



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 22 October 2008 (23.10)  
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ADD 1 REV 1**

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ENV 681  
AVIATION 229  
MI 362  
IND 130  
ENER 331**

**REVISED ADDENDUM TO THE "I/A" ITEM NOTE**

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from: General Secretariat of the Council

to : COREPER/CONSEIL

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No Cion prop: 5154/07 ENV 7 AVIATION 15 MI 7 IND 3 ENER 8 CODEC 11

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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 [**second reading**]  
- Approval of the European Parliament's amendments (**LA + S**)  
Statements

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**UK DECLARATION**

Without prejudice to the UK's view that the proposed measure constitutes part of the European Community's environmental acquis and as such does not fall within the scope of the Cordoba arrangements on aviation measures, having obtained the prior agreement of the Government of Gibraltar, the UK is exceptionally prepared to accept the insertion of the language provided for under the Cordoba arrangements in respect of aviation measures.

## **UK DECLARATION**

The UK notes that the adoption of the Directive on the sole legal base of Article 175(1) of the Treaty establishing the European Community (TEC) is inappropriate for a measure which contains significant provisions on fiscal policy. In line with observations the UK has made in similar circumstances previously, the UK continues to take the view that where EC legislation includes fiscal measures the legal base should include, either solely or, where appropriate, jointly, one of the Treaty articles dealing with fiscal issues. In this case the UK takes the view that Article 175(2) TEC should have been included as a legal base for the Directive.

## **STATEMENT BY UK, DENMARK, FINLAND, IRELAND, MALTA, THE NETHERLANDS AND SWEDEN**

The UK, Denmark, Finland, Ireland, Malta, the Netherlands and Sweden interpret the provisions of Article 3d(4) as not imposing legally-binding requirements on the Member States.

## **STATEMENT BY MALTA**

As a small, peripheral island state, Malta is dependent on air travel; it has no other adequate and comparable alternative modes of transport. This results in a high share of air transport value added in total value added for Malta. Furthermore, for the past half-century, tourism has been crucial for the country's economy and the average share of GDP of tourism earnings over the past seven years is, according to Eurostat, estimated at 13.7%; this is much higher than the EU average. Furthermore, this is generated by international tourism which is fully dependent on aviation.

The implementation of the Directive could, therefore, have serious repercussions on the Maltese economy. Malta places strong emphasis on the new Article 30(4) whereby, ‘By 1 December 2014 the Commission shall, on the basis of monitoring and experience of the application of this Directive, review the functioning of this Directive in relation to aviation activities’ and in particular point (f) therein whereby ‘the impact of the Community scheme on the structural dependency on aviation transport of islands, landlocked regions, peripheral regions and the outermost regions of the Community’ will also be reviewed.

The review should ensure that such key concerns can be studied in depth and satisfactory remedial measures identified if necessary.

### **COMMISSION STATEMENT**

The Commission recalls that it intends to issue by December 2008 a legislative proposal to introduce measures to limit NO<sub>x</sub> emissions from aviation, in particular to address effectively their climate change impact and to avoid any negative incentives to reduce CO<sub>2</sub> emissions at the expense of NO<sub>x</sub>.

### **COMMISSION STATEMENT ON AUCTIONING**

The Commission takes note of the agreement between the Council and the Parliament regarding the possibility to increase the levels of auctioning from 2013 in the context of the ETS review Directive. As regards the approach to allocation, the Commission position remains that the aviation sector should be treated from 2013 as other industries which receive transitional free allocation of emissions allowances.

## **COMMISSION STATEMENT ON THIRD COUNTRY OPERATORS**

The Commission takes note of the agreement between the Council and the Parliament regarding the participation of aircraft operators in the EU ETS, including those from third countries. The Commission underlines that it will continue to seek an agreement on global measures to reduce greenhouse gas emissions from aviation, in line with its long-standing objective. In light of any such agreement, the Commission will propose amendments to this Directive as it applies to aircraft operators if adaptation is considered necessary. The Commission will continue to be in contact with third parties and encourage them to take equivalent measures having an environmental effect at least equivalent to that of this Directive with a view to recognising equivalent measures as provided for under the relevant sections of the Directive.

### **DECLARATION BY CYPRUS**

Cyprus would like to place on record its serious concerns regarding the adverse effects expected to be caused by the implementation of the proposed Directive on including aviation activities in the ETS within the EU.

As a small, peripheral island with no other comparable alternative modes of transport, Cyprus is very heavily dependent on air transport. At the same time, tourism plays a very significant part in the generation of economic activity in Cyprus, which is higher than the average earnings in other EU Member-States. As a consequence, the implementation of the proposed Directive will entail serious negative structural repercussions for Cyprus' economy. It is noteworthy that for the proposed Directive no impact assessment has been undertaken concerning the reduction of the total amount of emission rights (CAP).

Cyprus is fully aware of the need to take all necessary steps to address the adverse effects of climate change. Indeed, Cyprus is already feeling the effects of the change in climatic conditions as evidenced by the rise in temperatures and the severe drought that has been plaguing the island for the past few years, factors which point directly to the urgent need to take measures towards resolving this serious problem. Cyprus remains fully committed to working with its European partners to address this phenomenon.

However, in view of the expected adverse effects of this particular Directive, the Republic of Cyprus is obliged to reiterate its strong reservations for some of the measures proposed.

The inclusion of further aspects to be addressed under the future review of this Directive should ensure that key concerns on the impact of the scheme on the structural dependency on aviation, have to be studied in depth and satisfactory remedial measures should be adopted, concerning, mainly, the percentage of the allowances to be auctioned and the amount of its allocated allowances.

#### **STATEMENT BY SPAIN**

The proposed Directive lays down obligations for a public authority responsible for activities taking place at or above an airport to which the EC Treaty applies; we therefore consider that, without any doubt, it is one of the provisions of EC/EU legislation concerning civilian air traffic which are specified in the Ministerial Statement on Gibraltar Airport issued in Cordoba on 18 September 2006.

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