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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
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Delegations will find attached document COM(2017) 54 final.

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Brussels, 3.2.2017
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2017/0017 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 2003/87/EC to continue current limitations of scope for aviation activities and to prepare to implement a global market-based measure from 2021

(Text with EEA relevance)

{SWD(2017) 30 final}

{SWD(2017) 31 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

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

Greenhouse gas emissions from aviation activities are increasing significantly. In the absence of further measures, carbon dioxide (CO₂) emissions from international aviation are estimated to almost quadruple by 2050 compared to 2010. Several studies demonstrate that technical and operational measures alone, including CO₂ standards for aircrafts or the deployment of sustainable biofuels, are insufficient to curb aviation emissions, thus the need to use market-based measures to address their growth. The strong growth in GHG emissions from the aviation sector risks undermining the EU's and global efforts to effectively tackle climate change.

Back in 2008, the EU led the way in addressing GHG emissions from aviation by including flights between aerodromes within the European Economic Area (hereafter "intra-EEA flights") and flights between aerodromes in the European Economic Area (EEA) and aerodromes in third countries ("extra-EEA flights") in the EU Emissions Trading System. This was instrumental in getting agreement in International Civil Aviation Organisation for a process towards a global market based measure to address international aviation, which started in 2013. It also allowed for aviation to contribute to the EU climate objective of emission reduction of 20% by 2020 compared to 1990 levels. Pending agreement in ICAO, and to promote the development of a global measure to regulate international aviation emissions in ICAO, the EU temporarily reduced the scope of the EU ETS to intra-EEA flights until 2016, waiting for the outcome of ICAO to review its scope in relation to extra-EEA flights. In the absence of any amendments to the EU ETS Directive, the EU ETS will automatically revert back to its full-scope application from 2017.

The European Council agreed in October 2014 the 2030 policy framework for climate and energy. A centrepiece of the 2030 framework is the binding target to reduce overall EU greenhouse gas emissions by at least 40% domestically below 1990 levels by 2030. To achieve this target cost-effectively, the sectors covered by the EU emissions trading system (EU ETS) will have to reduce their emissions by 43% compared to 2005, while non-ETS sectors will have to reduce their emissions by 30% compared to 2005. This allowed the EU to submit its contribution under the Paris Agreement, qualifying as an economy wide commitment, including aviation emissions. The EU is committed to duly contribute to the climate goal under the Paris Agreement of keeping global warming well below 2 degrees Celsius above pre-industrial levels and pursue efforts to limit temperature increase to 1.5 degrees Celsius, as well as the aspirational goal set by the International Civil Aviation Organisation that global net CO₂ emissions from international aviation should not exceed 2020 levels ('carbon neutral growth' or CNG 2020).

In October 2016, ICAO agreed at its 39th Assembly on a Resolution for a global market-based measure (GMBM) to address the growth in international aviation emissions globally from 2021 through an offsetting system, aimed at enabling the aspiration goal of stabilising international aviation emissions at 2020 levels. During the GMBM's first phase (2021-2026), participation in the GMBM is explicitly voluntary. All major aviation countries should apply the GMBM from the start of its second phase in 2027. The EU and its Member States expressed their intention to apply the GMBM during its voluntary phase. While the

aspirational goal and the basic nature of the GMBM as offsetting are agreed, a number of important features of the GMBM, key for its effectiveness and environmental integrity from a climate perspective, still need to be developed and agreed in ICAO before the GMBM can be implemented in 2021. Any delays in agreeing on these elements risk delaying the operationalization of the GMBM. This would also risk delaying implementation by States in domestic legislation which is crucial since the concrete operationalization of the GMBM rests on such national and regional action.

The existing legislation requires the Commission to assess the outcome of the 39th ICAO Assembly and, in that light, to review the scope of the EU ETS for flights to and from the EEA. In the absence of amendment to the existing legislation, the initial scope of the ETS (ie including extra EEA flights) would apply again. In view of the agreement on the GMBM at ICAO, the EU support towards its completion and timely operationalization, and the EU's intended implementation of the GMBM from 2021 onwards, it is deemed necessary to review the EU ETS legislation.

To provide further momentum to international discussions on the remaining rules and governance necessary for the implementation of the GMBM it is proposed to continue the reduced scope application of the EU ETS (i.e. to flights between aerodromes located within the EEA, as set out in Regulation No 421/2014) beyond 2016. Once there is more clarity about the nature and content of the legal instruments adopted by ICAO for the implementation of the GMBM as well as about the intentions of our international partners regarding the implementation of the GMBM, a further assessment and review the EU ETS for the post-2020 period will be carried out. This will also take due account of the necessary consistency with the economy wide commitment taken by the EU under the Paris Agreement and its agreed objective of reducing GHG emissions domestically by 40 % by 2030 compared to 1990 levels.

To provide legal certainty for compliance with the ETS in 2017, it is important that this proposal is agreed between the European Parliament and Council swiftly and ideally by the end of 2017.

- **Consistency with existing policy provisions in the policy area**

This proposal, in general, continues the approach of existing policy provisions for ETS sectors laid down in the EU ETS Directive while taking due account of new and further developments in ICAO and notably the agreement reached on the GMBM. The European Council explicitly called for the continuation of the current policy architecture for the EU ETS and gave guidance on specific issues to be addressed for the period 2021 to 2030. In line with the guidance received, the European Commission proposed in July 2015 a legislative proposal to revise the EU ETS for stationary installations for the period after 2020. That proposal did not address issues relating to the coverage of aviation in the EU ETS, as it was considered inappropriate to do so in advance of the 39th ICAO Assembly in October 2016. Now, consistent with the European Council conclusions, this proposal addressing aviation emissions continues the approach to emissions from intra-European flights under the EU ETS. The present proposal is complementary to the broader ETS review as proposed by the Commission in July 2015 and presently in the co-decision process.

- **Consistency with other Union policies**

The proposal provides for implementation of part of the 2030 climate and energy policy framework as a key element in the context of building a resilient Energy Union with forward-looking climate policy. Complementary legislative proposals have already been made to help to achieve the different targets agreed by the European Council. These proposals should facilitate the achievement of the ETS and non-ETS climate targets. In addition, the Commission aviation strategy and the Strategy on low emissions mobility address action to further reduce GHG emissions in transport, as part of broader decarbonisation efforts undertaken and committed by the EU, including for the 2030 horizon.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Articles 191 to 193 of the Treaty of the Functioning of the European Union (TFEU) confirm and specify EU competences in the area of climate change. The legal basis for this proposal is Article 192 TFEU.

- **Subsidiarity (for non-exclusive competence)**

The EU ETS Directive is an existing EU policy instrument that continues after 2020. In accordance with the principle of subsidiarity set out in Article 5 of the Treaty of the Functioning of the European Union, the objectives of the proposal amending this instrument can only be achieved through a proposal from the Commission at EU level.

Acting at EU level, and where possible at global level, is more efficient than acting at the Member State level, due to the trans-boundary effects of climate change and the largely transnational nature of aviation. Action at EU level will most effectively deliver the EU's domestic and international climate targets and ensure the harmonized implementation of the GMBM in the EU. By doing so, the aviation sector's adequate contribution to reducing the impacts from climate change can be safeguarded, while preserving the EU aviation sector's international competitiveness and maintaining a level-playing field in the EU's internal market.

- **Proportionality**

The proposal complies with the proportionality principle because it does not go beyond what is necessary in order to achieve the objectives of implementing the EU's GHG reduction targets for 2020 and 2030 in a cost-effective manner, while at the same time ensuring the proper functioning of the internal market and facilitating the completion of rules for the implementation of the GMBM.

- **Choice of the instrument**

This proposal for a Regulation follows on from Regulation (EU) No 421/2014, which was adopted following the 2013 ICAO Assembly. As with Regulation (EU) No 421/2014, it is important that this proposal is agreed swiftly between the European Parliament and Council,

so as to be in place for when the next compliance obligations under the EU ETS are due in March and April 2018. In the absence of a revision, the ETS reverts to its original scope. Consequently, this proposal should be adopted by the European Parliament and Council and enter into force no later than early 2018, so as to provide legal certainty and clarity for aircraft operators who would otherwise have to surrender allowances for their full emissions to and from third countries by 30 April 2018, as referred to in Directive 2003/87/EC.

In view of the limited time available, it is considered that the present proposal can best be pursued through a Regulation. Regulations are directly applicable in all Member States and binding in their entirety and are thus the best means to achieve a timely and uniform implementation of the amendments ahead of the compliance deadlines for the year 2017 in March and April 2018.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

In the context of the review of the EU ETS for 2021-2030, an evaluation of the existing ETS Directive was part of the impact assessment work and has fed into the assessment of the policy options. There was no ex-post evaluation or fitness check specifically related to the EU ETS for aviation because the EU ETS for aviation has never been applied in its full scope as initially designed. Amendments to the scope of the EU ETS for aviation were done on the basis of extensive assessments to address the concerns and take into account opposition raised in relation to the measure as initially designed while maintaining equal treatment of all operators on the same routes. The 2013 Impact Assessment¹ accompanying the proposal for Regulation (EU) No 421/2014, as well as the Impact Assessment accompanying this proposal together with the Carbon Market Reports prepared by the Commission and the EU's ICAO Action Plans submitted by the Commission to ICAO are effectively evaluating and assessing the effectiveness and functioning of the EU ETS Directive for aviation, which is considered adequate in terms of retrospective evaluation report and fitness check of the EU ETS Directive for aviation.

- **Stakeholder consultations**

With a view to address a review of the EU ETS following the 2016 ICAO Assembly, an online public consultation was held for 12 weeks between 7 March and 30 May 2016. Overall, most stakeholder groups agreed that ambitious targets for emissions reductions in international aviation should be agreed and that MBMs are appropriate tools to reduce emissions from international aviation. However, there were different views in relation to the desirable level of ambition and the specific mechanisms to reduce emissions. While some stakeholders consider that the EU ETS should continue under the current intra-EEA scope after 2017, some were of the view that it should revert back to its full-scope (including flights

¹ SWD(2013) 430 final

to and from third countries). Beyond 2020, many respondents noted that options for the EU ETS should depend on the level of ambition, nature, scope and environmental integrity/effectiveness of the agreement reached at the 2016 ICAO Assembly. The Commission will continue to engage in constructive bilateral and multilateral contacts with stakeholders and third countries.

- **Collection and use of expertise**

As regards overall, global GHG emission projections, the impact assessment used the United Nations Environmental Programme's Emission Gap Report 2015 and the fifth Assessment Report by the Intergovernmental Panel on Climate Change (IPCC). In relation to overall EU GHG projections, reports from the European Environmental Agency were used as a basis. The study relied on relevant data from the ICAO Environmental Reports, notably in relation to emissions and emission forecasts for international aviation, as well as the emission reduction potential for international aviation from technical and operational measures. The forecasted growth data of the aviation sector set out in the ICAO Environmental Report was used in the underlying econometric modelling and analysis.

- **Impact assessment**

The Impact Assessment analyses different options both for the period pre-2020 and for the period from 2021. Before 2020, the continuation of the intra-EEA scope and an alternative covering all flights departing from the EEA are assessed and compared with the baseline (full-scope). After 2020, all options consider that the GMBM will cover flights to and from third countries. One option also considers that intra-EEA emissions are offset through the GMBM, while another one keeps the EU ETS obligations for intra-EEA flights. Intermediate options consider changes to the EU ETS for intra-EEA flights to either seek some alignment with the GMBM (with the EU ETS working under an offsetting approach) or to combine both systems (with the EU ETS covering emissions not addressed by the GMBM).

The Impact Assessment has shown that a continuation of the current intra-EEA scope of the EU ETS would be the most suitable option to address the period 2017-2020 and bring the expected contribution from aviation to the 2020 climate objective. It would also be welcomed by third countries and provide momentum for ICAO to finalize the necessary outstanding rules for the implementation of the GMBM; and this would be feasible at a very low administrative cost since the system is in place and very well complied with by all. Global mitigation action on the sector's emissions would be maximized by facilitating the actual implementation of the GMBM from 2021, as expected.

The impact assessment has also analysed different options for a post-2020 scenario, showing whether and how they would contribute to meet the EU's 2030 climate targets. However, given the uncertainties still affecting the concrete implementation of the GMBM it is considered premature to take a decision on the post-2020 regime at this stage, while standing ready to review the situation in due time before the GMBM is expected to start operating.

- **Regulatory fitness and simplification**

In order to lighten administrative tasks for the smallest aircraft operators, the exemption for non-commercial aircraft operators emitting less than 1000 tonnes CO₂ per annum should continue to apply for another ten years.

- **Fundamental rights**

The proposal respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. In particular, it contributes to the objective of a high level of environmental protection in accordance with the principle of sustainable development as laid down in Article 37 of the Charter of Fundamental Rights of the European Union.

4. BUDGETARY IMPLICATIONS

The proposal has no implication for the Community budget.

5. OTHER ELEMENTS

- **Detailed explanation of the specific provisions of the proposal**

In response to the progress achieved by the 39th ICAO Assembly and to promote further momentum towards the successful implementation of a GMBM to address international aviation emissions from 2021, it is proposed to make amendments to the aviation activities covered by the EU ETS. It is proposed to extend the current approach to application of the EU ETS as set out in Regulation No. 421/2014 beyond 2016 until there will be sufficient clarity about the nature and content of the legal instruments adopted by ICAO for the implementation of the GMBM to allow the European Commission to carry out further assessments and review the EU ETS for the post-2020 period. Consequent with this approach, allocation to aircraft operators from 2017 should be the same as in 2016. These arrangements are expected to apply already to the 2017 allocation. Thus, the implementation of the EU ETS in that year, pending the entry into force of the amendment, should be, as far as possible, consistent with it and in line with the expected final outcome of the co-decision process.

This proposal aims at continuing the current highly positive environmental impact of the EU ETS, which contributes to around 17 million tonnes of CO₂ emission reductions per year. This means that aviation, within the European Economic Area, contributes to the domestic emission reductions efforts as any other economic sector. While ensuring that the EU will continue to achieve substantial emission reductions from aviation through the EU ETS, consistent with EU climate objectives, it maintains the impetus to the work in ICAO on the actual operationalization of the GMBM to maximise the global mitigation outcome. The review clause provides a positive signal on the EU's intention to apply the GMBM.

- **Article 1 amending Directive 2003/87/EC**

The proposal amends Article 28a of the Directive, adds two more articles (28b and 28c) and modifies its Annex I.

Article 28a

Amendments are made to article 28a of the EU ETS Directive on the derogations applicable in advance of the implementation of an international agreement applying a single global market-based measure. Following the same approach as under Regulation (EU) No 421/2014 for the 2013-2016 period, the application of the EU ETS Directive to flights to and from outermost regions and third countries is derogated from after 2016, while flights between aerodromes in the EEA remain fully covered. Given that the scope remains as in 2016, the amount of free allocation received by aircraft operators will continue to be the same as in 2016 so, proportional to the intra-EEA activity, and the linear reduction factor applicable to all sectors under the EU ETS Directive will apply but only from 2021 onwards. Allocation from the special reserve should be treated equally and thus its issuance must be adjusted to the intra-EEA scope. The amounts to be auctioned should also continue being the same as in 2016. The system will apply to flights with countries with whom a bilateral agreement to link cap and trade systems is reached in only in line with the terms of such agreement.

Article 28b

A new article 28b in the EU ETS Directive is introduced to prepare for the implementation of a global market-based measure from 2021. It requires the Commission to report to the European Parliament and the Council on international developments of relevance for the implementation of the GMBM, as well as on the actions taken by third countries to implement the GMBM. Thereby, the Commission is to consider ways to implement the relevant ICAO instruments in Union law through a revision of the EU ETS Directive. This may be accompanied with legislative proposals as appropriate.

Article 28c

Also to prepare for the implementation of the GMBM the Commission is empowered to adopt delegated acts to provide for the appropriate monitoring, reporting and verification of emissions applicable to aircraft operators for the purpose of implementing the global market-based measure being elaborated in ICAO.

Annex I

Annex I to Directive 2003/87/EC is amended by extending the exemption for non-commercial aircraft operators emitting less than 1 000 tonnes CO₂ per annum from 2020 until 2030. This has proven to be an effective measure, considerably reducing the administrative effort required to implement the EU ETS, while continuing to achieve substantial emission reductions through the EU ETS. The exemption reduced the number of aircraft operators regulated by Member States by around 2200 representing only 0.2% of emissions.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 2003/87/EC to continue current limitations of scope for aviation activities and to prepare to implement a global market-based measure from 2021

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee²,

Having regard to the opinion of the Committee of the Regions³,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) At the 21st Conference of the Parties to the United Nations Framework Convention on Climate Change (UNFCCC) which took place in Paris from 30 November to 12 December 2015, an international agreement was adopted to strengthen the global response to climate change. The Paris Agreement, *inter alia*, sets out a long-term goal in line with the objective to keep the global temperature increase well below 2°C above pre-industrial levels and to pursue efforts to keep it to 1,5°C above pre-industrial levels. The Paris Agreement was approved on behalf of the Union by Council Decision (EU) 2016/1841. The Paris Agreement entered into force on 4th November 2016. In order to achieve the goal of the Paris Agreement, parties will prepare, communicate and maintain successive nationally determined contributions.
- (2) The environmental objectives of the Union as referred to in Article 191 of the Treaty, are preserving, protecting and improving the quality of the environment; protecting human health; and promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change.

² OJ C , , p. .

³ OJ C , , p. .

- (3) A binding target of at least a 40% domestic reduction in economy-wide greenhouse gas emissions by 2030 compared to 1990 was set by the European Council of 23-24 October 2014. The Council meeting on 6 March 2015 formally approved this contribution of the Union and its Member States as their Intended Nationally Determined Contribution under the Paris Agreement. The European Council conclusions of October 2014 foresaw that the target should be delivered collectively by the Union in the most cost-effective manner possible, with the reductions in the Emissions Trading System (ETS) and non-ETS sectors amounting to 43% and 30% by 2030 compared to 2005 respectively. All sectors of the economy should contribute to achieving these emission reductions.
- (4) The Union and its Member States have been endeavouring to advance international agreement to reduce greenhouse gas impacts from aviation since 1997 and they have legislation in place since 2008 to limit the climate change impacts from aviation activities through the EU emissions trading system (EU ETS) that has been operating since 2005. In order to advance progress at the International Civil Aviation Organization (ICAO), the Union has twice adopted time-bound derogations to the EU ETS so as to limit compliance obligations to emissions from flights between aerodromes situated in the European Economic Area (EEA), with equal treatment on routes of aircraft operators wherever they are based. The most recent derogation from the EU ETS, Regulation (EU) No 421/2014 of the European Parliament and of the Council, limited compliance obligations to intra-EEA flights between 2013 and 2016, and envisaged potential changes to the scope of the system as regards activity to and from aerodromes situated outside the EEA from 1 January 2017 onwards following the review set out in that Regulation.
- (5) In the light of the resolution adopted at ICAO's 39th Assembly in October 2016 on the implementation of a global market-based measure from 2021 to offset international aviation emissions above 2020 levels, it is considered appropriate to continue the existing derogation pending further progress on the design elements and the implementation of the global market-based measure. In this regard, the adoption of Standards and Recommended Practices by ICAO to complement that Resolution and implement the global system is planned for 2018. However, its concrete operationalisation will require action by ICAO parties at domestic level. Also, governance arrangements must be developed by ICAO, including a registry system. In this context, the current derogation of the EU ETS obligations for flights to and from third countries should be extended, subject to the review on implementing the ICAO scheme, in order to promote momentum in ICAO and facilitate the operationalisation of the ICAO scheme. As a result of the extension of the derogation, the amount of allowances to be auctioned and issued for free, including from the special reserve, should be the same as would correspond to 2016, and should be proportional to the reduction of the surrender obligation.
- (6) Given that key features of the global market-based measure have yet to be developed and that its implementation depends on domestic legislation by States and regions, it is considered appropriate for a review to take place once there is clarity about the nature and content and of these legal instruments in advance of the start of ICAO's global market-based measure, and a report submitted to the European Parliament and Council. That report should consider any standards or other instruments adopted through ICAO, the actions taken by third countries to implement the global market-based measure to apply to emissions from 2021 and other relevant international

developments (e.g. rules under UNFCCC and the Paris Agreement on carbon markets and accounting). That report should consider how to implement these instruments in Union law through a revision of the EU ETS. It should also consider the rules applicable to intra-EEA flights as appropriate. That report should be accompanied by a proposal as appropriate to the European Parliament and the Council consistent with ensuring the contribution of aviation to the Union's 2030 economy-wide greenhouse gas reduction commitment.

- (7) In order to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of a legislative act, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to adopt measures for the monitoring, reporting and verification of emissions applicable to aircraft operators for the purpose of the global market-based measure being elaborated in ICAO. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (8) As a simplification and in order to lighten administrative tasks for the smallest aircraft operators, non-commercial aircraft operators emitting less than 1000 tonnes CO₂ per annum should continue to be considered as meeting the requirements of Directive 2003/87/EC for another ten years, during which measures should be elaborated so that in future all operators contribute to emission reductions.
- (9) It is essential to ensure legal certainty for aircraft operators and national authorities in view of the surrender deadline of 30 April 2018 specified in Directive 2003/87/EC. Accordingly, this Regulation should apply from the day of its publication in the *Official Journal of the European Union*.
- (10) Directive 2003/87/EC should therefore be amended accordingly.

HAVE ADOPTED THIS REGULATION:

Article 1

Directive 2003/87/EC is amended as follows:

- (1) Article 28a is amended as follows:
 - (a) paragraph 1 is amended as follows:
 - i. points (a) and (b) are replaced by the following:
 - (a) all emissions from flights to and from aerodromes located in countries outside the European Economic Area (EEA) in each

calendar year from 1 January 2013, subject to the review referred to in Article 28b".

(b) all emissions from flights between an aerodrome located in an outermost region within the meaning of Article 349 of the Treaty on the Functioning of the European Union (TFEU) and an aerodrome located in another region of the EEA in each calendar year from 1 January 2013, subject to the review referred to in Article 28b".

ii. point (c) is deleted.

(b) paragraph 2 is amended as follows:

i. the first subparagraph is replaced by the following:

“From 1 January 2017, by way of derogation from Articles 3d to 3f and until amendments subsequent to the review referred to in Article 28b have entered into force, aircraft operators shall be issued, each year, the number of allowances that corresponds to the year 2016. From 2021 onwards that number of allowances shall be subject to the application of the linear factor in Article 9.”

ii. the third subparagraph is deleted.

(c) paragraph 4 is replaced by the following:

“4. By way of derogation from Article 3d(3), the number of allowances to be auctioned by each Member State from 1 January 2013 shall be reduced to correspond to its share of attributed aviation emissions from flights which are not subject to the derogations provided for in points (a) and (b) of paragraph 1 of this Article.”;

(d) paragraph 7 is replaced by the following:

"Paragraph 1 shall apply to countries with whom an agreement pursuant to Article 25 or 25a has been reached only in line with the terms of such agreement".

(2) The following Articles 28b and 28c are inserted:

"Article 28b

Reporting by the Commission on the implementation of ICAO's global market-based measure

1. The Commission shall report to the European Parliament and the Council on the relevant ICAO standards or other legal instruments as well as on domestic measures taken by third countries to implement the global market-based measure to be applied to emissions from 2021, and on other relevant international developments.
2. The report should consider ways for those ICAO instruments to be implemented in Union law through a revision of this Directive. The report shall also consider the

rules applicable in respect of flights within the European Economic Area (EEA) as appropriate.

3. The report may be accompanied by proposals, as appropriate to the European Parliament and the Council to amend, delete, extend or replace the derogations provided for in Article 28a, consistent with the Union economy-wide greenhouse gas emission reduction commitment for 2030.

Article 28c

Provisions for monitoring, reporting and verification for the purpose of the global market-based measure

1. The Commission shall adopt provisions for the appropriate monitoring, reporting and verification of emissions for the purpose of implementing the global market-based measure being elaborated in ICAO. Those provisions shall be based on the same principles as the Regulation referred to in Article 14 (1) and shall ensure that the emissions reports submitted are verified in accordance with Article 15.
2. The Commission is empowered to adopt a delegated act in accordance with Article [23]."
- (3) In point (k) of Annex I, the year '2020' is replaced by '2030'.

Article 2

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President