



DIRECTORS GENERAL OF CIVIL AVIATION-MIDDLE EAST REGION

First Meeting (DGCA-MID/1) (Abu Dhabi, UAE, 22-24 March 2011)

Agenda Item 7: Environmental Issues

ENVIRONMENTAL ISSUES, DEVELOPMENTS AND IMPACT ON ARAB AVIATION

(Presented by the Arab Air Carriers Organization)

The Kyoto Protocol on environmental change expires with the end of 2012. The protocol sets binding targets for 37 industrialized countries and the EU to reduce greenhouse gas emissions by 5% between 2008 and 2012 compared with 1990 levels.

The UNFCCC on Climate Change held its 15th meeting in Copenhagen in December 2009, with the aim of having the governments agree on commitments for the period after 2012 so that involved countries may ratify constitutional obligations on the new post 2012 period.

The focus was on key issues such as energy and industries on the one hand, and access to financial aid on the other. There was a large rift between developed countries, particularly Europe on the one hand, and developing countries, particularly China, Brazil and India on the other. In the end, the countries reached a non-binding political agreement which was named the "Copenhagen Accord". This was signed by a number of governments. Although the Accord is non-binding, it remains a strong political force as it has the support of several governments, and as such, it is expected to form the basis for any future treaty.

Most advanced industrial countries submitted their commitments to reduce emissions as stipulated in the agreement, while several developing countries supported the agreement. Countries that supported the agreement include: Jordan, Morocco, Lebanon, the UAE, Tunisia and Algeria (on condition of confirmation of the principle of "Common But Differentiated Responsibilities").

The parties met in Mexico between 29 November and 10 December 2010 for their 16th conference to follow up on the negotiations concerning the possibility of extending the Kyoto Protocol beyond 2012 or replacing it with the Long Term Cooperative Agreement. There was a major split amongst the countries between extending the Kyoto Protocol - which was welcomed by the EU - and the voluntary cooperation to reduce emissions by 30% over the long term. As a result, negotiations did not lead to an agreement. Hopes remain that an international agreement will be reached in dealing with aviation's impact on the environment in order to avoid actions taken by the individual states at the 17th conference to be held in 2011 in South Africa.

THE AIR TRANSPORT SECTOR AND THE ENVIRONMENT

1. The Kyoto Protocol

The Kyoto Protocol did not mention the air transport sector, except in Article 2.2, which requested developed countries to seek the establishment of a system to limit and reduce emissions, in collaboration with ICAO. No major developments occurred on ICAO's level in this regard, with the exception of the decision of its 37th General Assembly meeting on climate change. The decision's outcomes included positive, negative and differentiated, and thus controversial, aspects. Although ICAO's decision on climate change is seen as a positive step, it does not provide a solution due to the differentiation and contradiction of some of its clauses. This means that the European Emissions Trading Scheme will remain valid and therefore the need to deal with this issue is necessary due to the additional costs that Arab airlines, in particular, will incur.

2. European Union Emissions Trading Scheme

The air transport sector has become vulnerable as a result of the unilateral schemes and initiatives to reduce emissions. There is a trend for individual governments to adopt Emissions Trading Scheme as is the case in Europe.

The EU believes that ICAO made no progress in the task entrusted to it. It has therefore issued a law adding all airlines operating to and from and within Europe to the EU Emissions Trading Scheme as of 1/1/2012. The program is being implemented through airlines submitting their plans and reports on the monitoring of flight emissions as of 1/1/2010. It is expected that the cost of Arab airlines to comply with the scheme will reach about 103 million Euros in 2012; this will inevitably increase in the years that follow as a result of this program.

THE CHALLENGES POSED BY THE EUROPEAN LAW

- The inclusion of flights to and from and within the EU to the EU Emissions Trading Scheme as of 1 January 2012, pursuant to EC Directive 101/2008, which came into force on 2 February 2009.
- The scheme imposes a number of requirements on airlines in order to comply with the law. These include monitoring and reporting emissions and Tonne – Kilometre data as of 2010, on condition that this information is audited by a third party.
- On 1 January 2010, the scheme was expanded to include European flights to, from and within Norway, Iceland and Liechtenstein.
- On 14 July 2010, the European Member States of the Committee on Climate Change agreed on drafting an auction of emissions law. This draft was presented to the European Parliament and European Council of Ministers. Law comes into force if all its articles are approved by the Council and Parliament. The main provisions of this law include:
 - The law defines the rules of the auction of emissions allowances for the third trading phase of the European Greenhouse Gas Emissions Trading Scheme that begins in 2013, as well as quotas for airlines as of 2012.
 - Concerning flights, 15% of the emissions share will be entered into the auction as of 2012.
 - The European Commission is heading toward drafting a new law adding airlines that do not comply to the requirements of the European scheme to a black list trading of emissions to a black list of airlines which will be banned from operating in any European country.

ICAO

ICAO issued a decision concerning the environment and aviation, the following are the most prominent items of the decision:

- Achieve an effective global average efficiency of 2% annually until 2020.
- To introduce an aspirational global annual efficiency of 2% as of 2021 till 2050.
- Strive to achieve a global aspirational collective CNG from 2020 based on 2020 emissions levels.
- These are general goals and do not oblige states or airlines individually to anything.
- ICAO Council to work on a feasibility study on a global scheme based on MBMs.

The ICAO decision included positive, negative and differentiated aspects, with the result that 120 countries had reservations in this regard. The EU announced that it will continue to apply the European Emissions Trading Scheme to reduce emissions and that ICAO's decision has no legal foundation to define a clear action plan. The following lists the positive, negative and ambiguous aspects covered by ICAO's decision:

First: Positive Aspects

- The UNFCCC awarded ICAO with a mandate concerning aviation and climate change.
- The different circumstances of countries was recognized, as was the need to provide support to developing countries in the form of financial and technological support, as well as capacity strengthening.
- The goals of efficiency will not impose specific obligations on states individually.
- The objectives of efficiency must respect the different circumstances of developing countries and developed countries, so that the intensity of greenhouse gases from aviation in the atmosphere is determining factor on the voluntary contribution of each state toward achieving the ambitious goals.
- That it should take into consideration the maturity of aviation markets.
- Encourage states to respect the principles listed in the annex to the decision when designing MBMs, which include:
 - Non-duplication of these procedures.
 - To reduce carbon leakage and disruption of markets.
 - To recognize past and future investments.
 - Rights to use all the carbon markets.
 - To reinvest proceeds resulting from these procedures in addressing the impact of aviation on climate change.

Second: Negative Aspects

- To recognize that the ambitious target of 2% improvement in fuel efficiency is unlikely to generate the required level of reduction in greenhouse gas emissions.
- The decision encourages countries to submit their action plans on economic measures but does not mention mutual agreement.
- Most countries had reservations on the decision.

- The decision does not refer to the principle of mutual agreement about schemes to limit or reduce emissions.

Which means that the European scheme will remain valid, and as a result, it becomes more important now than before to tackle this scheme.

Third: Differentiated Aspects

The resolution mentions the endeavor toward an ambitious CNG after 2020 in industrial aggregate, taking into consideration the following as well as the ambition to achieve the efficiency of the annual global average of 2% from 2021 to 2050:

- The capabilities of developing countries and the different circumstances of countries.
- Some countries might take more ambitious action by 2020, which may offset the increase in emissions resulting from the growth of air transport in developing countries.
- The maturity of aviation markets.
- Ensure sustainable growth for international aviation and that aviation emissions may increase as a result of expected growth.
- The resolution also mentioned the necessity of exempting airlines any countries that do not represent 1% or more of tone-kilometers and they are not expected to submit any economic measure plans.
- That the ICAO Council will review the "de-minimis" principle by the end of 2011.

It is not clear how it will be possible to achieve carbon neutral growth in line with the ambitious target of 2% and all relevant provisions.

It is clear that the decision recognizes the principle of Common But Differentiated Responsibilities, but dealing with this principle by applying the rule of "de-minimis" is significantly controversial.

The principle of "de-minimis" relieves some airlines of developed countries but does not absolve the airlines of some developing countries, which contrasts with the Kyoto Protocol.

4. The Work of the Arab Air Carriers Organization on Environmental Challenges:

First: At the Level of ICAO

The 43rd General Meeting of AACO discussed developments in the field of the environmental impact of civil aviation, particularly in the light of the results of the 37th General Assembly meeting of ICAO and the positions announced thereafter. The AGM has taken the following covenants into account:

1. Article 2.2 of Kyoto Protocol states that the parties included in Annex I shall pursue limitation or reduction of emissions of greenhouse gases from aviation through the International Civil Aviation Organization (ICAO), noting that none of the Arab states are listed in Annex I.
2. Chicago Convention calls for non-discrimination between operators.
3. Chicago Convention also states that every State has complete and exclusive sovereignty over the airspace above its territory.
4. ICAO has earlier recognized the special circumstances of airlines in developing nations, whereby they were exempted from noise restrictions for seven years.
5. ICAO 36th Assembly in 2007 adopted a resolution that called upon the countries that plan to implement special schemes for aviation's emissions to do that under mutual consent.

Based on the above, AACO 43rd AGM adopted a Resolution as follows:

- 1- AACO welcomes the efficiency targets as adopted by ICAO within the initial scope of the principles of the ICAO 37th Assembly Resolution on Climate Change. These targets are:
 1. To achieve 2% global annual average fuel efficiency improvement until 2020.
 2. To achieve an aspirational global fuel efficiency improvement of 2% per annum from 2021 to 2050.
 3. To strive to achieve a collective medium term global aspirational goal of Carbon Neutral Growth from 2020.
- 2- AACO welcomes in principle the following provisions in the resolution that are considered part and parcel of the implementation of the above mentioned targets:
 - 1) Recognition of different circumstances of states and the need to provide necessary support to developing countries including financial support, technology transfer, and capacity building.
 - 2) To take into account the maturity of the aviation markets.
- 3- The strong recognition of the need to respond to the requirements and needs of developing nations' airlines in unison, which emphasize that all developing countries should be treated equally as per the Kyoto protocol. We do not support the "de minimis" exemption concept for Market Based Measures based on a state's share of global international aviation RTKs because it differentiates the treatment to developing nations.
- 4- Countries to recognize past and future investments of airlines in reducing their carbon footprint when designing and implementing market based measures to deal with aviation's impact on climate change.
- 5- Recognition of ICAO that the emissions may increase due to the expected growth in international air traffic until lower emitting technologies and fuels are developed.
- 6- AACO sees that all parties that have implemented a Cap & Trade scheme should abide by the above announced covenants and provisions.
- 7- AACO 43rd AGM mandates the Secretary General and the Environmental Policy Group to work closely with the Arab Civil Aviation Commission to deal with current or future emissions measures within the scope of the above mentioned covenants and provisions, and to follow up on all issues related to this question on different levels and to report back to the Executive Committee regarding any developments for guidance.

Second: At the level of compliance with the requirements of the European Union Emissions Trading Scheme to reduce emissions

1. AACO expects that the European Union Emissions Trading Scheme will cost member airlines about US\$103 million in 2012. Accordingly one of AACO's priorities was to seek solutions to the requirements of the European law on Arab.
2. AACO studied solutions and technologies submitted by several international companies including suppliers of consultancy and services to help airlines to prepare for compliance with the European Union Emissions Trading Scheme.
3. AACO contracted consultants and experts in the field to help the Arab airlines develop plans for monitoring emissions and tonne kilometers, as stipulated by the scheme. AACO members successfully submitted these plans on time to the EU relevant authorities in compliance with the requirements of the scheme.

4. The European law requires airlines to provide audited reports on emissions and tonne-kilometers to, from and within the European Union in 2010. In this regard:

- 11 AACO members entered into contracts to adopt electronic systems to monitor emissions information and kilometric tonnes for all flights to, from and within the EU with the support of Sita company which developed the Aircraft Emissions Manager (AEM) tool.
- 13 AACO members have signed an agreement with Lloyd's to audit their emissions monitoring plans, which were presented in a timely manner to the EU relevant authorities.
- AACO's secretariat general team participated in the working sessions held by some EU countries which dealt with issues concerning converting the European Union Emissions Trading Scheme to a national law in each European country.
- AACO, in collaboration with Shell, organizes training courses aimed at raising member awareness on the issue of purchasing carbon certificates, as the European law imposes on airlines the provision of certificates in parallel with the levels of carbon emissions each year.

Third: The Position of the AACO Concerning the Environmental Impact of Aviation

1. Close cooperation between AACO and ACAC regarding aviation and the environment, and reaching a unified Arab position.
2. Discuss methods with ACAC on how to deal with the EU.
3. Work with ACAC concerning the future of the ICAO's Resolution.