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COMMUNICATION FROM THE COMMISSION

An Agenda for Sustainable Future in General and Business Aviation

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1. WHY GENERAL AND BUSINESS AVIATION ?

1. Until recently, addressing the specificities of General and Business aviation at the Community level was not necessary. However, with the extension of the Community competences in the area of safety¹ and security², upgrade of the Single European Sky³ and deployment of the new Air Traffic Management system for Europe⁴, the expected "capacity crunch"⁵ and concerns about environmental impacts of aviation⁶, EU activities have an increasing relevance also for this sector.
2. General and Business aviation is very diverse. It encompasses activities ranging from recreational flying with non-powered aircraft to complex operation of high-performance business jets and specialised aerial works. This creates challenges, as policy initiatives can not be based on the "one size fits all" approach.
3. A significant part of General and Business aviation are Small and Medium sized Enterprises (SMEs) or not-for-profit organisations also relying on volunteers. Very often, these individuals or small firms have limited resources to keep up with changes in regulatory or technical requirements.
4. On the industrial side, European General and Business aviation manufacturing industry is breaking out to the world markets in an unprecedented way. That momentum needs to be sustained by proper regulation and stimulation of innovation and research.
5. Despite technological developments, General and Business aviation is affecting the environment in terms of noise and gaseous emissions, and like the wider airline industry or any other transport means, needs to contribute to reducing these impacts.
6. At the initiative of the stakeholders and following broad consultations, the Commission has drawn an Agenda for sustainable future in General and Business aviation⁷.

¹ Extending the tasks of the European Aviation Safety Agency: An agenda for 2010, COM(2005) 578 final.

² Proposal for a Regulation of the European Parliament and of the Council on common rules in the field of civil aviation security, COM(2005)429 final.

³ Building the Single European Sky through functional airspace blocks: A mid term status report, COM(2007)101 final.

⁴ State of progress with the project to implement the new generation European air traffic management system (SESAR), COM(2007) 103 final.

⁵ An action plan for airport capacity, efficiency and safety in Europe, COM(2006) 819 final.

⁶ Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/87/EC so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Community, COM(2006) 818 final.

⁷ http://ec.europa.eu/transport/air_portal/internal_market/general_aviation/consultation_en.htm.

2. GENERAL AND BUSINESS AVIATION WORKING FOR EUROPE

2.1. A growing sector with diversified fleet

7. The scope of this Communication covers: 1) all civil aircraft operations other than commercial air transport; 2) on-demand, remunerated, civil air transport operations. This scope includes, *inter alia*: specialised aerial works, aerial training, recreational flying, on-demand air taxi operations, and company/individual owned aircraft operated for business/professional purposes⁸.
8. There are up to 50,000 motor-powered General and Business Aviation aircraft in Europe (including about 2,800 turbine-powered) as compared to about 5,000 aircraft in the European commercial airline fleet. In addition 180,000 - 200,000 of microlight and non motor powered aircraft are used for sport and recreation.
9. In 2006 about 9% of all aircraft movements registered by Eurocontrol accounted for General and Business aviation. Since 2003 the number of aircraft movements in this segment registered by Eurocontrol has been growing almost twice as quickly as the rest of the traffic (22% more flights in 2006 than in 2003, compared to a 14% increase for the rest of the traffic)⁹.
10. Analysis of traffic trends, aircraft shipments and orders suggests that demand for highly flexible, private and business air transportation will continue to strongly grow in the years to come. Key factors contributing to this trend are:
 - Need for more mobility, flexibility and point-to-point services,
 - Increasing congestion of the main airports,
 - Security constraints,
 - Continuous efforts of enterprises and individuals to increase their productivity gains, and
 - Development of new technologies, which make aircraft more efficient and less costly.

2.2. European General and Business aviation provides specific social and economic benefits.

11. General and Business aviation provides closely tailored, flexible, door-to-door transportation for individuals, enterprises, and local communities, increasing mobility of people, productivity of businesses and regional cohesion.

⁸ For the purpose of this Communication all these activities are referred to as "General and Business aviation". Without prejudice to the clarifications provided in point 3.2 below, this Communication does not attempt to address or change any legally binding definitions as set in international, Community or national regulations.

⁹ It has to be noted that a vast majority of General and Business aviation flights are not registered by Eurocontrol as they are moving in non-controlled airspace (see paragraph 49 below). For example most of the recreational and sport aviation operations will not be captured by these statistics.

12. Although privately owned or chartered aircraft are sometimes an alternative to scheduled connections, in most cases this is a supplementary service allowing reaching destinations that the airlines can not serve because of operational restrictions or do not serve due to economic considerations.
13. In 2005 there were about 100,000 airport/aerodrome pairs in Europe served by General and Business aviation traffic (as opposed to about 30,000 linked by scheduled airline connections). Only 5% of them had a scheduled alternative (at least one scheduled flight per working day). The same pattern remains when we look at the city-pairs. In 2005 General and Business aviation in Europe served over 80.000 city pairs. Vast majority of this traffic was between city-pairs that had only very limited scheduled alternative (less than one scheduled flight per working day).
14. European aerial works companies provide high-value, specialised services, both in the Community and third countries. These range from map charting, off-shore services and construction works, pipeline patrolling and conservation, agricultural flights and environment surveillance to weather research, fire-fighting, TV-Live reporting, traffic surveillance and other.
15. Recreational and sport aviation is one of the big sources of qualified aviation staff for airlines and supporting services. Many of the trainee pilots and engineers, after building the number of their hours in the air or in the hangar, subsequently move to work in the airline industry.
16. Aeroclubs and air sports organisations promote individual's qualities, technical knowledge and aeronautical skills - especially amongst the young citizens of the European Union, raising their interest in the highly demanding and motivating air sports and future careers in commercial aviation or aeronautical research and development.

3. DRAWING AN AGENDA FOR SUSTAINABLE FUTURE IN GENERAL AND BUSINESS AVIATION

3.1. Measuring General and Business Aviation

17. Complete data describing General and Business aviation in Europe is not available and it seems that such data is not being gathered in a systematic and coherent way.
18. As regards the specific issue of safety, there are no European wide comprehensive statistics on safety of aircraft with maximum take-off mass (MTOM) below 2,250 kg and the partial data available gives only some indication as to the main causes of fatal accidents.
19. In order to properly regulate any activity, policy makers need to have a clear picture of the situation. This calls for the development at the European level of the basic set of objective and coherent data as well as for close cooperation with all the interested stakeholders.
20. The Commission has asked the European Civil Aviation Conference (ECAC) to conduct a study on General and Business aviation that would identify the sources of available data and suggest the most efficient way for its future gathering.

3.2. Clarifying the definitions

21. To effectively fulfill its role, General and Business aviation needs to operate under different, often quite complex, schemes. This complexity results sometimes in different interpretations of legal definitions by both operators and regulators. Such divergence affects the operation of the internal market and creates confusion in the application of the Community legislation.
22. There are two main areas where clarity is essential for the proper application of Community legislation: 1) definition of the notion of "State/Civil aircraft" and 2) definition of the "commercial air transport operation".
23. The Commission stresses the importance for Member States to rely on the clarifications concerning definitions offered below, in order not to affect the uniform application of the Community legislation. The Commission will follow closely, within the remit of its powers, any possible developments on this issue and recalls that general and business aviation should be used in a manner strictly compatible with existing laws, including fundamental rights.

3.2.1. *State and Civil aircraft*

24. Traditionally, all aircraft are classified as either "state" or "civil". Both the international regime established under the Chicago Convention and Community legislation, in principle apply only to civil aircraft while leaving the regulation and control of State aircraft to national authorities. This distinction is of major importance, since significant differences exist in legal regimes applicable to civil and state aircraft. For example state aircraft are covered by a different monitoring system, which may not be bypassed by use of civil aviation rules, as highlighted for instance, in the European Parliament resolution on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners¹⁰.
25. In certain situations civil registered aircraft will be operated for State purposes. In such cases both the Chicago Convention and the Community legislation use the functionality approach. This means that aircraft should be classified according to the nature of the service itself¹¹ (the function it actually performs at a given time) rather than the registration only. For this reason civil registered aircraft used for state purposes¹² must be classified as state aircraft and consequently their flies over, and lands in State without prior authorization are prohibited¹³. The national authorities have the responsibility to ensure that classification principles are not abused, as emphasized for example in the above mentioned European Parliament resolution.

¹⁰ P6_TA-PROV(2007)0032, 14 February 2007. In its resolution the European Parliament states that civil aviation rules have been used to "bypass the legal obligations for state aircraft" (paragraph 47).

¹¹ In the ATM area State Aircraft can decide to operate under civil rules of the air – in such case they will be covered by the Single European Sky legislation (see definition of "general air traffic" in the Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the Single European Sky, O.J. L 096, 31.03.2004 p. 0001 – 0009).

¹² For example civil registered aircraft used by intelligence services for the transportation of detained persons.

¹³ Article 3 (c) of the Chicago Convention

3.2.2. *Commercial air transport operation, fractional ownership and managed aircraft*

26. The notion of "carriage by air of passengers, mail and/or cargo for remuneration and/or hire" is not always interpreted in a uniform way. This distinction is important as "commercial air transport operations" are subject to the requirement of an operating license¹⁴ and may be affected by traffic right limitations. Emergence of such schemes as fractional ownership programmes seems to be the main cause of concern.
27. Aircraft used in General and Business aviation are utilised under different models both in the commercial as well as private air transport category – with regulatory regimes related to economic licensing, safety certification and traffic rights varying accordingly. As private aircraft ownership is quite costly, the tendency now is to outsource aircraft management services to specialised companies. Such outsourcing can be supplemented by shared ownership or pooling of aircraft ownership shares for more efficient asset utilisation.
28. Currently the most sophisticated aircraft management schemes available are fractional ownership programmes, usually encompassing:
- Shared aircraft ownership by multiple programme participants,
 - Agreements between participants in the programme, defining conditions with regard to ownership, management of the programme and exchange of aircraft between owners participating in the programme, and
 - Provision of services for management of the fleet aircraft by a programme manager acting on behalf of the aircraft owners;
29. A distinction has to be made between safety issues and commercial regulation:
- Concerning safety issues, the Commission's proposal on extension of the European Aviation Safety Agency (EASA) competences to aircraft operations, flight crew licensing and safety of third country aircraft¹⁵ already contains a new definition of "commercial operation" that should be precise enough to ensure uniform interpretation of this term across the EU and adequate safety standards.
 - As far as economic regulation is concerned, it must be noted that in such schemes as fractional ownership programmes there is no contract of carriage between the service provider and the customer. Operations are conducted on the basis of a management agreement under which the service provider is essentially an employee of the aircraft owner/shareowner.
30. Different forms of aircraft management services, including fractional ownership programmes, as well as operations not performed under air transport contracts, do not constitute "carriage by air of passengers for remuneration and/or hire" and

¹⁴ Council Regulation (EEC) No 2407/92 of 23 July 1992 on licensing of air carriers, OJ L 240, 24.8.1992, p. 1–7.

¹⁵ Proposal for a Regulation of the European Parliament and of the Council Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, COM(2005) 579 final.

therefore are not subject to the requirement of the operating license. This is without prejudice to any Community rules concerning safety or security of aviation.

3.3. "One size does not fit all" – the importance of proportionate regulation

31. Many General and Business aviation stakeholders have expressed concerns related to the proportionality of regulations affecting them.
32. Diversification of General and Business aviation as well as high proportion of SMEs and not-for-profit organisations in this sector calls for special vigilance in proper application of proportionality and subsidiarity.
33. The basic EASA Regulation¹⁶ and Commission's proposal for its amendment are good examples of the new proportionate rulemaking approach. Only the essential requirements are applicable to all operators while more stringent standards are added subsequently, if justified on the basis of the relevant criteria. This approach should be used in future rulemaking initiatives like aerodrome safety or air traffic management.
34. The Commission will monitor the application of the principles of subsidiarity and proportionality, to ensure that not only the policy and rulemaking processes but also the actual interpretation and implementation of the Community law has due respect for these principles. This monitoring will cover also technical mandates given by the Commission to specialised agencies, such as Eurocontrol.

Local flights

35. A number of stakeholders, representing mainly recreational and sport aviation, express concerns about future definition and regulation of different kinds of local flights. These activities very often help aeroclubs and other light aviation organisations to sustain their day to day operations and pursue statutory goals.
36. Currently "carriage by air of passengers, mail and/or cargo, performed by non-power driven aircraft and/or ultra-light power driven aircraft, as well as local flights not involving carriage between different airports" are not subject to the requirement of the operating license and the Commission does not envisage any changes in this respect¹⁷.
37. In the context of the revision of the basic EASA Regulation, the Commission, assisted by the Agency, has consulted all the stakeholders with a view to drawing up implementing rules for the new Regulation. In this respect the Commission undertakes to develop proportionate rules adapted to the complexity of the aircraft as regards both the maintenance and operation of aircraft, as well as crew licences.

Insurance requirements

¹⁶ Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, O.J. L 240, 7.9.2002, p.1-21

¹⁷ Proposal for a Regulation of the European Parliament and of the Council on common rules for the operation of air transport services in the Community (recast), COM(2006) 396 final

38. Similarly, the Commission notes the concerns expressed by some stakeholders and Member States regarding disproportionate impact of the EC insurance requirements on general aviation¹⁸. Following broad consultations the Commission is currently assessing the operation of the aviation insurance regulation and will submit a report to the European Parliament and the Council by 30 April 2008.

3.4. Optimising existing capacity

39. Given the expected traffic evolution, Europe is facing an ever growing gap between capacity and demand. If the current growth trends are maintained and capacity levels not increased, it is expected that:

- Air traffic in Europe should double in the next 20 years, and
- Over 60 European airports could be heavily congested and the top 20 airports could be saturated at least 8-10 hours per day by 2025.

40. In 2006 about 9% of all aircraft movements registered by Eurocontrol could be attributed to General and Business aviation. Since 2003 this segment has been growing almost twice as quickly as the rest of the traffic and the trend is expected to be maintained in the years to come.

41. If capacity levels are not increased proportionally to the overall traffic rise, General and Business aviation will be increasingly in competition for access to airspace and infrastructure with the wider airline industry. In this regard both impacts and specific needs of General and Business aviation have to be taken into account in the capacity planning and optimisation exercises such as current discussions on Commission's "Action plan for airport capacity, efficiency and safety in Europe"¹⁹.

3.4.1. Airport/aerodrome capacity

42. General and Business aviation aircraft operate mainly from secondary airports and local aerodromes, thereby providing additional point-to-point services and contributing to a more even distribution of traffic. The infrastructure of secondary airports is being increasingly used also by the airline industry, which is seeking additional capacity.

43. Growing congestion on the ground means that more airports, including smaller regional ones will be classified as schedules facilitated or coordinated. Ultimately, slots in some of those airports may be available for non-scheduled operators only on an ad-hoc basis. This problem could be especially acute in case of airports that do not have a nearby alternative suitable for General and Business aviation operators.

44. Small aircraft can also be unattractive to airport managers, as they carry fewer fare-paying passengers and are more sensitive to wake vortices created by larger aircraft (thereby taking more of the scarce capacity time). Furthermore, they may require

¹⁸ Regulation (EC) No 785/2004 of the European Parliament and of the Council of 21 April 2004 on insurance requirements for air carriers and aircraft operators (O.J. L 138 , 30/04/2004 p.1)

¹⁹ Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions – An action plan for airport capacity, efficiency and safety in Europe COM (2006) 819

special infrastructure, such as a dedicated terminal or apron, which will have to be financed by the airport. Also the slot allocation and air traffic flow management processes work best for aircraft operators with regular flight patterns planned months ahead.

45. These challenges could be dealt with by pursuing two tracks:
- Better planning to optimize the use of existing capacity. This includes employment of dedicated, reliever runways and airport/aerodrome areas, to meet the needs of General and Business aviation. Similarly, the use of dedicated airports/aerodromes would be sometimes feasible for the handling of this particular type of traffic;
 - Development and implementation of modern technologies. Automatic weather reporting systems, unmanned Air Traffic Services as well as inclusion of Global Navigation Satellite Systems in Air Traffic Management procedures²⁰, could prove useful in untapping the potential of local and regional capacity in a cost-efficient way.
46. The Commission's "Action plan for airport capacity, efficiency and safety in Europe" is providing a platform for further action through the establishment of an EU Observatory, which will comprise of the Commission, Member States and industry experts and where the specific interests of General and Business aviation will be taken into consideration.
- 3.4.2. *Airspace capacity*
47. European airspace is an essential environment for thousands of aircraft with different performances and operating profiles. However, the constant growth of air traffic combined with institutional fragmentation and technological limitations have put this common good under considerable strain.
48. To address future airspace challenges, the Commission is implementing a number of institutional and technological reforms within the framework of the Single European Sky and the SESAR project. These initiatives are expected to bring safety, cost and efficiency benefits to all users, including General and Business Aviation.
49. It is estimated that in 2005 approximately 15 million General and Business aviation flights took place in Europe. Less than 1 million of them were operated under the supervision of air traffic control.
50. General and Business aviation stakeholders, and in particular airspace users flying without the supervision of air traffic control, express particular concern regarding the proliferation of controlled airspace, future airspace classification and equipage requirements being defined in the Single European Sky and its SESAR programme.
51. Current discussions and future decisions concerning airspace policy and deployment of the new air traffic management system for Europe will need to take into account that a significant percentage of General and Business aviation traffic is relying not on

²⁰ As envisaged in the SESAR programme on the modernisation of air traffic management in Europe

instruments but on the "see and avoid" principle. Also air traffic management policy has to recognise that many aircraft types cannot be technically and/or economically fitted with complex equipment.

52. Examples from other regions in the world show that General and Business aviation operations are possible even in dense traffic environments, provided that airspace and procedures have been designed in an efficient manner.

3.5. Facilitating access to world markets

3.5.1. Manufacturing industry

53. The European Community has a healthy and quickly growing General and Business Aviation manufacturing industry. About 75% of all type certificates issued by the EASA are in this sector.

54. In the first half of 2007 the main European General and Business aviation fixed-wing aircraft manufacturers had a portfolio of deliveries worth about 1 billion EURO, which represents an increase of 33,6% as compared to an equivalent period of 2006, and constitutes about 16% of the worldwide General and Business aviation market value. However, as the market for General and Business aviation aircraft in the Community is growing, European industry remains intensively export oriented.

55. Over the past years, thanks to investments in research and development many new technologies have been introduced by the European industry, especially in the less regulated segments of aviation. This competitive advantage provides now a window of opportunity for increasing European presence in the world markets.

56. One of the important instruments that should facilitate development of the European manufacturing industry are international agreements negotiated by the Commission with third countries. They can address not only air transport issues but also mutual acceptance of aeronautical products, thereby reducing redundant regulatory oversight and facilitating market access also for General and Business aviation manufacturing industry.

3.5.2. Commercial business aviation

57. Commercial business aviation²¹, although usually operating outside the framework of bilateral or multilateral air services agreements, is affected by traffic rights or other market access restrictions, sometimes specific only to this sector. The recent concerns of the European operators regarding US limitations on "occasional planeload charters" illustrate this situation. Here, the joint efforts of the European industry and regulators allowed to double (subject to certain conditions) the number of "occasional planeload charters" that can be operated without a full US foreign aircraft permit. This should further increase opportunities for European business aviation operators flying across the Atlantic.

58. Specific interests of commercial business aviation have to be taken into account when developing the EC external air transport policy and negotiating Community air

²¹ Operating in the Commercial Air Transport category.

services agreements. This includes simplification and streamlining of procedures as well as balanced liberalisation of traffic rights.

3.6. Ensuring environmental sustainability

59. Despite ongoing technological developments, General and Business aviation, in common with the wider airline industry and indeed with most other forms of transport, imposes negative impacts on the environment in terms of noise and gaseous emissions and needs to contribute to reducing these impacts.

3.6.1. Noise issues

60. Most General and Business aviation aircraft, engines and other aeronautical products are already subject to uniform noise certification standards²². Nevertheless, residents of local communities in some Member States sometimes express concern about the noise impact of light aviation on their quality of life. The localised character of these activities and the relatively small size of the aerodromes involved are such that national, if not local, authorities should be best placed to assess the situation and, if necessary, find proper solutions. Introducing noise-related operating restrictions for such small aerodromes at the Community level would, at this point in time, be neither proportionate nor, given the subsidiarity principle, justified.

61. In the longer term, Commission assisted by EASA will be analysing the need for modifying the relevant "essential requirements" in the field of aviation environment. This could eventually lead to a proposal concerning amendment of the EASA basic Regulation. In this context, review of certification standards as well as improved pilot education, could further contribute to reduction of negative impacts of aviation and promotion of modern, environmentally friendly technologies.

3.6.2. Gaseous emissions

62. The contribution that General and Business Aviation makes to gaseous emissions is relatively small compared to that from the wider airline industry. Nonetheless, such emissions can, in principle, impact local and regional air quality and, more widely, climate change.

63. The problem of greenhouse gas emissions from aviation is being partly addressed by the Commission's specific initiative proposing to extend the EU Greenhouse Gas Emission Trading Scheme to aviation²³. The Commission has sought to find a balance in the proposal between the administrative costs of inclusion and the environmental benefits achieved. The proposal exempts from the Scheme, amongst other flights, those performed exclusively under visual flight rules and those by

²² The aircraft excluded from Community competence in this respect are listed in Annex II to EC Regulation No 1592/2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency (O.J. L 240/1, 7.9.2002).

²³ Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/87/EC so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Community COM (2006) 818 final.

aircraft with a certified maximum take-off weight of less than 5,700 kg. This issue is being considered further during the legislative process itself²⁴.

64. Furthermore, under Community rules, fuel used for "private pleasure flying" is already subject to taxation, in the same way as fuel used in other similar transport or leisure activities²⁵. In this context, the Commission notes, that it is investigating the feasibility of alternative, more environmentally friendly or renewable fuels for aviation. Differentiated rates of energy taxation can help to promote the use of better quality fuels, such as unleaded petrol, also in the aviation area.

3.7. Enhancing research and development

65. Europe has a vibrant General and Business aviation research environment. Innovative designs of light and ultralight aircraft or pioneering in composite materials have been traditionally the hallmarks of the European industry.
66. It is commonly understood that competitive and commercial success of European General and Business aviation will be further dependant on aeronautical innovation and research, including advances in composite materials, fuel efficient engines and modern avionics allowing to seize the opportunities offered by the air traffic management systems of tomorrow.
67. The Commission will continue to support aeronautical research and development through its framework research programmes. This includes tailored support for SMEs provided currently under such initiatives as AeroSME or dedicated research projects such as CESAR²⁶.

4. CONCLUSIONS

68. The Commission, through this Agenda for sustainable future in General and Business aviation is calling on all interested stakeholders to pursue a dialogue on the future of this sector in Europe.
69. The Commission will closely monitor future developments in order to make sure that the specific needs of all categories of airspace users are taken into account in the policy processes. It will, in particular, focus on the following actions:
- Building a basic set of data regarding European General and Business aviation;
 - Being particularly vigilant to proper application of the principles of proportionality and subsidiarity;

²⁴ Other measures to address the problem of gaseous emissions from aviation include reform of the airspace architecture and deployment of the new ATM system under the SESAR project as well as research and development programmes financed by the Commission.

²⁵ Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for taxation of energy products and electricity (OJ L 283 of 31.10.2003 p. 51)

²⁶ Cost Effective Small Aircraft (CESAR) project financed by the Commission under the 6th Framework Programme.

- Taking into consideration the needs of all airspace and infrastructure users in the capacity planning and optimisation;
- Promoting new technologies allowing to maintain the competitive edge of the European industry and to untap regional and local capacity in a cost efficient way;
- Facilitating General and Business aviation access to foreign markets;
- Ensuring environmental sustainability of General and Business aviation;