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2009 - 2014

Committee on the Environment, Public Health and Food Safety

2013/0344(COD)

28.11.2013

*****I**

DRAFT REPORT

on the proposal for a directive of the European Parliament and of the Council amending Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community, in view of the implementation by 2020 of an international agreement applying a single global market-based measure to international aviation emissions (COM(2013)0722 – C7-0374/2013 – 2013/0344(COD))

Committee on the Environment, Public Health and Food Safety

Rapporteur: Peter Liese

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ■ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a directive of the European Parliament and of the Council amending Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community, in view of the implementation by 2020 of an international agreement applying a single global market-based measure to international aviation emissions
(COM(2013)0722 – C7-0374/2013 – 2013/0344(COD))**

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2013)0722),
 - having regard to Article 294(2) and Article 192(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0374/2013),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee ¹,
 - having regard to the opinion of the Committee of the Regions of ...²,
 - having regard to Rules 55 of its Rules of Procedure,
 - having regard to the report of the Committee on the Environment, Public Health and Food Safety and the opinions of the Committee on Industry, Research and Energy and of the Committee on Transport and Tourism (A7-0000/2013),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ OJ C ...Not yet published in the Official Journal

² OJ C ...Not yet published in the Official Journal

Amendment 1

Proposal for a directive

Recital 2

Text proposed by the Commission

(2) Consequently it is desirable to temporarily consider the requirements set out in Directive 2003/87/EC of the European Parliament and of the Council⁴ as satisfied, when obligations are met in respect of a certain percentage of the emissions from flights to and from aerodromes in third countries. In doing so, the Union emphasises that requirements can be applied in respect of certain percentages of emissions from flights to and from aerodromes in countries of the European Economic Area (EEA), in the same manner as legal requirements can be placed on more of the emissions from flights to and from such aerodromes.

⁴ 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/EC (OJ L 275, 25.10.2003, p. 32)

Amendment

(2) Consequently, ***in order to sustain the momentum reached at the 2013 ICAO Assembly and facilitate progress at the upcoming 2016 ICAO Assembly***, it is desirable to temporarily consider the requirements set out in Directive 2003/87/EC of the European Parliament and of the Council⁴ as satisfied ***for the period until 2016***, when obligations are met in respect of a certain percentage of the emissions from flights to and from aerodromes in third countries. In doing so, the Union emphasises that requirements can be applied in respect of certain percentages of emissions from flights to and from aerodromes in countries of the European Economic Area (EEA), in the same manner as legal requirements can be placed on more of the emissions from flights to and from such aerodromes.

⁴ 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/EC (OJ L 275, 25.10.2003, p. 32)

Or. en

Justification

The current derogation should only apply until 2016 and the next ICAO Assembly. Following the ICAO conclusions in 2016 and results achieved, the Union could consider if and what further steps need to be made to reflect the outcome of the international negotiations. With the current derogation expiring end of 2016, the legislators will have sufficient time to conclude any further codecision procedure that might be necessary since the surrender date for 2017 emissions falls in April 2018.

Amendment 2

Proposal for a directive Recital 2a (new)

Text proposed by the Commission

Amendment

(2a) In order to build confidence at international level with regard to the Union emissions trading scheme (ETS), revenues generated from the auctioning of allowances or any equivalent amount, where required by overriding budgetary principles of the Member States, such as unity and universality, should be used to reduce greenhouse gas emissions, to adapt to the impacts of climate change in the Union and third countries, to fund research and development for mitigation and adaptation and to cover the cost of administering the Union ETS. Revenues generated from auctioning should also be used on low-emission transport. The proceeds of auctioning should in particular be used to fund contributions to the Global Energy Efficiency and Renewable Energy Fund and the Green Climate Fund under UNFCCC, and measures to avoid deforestation and facilitate adaptation in developing countries. As part of an agreement on an effective, route-based global market-based measure ('MBM') with significant potential to reduce the climate impact of aviation, the Union should also commit to assigning revenues created by such a measure to the Green Climate Fund under UNFCCC to reflect the principle of common but differentiated responsibilities and respective capabilities, and to international efforts to fund research and development to reduce greenhouse gas emissions of aviation.

Or. en

Justification

During the negotiations on the current directive, the European Parliament insisted on a clearly binding earmarking. At the time, member states were not ready to accept this and only a recommendation is included in the directive. It would facilitate the acceptance of the EU scheme if member states accepted a much clearer commitment. Common research projects on technology still reducing emissions in aviation could be created with third countries. A contribution of EU member states to adaptation and mitigation including the green climate fund under UNFCCC would be very helpful to facilitate the support of developing countries. This principle must also be introduced into the international negotiations.

Amendment 3

Proposal for a directive

Recital 3

Text proposed by the Commission

(3) While the application of Directive 2003/87/EC continues to be based on arrival at or departure from aerodromes in the Union, in order to be a simple and workable means to limit the application of regional market-based measures for the 7 years until a global **market-based measure begins operation**, the percentages have been calculated by Eurocontrol on the basis of the proportion of the Great Circle Distance between the main airports in the EEA and in third countries that is not more than 12 miles beyond the furthest point of EEA coastline. Since the Union does not consider that a global market-based measure should be based on actual airspace considerations, as compared to the arrival or departure from aerodromes, the relevance of the percentages is limited to the period up to **2020**.

Amendment

(3) While the application of Directive 2003/87/EC continues to be based on arrival at or departure from aerodromes in the Union, in order to be a simple and workable means to limit the application of regional market-based measures for the **three** years until a **ratifiable** global **meMBM that applies to the majority of international aviation emissions is agreed at the 39th ICAO Assembly in 2016**, the percentages have been calculated by Eurocontrol on the basis of the proportion of the Great Circle Distance between the main airports in the EEA and in third countries that is not more than 12 miles beyond the furthest point of EEA coastline. Since the Union does not consider that a global market-based measure should be based on actual airspace considerations, as compared to the arrival or departure from aerodromes, the relevance of the percentages is limited to the period up to **2016**.

Or. en

Justification

The amendment underlies the fact that not any kind of MBM would be acceptable but one that

is legally binding and one that covers the majority of emissions.

Amendment 4

Proposal for a directive

Recital 4

Text proposed by the Commission

(4) The derogations provided for in this directive take into account the results of bilateral and multilateral contacts with third countries, which the Commission will continue to pursue on behalf of the Union.

Amendment

(4) The derogations provided for in this directive take into account the results of bilateral and multilateral contacts with third countries, which the Commission will continue to pursue on behalf of the Union. ***Those derogations relate only to emissions from aviation activities up to 2016 and are provided by the Union in order to facilitate an agreement on the adoption of a ratifiable global MBM at the 39th ICAO Assembly. Further legislative action should only be appropriate if such a measure is adopted in 2016. To this end, following the 2016 ICAO Assembly, the Commission should provide a full report to the European Parliament and to the Council and swiftly propose measures in line with the results, as appropriate.***

Or. en

Justification

The current derogation should only apply until 2016 and the next ICAO Assembly. Following the ICAO conclusions in 2016 and results achieved, the Union could consider if and what further steps need to be made to reflect the outcome of the international negotiations. With the current derogation expiring end of 2016, the legislators will have sufficient time to conclude any further codecision procedure that might be necessary since the surrender date for 2017 emissions falls in April 2018.

Amendment 5

Proposal for a directive

Recital 9

Text proposed by the Commission

(9) The application of a percentage to verified emissions for flights to and from aerodromes in third countries, or the use of an alternative approach by operators, should relate to emissions from 2014 **onwards** to give time for operators to understand these approaches when planning their flight activities,

Amendment

(9) The application of a percentage to verified emissions for flights to and from aerodromes in third countries, or the use of an alternative approach by operators, should relate to emissions from 2014 **to 2016** to give time for operators to understand these approaches when planning their flight activities,

Or. en

Justification

The current derogation should only apply until 2016 and the next ICAO Assembly. Following the ICAO conclusions in 2016 and results achieved, the Union could consider if and what further steps need to be made to reflect the outcome of the international negotiations. With the current derogation expiring end of 2016, the legislators will have sufficient time to conclude any further codecision procedure that might be necessary since the surrender date for 2017 emissions falls in April 2018.

Amendment 6

Proposal for a directive
Recital 10

Text proposed by the Commission

(10) Without prejudice to the global market-based measure applying from 2020, emissions from flights to and from countries which are developing countries and whose share of total revenue ton kilometres of international civil aviation activities is less than 1% should be exempted for the period 2014 to **2020**. Countries considered to be developing for the purposes of this proposal should be those which benefit at the time of adoption of this proposal from preferential access to the Union market in accordance with Regulation (EU) No 978/2012 of the European Parliament and of the Council, that is those which are not classified in 2013 by the World Bank as high-income or

Amendment

(10) Without prejudice to the global market-based measure applying from 2020, emissions from flights to and from countries which are developing countries and whose share of total revenue ton kilometres of international civil aviation activities is less than 1% should be exempted for the period 2014 to **2016**. Countries considered to be developing for the purposes of this proposal should be those which benefit at the time of adoption of this proposal from preferential access to the Union market in accordance with Regulation (EU) No 978/2012 of the European Parliament and of the Council, that is those which are not classified in 2013 by the World Bank as high-income or

upper-middle income countries.

upper-middle income countries.

Or. en

Justification

The current derogation should only apply until 2016 and the next ICAO Assembly. Following the ICAO conclusions in 2016 and results achieved, the Union could consider if and what further steps need to be made to reflect the outcome of the international negotiations. With the current derogation expiring end of 2016, the legislators will have sufficient time to conclude any further codecision procedure that might be necessary since the surrender date for 2017 emissions falls in April 2018.

Amendment 7

**Proposal for a directive
Recital 11 a (new)**

Text proposed by the Commission

Amendment

11a. The environmental effectiveness of aviation's inclusion in the ETS has been reduced due to the reduction in geographic scope. To this end, and in line with reduction policy for all other sectors, from 2015 onwards, the rate of auctioning should be 40% as is the case for auctioning for other sectors. A linear reduction factor should be applied in line with other sectors.

Or. en

Justification

With the limited scope, the environmental effect of the ETS is drastically reduced, so increasing the amount of auctioning and reducing the cap may partly compensate this.

Amendment 8

**Proposal for a directive
Recital 12**

Text proposed by the Commission

Amendment

(12) After the 2016 ICAO Assembly the Commission should submit a report to the ***deleted***

***European Parliament and to the Council
in order to ensure that international
developments can be taken into account
and any issues about the application of
the derogation be addressed.***

Or. en

Justification

Linked to AM on Recital 4.

Amendment 9

Proposal for a directive

Article 1 – paragraph 1 – point 1

Directive 2003/87/EC

Article 28a – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) emissions from flights to and from countries outside the European Economic Area (EEA) in each calendar year between 2014 and **2020** where the operator of such flights has surrendered allowances in respect of the percentages of their verified emissions from those flights listed in accordance with Annex IIc, or calculated in accordance with paragraph 6;

(b) emissions from flights to and from countries outside the European Economic Area (EEA) in each calendar year between 2014 and **2016** where the operator of such flights has surrendered allowances in respect of the percentages of their verified emissions from those flights listed in accordance with Annex IIc, or calculated in accordance with paragraph 6;

Or. en

Justification

The current derogation should only apply until 2016 and the next ICAO Assembly. Following the ICAO conclusions in 2016 and results achieved, the Union could consider if and what further steps need to be made to reflect the outcome of the international negotiations. With the current derogation expiring end of 2016, the legislators will have sufficient time to conclude any further codecision procedure that might be necessary since the surrender date for 2017 emissions falls in April 2018.

Amendment 10

Proposal for a directive

Article 1 – paragraph 1 – point 1

Directive 2003/87/EC

Article 28a – paragraph 1 – point c

Text proposed by the Commission

(c) emissions from flights operated by a non-commercial aircraft operator in each calendar year up to **2020** where the emissions for which that aircraft operator are responsible in the calendar year are less than 1000 tonnes;

Amendment

(c) emissions from flights operated by a non-commercial aircraft operator in each calendar year up to **2016** where the emissions for which that aircraft operator are responsible in the calendar year are less than 1000 tonnes;

Or. en

Justification

The current derogation should only apply until 2016 and the next ICAO Assembly. Following the ICAO conclusions in 2016 and results achieved, the Union could consider if and what further steps need to be made to reflect the outcome of the international negotiations. With the current derogation expiring end of 2016, the legislators will have sufficient time to conclude any further codecision procedure that might be necessary since the surrender date for 2017 emissions falls in April 2018.

Amendment 11

Proposal for a directive

Article 1 – paragraph 1 – point 1

Directive 2003/87/EC

Article 28a – paragraph 2 – subparagraph 2

Text proposed by the Commission

As regards **activity in** 2013 to **2020**, Member States shall publish the number of free aviation allowances allocated to each operator by *[OP: insert a date 4 months after the entry into force of this Directive]*.

Amendment

As regards **activities from** 2013 to **2016**, Member States shall publish the number of free aviation allowances allocated to each operator by ...*

[OP: please insert the date: four months after the entry into force of this Directive].

Or. en

Justification

The current derogation should only apply until 2016 and the next ICAO Assembly. Following the ICAO conclusions in 2016 and results achieved, the Union could consider if and what further steps need to be made to reflect the outcome of the international negotiations. With the current derogation expiring end of 2016, the legislators will have sufficient time to conclude any further codecision procedure that might be necessary since the surrender date for 2017 emissions falls in April 2018.

Amendment 12

Proposal for a directive

Article 1 – paragraph 1 – point 1

Directive 2003/87/EC

Article 28a – paragraph 3 – subparagraph 1a (new)

Text proposed by the Commission

Amendment

The special reserve set in Article 3f shall be reduced so that it remains at 3%. Any leftovers shall be cancelled.

Or. en

Justification

The special reserve should remain at 3% of the number of allowances in circulation, because the scope of the Directive is reduced. In order to bring the environmental benefit closer to the original ETS system, all the allowances left in the Special Reserve after distribution has taken place to new entrants should be cancelled, rather than auctioned by Member States and resulting in greater emissions.

Amendment 13

Proposal for a directive

Article 1 – paragraph 1 – point 1

Directive 2003/87/EC

Article 28a – paragraph 4

Text proposed by the Commission

Amendment

By way of derogation from Article 3d(3), the number of allowances to be auctioned by each Member State in respect of the period from 2013 to **2020** shall be reduced to correspond with its share of attributed aviation emissions resulting from the

By way of derogation from Article 3d(3), the number of allowances to be auctioned by each Member State in respect of the period from 2013 to **2016** shall be reduced to correspond with its share of attributed aviation emissions resulting from the

application of *Article 28(a) to (c)*.

application of *points (a) to (c) of paragraph 1*.

Or. en

Justification

The current derogation should only apply until 2016 and the next ICAO Assembly. Following the ICAO conclusions in 2016 and results achieved, the Union could consider if and what further steps need to be made to reflect the outcome of the international negotiations. With the current derogation expiring end of 2016, the legislators will have sufficient time to conclude any further codecision procedure that might be necessary since the surrender date for 2017 emissions falls in April 2018.

Amendment 14

Proposal for a directive

Article 1 – paragraph 1 – point 1

Directive 2003/87/EC

Article 28a – paragraph 7

Text proposed by the Commission

7. Following the 2016 ICAO Assembly, the Commission shall report to the European Parliament and the Council on the ***actions to implement the global market-based measure to apply to emissions from 2020, together with proposals as appropriate.***

In the event that a global measure will not apply from 2020, that report shall consider the appropriate scope for coverage of emissions from activity to and from countries outside the EEA from **2020** onwards in the continued absence of such a global measure. In its report, the Commission shall also consider solutions to other issues that may arise in the application of paragraphs 1 to 4, while preserving equal treatment for all operators on the same route."

Amendment

7. Following the 2016 ICAO Assembly, the Commission shall report to the European Parliament and the Council on the ***results achieved. In the event that a ratifiable global MBM is agreed, that report shall include proposals, as appropriate, in reaction to those developments.***

In the event that a global measure will not apply from 2020, that report shall consider the appropriate scope for coverage of emissions from activity to and from countries outside the EEA from **2016** onwards in the continued absence of such a global measure. In its report, the Commission shall also consider solutions to other issues that may arise in the application of paragraphs 1 to 4, while preserving equal treatment for all operators on the same route."

Or. en

Justification

The current derogation should only apply until 2016 and the next ICAO Assembly. Following the ICAO conclusions in 2016 and results achieved, the Union could consider if and what further steps need to be made to reflect the outcome of the international negotiations. With the current derogation expiring end of 2016, the legislators will have sufficient time to conclude any further codecision procedure that might be necessary since the surrender date for 2017 emissions falls in April 2018.

Amendment 15

Proposal for a directive

Article 1 – paragraph 1 – point 1a (new)

Directive 2003/87/EC

Article 3c – paragraph 2

Text proposed by the Commission

Amendment

In Article 3c, paragraph 2 is replaced by the following:

"2. From 1 January 2013 for a period of two years, 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.

From 1 January 2015 onwards, those allowances shall be reduced by a linear factor of 1,74% for each calendar year. That percentage may be reviewed as part of the general review of this Directive."

Or. en

Justification

While the other industries covered by ETS need to reduce their emissions by 21% by 2020, the reduction in the aviation sector is only 5%. This was against the position of the European Parliament during the negotiations in 2008. Parliament always asked for equal treatment of all industries. The environmental effectiveness of the aviation ETS is significantly reduced because of the limited scope. To reach a better environmental integrity of the ETS the linear factor of 1.74 % is applied for each year to reach equal treatment of all sectors in the ETS.

Amendment 16

Proposal for a directive

Article 1 – paragraph 1 – point 1b (new)

Directive 2003/87/EC

Article 3d – paragraph 2

Text proposed by the Commission

Amendment

In Article 3d, paragraph 2 is replaced by the following:

"2. From 1 January 2013 for a period of two years, 15% of allowances shall be auctioned. From 1 January 2015 onwards, 40% of allowances shall be auctioned. The latter percentage may be increased as part of the general review of this Directive."

Or. en

Justification

While the average auctioning in other sectors is 40% (100% as a rule and benchmark for carbon leakage sector) the auctioning amount in the aviation sector is only 15%. This has been subject to criticism for a long time. Because all flights in the European airspace are subject to the ETS aviation cannot be considered as a classic carbon leakage sector. With the limited scope, the environmental effect of the ETS is drastically reduced, so increasing the amount of auctioning may partly compensate this.

Amendment 17

Proposal for a directive

Article 1 – paragraph 1 – point 1c (new)

Directive 2003/87/EC

Article 3d – paragraph 4

Text proposed by the Commission

Amendment

In Article 3d, paragraph 4 is replaced by the following:

"4. Member States shall use revenues generated from the auctioning of allowances for efforts to tackle climate change, in particular at international level, to reduce greenhouse gas emissions and to adapt to the impact of climate

change in developing countries as well as to fund research and development for mitigation and adaptation including, in particular, in the field of aeronautics and air transport. Revenues generated from auctioning shall also be used on low-emission-transport. The proceeds of auctioning shall also be used to fund contributions to the Global Energy Efficiency and Renewable Energy Fund and the Green Climate Fund under UNFCCC as well as measures to avoid deforestation.

Member States shall regularly inform the Commission of actions taken pursuant to the first subparagraph."

Or. en

Justification

During the negotiations on the current directive, the European Parliament insisted on a clearly binding earmarking. At the time, member states were not ready to accept this and only a recommendation is included in the directive. It would facilitate the acceptance of the EU scheme if member states accepted a much clearer commitment. Common research projects on technology still reducing emissions in aviation could be created with third countries. A contribution of EU member states to adaptation and mitigation including the green climate fund under UNFCCC would be very helpful to facilitate the support of developing countries. This principle must also be introduced into the international negotiations.

Amendment 18

Proposal for a directive

Annex

Directive 2003/87/EC

Annex II c – table row 37

Text proposed by the Commission

CHINA including HONG KONG,
MACAO **and TAIWAN**

Amendment

CHINA including HONG KONG **and**
MACAO

Or. en

Justification

Taiwan should be entered as a separate destination entry and not part of the one for China.

Amendment 19

Proposal for a directive

Annex

Directive 2003/87/EC

Annex II c – table row 147 a (new)

Text proposed by the Commission

Amendment

TW TAIWAN

Or. en

Justification

Taiwan should be entered as a separate destination entry and not part of the one for China.

Amendment 20

Proposal for a directive

Annex

Directive 2003/87/EC

Annex II c – paragraph 6

Text proposed by the Commission

Amendment

For the period 2014 to **2020**, and without prejudice to the global market-based measure applying from 2020, the percentage applicable to flights between EEA Member countries and countries which are developing countries and whose share of total revenue ton kilometres of international civil aviation activities is less than 1% shall be zero. Countries considered to be developing for the purposes of this proposal are those which benefit at the time of adoption of this proposal from preferential access to the Union market in accordance with Regulation (EU) No 978/2012 of the European Parliament and of the Council, that is those which are not classified in 2013 by the World Bank as high-income or upper-middle income countries.

For the period 2014 to **2016**, and without prejudice to the global market-based measure applying from 2020, the percentage applicable to flights between EEA Member countries and countries which are developing countries and whose share of total revenue ton kilometres of international civil aviation activities is less than 1% shall be zero. Countries considered to be developing for the purposes of this proposal are those which benefit at the time of adoption of this proposal from preferential access to the Union market in accordance with Regulation (EU) No 978/2012 of the European Parliament and of the Council, that is those which are not classified in 2013 by the World Bank as high-income or upper-middle income countries.

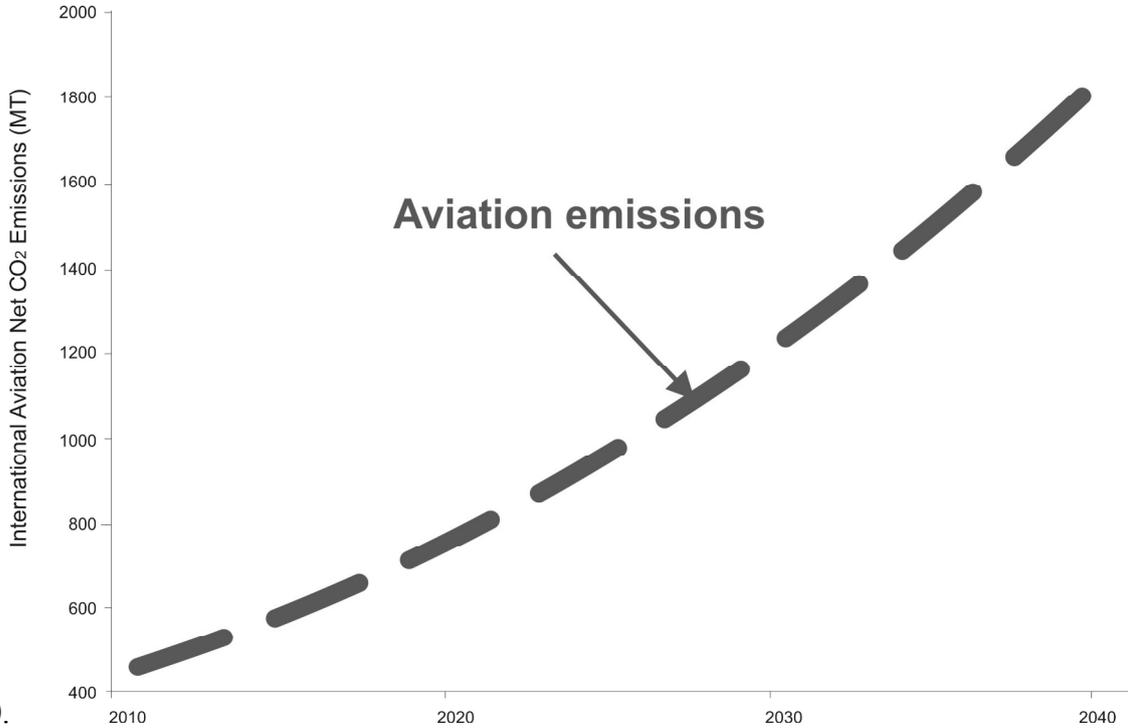
Justification

The current derogation should only apply until 2016 and the next ICAO Assembly. Following the ICAO conclusions in 2016 and results achieved, the Union could consider if and what further steps need to be made to reflect the outcome of the international negotiations. With the current derogation expiring end of 2016, the legislators will have sufficient time to conclude any further codecision procedure that might be necessary since the surrender date for 2017 emissions falls in April 2018.

EXPLANATORY STATEMENT

Why is it necessary to limit the greenhouse gas emissions from aviation?

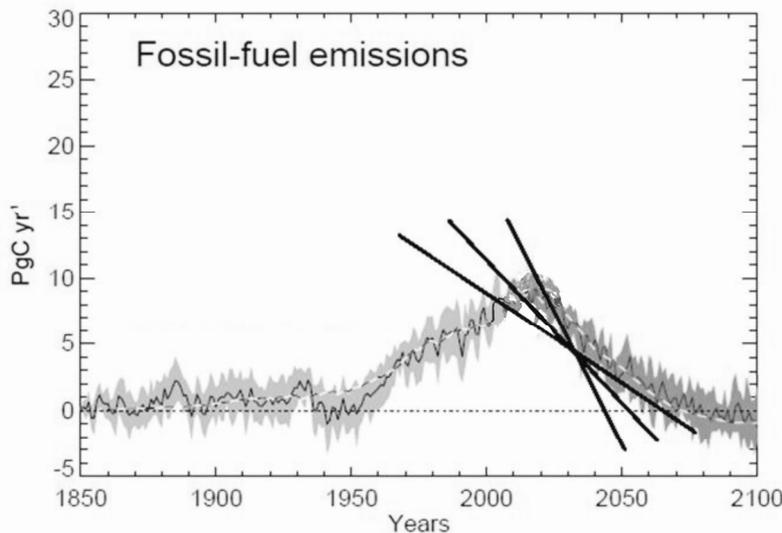
The greenhouse gas emissions from aviation grow quickly. Under a no action scenario, the International Civil Aviation Organization (ICAO) predicts them to accumulate to 1900 Mt until



2040.

Source: ICAO

Other estimations are predicting 3500 to 4500 Mt until 2050. 3.5 giga-tonnes are 20% of the amount to which global emissions need to be limited according to IPCC in 2050 to contain climate change to 2 degrees.



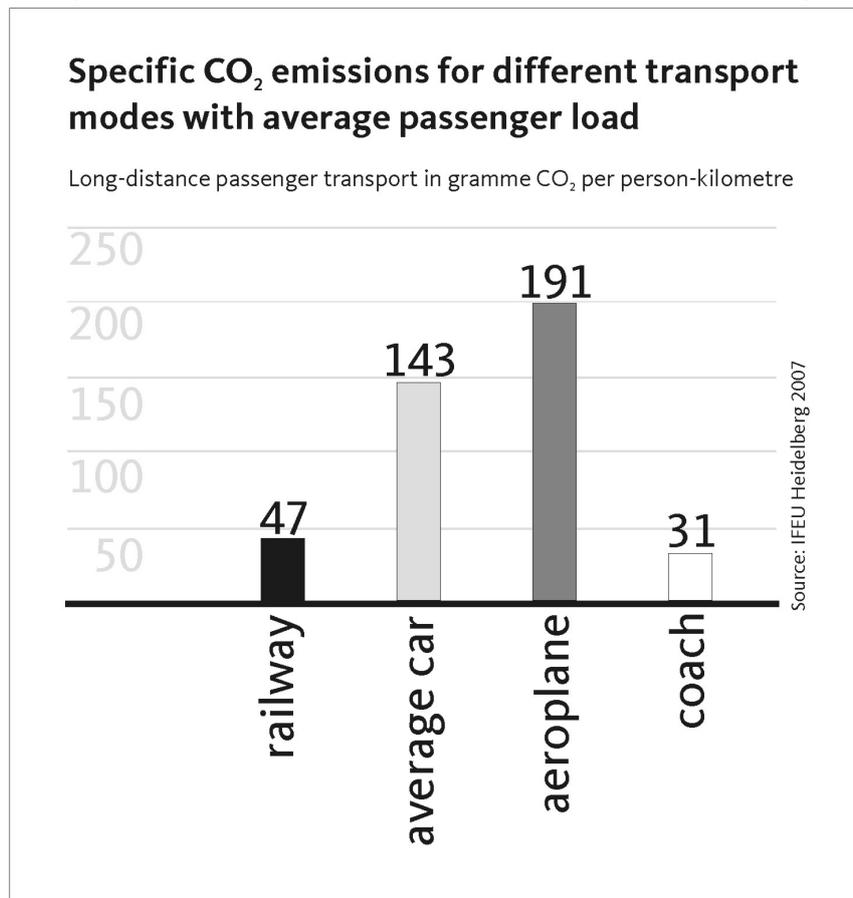
According to the 5th IPCC (2013) global emissions need to be drastically reduced until 2050 if we want to have a 2/3 probability to keep the 2 degrees target that year.

Source: IPCC

The task to regulate airline emissions has been given by

the international community to the ICAO in 1997 with the Kyoto Protocol. While the Kyoto Protocol falls short when it comes to the challenge of climate change, one cannot ignore that at least the European Union has followed its obligation and limited emissions. On the other hand, no significant action has been implemented to limit aviation emissions.

It is also necessary that the aviation industry participates in the efforts to limit climate change from the point of fairness to other modes of transport. Unfortunately, aviation is the least climate-friendly mode of transport, and while other modes of transport are highly regulated and subject to many taxes and fees, aviation has not been addressed at European level:



The legislation from 2008, the criticism from third countries and the legitimacy of this criticism

The legislation including aviation in the ETS has been approved after a more than two years debate and involvement of all stakeholders unanimously by the Council and with more than 90% majority in the European Parliament. A cornerstone of the legislation was that all flights that start and land in Europe are included. This has been the point of criticism by third countries. However, after a court case by the American airlines, the European Court of Justice decided that it is fully in line with international law. The costs are very moderate, despite the claims of third countries, which sometimes speak about outrageous burden for their industry. According to the latest figures, the cost for Ryanair has been 0.03€, for Easyjet 0.11€ (other airlines with a less efficient fleet may have slightly higher costs). The costs of taxes and fees implied by EU member states or third countries are much higher.

Country	Law	costs per flight
Germany	Luftverkehrssteuer	Up to 42,18 € depending on destination
UK	Air Passenger Duty APD	Up to over 184£6000 miles
USA	International Transportation Tax	16,30\$/Passenger
EU	ETS	0.03€ (Ryanair) Up to 2€/intercontinental flight (estimate by Commission)
India	Departure Fee + 10,3 % Service Charge (on Airport Development Tax in Delhi)	7,40€ , \$ 10 +19 €, \$ 25 (only in Delhi)
Austria	Flugabgabegesetz	Up to 35€ depending on distance

One important argument by third countries was that the European Union legislation is illegal because of the extra-territoriality. This argument is, according to the Court of Justice, invalid because only flights that start and land in Europe are covered. However, the obligation to surrender allowances is of course higher if the flight is longer. But this is not a unique feature of the EU legislation. Also, national taxes and fees apply the same principle, for example the British fee is significantly higher for a flight to Mexico than for a flight to Canada, even if the distance between Canada and Mexico is mainly territory of the United States, see following map:



A flight to Toronto, Canada is charged APD of £130 (156 €).

A flight in business class from London to Mexico City (approximately 5000 miles) will be charged APD of £162 (195 €).

The ICAO process and the Stop the Clock legislation

Even though the criticism is not legitimate, the European Union reacted on the third countries' arguments. It has been said that the European legislation stands in the way of an international agreement. This has never been true, but as a gesture of good will, the Commission proposed to limit the scheme to intra-European flights for one year to help find a better agreement in the ICAO General Assembly in September and October 2013.

In the legislation, it has been made clear:

"The derogation provided for by this decision relates only to 2012 aviation emissions."

(10) (...) This derogation is provided by the European Union to facilitate an agreement at the 38th session of the ICAO Assembly on a realistic timetable for the development of a global MBM beyond the 38th session of the ICAO Assembly and on a framework for facilitating the comprehensive application of national and regional MBMs to international aviation, pending the application of the global MBM.

The ICAO Assembly in September and October 2013 adopted a resolution which included a commitment *"to develop a global MBM for international aviation, taking into account the work called for in paragraph 19"*. This is an important step, but unfortunately the resolution includes also a lot of conditions and preconditions. Therefore, it is not at all sure that the ICAO Assembly in 2016 will really succeed to adopt clear rules for the MBM. It has to be taken into account that the ICAO Assembly in 2001 already endorsed emission trading, but unfortunately no real progress has been made:

ICAO Assembly 2001:

- c) Emissions trading:
- c) *Endorses* the development of an open emissions trading system for international aviation;

ICAO Assembly 2013:

- 18. Decides to develop a global MBM scheme for international aviation, taking into account the work called for in paragraph 19;

Comparing with the very different UNFCCC progress, one has to say that even the COP 19 conference in Warsaw had more concrete and positive results than the ICAO Assembly. A very important condition of the European Union to further amend its legislation was that a framework for national and regional schemes, so for example for the EU scheme, should be adopted. Unfortunately, this is not the case.

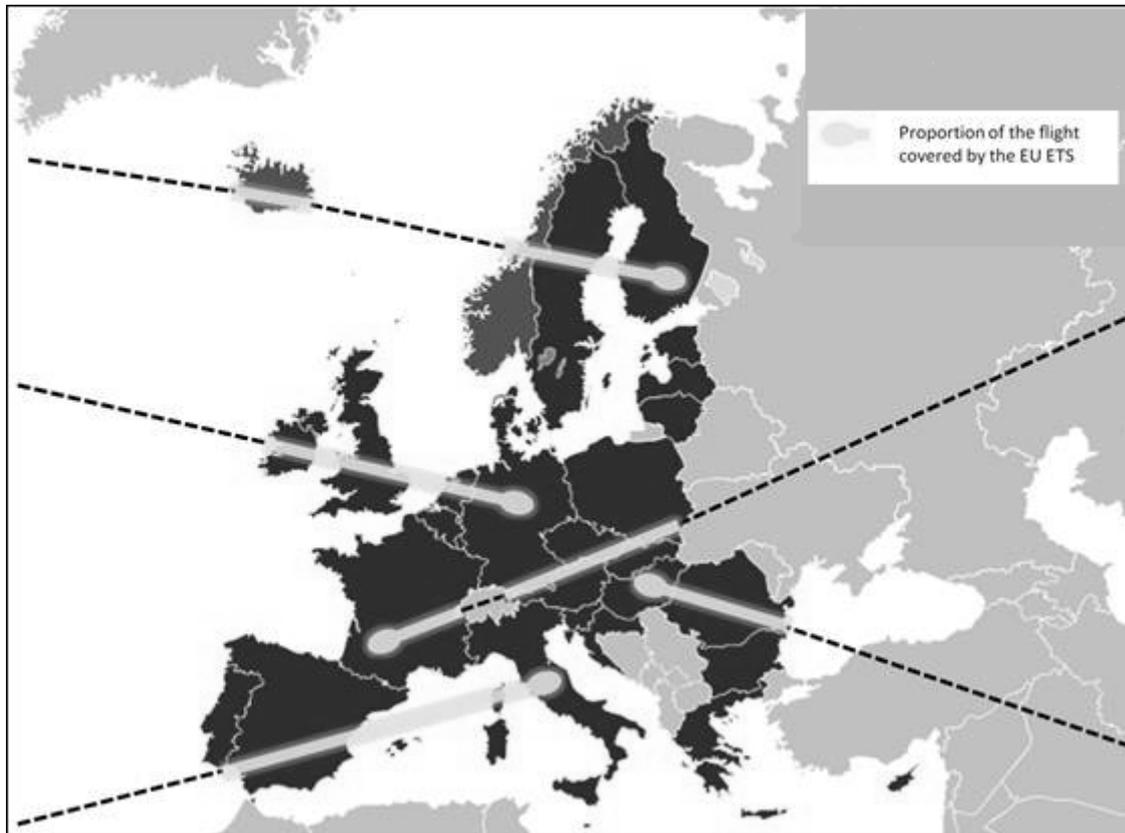
The aviation industry, mainly represented by IATA, had, sadly, very much worked against the European Union in the ICAO process, but on the other hand, it has to be respected that IATA contributed to the global process. The commitment of industry to reduce the emissions by 50% by 2050 goes much further than the ICAO text.

Consequences for the EU after the ICAO Assembly

A lot of stakeholders, for example the European low-fare association ELFAA, which represents almost 50% of intra-European flights, many NGOs, and many members of the Parliament ask not to amend the existing legislation. This would mean that the full ETS,

including intercontinental flights that start and land in Europe, for their whole distance should be enforced from the 1st of May next year. Others (many stakeholders present this position behind the scenes) argue for a prolongation of the existing Stop the Clock until 2016 or even 2020, which would mean that only intra-European flights are covered for many years, even if they fly over European airspace.

The Commission proposal with the airspace approach represents a compromise between these two extremes:



Source: European Commission

This means that all flights that start and/or land in Europe are covered for their part within European airspace. For example, a flight from Paris or London to the airport of Istanbul (this is very important because Istanbul is going to open the biggest airport in the world) would be covered until the border of Greece, which means almost 100%. Under the Stop the Clock, it is not covered at all. A flight to a hub in the Emirates would be covered by almost 50% of its emissions under the airspace approach.

Your rapporteur's proposal

Your rapporteur supports the proposal of the European Commission in principle. While he remains convinced that the pressure of the third countries is not sustained, it has to be taken into account that the international process may suffer from a full implementation of the scheme. The airspace approach has many advantages to the Stop the Clock:

- 1) Environmental and climate protection:

The Commission proposal includes approximately 40% of the emissions compared to the original regulation, Stop the Clock only covered about 20%.

- 2) **Consequences for international negotiations:**
A simple extension of the Stop the Clock could be considered an unconditional surrender by the European Union. If there is progress at international level, it is mainly through the pressure from the European Union. Many proposals that are considered under ICAO would not really reduce aviation emissions, but only carbon-neutral growth from 2020 is considered. The main strategy of ICAO is based on offsets (which mainly means CDM) and bio-fuels. Reflecting the critical discussion about these two instruments within the European Union, it is important to show an alternative. Our scheme in fact forces to reduce emissions, even if it's only by 5%.
- 3) **Competitive situation of European airports and aviation industry:**
The Stop the Clock proposal is intervening with the competitive situation of European airlines and airports. Big hubs close to the European Union, i.e. Istanbul, will benefit if we prolong it. Airlines that mainly fly inside Europe have a competitive disadvantage compared to airlines that can cross-subsidize flights inside the European Union.
- 4) **The legal situation:**
Based on the ECJ judgment and the Chicago Convention it is evident that an airspace approach is fully in line with international law. The ICAO Council has unanimously supported an airspace approach in early September. The ICAO resolution that does not include an airspace approach is not legally binding on this issue since the EU and many others issued reservations.

Amendments proposed by your rapporteur

While your rapporteur proposes to stick to the Commission proposal as much as possible, some amendments seem to be reasonable.

1. **Legal situation after 2016:**
The amendment of the directive is only justified because we expect a breakthrough with legally binding agreement for global aviation in 2016. While this is a real option, it is not at all guaranteed. That is why it is reasonable to limit the airspace approach until 2016 and to reintroduce the full ETS from 2017. If the international agreement is really adopted in ICAO in 2016, of course the European Union should be ready to modify the legislation accordingly.
2. **Amendments to increase the ambition and environmental integrity and to guarantee equal treatment with other industries:**
The level of auctioning in the aviation ETS is only 15% compared to an average of 40% for the rest of the industry. The cap is only 5%, compared to 21% for other industries. This has always been subject to criticism and the European Parliament already in 2007/2008 during the legislative progress asked for equal treatment of all industries. The airspace approach reduces the emissions covered by the ETS to 40% compared to the original scheme. To limit the damage for the environment it is justified to increase the auctioning and necessary to reduce emissions (cap) at least to

the level that other industries have to comply with already since the beginning of 2013.

Implementation of existing EU legislation is crucial for any progress

It has been coming to the attention of the rapporteur that, even though the EU ETS is limited for intra-European flights, currently some member states seem to hesitate to implement the legislation. Third countries like China and India refuse to surrender allowances for flights inside Europe, for example from Frankfurt to London. For the rapporteur it seems to be unacceptable to discuss with the Council on any outcome of a legislative proposal before it is clarified that the very limited Stop the Clock legislation is implemented. We cannot accept that third countries like China and India refuse to comply with European legislation when operating inside the European Union.

Adoption by April is crucial

All those that do not want to keep the EU ETS for aviation in its original form, which means all intercontinental flights are covered from start to final destination, need to seek agreement on an amended directive by April, because otherwise the 1st of May the original legislation needs to be enforced. That's why an ambitious timetable has been agreed upon, also with the responsible persons in the Transport committee. Your rapporteur thinks it is necessary to agree on an amendment and is willing to talk to all stakeholders, but would not recommend the European Parliament to limit any compromise to a prolongation of the Stop the Clock.