted:
- “2a. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.”
- (16) The following Article 25a is inserted:

“Article 25a
Third country measures to reduce aviation's climate change impact

Where a third country adopts measures for reducing the climate change impact of flights departing from that country which land in the Community which are at least

¹² OJ L 24, 24.8.1992, p. 1.

equivalent to the requirements of this Directive, the Commission shall amend this Directive to provide for flights arriving from that country to be excluded from the aviation activities listed in Annex I with effect from the next period referred to in Article 3b.

That amendment, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(2a).”

(17) Article 28 is amended as follows:

- (a) in paragraph (3b), after “allowances” the words “, other than allowances issued under Chapter II,” are inserted; and
- (b) in paragraph (4), after “allowances” the words “, other than allowances issued under Chapter II,” are inserted.

(18) The following heading is inserted after Article 30:

“Chapter V Final Provisions”

(19) Annexes I, IV and V are amended in accordance with the Annex to this Directive.

Article 2 Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive no later than 12 months after its entry into force. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive. The Commission shall inform the Member States thereof.

Article 3 Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 4
Addressees

This Directive is addressed to the Member States.

Done at Brussels, [...]

For the European Parliament
The President

For the Council
The President

ANNEX

Annexes I, IV and V to Directive 2003/87/EC are amended as follows:

(1) Annex I is amended as follows:

(a) the title is replaced by the following:

“CATEGORIES OF ACTIVITIES TO WHICH THIS DIRECTIVE APPLIES”;

(b) the following paragraph is added after paragraph 2:

“For the year 2011 only flights which both depart from and arrive in an airport situated in the territory of a Member State to which the Treaty applies shall be included in the activity of aviation. From 1 January 2012, all flights which arrive at or depart from an airport situated in the territory of a Member State to which the Treaty applies shall be included”.

(c) the following category of activity is added:

“

| | |
|--|-----------------------|
| <p><i>Aviation</i></p> <p>Flights which arrive at or depart from an airport situated in the territory of a Member State to which the Treaty applies.</p> <p>This activity shall not include:</p> <p>a) flights performed exclusively for the transport, on official mission, of a reigning Monarch and his immediate family, Heads of State, Heads of Government and Government Ministers where this is substantiated by an appropriate status indicator in the flight plan;</p> <p>b) military flights performed by military aircraft and customs and police flights and search and rescue flights authorised by the appropriate competent authority;</p> <p>c) any flights performed exclusively under visual flight rules as defined in Annex 2 to the Convention on International Civil Aviation 1944;</p> | <p>Carbon dioxide</p> |
|--|-----------------------|

| | |
|---|--|
| <p>d) flights terminating at the aerodrome from which the aircraft has taken off and during which no intermediate landing has been made;</p> <p>e) training flights performed exclusively for the purpose of obtaining a licence, or a rating in the case of cockpit flight crew where this is substantiated by an appropriate remark in the flight plan provided that the flight does not serve for the transport of passengers and/or cargo or for the positioning or ferrying of the aircraft;</p> <p>f) flights performed exclusively for the purpose of checking or testing equipment used or intended to be used as ground aids to air navigation excluding positioning flights by the aircraft concerned; and</p> <p>g) flights performed by aircraft with a certified maximum take-off weight of less than 5 700kg.</p> | |
|---|--|

”

(2) Annex IV is amended as follows:

(a) the following heading is inserted after the title:

“PART A – Monitoring and reporting of emissions from stationary installations”

(b) the following part B is added:

“PART B – Monitoring and reporting of emissions from aviation activities

Monitoring of carbon dioxide emissions

Emissions shall be monitored by calculation. Emissions shall be calculated using the formula:

Fuel consumption x emission factor

Fuel consumption shall include fuel consumed by the auxiliary power unit. Actual fuel consumption for each flight shall be used wherever possible and shall be calculated using the formula:

Amount of fuel contained in aircraft tanks once fuel uplift for the flight is complete – amount of fuel contained in aircraft tanks once fuel uplift for subsequent flight is complete + fuel uplift for that subsequent flight.

If actual fuel consumption data are not available, a standardised tiered method shall be used to estimate fuel consumption data based on best available information.

Default IPCC emission factors, taken from the 2006 IPCC Inventory Guidelines or subsequent updates of these Guidelines, shall be used unless activity-specific emission factors derived by independent accredited laboratories using accepted analytical methods are more accurate. The emission factor for biomass shall be zero.

A separate calculation shall be made for each flight and for each fuel.

Reporting of emissions

Each aircraft operator shall include the following information in its report under Article 14(3):

- A. Data identifying the operator, including:
- Name of the operator;
 - Its administering Member State;
 - Its address, including postcode and country and, where different, its contact address in the administering Member State;
 - The aircraft registration numbers and types of aircraft used in the period covered by the report to perform the aviation activities listed in Annex I for which it is the aircraft operator;
 - The number and issuing authority of the air operator certificate and operating licence under which the aviation activities listed in Annex I for which it is the aircraft operator were performed;
 - Address, telephone, fax and email details for a contact person; and
 - Name of the aircraft owner.
- B. For each type of fuel for which emissions are calculated:
- Fuel consumption;
 - Emission factor;
 - Total aggregated emissions from all flights performed during the period covered by the report which fall within the aviation activities listed in Annex I for which it is the aircraft operator;
 - Aggregated emissions from:
 - all flights performed during the period covered by the report which fall within the aviation activities listed in Annex I for which it is the aircraft operator and which departed from an airport situated in the territory of a Member State and arrived at an airport situated in the territory of the same Member State;

- all other flights performed during the period covered by the report which fall within the aviation activities listed in Annex I for which it is the aircraft operator;
- Aggregated emissions from all flights performed during the period covered by the report which fall within the aviation activities listed in Annex I for which it is the aircraft operator which:
 - departed from each Member State; and
 - arrived in each Member State from a third country;
- Uncertainty.

Monitoring of tonne-kilometre data for the purpose of Article 3d

For the purpose of applying for an allocation of allowances in accordance with Article 3d(1), the amount of aviation activity shall be calculated in tonne-kilometres using the following formula:

tonne kilometres = distance x payload

where:

"distance" means the great circle distance between the airport of departure and the airport of arrival; and

"payload" means the total mass of freight, mail and passengers carried.

For the purposes of calculating the payload:

- the number of passengers shall be the number of persons onboard excluding crew members;
- an aircraft operator may chose to apply either the actual or standard mass for passengers and checked baggage contained in its mass and balance documentation for the relevant flights or a default value for each passenger and his checked baggage of 100 kg.

Reporting of tonne-kilometre data for the purpose of Article 3d

Each aircraft operator shall include the following information in its application under Article 3d(1):

- A. Data identifying the operator, including:
- Name of the operator;
 - Its administering Member State;
 - Its address, including postcode and country and, where different, its contact address in the administering Member State;

- The aircraft registration numbers and types of aircraft used during the year covered by the application to perform the aviation activities listed in Annex I for which it is the aircraft operator;
- The number and issuing authority of the air operator certificate and operating licence under which the aviation activities listed in Annex I for which it is the aircraft operator were performed;
- Address, telephone, fax and email details for a contact person; and
- Name of the aircraft owner.

B. Tonne-kilometre data:

- Number of flights by airport pair;
- Number of passenger-kilometres by airport pair;
- Number of tonne-kilometres by airport pair;
- Total number of tonne-kilometres for all flights performed during the year to which the report relates falling within the aviation activities listed in Annex I for which it is the operator.”

(3) Annex V is amended as follows:

- (a) the following heading is inserted after the title:

“PART A – Verification of emissions from stationary installations”

- (b) the following part B is added:

“PART B – Verification of emissions from aviation activities

- (13) The general principles and methodology set out in this Annex shall apply to the verification of reports of emissions from flights falling within an aviation activity listed in Annex I.

For this purpose:

- (a) in paragraph 3, the reference to operator shall be read as if it were a reference to an aircraft operator and in point (c), the reference to installation shall be read as if it were a reference to the aircraft used to perform the aviation activities covered by the report;
- (b) in paragraph 5, the reference to installation shall be read as if it were a reference to the aircraft operator;
- (c) in paragraph 6 the reference to activities carried out in the installation shall be read as a reference to aviation activities covered by the report carried out by the aircraft operator;

- (d) in paragraph 7 the reference to the site of the installation shall be read as if it were a reference to the sites used by the aircraft operator to perform the aviation activities covered by the report;
- (e) in paragraphs 8 and 9 the references to sources of emissions in the installation shall be read as if they were a reference to the aircraft for which the aircraft operator is responsible; and
- (f) in paragraphs 10 and 12 the references to operator shall be read as if they were a reference to an aircraft operator.

Additional provisions for the verification of aviation emission reports

- (14) The verifier shall in particular ascertain that:
 - (a) all flights falling within an aviation activity listed in Annex I have been taken into account. In this task the verifier shall be assisted by timetable data and other data on the operator's traffic including data from Eurocontrol requested by the operator;
 - (b) there is overall consistency between aggregated fuel consumption data and data on fuel purchased or otherwise supplied to the aircraft performing the aviation activity.

Additional provisions for the verification of tonne-kilometre data submitted for the purposes of Article 3d(1)

- (15) The general principles, and methodology for verifying emissions reports under Article 14(3) set out in this Annex shall, where applicable, also apply correspondingly to the verification of aviation tonne-kilometre data.
- (16) The verifier shall in particular ascertain that only flights actually performed and falling within an aviation activity listed in Annex I for which the aircraft operator is responsible have been taken into account in that operator's application under Article 3d(1). In this task the verifier shall be assisted by data on the operator's traffic including data from Eurocontrol requested by the operator. In addition, the verifier shall ascertain that the payload reported by the operator corresponds to records on payloads kept by that operator for safety purposes.”

LEGISLATIVE FINANCIAL STATEMENT

1. NAME OF THE PROPOSAL:

Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/87/EC so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Community.

2. ABM/ABB FRAMEWORK

Policy Area(s) concerned and associated Activity/Activities:

Policy area: 07 Environment

Activity ABB Code 0703: Implementation of Community environmental policy and legislation

3. BUDGET LINES

3.1. Budget lines (operational lines and related technical and administrative assistance lines (ex- BA lines)) including headings:

Article 07 03 07 - LIFE+ (Financial Instrument for the Environment — 2007 to 2013)

3.2. Duration of the action and of the financial impact:

For 2007-2013 the appropriations required will be covered by the resources already foreseen for the LIFE+ programme. No additional amount is requested.

3.3. Budgetary characteristics (add rows if necessary):

| Budget line | Type of expenditure | | New | EFTA contribution | Contributions from applicant countries | Heading in financial perspective |
|-------------|---------------------|------|-----|-------------------|--|----------------------------------|
| 07 03 07 | Non-comp | Diff | NO | NO | NO | NO 2 |

4. SUMMARY OF RESOURCES

4.1. Financial resources

4.1.1. Summary of commitment appropriations (CA) and payment appropriations (PA)

EUR million (to 3 decimal places)

| Expenditure type | Section no. | | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 and later | Total |
|------------------|-------------|--|------|------|------|------|------|----------------|-------|
|------------------|-------------|--|------|------|------|------|------|----------------|-------|

Operational expenditure¹³

| | | | | | | | | | |
|--------------------------------|------|---|-------|-------|-------|-------|-------|-------|-------|
| Commitment appropriations (CA) | 8.1. | a | 0.200 | 0.140 | 0.065 | 0.000 | 0.000 | 0.200 | 0.605 |
| Payment appropriations (PA) | | b | 0.100 | 0.130 | 0.127 | 0.048 | 0.00 | 0.200 | 0.605 |

Administrative expenditure within reference amount¹⁴

| | | | | | | | | | |
|---|--------|---|-------|-------|-------|-------|-------|-------|-------|
| Technical & administrative assistance (NDA) | 8.2.4. | c | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 |
|---|--------|---|-------|-------|-------|-------|-------|-------|-------|

TOTAL REFERENCE AMOUNT

| | | | | | | | | | |
|----------------------------------|--|-----|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Commitment appropriations | | a+c | 0.200 | 0.140 | 0.065 | 0.000 | 0.000 | 0.200 | 0.605 |
| Payment appropriations | | b+c | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 |

Administrative expenditure not included in reference amount¹⁵

| | | | | | | | | | |
|---|--------|---|-------|-------|-------|-------|-------|-------|-------|
| Human resources and associated expenditure (NDA) | 8.2.5. | d | 0.108 | 0.108 | 0.108 | 0.108 | 0.108 | 0.108 | 0.648 |
| Administrative costs, other than human resources and associated costs, not included in reference amount (NDA) | 8.2.6. | e | 0.004 | 0.085 | 0.058 | 0.031 | 0.031 | 0.031 | 0.240 |

Total indicative financial cost of intervention

| | | | | | | | | | |
|---|--|-----------------|-------|-------|-------|-------|-------|-------|-------|
| TOTAL CA including cost of human resources | | a+c +d +e | 0.312 | 0.333 | 0.231 | 0.139 | 0.139 | 0.339 | 1.493 |
|---|--|-----------------|-------|-------|-------|-------|-------|-------|-------|

¹³ Expenditure that does not fall under Chapter xx 01 of the Title xx concerned.

¹⁴ Expenditure within Article xx 01 04 of Title xx.

¹⁵ Expenditure within Chapter xx 01 other than Articles xx 01 04 or xx 01 05.

| | | | | | | | | | |
|---|--|-----------------|-------|-------|-------|-------|-------|-------|-------|
| TOTAL PA including cost of human resources | | b+c +d +e | 0.212 | 0.323 | 0.293 | 0.187 | 0.139 | 0.339 | 1.493 |
|---|--|-----------------|-------|-------|-------|-------|-------|-------|-------|

Co-financing details

If the proposal involves co-financing by Member States or other bodies (please specify which), an estimate of the level of this co-financing should be indicated in the table below (additional lines may be added if different bodies are foreseen for the provision of the co-financing):

EUR million (to 3 decimal places)

| Co-financing body | | Year n | n + 1 | n + 2 | n + 3 | n + 4 | n + 5 and later | Total |
|--|-----------------------|-----------|-------|-------|-------|-------|-----------------------|-------|
| | f | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 |
| TOTAL CA including co-financing | a+c +d +e +f | | | | | | | |

4.1.2. Compatibility with financial programming

- Proposal is compatible with existing financial programming.
- Proposal will entail reprogramming of the relevant heading in the financial perspective.
- Proposal may require application of the provisions of the Interinstitutional Agreement¹⁶ (i.e. flexibility instrument or revision of the financial perspective).

4.1.3. Financial impact on revenue

- Proposal has no financial implications on revenue
- Proposal has financial impact – the effect on revenue is as follows:

NB: All details and observations relating to the method of calculating the effect on revenue should be shown in a separate annex.

¹⁶ See points 19 and 24 of the Interinstitutional Agreement.

EUR million (to one decimal place)

| | | Prior to action [Year n-1] | Situation following action | | | | | |
|-------------|------------------------------|----------------------------------|----------------------------|-------|-------|-----------|-------|------------------------|
| Budget line | Revenue | | [Year n] | [n+1] | [n+2] | [n+3] | [n+4] | [n+5] ¹⁷ |
| | a) Revenue in absolute terms | | | | | | | |
| | b) Change in revenue | Δ | | | | | | |

(Please specify each revenue budget line involved, adding the appropriate number of rows to the table if there is an effect on more than one budget line.)

4.2. Human resources FTE (including officials, temporary and external staff) – see detail under point 8.2.1.

| Annual requirements | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 and later |
|---------------------------------|--------|--------|--------|--------|--------|----------------|
| Total number of human resources | 1A*/AD | 1A*/AD | 1A*/AD | 1A*/AD | 1A*/AD | 1A*/AD |

5. CHARACTERISTICS AND OBJECTIVES

5.1. Need to be met in the short or long term

To reduce the climate change impact of aviation by including aviation in the Community greenhouse gas emission allowance trading scheme (see Explanatory Memorandum Section 'Grounds for and objectives of the proposal). To this end, financial resources are necessary for:

- the development of implementing rules and guidance required by the proposal;
- the procurement of studies or other technical assistance related to the implementation;
- the performance of tasks attributed to the Commission by the Directive including decisions relating to the allocation of allowances and the preparation and maintenance of a list of the administering Member State for each aircraft operator.

A sum of € 200 000 in the first year, followed by a further € 140 000 in the second year and € 40 000 in the third year is expected to be required for the procurement studies or other technical assistance related to the implementation of the Directive. A further € 200 000 is anticipated in 2012 for further technical assistance and evaluation.

¹⁷ Additional columns should be added if necessary, i.e. if the duration of the action exceeds 6 years.

Adaptations to the IT systems for the Community Independent Transaction log are foreseen in the year 2009 (€ 25 000).

5.2. Value-added of Community involvement and coherence of the proposal with other financial instruments and possible synergy

Harmonised action to reduce the climate change impact of aviation can best be achieved through legislation and coordination at a Community level. (See also Section 3 of the Explanatory Memorandum)

Operational expenditure is envisaged within the part of the LIFE+ budget subject to central direct management.

5.3. Objectives, expected results and related indicators of the proposal in the context of the ABM framework

To reduce the climate change impact of aviation by including aviation in the Community greenhouse gas emission allowance trading scheme. In particular:

- to include the air transport sector in efforts to mitigate climate change;
- to internalise the external costs of climate change; and
- to contribute to improving the environmental performance of air transport operations by strengthening the economic incentives for air transport operators to reduce their impact on the climate.

5.4. Method of implementation (indicative)

Centralised management

directly by the Commission

indirectly by delegation to:

executive Agencies

bodies set up by the Communities as referred to in Article 185 of the Financial Regulation

national public-sector bodies/bodies with a public-service mission

Shared or decentralised management

with Member States

with third countries

Joint management with international organisations (please specify)

Relevant comments:

6. MONITORING AND EVALUATION

6.1. Monitoring system

Member States will have to report on all actions and measures they take to implement the Directive.

Contracts signed by the Commission for the purpose of the implementation of the Directive must provide for supervision and financial control by the Commission (or any representative authorised by it) and for audits by the Court of Auditors, if necessary on the spot.

6.2. Evaluation

6.2.1. Ex-ante evaluation

See the impact assessment accompanying this proposal as a Commission Staff Working Paper. The economic, social, health and environmental impacts of all the measures proposed have been assessed.

6.2.2. Measures taken following an intermediate/ex-post evaluation (lessons learned from similar experience in the past)

The measures proposed and the accompanying impact assessment take into account lessons learned from the operation of the Community scheme.

6.2.3. Terms and frequency of future evaluation

N/A

7. ANTI-FRAUD MEASURES

Internal control standards No 14, 15, 16, 18, 19, 20, and 21, and the principles laid down in Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities will be fully applied.

8. DETAILS OF RESOURCES

8.1. Objectives of the proposal in terms of their financial cost

Commitment appropriations in EUR million (to 3 decimal places)

| (Headings of objectives, actions and outputs should be provided) | Type of output | Av. cost | 2007 | | 2008 | | 2009 | | 2010 | | 2011 | | 2012 and later | | TOTAL | |
|---|---|----------|----------------|------------|----------------|------------|----------------|------------|----------------|------------|----------------|------------|----------------|------------|----------------|------------|
| | | | No. of outputs | Total cost | No. of outputs | Total cost | No. of outputs | Total cost | No. of outputs | Total cost | No. of outputs | Total cost | No. of outputs | Total cost | No. of outputs | Total cost |
| OPERATIONAL OBJECTIVE ¹⁸ Development of implementing rules and Commission decisions | Studies and consultations Adaptation of implementation systems | | 1 | 0.200 | 1 | 0.140 | 1 | 0.065 | | 0.000 | | 0.000 | 1 | 0.200 | | 0.605 |
| TOTAL COST | | | | 0.200 | | 0.140 | | 0.65 | | 0.000 | | 0.000 | | 0.200 | | 0.605 |

¹⁸ As described under Section 5.3.

8.2. Administrative expenditure

8.2.1. Number and type of human resources

| Types of post | | Staff to be assigned to management of the action using existing and/or additional resources (number of posts/FTEs) | | | | | |
|---|------------|---|------|------|------|------|------|
| | | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
| Officials or temporary staff ¹⁹ (XX 01 01) | A*/AD | 1 | 1 | 1 | 1 | 1 | 1 |
| | B*, C*/AST | | | | | | |
| Staff financed ²⁰ by Article XX 01 02 | | | | | | | |
| Other staff ²¹ financed by Article XX 01 04/05 | | | | | | | |
| TOTAL | | 1 | 1 | 1 | 1 | 1 | 1 |

8.2.2. Description of tasks deriving from the action

- Preparing implementing regulations on auctioning and guidance on monitoring, reporting and verification requirements
- Verification of implementation in the Member States
- Preparation and updating of list of administering Member States
- Commission decisions in relation to the allocation of allowances to the aviation sector.

8.2.3. Sources of human resources (statutory)

- Posts currently allocated to the management of the programme to be replaced or extended
- Posts pre-allocated within the APS/PDB exercise for year n
- Posts to be requested in the next APS/PDB procedure
- Posts to be redeployed using existing resources within the managing service (internal redeployment)
- Posts required for year n although not foreseen in the APS/PDB exercise for the year in question

¹⁹ Cost of which is NOT covered by the reference amount.

²⁰ Cost of which is NOT covered by the reference amount.

²¹ Cost of which is included in the reference amount.

8.2.4. *Other administrative expenditure included in reference amount (XX 01 04/05 – Expenditure on administrative management)*

EUR million (to 3 decimal places)

| Budget line (number and heading) | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 and later | TOTAL |
|--|------|------|------|------|------|----------------------|-------|
| 1 Technical and administrative assistance (including related staff costs) | | | | | | | |
| Executive agencies ²² | | | | | | | |
| Other technical and administrative assistance | | | | | | | |
| - <i>intra muros</i> | | | | | | | |
| - <i>extra muros</i> | | | | | | | |
| Total technical and administrative assistance | | | | | | | |

8.2.5. *Financial cost of human resources and associated costs not included in the reference amount*

EUR million (to 3 decimal places)

| Type of human resources | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 and later |
|--|-------|-------|-------|-------|-------|----------------------|
| Officials and temporary staff (XX 01 01) | 0.108 | 0.108 | 0.108 | 0.108 | 0.108 | 0.108 |
| Staff financed by Art XX 01 02 (auxiliary, END, contract staff, etc.) (specify budget line) | | | | | | |
| Total cost of human resources and associated costs (NOT in reference amount) | 0.108 | 0.108 | 0.108 | 0.108 | 0.108 | 0.108 |

Calculation– *Officials and temporary agents*

The standard salary for 1A*/AD official as referred to in Point 8.2.1 is € 0.108 M

²² Refer to the specific legislative financial statement for the Executive Agency(ies) concerned.

Calculation– *Staff financed under Article XX 01 02*

N/A

8.2.6. *Other administrative expenditure not included in reference amount*

EUR million (to 3 decimal places)

| | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 and later | TOTAL |
|---|-------|-------|-------|-------|-------|----------------|-------|
| XX 01 02 11 01 – Missions | 0.004 | 0.004 | 0.004 | 0.004 | 0.004 | 0.004 | 0.024 |
| XX 01 02 11 02 – Meetings & conferences | 0.000 | 0.027 | 0.027 | 0.027 | 0.027 | 0.027 | 0.135 |
| XX 01 02 11 03 – Committees ²³ | 0.000 | 0.054 | 0.027 | 0.000 | 0.000 | 0.000 | 0.081 |
| XX 01 02 11 04 – Studies & consultations | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 |
| XX 01 02 11 05 - Information systems | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 |
| 2 Total other management expenditure (XX 01 02 11) | | | | | | | |
| 3 Other expenditure of an administrative nature (specify including reference to budget line) | | | | | | | |
| Total administrative expenditure, other than human resources and associated costs (NOT included in reference amount) | 0.004 | 0.085 | 0.058 | 0.031 | 0.031 | 0.031 | 0.240 |

Calculation - *Other administrative expenditure not included in reference amount*

Four missions at a unit cost of € 1 000 are foreseen every year from 2009 to 2013, in order to explain the proposal and facilitate its implementation in the Member States.

Meetings of the Climate Change Committee (unit cost: € 27 000) are foreseen in 2008 and 2009 for the adoption of implementing rules and guidance.

The human and administrative resources needed shall be covered from within the allocation granted to the managing DG in the framework of the annual allocation procedure.

²³ Specify the type of committee and the group to which it belongs.