



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 29 September 2011 (04.10)
(OR. en,it)**

14693/11

**ENV 711
AVIATION 215
MI 448
IND 115
ENER 303**

NOTE

from: General Secretariat
to: Delegations

Subject: ETS/Aviation – state of play
– Information from the Italian delegation

Delegations will find annexed an information note from the Italian delegation on the above topic, which will be dealt with under "other business" at the Environment Council meeting on 10 October 2011.

**Implementation of Directive 2008/101/EC
– Information from the Italian delegation –**

Like all the other EU Member States, Italy is preparing measures to ensure that from 1 January 2012 all aircraft operators within its sphere of competence are included in the ETS system.

The relevant national authority has experienced many problems as regards both national and third-country operators.

On the one hand, national operators have pointed to the shortcomings of the allocation method based on the load carried (passengers or cargo) and the number of kilometres flown in 2010, which would cause unjustified discrimination between carriers because of the way the various networks are organised. In particular, it is clear that airlines which operate side by side on medium/short-range routes are penalised compared with those that operate long range.

On the other hand, resistance to the system from third-country operators is making it difficult to implement measures to ensure compliance with Community rules by operators that do not come under national jurisdiction, which increases the costs of national operators compared with third-country operators.

These concerns are further aggravated by the risks of commercial retaliation which has been threatened recently by major countries such as China and the US.

The European Commission's recent attempts to counteract these risks seem to indicate that the Commission itself is regaining some faith in the possibility of invoking the exclusion clause in Article 25a of the Directive when third countries apply "equivalent measures" to those implemented by the EU.

This approach causes us further concern in that the actual "equivalence" of the measures taken is hard to assess, and there is also the specific risk that some airlines could be excluded when faced with measures which, in terms of the economic burden, cannot be compared with those applied to airlines that remain within the system, with the obvious adverse repercussions for competitiveness.

Given the economic importance of the issue, we believe it necessary:

- to obtain detailed information about the Commission's views concerning the application of the possible exclusion clause with particular reference to the methods it intends to use to assess the actual equivalence of the measures;

- to carry out a study to see whether the current method for assigning free allowances, which was devised mainly to take account of airlines that operate long-range routes, is actually fair and neutral in terms of competitiveness and, if appropriate, to revise the current assignment procedure by introducing, for example, the use of separate benchmarks for medium-range and long-range routes, as Italy repeatedly suggested during the negotiations on drawing up the Directive.

This last aspect becomes all the more important if the application of the exclusion clause exempts large airline companies from the ETS system.

Finally, we believe these are real, urgent problems that call for urgent assessment before the system comes into force.

Consideration should be given to the possibility of postponing the starting date for the system, which is currently 1 January 2012.
