

Procedure file

| Basic information | | | |
|---|---|--|---|
| COD - Ordinary legislative procedure (ex-codecision procedure) Directive | 2006/0304(COD) | Procedure completed | |
| Greenhouse gas emission allowance trading within the Community: inclusion of aviation activities in the scheme | | | |
| Amending Directive 2003/87/EC 2001/0245(COD) | | | |
| Subject 3.20.01 Air transport and air freight 3.70.03 Climate policy, climate change, ozone layer 3.70.20 Sustainable development | | | |
| Key players | | | |
| European Parliament | Committee responsible ENVI Environment, Public Health and Food Safety | Rapporteur PPE-DE LIESE Peter | Appointed 27/02/2007 |
| | Former committee responsible ENVI Environment, Public Health and Food Safety | PPE-DE LIESE Peter | 14/03/2007 |
| | Former committee for opinion TRAN Transport and Tourism (Associated committee) | PPE-DE JARZEMBOWSKI Georg | 31/01/2007 |
| | ECON Economic and Monetary Affairs | Verts/ALE LIPIETZ Alain | 13/02/2007 |
| | ITRE Industry, Research and Energy | ALDE CIORNEI Silvia | 12/04/2007 |
| | IMCO Internal Market and Consumer Protection | The committee decided not to give an opinion. | |
| Council of the European Union | Council configuration Justice and Home Affairs (JHA) Transport, Telecommunications and Energy Justice and Home Affairs (JHA) Environment Environment Transport, Telecommunications and Energy Transport, Telecommunications and Energy Environment | Meeting 2899 2895 2863 2842 2812 2805 2791 2785 | Date 24/10/2008 09/10/2008 18/04/2008 20/12/2007 28/06/2007 06/06/2007 22/03/2007 20/02/2007 |

Key events

| | | | |
|------------|---|-------------------------------|---------|
| 20/12/2006 | Legislative proposal published | COM(2006)0818 | Summary |
| 01/02/2007 | Committee referral announced in Parliament, 1st reading | | |
| 20/02/2007 | Debate in Council | 2785 | Summary |
| 22/03/2007 | Debate in Council | 2791 | |
| 24/05/2007 | Referral to associated committees announced in Parliament | | |
| 06/06/2007 | Resolution/conclusions adopted by Council | | Summary |
| 28/06/2007 | Debate in Council | 2812 | |
| 02/10/2007 | Vote in committee, 1st reading | | Summary |
| 19/10/2007 | Committee report tabled for plenary, 1st reading | A6-0402/2007 | |
| 12/11/2007 | Debate in Parliament | | |
| 13/11/2007 | Results of vote in Parliament | | |
| 13/11/2007 | Decision by Parliament, 1st reading | T6-0505/2007 | Summary |
| 18/04/2008 | Council position published | 05058/3/2008 | Summary |
| 24/04/2008 | Committee referral announced in Parliament, 2nd reading | | |
| 27/05/2008 | Vote in committee, 2nd reading | | Summary |
| 04/06/2008 | Committee recommendation tabled for plenary, 2nd reading | A6-0220/2008 | |
| 08/07/2008 | Debate in Parliament | | |
| 08/07/2008 | Decision by Parliament, 2nd reading | T6-0333/2008 | Summary |
| 09/10/2008 | Resolution/conclusions adopted by Council | | |
| 24/10/2008 | Act approved by Council, 2nd reading | | |
| 19/11/2008 | Final act signed | | |
| 19/11/2008 | End of procedure in Parliament | | |
| 13/01/2009 | Final act published in Official Journal | | |

Technical information

| | |
|---------------------|--|
| Procedure reference | 2006/0304(COD) |
| Procedure type | COD - Ordinary legislative procedure (ex-codecision procedure) |
| Procedure subtype | Legislation |

| | |
|----------------------------|--|
| Legislative instrument | Directive |
| | Amending Directive 2003/87/EC 2001/0245(COD) |
| Legal basis | EC Treaty (after Amsterdam) EC 175-p1 |
| Stage reached in procedure | Procedure completed |
| Committee dossier | ENVI/6/61435 |

| Documentation gateway | | | | | |
|---|------|--------------------------------|------------|-----|---------|
| Legislative proposal | | COM(2006)0818 | 20/12/2006 | EC | Summary |
| Document attached to the procedure | | SEC(2006)1684 | 20/12/2006 | EC | |
| Document attached to the procedure | | SEC(2006)1685 | 20/12/2006 | EC | |
| Economic and Social Committee: opinion, report | | CES0801/2007 | 31/05/2007 | ESC | |
| Committee draft report | | PE390.460 | 11/06/2007 | EP | |
| Amendments tabled in committee | | PE392.158 | 24/07/2007 | EP | |
| Committee opinion | ECON | PE390.474 | 13/09/2007 | EP | |
| Committee opinion | ITRE | PE390.371 | 14/09/2007 | EP | |
| Committee opinion | TRAN | PE390.547 | 21/09/2007 | EP | |
| Committee report tabled for plenary, 1st reading/single reading | | A6-0402/2007 | 19/10/2007 | EP | |
| Text adopted by Parliament, 1st reading/single reading | | T6-0505/2007 | 13/11/2007 | EP | Summary |
| Commission response to text adopted in plenary | | SP(2007)6527 | 18/12/2007 | EC | |
| Council statement on its position | | 08041/2008 | 08/04/2008 | CSL | |
| Committee draft report | | PE404.735 | 14/04/2008 | EP | |
| Council position | | 05058/3/2008 | 18/04/2008 | CSL | Summary |
| Commission communication on Council's position | | COM(2008)0221 | 22/04/2008 | EC | Summary |
| Amendments tabled in committee | | PE406.000 | 08/05/2008 | EP | |
| Committee recommendation tabled for plenary, 2nd reading | | A6-0220/2008 | 04/06/2008 | EP | |
| Text adopted by Parliament, 2nd reading | | T6-0333/2008 | 08/07/2008 | EP | Summary |
| Commission opinion on Parliament's position at 2nd reading | | COM(2008)0548 | 18/09/2008 | EC | Summary |
| Draft final act | | 03657/2008/LEX | 19/11/2008 | CSL | |

| Additional information | |
|------------------------|-------------------------|
| National parliaments | IPEX |
| European Commission | EUR-Lex |

| Final act | |
|-----------|--|
| | |

Greenhouse gas emission allowance trading within the Community: inclusion of aviation activities in the scheme

PURPOSE: to include the aviation industry in the Community's greenhouse gas emission allowance trading scheme.

PROPOSED ACT: Directive of the European Parliament and of the Council.

BACKGROUND: in 2003 the Community adopted legislation establishing a scheme for greenhouse gas emission allowance trading within the Community (Directive 2003/87/EC. For a summary see: [COD/2001/0245](#)). Its aim is to reduce carbon emissions by allocating carbon allowances to industry operators. Should they, through green investments and policies, save some of these allocations they may sell them on the open market to those who have not. If they exceed their allowance they will have to buy them, in the form of credits either from i) those operators who have made a saving on their allowances or ii) from registered independent companies who have invested in green ?carbon capture? programmes and who are entitled to trade allowances on the open market. Crucially, the Directive does not apply to the aviation industry.

Aviation does, however, contribute to climate change. In 2004 greenhouse gas emissions from the Community's share of international aviation increased by 7.5% compared to 2003 figures. A cumulative growth of 87% since 1990. Although air travel is becoming cheaper, the prices charged do not reflect the cost to the environment of air travel. Someone flying from London to New York and back again, for example, generates roughly the same level of emissions as the average person in the EU does by heating their home for a whole year. It is estimated that without action, the growth in emissions from EU flights will, by 2012, cancel out more than a quarter of the 8% emission reduction the EU-15 must achieve to reach the Kyoto Protocol target. By 2020, aviation emissions are likely to more than double.

In 2005, the Council recognised the need to address the carbon emitted from aircraft (Conclusions of the Environment Ministers, 2 December 2005). In their conclusions the Environment Ministers urged the Commission to bring forward a legislative proposal by the end of 2006. Similarly, in July 2006, the European Parliament adopted a Resolution which recognising the potential of the emissions trading scheme to help reduce carbon emissions from aircraft operators.

CONTENT: the purpose of this proposal is to address the growing impact aviation has on climate change by including aviation in the Community emissions trading scheme. In order to do so Directive 2003/87/EC needs to be amended. The proposed amendments, in summary, are as follows:

- ? Aircraft operators will be responsible for complying with the provisions set out in the amended Directive.
- ? From 1 January 2012, the scheme will cover all flights arriving at, or departing from, an airport in the Community.
- ? From 1 January 2011, flights between EU airports will be covered by the Directive.
- ? The following categories will be exempted from the Directive: 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 5 700kg.
- ? By the end of 2008, the Commission will put forward a proposal on nitrogen oxide emissions from aircraft.
- ? Each aircraft operator (including operators from third countries) will be administered by one Member State only. This measure should reduce red tape.
- ? The method of allocating allowances will be harmonised across the Community. This proposed provision marks a departure from the existing scheme where Member States propose the allocations, which must then be approved by the Commission.
- ? The total number of allowances allocated to the aviation sector will be determined at Community level by reference to average emissions from aviation for 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, who submit an 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 of their national allocation plans.
- ? Schemes thereafter will be reviewed based on the results of the general review of the emissions trading scheme.
- ? A Commission Regulation will detail how the auctioning will work.
- ? Any proceeds from the auctions will be used to mitigate, and adapt to, the impacts of climate change. It will also cover administrative costs.
- ? Aircraft operators will be responsible for monitoring their carbon dioxide emissions and report them to the competent authority of the administering Member State, by 31 March of each year.
- ? The reports will be independently verified to make sure that they are accurate.
- ? Aircraft operators will be able to buy allowances from other sectors in the Community scheme for use to cover their emissions.
- ? Aircraft operators will be able to use project credits, such as ?Emission Reduction Units? and ?Certified Emission Reductions? from the Joint Implementation or Clean Development Mechanisms ? up to a harmonised limit equivalent to the average of the limits prescribed by the 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 will be given to air operators servicing remote or isolated regions.

Expenditure for the implementation of the Directive, once approved, will be covered by the LIFE + (2007-2013) instrument and no additional amount is requested.

For further information on the financial aspect of the proposal please refer to the financial statement.

Greenhouse gas emission allowance trading within the Community: inclusion of aviation activities in the scheme

The Council held a preliminary policy debate on the proposed Directive seeking to include aviation activities in greenhouse gas emission allowance trading within the Community. The exchange of views focused on:

- flights within the EU from 2011;
- extending the scheme to all flights arriving in, or departing from, the EU as from 2012 onwards which is deemed an appropriate step towards reducing emissions from aviation without entailing competitive disadvantages;
- the strategy for engaging with third countries;
- the approach for a cap that takes account of growth in the airline sector and the need for stabilising climate change;
- harmonised allocation methodology;
- non-discriminatory measures needed to address regional aspects and special situations of the Member States; and
- the need to address the impact of aviation on climate change other than from CO₂ emissions through Community action.

Greenhouse gas emission allowance trading within the Community: inclusion of aviation activities in the scheme

The Council adopted conclusions on the inclusion of aviation in the European emissions trading scheme which views as a cost-effective and promising way of limiting CO₂ emissions from aviation and a key element of a comprehensive approach to managing aviation emissions. It notes the emphasis that ICAO has placed on open emissions trading schemes as a mechanism for tackling climate change emissions. It acknowledges that emission trading is a flexible, market-based measure and that its use could prevent the need for other Community measures to reduce CO₂ emissions from aviation. It emphasises that a solution should be sought that maintains the competitiveness of the aviation industry while contributing to combating climate change.

The Council is prepared to include aviation in the European emissions trading scheme to implement the policy endorsed by the ICAO Assembly in 2001 and 2004. It stresses that this should be seen as a first step towards the eventual objective to expand emissions trading to international aviation globally within the framework on climate change which should be facilitated by ICAO and the UNFCCC.

The Council invites the Member States to do everything they can at the 36th ICAO Assembly in September 2007 to ensure that:

- a) ICAO continues its efforts to reduce greenhouse gas emissions from international aviation;
- b) any agreement reached in ICAO does not prevent the Community, either in principle or in practice, from including international aviation in the European emissions trading scheme in line with the principle of equal treatment;
- c) ICAO engages in the promotion and development of the use of emissions trading for international aviation.

Should it not prove possible to make progress on the above-mentioned points, EU Member States would be ready to reserve their position in order to keep all options open in this essential policy area. Nonetheless, the Council stresses that it is prepared to engage in constructive cooperation, in particular, within the framework of ICAO to develop policies, practices, instruments or standards to reduce emissions from aviation and that it is remains receptive to proposals for solutions from third parties.

Greenhouse gas emission allowance trading within the Community: inclusion of aviation activities in the scheme

The Committee on the Environment, Public Health and Food Safety adopted the report by Peter LIESE (EPP-ED, DE) amending - at 1st reading under the codecision procedure - the 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. The objective of this Directive is to reduce aviation's contribution to global climate change by including emissions from aviation activities in the Community scheme.

The principal amendments adopted in committee are as follows:

- the Commission proposes that 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. The committee proposes that the quantity be equivalent to 75%;
- depending on the choice for a post-2012 carbon dioxide reduction target of either 30% or 20% with 1990 as a base year, the Commission

shall reduce the total quantity of allowances to be allocated to aircraft operators in the further periods in accordance with the regulatory procedure with scrutiny. This downward review will provide a mechanism to ensure that the environmental effectiveness of the scheme is maintained. There shall be provision for subsequent downward reviews of the total quantity of allowances allocated;

- the committee suggests that from 2010, emissions from all flights arriving at and departing from Community airports should be included in the Community scheme.

- starting in 2010, 50% of allowances shall be auctioned as opposed to a percentage corresponding to the average percentage proposed by the Member States including auctioning in their national allocation plans. The percentage of allowances being allocated by auctioning should not be fixed in comitology but in codecision procedure by Council and Commission;

- in order to reduce to some extent the burden on citizens, revenues generated by auctioning shall also be used to: lower taxes and charges on environment-friendly transport such as rail and bus; cover the Member States' justified costs in administering this Directive; mitigate or even eliminate any accessibility and competitiveness problems arising for outermost regions and problems for public service obligations in connection with the implementation of this Directive;

- in order to avoid the creation of inappropriate market access barriers, a proportion of the allocated allowances should be reserved for new entrants in the aviation sector;

- in the event of a merger or takeover involving several carriers during a given period, the allowances which have been allocated to them or which they have acquired shall be retained by the new entity. If a carrier ceases to operate, the Member State to which it is attached shall place the relevant allowances on the secondary market for allowances. At the beginning of the following year, the share of the allowances still available shall be allocated in full for auctioning, taking account of the general rate of reduction of authorised allowances;

- for legal clarity, the committee has introduced an article on the granting of greenhouse gas emissions permits as well as on the conditions for and contents of the greenhouse gas emissions permit;

- given that aircraft operators have pledged to increase the efficiency of aircraft engines by 50% in 2020, the Commission shall report to the European Parliament in 2010 and 2015 on progress made towards achieving this target;

- lastly, the committee members deleted the derogation concerning 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.

The report also highlights the following points:

- to assist with the reduction of emissions from aircraft, the Commission should carry out a feasibility study by 2009 into the possibility of laying down emissions standards for aircraft engines;

- aircraft and engine manufacturers, and fuel producers, are urged to research and implement changes in their respective fields which will significantly contribute to reducing the climate impact of aviation;

- Community Institutions should continue their support for the "Clean Sky" Joint Technology Initiative (JTI) in the 7th Framework Programme for Research (FP7) which aims to radically reduce the impact of air transport on the environment. The Community should continue to give strong support to the work of ACARE (Advisory Council for Aeronautical Research in Europe), and more particularly its Strategic Research Agenda (SRA), which sets emissions reduction targets for the air transport industry of 50% for carbon dioxide per passenger kilometre and 80% for nitrogen oxide by 2020;

- subsidies to airports give in some cases wrong incentives concerning the emission of greenhouse gases. Therefore the Commission must fully respect existing competition law;

- lastly, the Directive should not prevent any Member State from maintaining or establishing other complementary and parallel policies or measures that address the aviation sector's total impacts on climate change.

Greenhouse gas emission allowance trading within the Community: inclusion of aviation activities in the scheme

The European Parliament adopted a resolution drafted by Peter LIESE (EPP-ED, DE) and made some amendments to the proposal for a directive amending Directive 2003/87/EC so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Community.

The principal amendments were as follows:

Allocation: Parliament stated that the total quantity of allowances to be allocated to aircraft operators shall be equivalent to 90% of the sum of the historical aviation emissions in relation to each year. Depending on the choice for a post-2012 carbon dioxide reduction target of either 30% or 20% with 1990 as a base year, the Commission must reduce the total quantity of allowances to be allocated to aircraft operators in the further periods under Article 11(2) in accordance with the regulatory procedure with scrutiny. This downward review will provide a mechanism to ensure that the environmental effectiveness of the scheme is maintained. There shall be provision for subsequent downward reviews of the total quantity of allowances allocated.

Start date: from 1 January 2011, 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, taking into account the special situation of the flights between ultra-peripheral regions and the European Continental zone.

Auctioning: Parliament stated that, starting in 2011, 25% of allowances shall be auctioned. For future periods, the percentage to be auctioned shall be increased, according to the maximum level of auctioning in other sectors.

Reserve: the Commission must adopt a Regulation laying down detailed provisions for the setting up of a European allowance reserve. The percentage of allowances to be kept as a reserve for the benefit of potential new aircraft operators in each period shall be established by the Commission taking into account the market prediction studies issued by the appropriate bodies.

Use of auctioning revenues: revenues generated from the auctioning of allowances will be used to mitigate greenhouse gas emissions and to adapt to the impacts of climate change in the EU and third countries, especially in developing countries, and to fund research and development for mitigation, especially in the airline sector, and adaptation. In order to reduce to some extent the burden on citizens, revenues generated by auctioning will also be used to lower taxes and charges on climate-friendly transport such as rail and bus. They may also be used to cover the Member States' justified costs in administering the Directive. Member States may also use the revenues to mitigate or even eliminate any accessibility and competitiveness problems arising for outermost regions and problems for public service obligations in connection with the implementation of the Directive.

New entrants: the Commission shall implement measures in respect of the allocation of allowances to make provision for new aviation entrants, and inserted a definition for the latter term.

In the event of a merger or takeover involving several carriers during a given period, the allowances which have been allocated to them or which they have acquired shall be retained by the new entity. If a carrier ceases to operate, the Member State to which it is attached shall place the relevant allowances on the secondary market for allowances. At the beginning of the following year, the share of the allowances still available shall be allocated in full for auctioning, taking account of the general rate of reduction of authorised allowances.

On the basis of the experience acquired during the period 2010-2012, the Commission shall submit a proposal concerning the quota of emission permits the aviation sector is authorised to purchase on the secondary market for wider emission permit schemes.

The percentage of CERs and ERUs usable in relation to aviation activities shall be reviewed alongside their use in other sectors as part of the emission trading scheme review.

Multiplier: Parliament voted to apply a multiplier to emissions from aviation in order to take into account that the climate impact from aviation does not result from CO₂ alone but also for NO_x emissions.

A new clause states that, as long as there are no Community measures which incentivise the reduction of releases of nitrogen oxides from aircraft carrying out an aviation activity listed in Annex I, and which ensure the same ambitious level regarding the protection of the environment as this Directive, the amount of carbon dioxide which an allowance, other than an aviation emissions allowance, or a CER or ERU permits an aircraft operator to emit shall be divided by an impact factor of 2.

A new part recital stated that air traffic management authorities should apply effective measures in order to avoid the formation of contrails and cirrus clouds through changes in flight patterns, namely by ensuring that flights will avoid passing through areas where due to specific atmospheric conditions the formation of such clouds is foreseen. In addition, they should strongly promote research on the formation of contrails and cirrus clouds including effective mitigation measures (e.g. fuel, engines, air traffic management) that do not adversely affect other environmental goals. Pending other legislation to be proposed by the Commission focusing specifically on the problem of nitrogen oxide emissions in aviation, a multiplier should be applied to every tonne of CO₂ emitted.

A new operative clause is inserted stating that, as soon as sufficient scientific evidence is available an appropriate multiplier will be proposed to take into account the effects of cirrus clouds caused by aviation activity.

Efficiency clause: every year, aircraft operators wishing to surrender allowances other than aviation emissions allowances, shall be required to submit to the administering Member State verified tonne-kilometre data for the aviation activities listed in Annex I performed in that calendar year. Based on the data to be submitted under the provisions of the directive, the Commission shall determine an efficiency indicator for all aircraft operators, calculated by dividing the total emissions from aircraft operators by the sum of the tonne-kilometre data. Based on this efficiency indicator for the first year for which data is available, the Commission shall publish a target efficiency indicator for 2010, 2015 and 2020 on the basis of an emissions reduction per revenue-tonne-kilometre (RTK) of 3,5% per year, which takes into account the voluntary target of a 3,5% improvement in fuel efficiency of aircraft per year until 2020.

The Commission shall, having regard to air operators' pledge to increase the efficiency of aircraft engines by 50% in 2020, report to the European Parliament in 2010 and 2015 on progress made towards achieving this target

In order to ensure equal treatment of aircraft operators, the Commission shall adopt specific guidelines to harmonise the administration of aircraft operators by administering Member States.

Derogations: Parliament included in the derogations:

(a) flights for humanitarian purposes under a mandate from the United Nations or its subsidiary organisations and Emergency Medical Service flights, if the aircraft operator has been instructed to perform them (e.g. by the United Nations) or holds the necessary official authorisation (licence for such EMS flights under its Air Operator's Certificate);

(b) flights performed by aircraft with a certified maximum take-off weight of less than 20 000 kg , under the condition that operators of these aircraft participate in an offset scheme which operates according to strict criteria and which must be open to external control (comparable to Gold Standard);

(c) flights performed exclusively for the purpose of scientific research or for the purpose of checking, testing, qualifying or certifying aircraft , equipment or air-traffic-management procedures , whether airborne or ground-based; ferrying new aircraft as well as ferry flights performed by or on behalf of an aircraft owner as a consequence of the occurrence of a sudden early termination event, event of default, repossession, or similar occurrence in respect of a leasing, charter or similar arrangement.

New clauses in the Annex state that the Community and the Member States must ensure that the working methods to be used by the verifier are harmonised before the implementation of the Directive and that its provisions are applied on a uniform basis.

Lastly, Parliament deleted the derogation concerning 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.

Greenhouse gas emission allowance trading within the Community: inclusion of aviation activities in the scheme

The common position incorporates a number of amendments proposed by Parliament at first reading, either verbatim, in part or in spirit. These improve or clarify the text of the proposed Directive. Those amendments not included have been rejected on the grounds that they were either considered unnecessary or, from a scientific point of view, impractical. Previsions from the original Commission proposal have been supplemented with new elements or entirely redrafted, with some completely new measures inserted.

In summary the main changes to the initial proposal are as follows:

Start date and scope of the scheme: the Council, in agreement with the European Parliament, has rejected the two-stage approach proposed by the Commission and opted for a single starting date for all flights to be included in the scheme. This was considered necessary in order to ensure the scheme's enhanced environmental impact whilst minimising the distortion of competition. Unlike both Parliament and the Commission, the Council is proposing that the start date should be 2012, rather than the originally proposed 2011.

Allocation: the Council agrees with Parliament that the allocation of allowances is central to the functioning of the scheme. The Council, therefore, has introduced a number of changes to the Commission proposal that would bring its contents closer to a number of EP amendments ? even if they were not incorporated literally in the text of the common position.

Thus, the Council has maintained a 100% cap of historical emissions (as is the case in the Commission proposal). At the same time though the common position points towards a possible future reduction as part of a review of the Directive's functioning in relation to aviation activities. This review must take place by 2015. The benchmark has been slightly adjusted by the Council. This has been done by modifying the payload (which it increased to 110 kg per passenger and their checked baggage) and to the distance (with 95 km added to the greater circle distance) used to calculate the aviation activity (ton/km) of each aircraft operator.

Level of auctioning: the Council has rejected the Commission's proposal to use a percentage corresponding to the average percentage proposed by the Member States that would include auctioning in their national allocation plants (NAPs). Instead it has opted for a 10% fixed allocation. The Council has also introduced the explicit possibility for that percentage to be increased as part of the general review of the ETS Directive. Thus, although this is not an exact incorporation of Parliamentary wishes, it nevertheless follows the general spirit of Parliamentary amendments.

Use of proceeds generated from auctioning: on the matter of proceeds generated from auctioning, the Council's position differs to that of both the Commission and Parliament. The common position specifies that it is for the Member States to decide how these revenues should be used. One measure does provide, however, that these proceeds should be used to tackle climate change both in the EU and in third countries and to cover the administrative cost of running the scheme.

One major new element introduced by the Council concerns the creation of a special reserve for new entrants or fast-growing aircraft operators. Thus, 3% of allowances would be set aside to be distributed to eligible aircraft operators on the basis of a benchmark system similar to the system used for the initial allocation. In a bid to counterbalance any possible market distortions the distribution of allowances under the special reserve will be a one-off, alongside a provision that the resulting annual allocation per ton-kilometre to aircraft operators under the main allocation. This measure should entail less administrative costs.

Exemptions: the Council has refined a number of exemptions from the scheme, taking account of Parliamentary amendments. It has decided that flights by EU Heads of State will not be excluded from the scheme. On the other hand it has decided to exempt flights related to search and rescue, fire-fighting flights, humanitarian flights and emergency medical flights. Further, flights performing exclusively for the purpose of checking, testing or certifying aircraft or equipment, whether airborne or ground based will be excluded from the scope of the Directive

De minimis clause: the common position has introduced an additional exemption from the scheme referred to as the de minimum clause. This entails the exclusion of flights performed by a commercial air transport operator operating, for three consecutive four-month periods, fewer than 243 flights per period. The Council has coupled this exemption with a corresponding definition of ?commercial air transport operator? and a recital aiming to ensure that operators with very low traffic levels, including many operators from developing countries, would not be face with disproportionate administrative costs.

Outermost regions: taking on board Parliamentary suggestions, the Council has decided to accord the outermost regions special derogations. The common position, therefore, excludes public service flights to the outermost regions or flights where the capacity offered does not exceed 30 000 seats per year, from the scope of the proposed Directive.

Other issues: the common position inserts a new Article imposing an additional obligation on the Member States to ensure that aircraft operators submit monitoring and reporting plans to the competent authorities

Enforcement: the common position introduces a number of new paragraphs regarding enforcement of the ETS Directive. This provides for the possibility of an administering Member State to request an operating ban at Community level on aircraft operators failing to comply with the requirements of the Directive. Whilst the imposition of an operating ban is viewed as an enforcement measure of last resort, its inclusion was deemed necessary in order to guarantee the full compliance of aircraft operators with the scheme. This is a matter of utmost importance to the Council.

Conversion of allowances: the Council has decided to modify the initial proposal in respect to the conversion of allowances and their subsequent use towards international commitments. The Council has opted for the ?semi-open? scheme.

Greenhouse gas emission allowance trading within the Community: inclusion of aviation activities in the scheme

The Commission accepted in full, in part or in principle, 22 of the 59 amendments adopted by the European Parliament in its first reading. Eleven of these 22 amendments are already reflected, at least in part, in the common position.

The Commission accepted amendments, fully, in part or in principle, which would clarify the context of the proposal and do not detract from the general aim of the proposal. These include modifications to the categories of special types of flights that are excluded from the scheme.

However, the Commission rejected amendments that would alter the nature of the proposal, such as amendments that would limit the ability of the aviation sector to buy allowances from other sectors included in the EU Emissions Trading Scheme. It also rejected amendments that are technically unfeasible or needlessly burdensome from an administrative viewpoint.

Parliamentary amendments accepted by the Commission and incorporated in full, in part or in principle in the common position: these amendments aim to:

- use the revenues from auctioning to tackle climate change in the EU and in third countries;
- ensure that the provisions regarding the use of CERs/ERUs by aircraft operators will be consistent with those applied to other sectors from 2013;
- delete the conversion mechanism contained in the Commission's proposal;
- send a signal that the EU is ready to engage with the rest of the world to find agreement on tackling aviation emissions and to adapt its scheme to the rules of a common scheme agreed with third countries;
- require State flights by EU Heads of State to be included in the scheme;
- exclude search and rescue, fire-fighting, humanitarian and emergency medical service flights;
- exclude, from the scope of the proposal, flights for checking, testing or certifying aircraft or equipment, whether airborne or ground-based.

Parliamentary amendments rejected by the Commission but incorporated in full, in part or in principle in the common position:

- an amendment which aims to include a reference to the 20 percent target included in the common position. The Commission agrees that the aviation sector must contribute to achieving the overall EU emissions reduction target of 20 to 30 percent compared to 1990 levels;
- the spirit of amendments, which relate to the need for a new entrant reserve for the aviation sector, has been incorporated into the common position through the inclusion of a new article which provides for a special reserve for new aircraft operators and aircraft operators which experience significant growth;
- lastly, the common position will include an amendment which would provide for all flights to or from EU airports to be included in the scheme from the outset, rather than a staged approach as provided for in the Commission's proposal.

Parliamentary amendments rejected by the Commission and the Council and not incorporated in the common position: the Parliamentary amendments dealing, in particular, with definitions in the proposal, a limit on the use by aircraft operators of allowances from other sectors, a multiplier to take into account non-CO₂ impacts of aviation and the weight threshold for exemption from the scheme, were not acceptable to the Commission or the Council and are not incorporated in the common position.

In conclusion, the Commission considers that the common position neither changes the approach nor the objectives of its proposal, therefore it supports the common position.

Greenhouse gas emission allowance trading within the Community: inclusion of aviation activities in the scheme

The Committee on the Environment, Public Health and Food Safety adopted a report drafted by Peter LIESE (EPP-ED, DE), recommending several amendments to the Council's common position for adopting 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.

The Committee inserted several amendments from 1st reading that had not been taken up by Council in the common position. The main amendments are as follows :

Cap: 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 90% of the sum of the historical aviation emissions multiplied by two. The common position had the start date of January 2012 and stated that the total quantity of allowances to be allocated to aircraft operators shall be equivalent to 100 % of the historical aviation emissions.

Starting in 2013, the quantity of aviation allowances issued each year shall decrease in a linear manner corresponding to the overall reduction target applicable to the emissions covered by the emissions trading system in reference to the annual value established as above.

A new recital states that the Directive should not prevent any Member State from maintaining or establishing other complementary and parallel policies or measures that address the aviation sector's total impacts on climate change.

Start date: from 1 January 2011 (rather than 2012), all flights which arrive at or depart from an aerodrome situated in the territory of a Member State to which the Treaty applies shall be included, taking into account the special situation of flights between ultra-peripheral regions and the European continental zone.

Auction a larger share of emission permits: the Committee states that 25% of allowances shall be auctioned, rather than 10% as the Council had wanted. From 2013, the percentage to be auctioned shall be increased, in accordance with the maximum level of auctioning in other sectors.

Revenues: the Council had stated that it shall be for Member States to determine the use to be made of revenues generated from the auctioning of allowances. The Committee's amendment stipulates that revenues generated from the auctioning of allowances shall be used to reduce greenhouse gas emissions and to adapt to the impacts of climate change in the EU and third countries, especially in developing countries, and to fund research and development for such mitigation, especially in the airline sector, and adaptation. In order to reduce to some extent the burden on citizens, revenues generated by auctioning shall also be used to lower taxes and charges on climate-friendly transport such as rail and bus. The proceeds of auctioning shall in particular fund contributions to the Global Energy Efficiency and Renewable Energy Fund and measures to avoid deforestation. They may also be used to cover the Member States' justified costs in administering the Directive. Member States may also use the revenues to mitigate or even eliminate any accessibility and competitiveness problems arising for outermost regions and problems for public service obligations in connection with the implementation of this Directive.

Global agreement: the Community and its Member States shall continue to seek an agreement on global measures to reduce greenhouse gas emissions from aviation. The Commission must consider options available in order to provide for optimal interaction between the Community scheme and another scheme especially to avoid double charging where a third country adopts measures for reducing the climate change impact of large aircraft departing from that country which land in the Community.

Nox: provided that there are no Community measures which incentivise the reduction of releases of nitrogen oxides from relevant aircraft, and which ensure the same ambitious level regarding the protection of the environment as the Directive, the amount of carbon dioxide which an allowance, other than an aviation emissions allowance, or a CER or ERU permits an aircraft operator to emit shall be divided by an impact factor of 2.

The Committee also stated that it was important to monitor the effects of cirrus clouds and address the question as soon as enough scientific evidence is available.

Limits on purchase of allowances: Member States shall allow each aircraft operator to use allowances issued under Chapter III, CERs and ERUs from project activities up to a percentage of the number of allowances it is required to surrender, this percentage being the average of the percentages specified by Member States for the use of CERs and ERUs for the relevant period. The percentage of CERs and ERUs usable in relation to aviation activities shall be reviewed alongside their use in other sectors as part of the ETS review.

Efficiency: every year, aircraft operators wishing to surrender allowances other than aviation emissions allowances, shall be required to submit to the administering Member State verified tonne-kilometre data for relevant aviation activities performed in that calendar year. The Commission shall determine an efficiency indicator for all aircraft operators, calculated by dividing the total emissions from aircraft operators by the sum of the tonne-kilometre data. Exemptions: the Committee deleted exemptions, *inter alia*, for flights performed for the transport of a reigning Monarch and Heads of State and Government and for flights performed by a commercial air transport operator operating, for three consecutive four-month periods, fewer than 243 flights per period. It added exemptions for flights for humanitarian purposes under a mandate from the UN and Emergency Medical Service flights, and flights performed or the purpose of scientific research, and flights performed by a commercial air transport operator for which the aircraft operator's total annual carbon dioxide emissions are less than 10 000 tonnes per calendar year.

Review: the Commission must review the functioning of the Directive by 1 June 2013 (rather than 1 June 2015). The impact of the competitiveness of European airports and airlines should be addressed in the review

Report: the Commission shall, having regard to aircraft operators' pledge to increase the efficiency of aircraft engines by 50% in 2020, report to the European Parliament in 2010 and 2015 on progress made towards achieving that target.

On the basis of the experience acquired during the period 2011-2012, the Commission shall submit a proposal concerning the quota of greenhouse gas emissions permits the aviation sector is authorised to purchase on the secondary market for wider greenhouse gas emissions permit schemes.

Greenhouse gas emission allowance trading within the Community: inclusion of aviation activities in the scheme

The European Parliament adopted a legislative resolution amending the Council's common position for adopting 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. The recommendation for second reading (under the codecision procedure) had been tabled for consideration in plenary by Peter LIESE (EPP-ED, DE), on behalf of the Committee on the Environment, Public Health and Food Safety.

The amendments were the result of a compromise between the Council and the Parliament. The main amendments adopted under the 2nd reading of the codecision procedure are as follows:

Start date: emissions from all flights arriving at and departing from Community aerodromes should be included from 1 January 2012.

Caps: for the period from 1 January 2012 to 31 December 2012, the total quantity of allowances to be allocated to aircraft operators shall be equivalent to 97% of the historical aviation emissions.

For the period beginning on 1 January 2013, and, in the absence of any amendments following the prescribed review, for each subsequent period, the total quantity of allowances to be allocated to aircraft operators shall be equivalent to 95% of the historical aviation emissions multiplied by the number of years in the period. This percentage may be reviewed as part of a general review of the Directive.

Auction: For the period from 1 January 2012 to 31 December 2012, 15 % (rather than rather than 10% as set out in the common position) of allowances shall be auctioned. From 1 January 2013, 15% of allowances shall be auctioned. This percentage may be increased as part of the general review of the Directive.

Exemptions: these include flights which, but for this point, would fall within this activity, performed by a commercial air transport operator operating either:

- fewer than 243 flights per period for three consecutive four-month periods; or
- flights with total annual emissions lower than 10 000 tonnes per year.

Exemptions apply also to 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, of an EU Member State may not be excluded under this point.

Revenues: it shall be for Member States to determine the use to be made of revenues generated from the auctioning of allowances. Those revenues should be used to tackle climate change in the EU and third countries, *inter alia*, to reduce greenhouse gas emissions, to adapt to the impacts of climate change in the EU and third countries, especially developing countries, to fund research and development for mitigation and adaptation, including in particular in the fields of aeronautics and air transport, to reduce emissions through low-emissions transport, and to cover the cost of administering the scheme. The proceeds of auctioning should also be used to fund contributions to the Global Energy Efficiency and Renewable Energy Fund, and measures to avoid deforestation.

Member States shall inform the Commission of actions taken pursuant to this provision.

Special reserve for certain aircraft operators: an aircraft operator whose tonne-kilometre data increases by an average of more than 18 % annually between the monitoring year for which tonne-kilometre data was submitted shall not have an allocation exceeding 1 000 000 allowances.

Installations: during the period from 1 January 2012 to 31 December 2012, aircraft operators may use CERs and ERUs, up to 15 % of the number of allowances they are required to surrender. For subsequent periods, the percentage of CERs and ERUs usable in relation to aviation activities shall be reviewed as part of the general review of the Directive and taking into consideration the development of the international climate change regime.

The Commission may, in accordance with the regulatory procedure, develop guidelines relating to the administration of aircraft operators under the Directive by administering Member States.

Assistance from Eurocontrol: Parliament added that the Commission may also request assistance from another relevant organisation.

Review: by 1 December 2014 the Commission shall review the functioning of the Directive in relation to aviation activities in Annex I and may make proposals to the European Parliament and the Council. It must give consideration to, inter alia:

- the impact of the Community scheme on the aviation sector, including issues of competitiveness, taking into account in particular the effect of climate change policies implemented for aviation outside the EU;

developments, including the potential for future developments, in the efficiency of aviation and in particular the progress towards meeting the Advisory Council for Aeronautics Research in Europe (ACARE) goal to develop and demonstrate technologies able to reduce fuel consumption by 50% by 2020 and whether further measures to increase efficiency are necessary;

- developments in scientific understanding on the climate change impacts of contrails and cirrus clouds caused by aviation with a view to proposing effective mitigation measures.

Greenhouse gas emission allowance trading within the Community: inclusion of aviation activities in the scheme

To recall, at its plenary session of 8 July 2008, the European Parliament adopted a compromise package consisting of 30 amendments which had been agreed with the Council in view of reaching a second reading agreement.

The main amendments concern:

- the total quantity of allowances to be allocated to the aviation sector;
- the percentage of allowances to be auctioned;
- the use of revenues generated from the auctioning of allowances;
- the operation of the special reserve for fast growing operators;
- the timing and content of the review of the provisions of the Directive;
- the exclusions from the scheme, including the de minimis exemption.

The Commission accepts all these amendments as they are in line with the overall purpose and the general characteristics of the proposal. 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 Emissions Trading Scheme (ETS) review, where the Commission's position is set out in COM(2008)16 concerning the proposal for a Directive of the European Parliament and of the Council amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading system of the Community ([COD/2008/0013](#)).

The Commission position remains that the level of auctioning in the aviation sector should be 20% in 2013.

Greenhouse gas emission allowance trading within the Community: inclusion of aviation activities in the scheme

PURPOSE: to address the growing climate change impact attributable to aviation by including aviation in the Community emissions trading scheme.

LEGISLATIVE ACT: Directive 2008/101/EC 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.

CONTENT: the aim of this Directive is to include aviation in the scheme for greenhouse gas emission allowance trading within the Community. In adopting this directive, the Council accepted almost all amendments that the European Parliament voted in second reading.

The EU greenhouse gas emission allowance trading system (ETS) works by allocating to operators a number of allowances, each giving them a right to emit 1 tonne of carbon dioxide per year. The total number of permits sets a limit on the overall emissions from participants in the scheme. Operators must redeem allowances commensurate to the volume of their emissions and can trade permits so that emissions reductions can be made where they are most cost-effective.

Date of commencement and scope of the scheme: as from 1 January 2012, all flights arriving at or departing from an EU airport will be included in the scheme. Operators from all states providing such flights will therefore be included, regardless of whether they are based in the EU. In this context, the EU considers that the new directive is only a first step towards its final goal of a global sectoral agreement concerning the reduction of greenhouse gas emissions from aviation. The new legislation also contains provisions that allow for its adjustment in case third countries adopt similar measures to reduce greenhouse gas emissions from their aviation sectors.

Emissions cap and allocation of allowances to aircraft operators: in 2012, overall emissions from the aviation sector will be equivalent to 97% of the sector's historical emissions, i.e. the annual average emissions in the years 2004-2006. From 2013 onwards, the annual cap will be reduced to 95% of these emissions.

85% of the allowances will be allocated free of charge, based on a simple benchmark. The remaining 15% will be auctioned.

These percentages could be modified if different decisions are taken as part of the general review of the EU ETS.

By 2 August 2009, the Commission must decide on the historical aviation emissions, based on best available data, including estimates based on actual traffic information.

Special reserve for new entrants or fast-growing aircraft operators: the Directive creates a special reserve for new entrants or fast-growing aircraft operators (i.e. those that can demonstrate a growth rate of more than 18% annually) ? a feature that was introduced by the Council. Accordingly, 3% of overall allowances will be set aside for eligible aircraft operators on the basis of a benchmark. This provision ensures that new aircraft operators or those in Member States with initially very low but increasing mobility rates are not penalised by the scheme. In order to avoid market distortions, distribution of permits under this special reserve is a one-off and must not be greater than the annual allocation per tonne-kilometre to aircraft operators under the main allocation.

Use of auctioning revenues: each Member State will determine the use to be made of its revenues from the auctioning of allowances. These proceeds should be used to tackle climate change in the EU and in third countries as well as for the research in the field of low-emissions transport, particularly in aeronautics and aviation. Member States must report about the use of their revenues to the Commission.

Exemptions: the directive excludes from the system flights related to search and rescue, fire-fighting, humanitarian aid, emergency medical services and checking aircraft as well as flights performed under public service obligations (police, customs and military).

In addition, operators with very low traffic levels will also be excluded from the scheme in order to avoid disproportionate administrative costs. This provision is aimed, inter alia at operators from developing countries.

Compliance: the new measures provide the possibility, as a last resort, of imposing an operating ban at Community level on an aircraft operator that persistently fails to comply with the requirements of the Directive, if this is requested by a Member State.

ENTRY INTO FORCE: 02/02/2009.

TRANSPOSITION: 02/02/2010.