

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 (Text with EEA relevance)

[^{F1}CHAPTER IV

PROVISIONS APPLYING TO AVIATION AND STATIONARY INSTALLATIONS]

[^{F2}^{F3}Article 11a

Use of CERs and ERUs from project activities in the Community scheme before the entry into force of an international agreement on climate change

1 Without prejudice to the application of Article 28(3) and (4), paragraphs 2 to 7 of this Article shall apply.

2 To the extent that the levels of CER and ERU use, allowed to operators or aircraft operators by Member States for the period from 2008 to 2012, have not been used up or an entitlement to use credits is granted under paragraph 8, operators may request the competent authority to issue allowances to them valid from 2013 onwards in exchange for CERs and ERUs issued in respect of emission reductions up until 2012 from project types which were eligible for use in the Community scheme during the period from 2008 to 2012.

Until 31 March 2015, the competent authority shall make such an exchange on request.

3 To the extent that the levels of CER and ERU use, allowed to operators or aircraft operators by Member States for the period from 2008 to 2012, have not been used up or an entitlement to use credits is granted under paragraph 8, competent authorities shall allow operators to exchange CERs and ERUs from projects that were registered before 2013 issued in respect of emission reductions from 2013 onwards for allowances valid from 2013 onwards.

The first subparagraph shall apply to CERs and ERUs for all project types which were eligible for use in the Community scheme during the period from 2008 to 2012.

4 To the extent that the levels of CER and ERU use, allowed to operators or aircraft operators by Member States for the period from 2008 to 2012, have not been used up or an entitlement to use credits is granted under paragraph 8, competent authorities shall allow operators to exchange CERs issued in respect of emission reductions from 2013 onwards for allowances from new projects started from 2013 onwards in LDCs.

The first subparagraph shall apply to CERs for all project types which were eligible for use in the Community scheme during the period from 2008 to 2012, until those countries have ratified a relevant agreement with the Community or until 2020, whichever is the earlier.

5 To the extent that the levels of CER and ERU use, allowed to operators or aircraft operators by Member States for the period from 2008 to 2012, have not been used up or an entitlement to use credits is granted under paragraph 8 and in the event that the negotiations on an international agreement on climate change are not concluded by 31 December 2009, credits from projects or other emission reducing activities may be used in the Community scheme in accordance with agreements concluded with third countries, specifying levels of use. In

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accordance with such agreements, operators shall be able to use credits from project activities in those third countries to comply with their obligations under the Community scheme.

6 Any agreements referred to in paragraph 5 shall provide for the use of credits in the Community scheme from project types which were eligible for use in the Community scheme during the period from 2008 to 2012, including renewable energy or energy efficiency technologies which promote technological transfer and sustainable development. Any such agreement may also provide for the use of credits from projects where the baseline used is below the level of free allocation under the measures referred to in Article 10a or below the levels required by Community legislation.

7 Once an international agreement on climate change has been reached, only credits from projects from third countries which have ratified that agreement shall be accepted in the Community scheme from 1 January 2013.

8 All existing operators shall be allowed to use credits during the period from 2008 to 2020 up to either the amount allowed to them during the period from 2008 to 2012, or to an amount corresponding to a percentage, which shall not be set below 11 %, of their allocation during the period from 2008 to 2012, whichever is the highest.

Operators shall be able to use credits beyond the 11 % provided for in the first subparagraph, up to an amount which results in their combined free allocation in the period from 2008 to 2012 and overall project credits entitlement equal to a certain percentage of their verified emissions in the period from 2005 to 2007.

New entrants, including new entrants in the period from 2008 to 2012 which received neither free allocation nor an entitlement to use CERs and ERUs in the period from 2008-2012, and new sectors shall be able to use credits up to an amount corresponding to a percentage, which shall not be set below 4,5 %, of their verified emissions during the period from 2013 to 2020. Aircraft operators shall be able to use credits up to an amount corresponding to a percentage, which shall not be set below 1,5 %, of their verified emissions during the period from 2013 to 2020.

Measures shall be adopted to specify the exact percentages which shall apply under the first, second and third subparagraphs. At least one-third of the additional amount which is to be distributed to existing operators beyond the first percentage referred to in the first subparagraph shall be distributed to the operators which had the lowest level of combined average free allocation and project credit use in the period from 2008 to 2012.

Those measures shall ensure that the overall use of credits allowed does not exceed 50 % of the Community-wide reductions below the 2005 levels of the existing sectors under the Community scheme over the period from 2008 to 2020 and 50 % of the Community-wide reductions below the 2005 levels of new sectors and aviation over the period from the date of their inclusion in the Community scheme to 2020.

Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3).

9 From 1 January 2013, measures may be applied to restrict the use of specific credits from project types.

Those measures shall also set the date from which the use of credits under paragraphs 1 to 4 shall be in accordance with these measures. That date shall be, at the earliest, six months from the adoption of the measures or, at the latest, three years from their adoption.

Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3). The Commission shall consider submitting to the Committee a draft of the measures to be taken where a Member State so requests.]

Textual Amendments

- F2** Inserted by [Directive 2004/101/EC of the European Parliament and of the Council of 27 October 2004 amending Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community, in respect of the Kyoto Protocol's project mechanisms \(Text with EEA relevance\)](#).
- F3** Substituted by [Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community \(Text with EEA relevance\)](#).

Article 11b

Project activities

1 Member States shall take all necessary measures to ensure that baselines for project activities, as defined by subsequent decisions adopted under the UNFCCC or the Kyoto Protocol, undertaken in countries having signed a Treaty of Accession with the Union fully comply with the *acquis communautaire*, including the temporary derogations set out in that Treaty of Accession.

[^{F4}The Community and its Member States shall only authorise project activities where all project participants have headquarters either in a country that has concluded the international agreement relating to such projects or in a country or sub-federal or regional entity which is linked to the Community scheme pursuant to Article 25.]

2 Except as provided for in paragraphs 3 and 4, Member States hosting project activities shall ensure that no ERUs or CERs are issued for reductions or limitations of greenhouse gas emissions from [^{F5}activities] falling within the scope of this Directive.

3 Until 31 December 2012, for JI and CDM project activities which reduce or limit directly the emissions of an installation falling within the scope of this Directive, ERUs and CERs may be issued only if an equal number of allowances is cancelled by the operator of that installation.

4 Until 31 December 2012, for JI and CDM project activities which reduce or limit indirectly the emission level of installations falling within the scope of this Directive, ERUs and CERs may be issued only if an equal number of allowances is cancelled from the national registry of the Member State of the ERUs' or CERs' origin.

5 A Member State that authorises private or public entities to participate in project activities shall remain responsible for the fulfilment of its obligations under the UNFCCC and the Kyoto Protocol and shall ensure that such participation is consistent with the relevant guidelines, modalities and procedures adopted pursuant to the UNFCCC or the Kyoto Protocol.

6 In the case of hydroelectric power production project activities with a generating capacity exceeding 20 MW, Member States shall, when approving such project activities, ensure that relevant international criteria and guidelines, including those contained in the World

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Commission on Dams November 2000 Report ‘Dams and Development — A New Framework for Decision-Making’, will be respected during the development of such project activities.

[^{F67} Provisions for the implementation of paragraphs 3 and 4, particularly in respect of the avoidance of double counting, shall be adopted by the Commission in accordance with the regulatory procedure referred to in Article 23(2). The Commission shall adopt provisions for the implementation of paragraph 5 of this Article where the host party meets all eligibility requirements for JI project activities. Those measures, designed to amend non-essential elements of this Directive, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3).]]

Textual Amendments

- F2** Inserted by Directive 2004/101/EC of the European Parliament and of the Council of 27 October 2004 amending Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community, in respect of the Kyoto Protocol's project mechanisms (Text with EEA relevance).
- F4** Inserted by Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community (Text with EEA relevance).
- F5** Substituted by Directive 2008/101/EC of the European Parliament and of the Council of 19 November 2008 amending Directive 2003/87/EC so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Community (Text with EEA relevance).
- F6** Substituted by Regulation (EC) No 219/2009 of the European Parliament and of the Council of 11 March 2009 adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny Adaptation to the regulatory procedure with scrutiny — Part Two.

Article 12

Transfer, surrender and cancellation of allowances

- 1 Member States shall ensure that allowances can be transferred between:
 - a persons within the Community;
 - b persons within the Community and persons in third countries, where such allowances are recognised in accordance with the procedure referred to in Article 25 without restrictions other than those contained in, or adopted pursuant to, this Directive.

[^{F41a} The Commission shall, by 31 December 2010, examine whether the market for emissions allowances is sufficiently protected from insider dealing or market manipulation and, if appropriate, shall bring forward proposals to ensure such protection. The relevant provisions of Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse)⁽¹⁾ may be used with any appropriate adjustments needed to apply them to trade in commodities.]

- 2 Member States shall ensure that allowances issued by a competent authority of another Member State are recognised for the purpose[^{F1} of meeting an aircraft operator's obligations under paragraph 2a or] of meeting an operator's obligations under paragraph 3.

[^{F12a} Administering Member States shall ensure that, by 30 April each year, each aircraft operator surrenders a number of allowances equal to the total emissions during the preceding calendar year from aviation activities listed in Annex I for which it is the aircraft operator, as

verified in accordance with Article 15. Member States shall ensure that allowances surrendered in accordance with this paragraph are subsequently cancelled.]

[^{F53} Member States shall ensure that, by 30 April each year, the operator of each installation surrenders a number of allowances, other than allowances issued under Chapter II, equal to the total emissions from that installation during the preceding calendar year as verified in accordance with Article 15, and that these are subsequently cancelled.]

[^{F43a} An obligation to surrender allowances shall not arise in respect of emissions verified as captured and transported for permanent storage to a facility for which a permit is in force in accordance with Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide⁽²⁾.]

4 Member States shall take the necessary steps to ensure that allowances will be cancelled at any time at the request of the person holding them.

[^{F45} Paragraphs 1 and 2 apply without prejudice to Article 10c.]

Textual Amendments

- F4** Inserted by [Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community \(Text with EEA relevance\)](#).
- F5** Substituted by [Directive 2008/101/EC of the European Parliament and of the Council of 19 November 2008 amending Directive 2003/87/EC so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Community \(Text with EEA relevance\)](#).

[^{F3}Article 13

Validity of allowances

1 Allowances issued from 1 January 2013 onwards shall be valid for emissions during periods of eight years beginning on 1 January 2013.

2 Four months after the beginning of each period referred to in paragraph 1, allowances which are no longer valid and have not been surrendered and cancelled in accordance with Article 12 shall be cancelled by the competent authority.

Member States shall issue allowances to persons for the current period to replace any allowances held by them which are cancelled in accordance with the first subparagraph.]

Textual Amendments

- F3** Substituted by [Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community \(Text with EEA relevance\)](#).

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[^{F3}Article 14

Monitoring and reporting of emissions

1 By 31 December 2011, the Commission shall adopt a regulation for the monitoring and reporting of emissions and, where relevant, activity data, from the activities listed in Annex I, for the monitoring and reporting of tonne-kilometre data for the purpose of an application under Articles 3e or 3f, which shall be based on the principles for monitoring and reporting set out in Annex IV and shall specify the global warming potential of each greenhouse gas in the requirements for monitoring and reporting emissions for that gas.

That measure, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3).

2 The regulation referred to in paragraph 1 shall take into account the most accurate and up-to-date scientific evidence available, in particular from the IPCC, and may also specify requirements for operators to report on emissions associated with the production of goods produced by energy intensive industries which may be subject to international competition. That regulation may also specify requirements for this information to be verified independently.

Those requirements may include reporting on levels of emissions from electricity generation covered by the Community scheme associated with the production of such goods.

3 Member States shall ensure that each operator of an installation or an aircraft operator monitors and reports the emissions from that installation during each calendar year, or, from 1 January 2010, the aircraft which it operates, to the competent authority after the end of that year in accordance with the regulation referred to in paragraph 1.

4 The regulation referred to in paragraph 1 may include requirements on the use of automated systems and data exchange formats to harmonise communication on the monitoring plan, the annual emission report and the verification activities between the operator, the verifier and competent authorities.]

Textual Amendments

F3 Substituted by [Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community \(Text with EEA relevance\)](#).

[^{F5}Article 15

[^{F3}Verification and accreditation]

Member States shall ensure that the reports submitted by operators and aircraft operators pursuant to Article 14(3) are verified in accordance with the criteria set out in Annex V and any detailed provisions adopted by the Commission in accordance with this Article, and that the competent authority is informed thereof.

Member States shall ensure that an operator or aircraft operator whose report has not been verified as satisfactory in accordance with the criteria set out in Annex V and any

detailed provisions adopted by the Commission in accordance with this Article by 31 March each year for emissions during the preceding year cannot make further transfers of allowances until a report from that operator or aircraft operator has been verified as satisfactory.

The Commission may adopt detailed provisions for the verification of reports submitted by aircraft operators pursuant to Article 14(3) and applications under Articles 3e and 3f, including the verification procedures to be used by verifiers, in accordance with the regulatory procedure referred to in Article 23(2).

[^{F4}By 31 December 2011, the Commission shall adopt a regulation for the verification of emission reports based on the principles set out in Annex V and for the accreditation and supervision of verifiers. It shall specify conditions for the accreditation and withdrawal of accreditation, for mutual recognition and peer evaluation of accreditation bodies, as appropriate.

That measure, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3).]]

Textual Amendments

- F3** Substituted by [Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community \(Text with EEA relevance\)](#).
- F4** Inserted by [Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community \(Text with EEA relevance\)](#).
- F5** Substituted by [Directive 2008/101/EC of the European Parliament and of the Council of 19 November 2008 amending Directive 2003/87/EC so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Community \(Text with EEA relevance\)](#).

[^{F4}Article 15a

Disclosure of information and professional secrecy

Member States and the Commission shall ensure that all decisions and reports relating to the quantity and allocation of allowances and to the monitoring, reporting and verification of emissions are immediately disclosed in an orderly manner ensuring non-discriminatory access.

Information covered by professional secrecy may not be disclosed to any other person or authority except by virtue of the applicable laws, regulations or administrative provisions.]

Textual Amendments

- F4** Inserted by [Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community \(Text with EEA relevance\)](#).

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Article 16

Penalties

1 Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that such rules are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify these provisions to the Commission^[F7] by 31 December 2003 at the latest,] and shall notify it without delay of any subsequent amendment affecting them.

^[F52] Member States shall ensure publication of the names of operators and aircraft operators who are in breach of requirements to surrender sufficient allowances under this Directive.

3 Member States shall ensure that any operator or aircraft operator who does not surrender sufficient allowances by 30 April of each year to cover its emissions during the preceding year shall be held liable for the payment of an excess emissions penalty. The excess emissions penalty shall be EUR 100 for each tonne of carbon dioxide equivalent emitted for which the operator or aircraft operator has not surrendered allowances. Payment of the excess emissions penalty shall not release the operator or aircraft operator from the obligation to surrender an amount of allowances equal to those excess emissions when surrendering allowances in relation to the following calendar year.]

^[F34] The excess emissions penalty relating to allowances issued from 1 January 2013 onwards shall increase in accordance with the European index of consumer prices.]

^[F15] In the event that an aircraft operator fails to comply with the requirements of this Directive and where other enforcement measures have failed to ensure compliance, its administering Member State may request the Commission to decide on the imposition of an operating ban on the aircraft operator concerned.

6 Any request by an administering Member State under paragraph 5 shall include:

- a evidence that the aircraft operator has not complied with its obligations under this Directive;
- b details of the enforcement action which has been taken by that Member State;
- c a justification for the imposition of an operating ban at Community level; and
- d a recommendation for the scope of an operating ban at Community level and any conditions that should be applied.

7 When requests such as those referred to in paragraph 5 are addressed to the Commission, the Commission shall inform the other Member States through their representatives on the Committee referred to in Article 23(1) in accordance with the Committee's Rules of Procedure.

8 The adoption of a decision following a request pursuant to paragraph 5 shall be preceded, when appropriate and practicable, by consultations with the authorities responsible for regulatory oversight of the aircraft operator concerned. Whenever possible, consultations shall be held jointly by the Commission and the Member States.

9 When the Commission is considering whether to adopt a decision following a request pursuant to paragraph 5, it shall disclose to the aircraft operator concerned the essential facts and considerations which form the basis for such decision. The aircraft operator concerned shall

be given an opportunity to submit written comments to the Commission within 10 working days from the date of disclosure.

10 At the request of a Member State, the Commission may, in accordance with the regulatory procedure referred to in Article 23(2), adopt a decision to impose an operating ban on the aircraft operator concerned.

11 Each Member State shall enforce, within its territory, any decisions adopted under paragraph 10. It shall inform the Commission of any measures taken to implement such decisions.

12 Where appropriate, detailed rules shall be established in respect of the procedures referred to in this Article. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3).]

Textual Amendments

- F3** Substituted by [Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community \(Text with EEA relevance\)](#).
- F5** Substituted by [Directive 2008/101/EC of the European Parliament and of the Council of 19 November 2008 amending Directive 2003/87/EC so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Community \(Text with EEA relevance\)](#).
- F7** Deleted by [Directive 2008/101/EC of the European Parliament and of the Council of 19 November 2008 amending Directive 2003/87/EC so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Community \(Text with EEA relevance\)](#).

[^{F8} Article 17

Access to information

Decisions relating to the allocation of allowances, information on project activities in which a Member State participates or authorises private or public entities to participate, and the reports of emissions required under the greenhouse gas emissions permit and held by the competent authority, shall be made available to the public in accordance with Directive 2003/4/EC.]

Textual Amendments

- F8** Substituted by [Directive 2004/101/EC of the European Parliament and of the Council of 27 October 2004 amending Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community, in respect of the Kyoto Protocol's project mechanisms \(Text with EEA relevance\)](#).

Article 18

Competent authority

Member States shall make the appropriate administrative arrangements, including the designation of the appropriate competent authority or authorities, for the implementation

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of the rules of this Directive. Where more than one competent authority is designated, the work of these authorities undertaken pursuant to this Directive must be coordinated.

[^{F2}Member States shall in particular ensure coordination between their designated focal point for approving project activities pursuant to Article 6 (1)(a) of the Kyoto Protocol and their designated national authority for the implementation of Article 12 of the Kyoto Protocol respectively designated in accordance with subsequent decisions adopted under the UNFCCC or the Kyoto Protocol.]

Textual Amendments

- F2** Inserted by Directive 2004/101/EC of the European Parliament and of the Council of 27 October 2004 amending Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community, in respect of the Kyoto Protocol's project mechanisms (Text with EEA relevance).

[^{F1}Article 18a

Administering Member State

- 1 The administering Member State in respect of an aircraft operator shall be:
 - a in the case of an aircraft operator with a valid operating licence granted by a Member State in accordance with the provisions of Council Regulation (EEC) No 2407/92 of 23 July 1992 on licensing of air carriers⁽⁹⁾, the Member State which granted the operating licence in respect of that aircraft operator; and
 - b in all other cases, the Member State with the greatest estimated attributed aviation emissions from flights performed by that aircraft operator in the base year.
- 2 Where in the first two years of any period referred to in Article 3c, none of the attributed aviation emissions from flights performed by an aircraft operator falling within paragraph 1(b) of this Article are attributed to its administering Member State, the aircraft operator shall be transferred to another administering Member State in respect of the next period. The new administering Member State shall be the Member State with the greatest estimated attributed aviation emissions from flights performed by that aircraft operator during the first two years of the previous period.
- 3 Based on the best available information, the Commission shall:
 - a before 1 February 2009, publish a list of aircraft operators which performed an aviation activity listed in Annex I on or after 1 January 2006 specifying the administering Member State for each aircraft operator in accordance with paragraph 1; and
 - b before 1 February of each subsequent year, update the list to include aircraft operators which have subsequently performed an aviation activity listed in Annex I.
- 4 The Commission may, in accordance with the regulatory procedure referred to in Article 23(2), develop guidelines relating to the administration of aircraft operators under this Directive by administering Member States.
- 5 For the purposes of paragraph 1, 'base year' means, in relation to an aircraft operator which started operating in the Community after 1 January 2006, the first calendar year of operation, and in all other cases, the calendar year starting on 1 January 2006.

Article 18b

Assistance from Eurocontrol

For the purposes of carrying out its obligations under Articles 3c(4) and 18a, the Commission may request the assistance of Eurocontrol or another relevant organisation and may conclude to that effect any appropriate agreements with those organisations.]

Article 19

Registries

[^{F31} Allowances issued from 1 January 2012 onwards shall be held in the Community registry for the execution of processes pertaining to the maintenance of the holding accounts opened in the Member State and the allocation, surrender and cancellation of allowances under the Commission Regulation referred to in paragraph 3.

Each Member State shall be able to fulfil the execution of authorised operations under the UNFCCC or the Kyoto Protocol.]

2 Any person may hold allowances. The registry shall be accessible to the public and shall contain separate accounts to record the allowances held by each person to whom and from whom allowances are issued or transferred.

[^{F63} In order to implement this Directive, the Commission shall adopt a Regulation for a standardised and secured system of registries in the form of standardised electronic databases containing common data elements to track the issue, holding, transfer and cancellation of allowances, to provide for public access and confidentiality as appropriate and to ensure that there are no transfers which are incompatible with the obligations resulting from the Kyoto Protocol. That Regulation shall also include provisions concerning the use and identification of CERs and ERUs in the Community scheme and the monitoring of the level of such use. That measure, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3).]

[^{F44} The Regulation referred to in paragraph 3 shall contain appropriate modalities for the Community registry to undertake transactions and other operations to implement arrangements referred to in Article 25(1b). That Regulation shall also include processes for the change and incident management for the Community registry with regard to issues in paragraph 1 of this Article. It shall contain appropriate modalities for the Community registry to ensure that initiatives of the Member States pertaining to efficiency improvement, administrative cost management and quality control measures are possible.]

Textual Amendments

- F3** Substituted by Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community (Text with EEA relevance).
- F4** Inserted by Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community (Text with EEA relevance).

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F6 Substituted by Regulation (EC) No 219/2009 of the European Parliament and of the Council of 11 March 2009 adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny Adaptation to the regulatory procedure with scrutiny — Part Two.

Article 20

Central Administrator

1 The Commission shall designate a Central Administrator to maintain an independent transaction log recording the issue, transfer and cancellation of allowances.

2 The Central Administrator shall conduct an automated check on each transaction in registries through the independent transaction log to ensure there are no irregularities in the issue, transfer and cancellation of allowances.

3 If irregularities are identified through the automated check, the Central Administrator shall inform the Member State or Member States concerned who shall not register the transactions in question or any further transactions relating to the allowances concerned until the irregularities have been resolved.

Article 21

Reporting by Member States

1 Each year the Member States shall submit to the Commission a report on the application of this Directive. [^{F3}That report shall pay particular attention to the arrangements for the allocation of allowances, the operation of registries, the application of the implementing measures on monitoring and reporting, verification and accreditation and issues relating to compliance with this Directive and on the fiscal treatment of allowances, if any.] The first report shall be sent to the Commission by 30 June 2005. The report shall be drawn up on the basis of a questionnaire or outline drafted by the Commission in accordance with the procedure laid down in Article 6 of Directive 91/692/EEC. The questionnaire or outline shall be sent to Member States at least six months before the deadline for the submission of the first report.

2 On the basis of the reports referred to in paragraph 1, the Commission shall publish a report on the application of this Directive within three months of receiving the reports from the Member States.

[^{F3}The Commission shall organise an exchange of information between the competent authorities of the Member States concerning developments relating to issues of allocation, the use of ERUs and CERs in the Community scheme, the operation of registries, monitoring, reporting, verification, accreditation, information technology, and compliance with this Directive.]

Textual Amendments

F3 Substituted by Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community (Text with EEA relevance).

[^{F2} Article 21a

Support of capacity-building activities

In accordance with the UNFCCC, the Kyoto Protocol and any subsequent decision adopted for their implementation, the Commission and the Member States shall endeavour to support capacity-building activities in developing countries and countries with economies in transition in order to help them take full advantage of JI and the CDM in a manner that supports their sustainable development strategies and to facilitate the engagement of entities in JI and CDM project development and implementation.]

Textual Amendments

- F2** Inserted by [Directive 2004/101/EC of the European Parliament and of the Council of 27 October 2004 amending Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community, in respect of the Kyoto Protocol's project mechanisms \(Text with EEA relevance\)](#).

[^{F3} Article 22

Amendments to the Annexes

The Annexes to this Directive, with the exception of Annexes I, IIa and IIb, may be amended in the light of the reports provided for in Article 21 and of the experience of the application of this Directive. Annexes IV and V may be amended in order to improve the monitoring, reporting and verification of emissions.

Those measures, designed to amend non-essential elements of this Directive, inter alia, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3).]

Textual Amendments

- F3** Substituted by [Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community \(Text with EEA relevance\)](#).

Article 23

Committee

1 The Commission shall be assisted by the committee instituted by Article 8 of Decision 93/389/EEC.

2 Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

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[^{F63} Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.]

[^{F44} Where reference is made to this paragraph, Article 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.]

Textual Amendments

- F4** Inserted by [Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community \(Text with EEA relevance\)](#).
- F6** Substituted by [Regulation \(EC\) No 219/2009 of the European Parliament and of the Council of 11 March 2009 adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny Adaptation to the regulatory procedure with scrutiny — Part Two](#).

[^{F3} Article 24

Procedures for unilateral inclusion of additional activities and gases

1 From 2008, Member States may apply emission allowance trading in accordance with this Directive to activities and to greenhouse gases which are not listed in Annex I, taking into account all relevant criteria, in particular the effects on the internal market, potential distortions of competition, the environmental integrity of the Community scheme and the reliability of the planned monitoring and reporting system, provided that inclusion of such activities and greenhouse gases is approved by the Commission

- a in accordance with the regulatory procedure referred to in Article 23(2), if the inclusion refers to installations which are not covered by Annex I; or
- b in accordance with the regulatory procedure with scrutiny referred to in Article 23(3), if the inclusion refers to activities and greenhouse gases which are not listed in Annex I. Those measures are designed to amend non-essential elements of this Directive by supplementing it.

2 When the inclusion of additional activities and gases is approved, the Commission may at the same time authorise the issue of additional allowances and may authorise other Member States to include such additional activities and gases.

3 On the initiative of the Commission or at the request of a Member State, a regulation may be adopted on the monitoring of, and reporting on, emissions concerning activities, installations and greenhouse gases which are not listed as a combination in Annex I, if that monitoring and reporting can be carried out with sufficient accuracy.

That measure, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3).]

Textual Amendments

- F3** Substituted by [Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community \(Text with EEA relevance\)](#).

^{F4}Article 24a

Harmonised rules for projects that reduce emissions

1 In addition to the inclusions provided for in Article 24, implementing measures for issuing allowances or credits in respect of projects administered by Member States that reduce greenhouse gas emissions not covered by the Community scheme may be adopted.

Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3).

Any such measures shall not result in the double-counting of emission reductions nor impede the undertaking of other policy measures to reduce emissions not covered by the Community scheme. Measures shall only be adopted where inclusion is not possible in accordance with Article 24, and the next review of the Community scheme shall consider harmonising the coverage of those emissions across the Community.

2 Implementing measures that set out the details for crediting in respect of Community-level projects referred to in paragraph 1 may be adopted.

Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3).

3 A Member State can refuse to issue allowances or credits in respect of certain types of projects that reduce greenhouse gas emissions on its own territory.

Such projects will be executed on the basis of the agreement of the Member State in which the project takes place.]

Textual Amendments

- F4** Inserted by [Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community \(Text with EEA relevance\)](#).

Article 25

Links with other greenhouse gas emissions trading schemes

1 Agreements should be concluded with third countries listed in Annex B to the Kyoto Protocol which have ratified the Protocol to provide for the mutual recognition of allowances between the Community scheme and other greenhouse gas emissions trading schemes in accordance with the rules set out in Article 300 of the Treaty.

^{F4}1a Agreements may be made to provide for the recognition of allowances between the Community scheme and compatible mandatory greenhouse gas emissions trading systems with absolute emissions caps established in any other country or in sub-federal or regional entities.

1b Non-binding arrangements may be made with third countries or with sub-federal or regional entities to provide for administrative and technical coordination in relation to

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allowances in the Community scheme or other mandatory greenhouse gas emissions trading systems with absolute emissions caps.]

[^{F62} Where an agreement referred to in paragraph 1 has been concluded, the Commission shall adopt any necessary provisions relating to the mutual recognition of allowances under that agreement. Those measures, designed to amend non-essential elements of this Directive, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3).]

Textual Amendments

- F4** Inserted by Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community (Text with EEA relevance).
- F6** Substituted by Regulation (EC) No 219/2009 of the European Parliament and of the Council of 11 March 2009 adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny Adaptation to the regulatory procedure with scrutiny — Part Two.

[^{F1} Article 25a

Third country measures to reduce the climate change impact of aviation

1 Where a third country adopts measures for reducing the climate change impact of flights departing from that country which land in the Community, the Commission, after consulting with that third country, and with Member States within the Committee referred to in Article 23(1), shall consider options available in order to provide for optimal interaction between the Community scheme and that country's measures.

Where necessary, the Commission may adopt amendments to provide for flights arriving from the third country concerned to be excluded from the aviation activities listed in Annex I or to provide for any other amendments to the aviation activities listed in Annex I which are required by an agreement pursuant to the fourth subparagraph. Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3).

The Commission may propose to the European Parliament and the Council any other amendments to this Directive.

The Commission may also, where appropriate, make recommendations to the Council in accordance with Article 300(1) of the Treaty to open negotiations with a view to concluding an agreement with the third country concerned.

2 The Community and its Member States shall continue to seek an agreement on global measures to reduce greenhouse gas emissions from aviation. In the light of any such agreement, the Commission shall consider whether amendments to this Directive as it applies to aircraft operators are necessary.]

Article 26

Amendment of Directive 96/61/EC

In Article 9(3) of Directive 96/61/EC the following subparagraphs shall be added:

Where emissions of a greenhouse gas from an installation are specified in Annex I to 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⁽⁴⁾ in relation to an activity carried out in that installation, the permit shall not include an emission limit value for direct emissions of that gas unless it is necessary to ensure that no significant local pollution is caused.

For activities listed in Annex I to Directive 2003/87/EC, Member States may choose not to impose requirements relating to energy efficiency in respect of combustion units or other units emitting carbon dioxide on the site.

Where necessary, the competent authorities shall amend the permit as appropriate.

The three preceding subparagraphs shall not apply to installations temporarily excluded from the scheme for greenhouse gas emission allowance trading within the Community in accordance with Article 27 of Directive 2003/87/EC.

[^{F3}Article 27

Exclusion of small installations subject to equivalent measures

1 Following consultation with the operator, Member States may exclude from the Community scheme installations which have reported to the competent authority emissions of less than 25 000 tonnes of carbon dioxide equivalent and, where they carry out combustion activities, have a rated thermal input below 35 MW, excluding emissions from biomass, in each of the three years preceding the notification under point (a), and which are subject to measures that will achieve an equivalent contribution to emission reductions, if the Member State concerned complies with the following conditions:

- a it notifies the Commission of each such installation, specifying the equivalent measures applying to that installation that will achieve an equivalent contribution to emission reductions that are in place, before the list of installations pursuant to Article 11(1) has to be submitted and at the latest when this list is submitted to the Commission;
- b it confirms that monitoring arrangements are in place to assess whether any installation emits 25 000 tonnes or more of carbon dioxide equivalent, excluding emissions from biomass, in any one calendar year. Member States may allow simplified monitoring, reporting and verification measures for installations with average annual verified emissions between 2008 and 2010 which are below 5 000 tonnes a year, in accordance with Article 14;
- c it confirms that if any installation emits 25 000 tonnes or more of carbon dioxide equivalent, excluding emissions from biomass, in any one calendar year or the measures applying to that installation that will achieve an equivalent contribution to emission reductions are no longer in place, the installation will be reintroduced into the Community scheme;
- d it publishes the information referred to in points (a), (b) and (c) for public comment.

Hospitals may also be excluded if they undertake equivalent measures.

2 If, following a period of three months from the date of notification for public comment, the Commission does not object within a further period of six months, the exclusion shall be deemed approved.

Following the surrender of allowances in respect of the period during which the installation is in the Community scheme, the installation shall be excluded and the

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Member State shall no longer issue free allowances to the installation pursuant to Article 10a.

3 When an installation is reintroduced into the Community scheme pursuant to paragraph 1(c), any allowances issued pursuant to Article 10a shall be granted starting with the year of the reintroduction. Allowances issued to these installations shall be deducted from the quantity to be auctioned pursuant to Article 10(2) by the Member State in which the installation is situated.

Any such installation shall stay in the Community scheme for the rest of the trading period.

4 For installations which have not been included in the Community scheme during the period from 2008 to 2012, simplified requirements for monitoring, reporting and verification may be applied for determining emissions in the three years preceding the notification under paragraph 1 point (a).

Textual Amendments

- F3** Substituted by [Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community \(Text with EEA relevance\)](#).

Article 28

Adjustments applicable upon the approval by the Community of an international agreement on climate change

1 Within three months of the signature by the Community of an international agreement on climate change leading, by 2020, to mandatory reductions of greenhouse gas emissions exceeding 20 % compared to 1990 levels, as reflected in the 30 % reduction commitment as endorsed by the European Council of March 2007, the Commission shall submit a report assessing, in particular, the following elements:

- a the nature of the measures agreed upon in the framework of the international negotiations as well as the commitments made by other developed countries to comparable emission reductions to those of the Community and the commitments made by economically more advanced developing countries to contributing adequately according to their responsibilities and respective capabilities;
- b the implications of the international agreement on climate change, and consequently, options required at Community level, in order to move to the more ambitious 30 % reduction target in a balanced, transparent and equitable way, taking into account work under the Kyoto Protocol's first commitment period;
- c the Community manufacturing industries' competitiveness in the context of carbon leakage risks;
- d the impact of the international agreement on climate change on other Community economic sectors;
- e the impact on the Community agriculture sector, including carbon leakage risks;
- f the appropriate modalities for including emissions and removals related to land use, land use change and forestry in the Community;

- g afforestation, reforestation, avoided deforestation and forest degradation in third countries in the event of the establishment of any internationally recognised system in this context;
- h the need for additional Community policies and measures in view of the greenhouse gas reduction commitments of the Community' and of Member States.

2 On the basis of the report referred to in paragraph 1, the Commission shall, as appropriate, submit a legislative proposal to the European Parliament and to the Council amending this Directive pursuant to paragraph 1, with a view to the amending Directive entering into force upon the approval by the Community of the international agreement on climate change and in view of the emission reduction commitment to be implemented under that agreement.

The proposal shall be based upon the principles of transparency, economic efficiency and cost-effectiveness, as well as fairness and solidarity in the distribution of efforts between Member States.

3 The proposal shall allow, as appropriate, operators to use, in addition to the credits provided for in this Directive, CERs, ERUs or other approved credits from third countries which have ratified the international agreement on climate change.

4 The proposal shall also include, as appropriate, any other measures needed to help reach the mandatory reductions in accordance with paragraph 1 in a transparent, balanced and equitable way and, in particular, shall include implementing measures to provide for the use of additional types of project credits by operators in the Community scheme to those referred to in paragraphs 2 to 5 of Article 11a or the use by such operators of other mechanisms created under the international agreement on climate change, as appropriate.

5 The proposal shall include the appropriate transitional and suspensive measures pending the entry into force of the international agreement on climate change.

Textual Amendments

- F3** Substituted by [Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community \(Text with EEA relevance\)](#).

Article 29

Report to ensure the better functioning of the carbon market

If, on the basis of the regular reports on the carbon market referred to in Article 10(5), the Commission has evidence that the carbon market is not functioning properly, it shall submit a report to the European Parliament and to the Council. The report may be accompanied, if appropriate, by proposals aiming at increasing transparency of the carbon market and addressing measures to improve its functioning.]

Textual Amendments

- F3** Substituted by [Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community \(Text with EEA relevance\)](#).

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F⁴ Article 29a

Measures in the event of excessive price fluctuations

1 If, for more than six consecutive months, the allowance price is more than three times the average price of allowances during the two preceding years on the European carbon market, the Commission shall immediately convene a meeting of the Committee established by Article 9 of Decision No 280/2004/EC.

2 If the price evolution referred to in paragraph 1 does not correspond to changing market fundamentals, one of the following measures may be adopted, taking into account the degree of price evolution:

- a a measure which allows Member States to bring forward the auctioning of a part of the quantity to be auctioned;
- b a measure which allows Member States to auction up to 25 % of the remaining allowances in the new entrants reserve.

Those measures shall be adopted in accordance with the management procedure referred to in Article 23(4).

3 Any measure shall take utmost account of the reports submitted by the Commission to the European Parliament and to the Council pursuant to Article 29, as well as any other relevant information provided by Member States.

4 The arrangements for the application of these provisions shall be laid down in the regulation referred to in Article 10(4).]

Textual Amendments

- F4** Inserted by [Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community \(Text with EEA relevance\)](#).

Article 30

Review and further development

1 On the basis of progress achieved in the monitoring of emissions of greenhouse gases, the Commission may make a proposal to the European Parliament and the Council by 31 December 2004 to amend Annex I to include other activities and emissions of other greenhouse gases listed in Annex II.

2 On the basis of experience of the application of this Directive and of progress achieved in the monitoring of emissions of greenhouse gases and in the light of developments in the international context, the Commission shall draw up a report on the application of this Directive, considering:

- a how and whether Annex I should be amended to include other relevant sectors, *inter alia* the chemicals, aluminium and transport sectors, activities and emissions of other greenhouse gases listed in Annex II, with a view to further improving the economic efficiency of the scheme;

- b the relationship of Community emission allowance trading with the international emissions trading that will start in 2008;
- c further harmonisation of the method of allocation (including auctioning for the time after 2012) and of the criteria for national allocation plans referred to in Annex III;
- [^{F8}d the use of credits from project activities, including the need for harmonisation of the allowed use of ERUs and CERs in the Community scheme;]
- e the relationship of emissions trading with other policies and measures implemented at Member State and Community level, including taxation, that pursue the same objectives;
- f whether it is appropriate for there to be a single Community registry;
- g the level of excess emissions penalties, taking into account, *inter alia*, inflation;
- h the functioning of the allowance market, covering in particular any possible market disturbances;
- i how to adapt the Community scheme to an enlarged European Union;
- j pooling;
- k the practicality of developing Community-wide benchmarks as a basis for allocation, taking into account the best available techniques and cost-benefit analysis[^{F8};]
- [^{F21} the impact of project mechanisms on host countries, particularly on their development objectives, whether JI and CDM hydroelectric power production project activities with a generating capacity exceeding 500 MW and having negative environmental or social impacts have been approved, and the future use of CERs or ERUs resulting from any such hydroelectric power production project activities in the Community scheme;
- m the support for capacity-building efforts in developing countries and countries with economies in transition;
- n the modalities and procedures for Member States' approval of domestic project activities and for the issuing of allowances in respect of emission reductions or limitations resulting from such activities from 2008;
- o technical provisions relating to the temporary nature of credits and the limit of 1 % for eligibility for land use, land-use change and forestry project activities as established in Decision 17/CP.7, and provisions relating to the outcome of the evaluation of potential risks associated with the use of genetically modified organisms and potentially invasive alien species by afforestation and reforestation project activities, to allow operators to use CERs and ERUs resulting from land use, land-use change and forestry project activities in the Community scheme from 2008, in accordance with the decisions adopted pursuant to the UNFCCC or the Kyoto Protocol.]

The Commission shall submit this report to the European Parliament and the Council by 30 June 2006, accompanied by proposals as appropriate.

[^{F83} In advance of each period referred to in Article 11(2), each Member State shall publish in its national allocation plan its intended use of ERUs and CERs and the percentage of the allocation to each installation up to which operators are allowed to use ERUs and CERs in the Community scheme for that period. The total use of ERUs and CERs shall be consistent with the relevant complementarity obligations under the Kyoto Protocol and the UNFCCC and the decisions adopted thereunder.

Member States shall, in accordance with Article 3 of Decision No 280/2004/EC of the European Parliament and of the Council of 11 February 2004 concerning a mechanism for monitoring Community greenhouse gas emissions and for implementing the Kyoto Protocol⁽⁵⁾, report to the Commission every two years on the extent to which domestic action actually constitutes a significant element of the efforts undertaken at national level, as well as the extent to which use of the project mechanisms is actually

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supplemental to domestic action, and the ratio between them, in accordance with the relevant provisions of the Kyoto Protocol and the decisions adopted thereunder. The Commission shall report on this in accordance with Article 5 of the said Decision. In the light of this report, the Commission shall, if appropriate, make legislative or other proposals to complement provisions adopted by Member States to ensure that use of the mechanisms is supplemental to domestic action within the Community.]

[^{F14} By 1 December 2014 the Commission shall, on the basis of monitoring and experience of the application of this Directive, review the functioning of this Directive in relation to aviation activities in Annex I and may make proposals to the European Parliament and the Council pursuant to Article 251 of the Treaty as appropriate. The Commission shall give consideration in particular to:

- a the implications and impacts of this Directive as regards the overall functioning of the Community scheme;
- b the functioning of the aviation allowance market, covering in particular any possible market disturbances;
- c the environmental effectiveness of the Community scheme and the extent by which the total quantity of allowances to be allocated to aircraft operators under Article 3c should be reduced in line with overall EU emissions reduction targets;
- d 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;
- e continuing with the special reserve for aircraft operators, taking into account the likely convergence of growth rates across the industry;
- f the impact of the Community scheme on the structural dependency on aviation transport of islands, landlocked regions, peripheral regions and the outermost regions of the Community;
- g whether a gateway system should be included to facilitate the trading of allowances between aircraft operators and operators of installations whilst ensuring that no transactions would result in a net transfer of allowances from aircraft operators to operators of installations;
- h the implications of the exclusion thresholds as specified in Annex I in terms of certified maximum take-off mass and number of flights per year performed by an aircraft operator;
- i the impact of the exemption from the Community scheme of certain flights performed in the framework of public service obligations imposed in accordance with Council Regulation (EEC) No 2408/92 of 23 July 1992 on access for Community air carriers to intra-Community air routes⁽⁶⁾;
- j 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;
- k 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.

The Commission shall then report to the European Parliament and the Council.]

Textual Amendments

- F2** Inserted by [Directive 2004/101/EC](#) of the European Parliament and of the Council of 27 October 2004 amending [Directive 2003/87/EC](#) establishing a scheme for greenhouse gas emission allowance trading within the Community, in respect of the Kyoto Protocol's project mechanisms (Text with EEA relevance).
- F8** Substituted by [Directive 2004/101/EC](#) of the European Parliament and of the Council of 27 October 2004 amending [Directive 2003/87/EC](#) establishing a scheme for greenhouse gas emission allowance trading within the Community, in respect of the Kyoto Protocol's project mechanisms (Text with EEA relevance).

Textual Amendments

- F1** Inserted by [Directive 2008/101/EC](#) of the European Parliament and of the Council of 19 November 2008 amending [Directive 2003/87/EC](#) so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Community (Text with EEA relevance).

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- (1) [^{F4}OJ L 96, 12.4.2003, p. 16.]
- (2) [^{F4}OJ L 140, 5.6.2009, p. 114.]
- (3) [^{F1}OJ L 240, 24.8.1992, p. 1.]
- (4) OJ L 275, 25.10.2003, p. 32.’
- (5) [^{F8}OJ L 49, 19.2.2004, p. 1.]
- (6) [^{F1}OJ L 240, 24.8.1992, p. 8.]

Textual Amendments

- F1** Inserted by Directive 2008/101/EC of the European Parliament and of the Council of 19 November 2008 amending Directive 2003/87/EC so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Community (Text with EEA relevance).
- F4** Inserted by Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community (Text with EEA relevance).
- F8** Substituted by Directive 2004/101/EC of the European Parliament and of the Council of 27 October 2004 amending Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community, in respect of the Kyoto Protocol's project mechanisms (Text with EEA relevance).