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ADDENDUM to "I/A" ITEM NOTE

from :	General Secretariat
to :	Coreper / Council
Subject :	Adoption of a common position adopted by the Council with a view to the adoption of a Directive of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC

Statements to be entered in the Council minutes

1. Statements by the Council and the Commission

"The Council and the Commission understand that any revenues arising from any allocation for the five year period beginning 1 January 2008 shall accrue to the benefit of the allocating Member State."

"The Commission confirms its intention to propose, by the first half of 2003, a Directive for linking Project-based mechanisms including Joint Implementation (JI) and the Clean Development Mechanism (CDM) with the Community greenhouse emission trading scheme.

The Council confirms its intention to work towards a swift adoption of the forthcoming Directive in order for it to apply in parallel with the Community greenhouse gas emissions trading scheme in 2005."

2. Statement by Denmark

"In conjunction with the implementation of this Directive, Denmark endorses the need to incorporate effective, proportionate and dissuasive penalties into national legislation in order to ensure compliance with the Directive. However, the Community is not competent to harmonise Member States' criminal law in this Directive, and therefore cannot require Member States to incorporate penalties of an administrative or penal nature into their national legislation when implementing the Directive."

3. Statements by Germany

"It is the Federal Republic of Germany's view that within Article 27 "activities" are not necessarily defined according to Annex I but can also include sectors."

"It is the Federal Republic of Germany's view that 1990 may be used as a possible base year for the allocation and for the accommodation of early action."

4. Statement by Finland

"Finland considers it important, in implementing the Directive and especially Article 27 thereof, to take account of the need of some Member States to be able to continue to employ national instruments which have proved successful, such as energy taxation and energy savings agreements, in order to limit greenhouse gas emissions."

5. Statement by the Netherlands

"The Netherlands generally supports the objectives of the Directive, especially the pursuit of the greatest possible degree of harmonisation. With respect to Article 16, the Netherlands would like to state the following:

The Netherlands endorses the need to incorporate sanctions in national legislation implementing this Directive that are effective, proportionate and have a deterrent effect, as a means of ensuring compliance with the obligations imposed under the Directive. In this context the Netherlands emphasises the importance of the penalties as described in Article 16(3) and (4). Based on these paragraphs, the designated administrative or judicial authorities in each Member State can apply these penalties to enforce compliance with the provisions. The Netherlands takes the view that it is up to the Member States to decide which form of enforcement – either under administrative or criminal law – they consider the most appropriate to ensure optimum compliance with the provisions. In its opinion, the administrative or judicial authorities responsible for the day-to-day enforcement of the Directive's provisions, and in particular for imposing penalties as described in Article 16(3) and (4), may to a certain extent take account of the circumstances of each individual case, for example in terms of the amount of the penalty to be imposed."