International Civil Aviation Organization
North American, Central American and Caribbean Office
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Agenda Item 5: Other Matters

EMISSIONS TRADING FOR INTERNATIONAL AVIATION

(Presented by the United States of America)

SUMMARY

The Committee on Aviation Environmental Protection (CAEP) completed work on guidance for application of emissions trading to international aviation in February. The ICAO Council discussed the draft guidance, and will send it forward for consideration by the Assembly this fall.

In both CAEP and Council discussions, there was a clear divide between Europe and the rest of the world on the issue of "geographic scope." All non-EU experts at CAEP and all non-EU Council members believe that airlines from one State should only be included in another States' emissions trading system based on mutual consent between governments.

Not waiting for the outcome of the Assembly, and despite strong concerns raised from international aviation partners around the world, in December, the European Commission issued proposed legislation to extend the European Union (EU) Emissions Trading Scheme (ETS) to civil aviation. International partners objected strongly to the fact that the draft legislation would mandate participation of non-EU carriers flying to and from the EU without their consent. The proposal runs contrary to EU Member State international legal obligations under the Chicago Convention on International Civil Aviation, and under numerous bilateral air services agreements, including those with the United States.

The U.S. recommends that Civil Aviation Authorities: a) Support endorsement of the guidance that ICAO has produced on emissions trading, provided that incorporation of airlines of other States is done on the basis of mutual consent as the only acceptable manner for implementation of emissions trading for international aviation; and b) Support an approach based on aviation's traditional strengths of technological innovation to manage aviation's long-term emissions growth.

REFERENCES

ICAO Committee on Aviation Environmental Protection, Seventh Meeting Report (CAEP/7-WP/68)

1. Background

1.1 At the 35th ICAO Assembly it was requested that the Council "provide guidance for use by Contracting States, as appropriate, to incorporate emissions from international aviation into Contracting States' emissions trading schemes consistent with the UNFCCC process." The Council was also to ensure such guidance "…address the structural and legal basis for aviation's participation in an open emissions trading system, including key elements such as reporting, monitoring and compliance."

1.2 The Committee on Aviation Environmental Protection (CAEP) set up an Emissions Trading Task Force (ETTF) at the November 2004 Bonn meeting to develop the guidance based on Appendix I of ICAO Assembly Resolution A35-5. This guidance was delivered for consideration at CAEP 7 in February 2007 at Montreal. While this guidance was approved to go forward for consideration by the ICAO Council, there remained a fundamental divide between EU and non-EU experts on the issue of geographic scope. All non-EU experts agreed emissions trading should only be applied to international airlines with the consent of their governments.

1.3 During the March Council meeting that considered the CAEP 7 report, the same divide arose on the discussion of the geographic scope issue in the draft emissions trading guidance. Again, the divide was clear between the twenty-eight non-EU Council members favoring mutual consent and the eight EU members favoring allowance of forcible inclusion with consent of the State.

1.4 Not waiting for the outcome of the ICAO Assembly discussions this fall, and despite strong concerns raised from international aviation partners around the world, on December 20, 2006, the European Commission issued proposed legislation to extend the European Union (EU) Emissions Trading Scheme (ETS) to civil aviation. Many countries objected strongly that the proposal would mandate participation of non-EU carriers flying to and from the EU in 2012, one year after the measure would cover intra-EU flights, without their consent. Emissions of an entire flight would be counted. For example, a flight from London to Rio de Janeiro would be included as well as a flight from London to Stockholm. Non-EU carriers would be covered unilaterally, without the consent of their home governments.

1.5 While the proposal stipulates that the work of ICAO on aviation emissions guidance will be "taken into account," this responds only partially to strong objections raised by countries around the world to inclusion of international aviation in any emissions trading scheme on a unilateral, non-consensual basis.

1.6 Both EU and non-EU carriers will be expected to buy and sell credits (permits to create a certain amount of emissions) in the ETS. The Commission estimates that the additional cost per passenger incurred because of aviation participating in the ETS will be as high as nine euros, but an International Air Transport Association (IATA) estimate indicates such costs would be significantly higher. Further, the Commission has carried out no economic analysis of potential impacts of the scheme on non-European economies. Finally, coverage under the EU ETS provides no protection for international airlines from individual European member states from imposing additional charges, taxes, or other schemes to pay again for the same environmental impact.

1.7 The proposal is contrary to EU Member State international legal obligations under the Chicago Convention on International Civil Aviation, and under numerous bilateral air services agreements, including those with the United States. The proposal will next go the European Council and European Parliament for review.

2 Discussion

2.1 The Kyoto Protocol excludes international aviation emissions and directs signatories to work through the International Civil Aviation Organization (ICAO) to limit or reduce such emissions. ICAO is the appropriate international venue for addressing this important matter.

2.2 The ICAO Assembly in 2004 instructed the Council to develop guidance for States' use in including international aviation in their emissions trading systems, and the majority (non-EU members) of the ICAO Council made clear both in fall 2006 and most recently in March 2007 that incorporation of airlines from one State into another State's emissions trading program should only be done on the basis of mutual consent between those States. The CAEP completed the emissions trading guidance in February, and in March, the Council approved it as a draft document, noting that the majority of the Council members do not support a non-mutually agreed approach. The document will be forwarded for Assembly consideration in fall 2007.

2.3 The evolving issue between the EU and the rest of the world is not about climate change, nor is it about the need to mitigate aviation's impact. All ICAO States endorsed the need to address this challenge at the ICAO Assembly in 2004. The issue is not about the use of emissions trading in international aviation, as CAEP has developed guidance on this market-based option, and the Council has forwarded the guidance to the Assembly for consideration. The primary issue is the unilateral nature of the proposed EU legislation. As ICAO discussions over the past couple of years have demonstrated, and the recent joint letter to EU member states has further emphasized, countries around the world object to the European Commission's proposed approach.

2.4 By unilaterally covering non-EU carriers, the EU proposal raises serious international legal questions with regard to sovereignty, the Chicago Convention, and bilateral air services agreements. It imposes on the sovereign rights of other States, fails to wait for the ICAO guidance on emissions trading and to take into account other States' efforts in this area, and ignores the consensus and reciprocity that has underpinned the international aviation regime for more than sixty years. Moreover, it would subject developing States and their airlines to required emissions targets - something not endorsed under the Kyoto Protocol. It makes the mistake of trying to force a "one size fits all solution" on other countries, especially given the significant differences in industry structures, economies, and overall development.

2.5 Although the climate change impact of aviation is a highly pressing issue in the EU, aviation represents 2-3% of greenhouse gas emissions, compared to 19% for land-based transport in Europe.

2.6 The way forward is for non-EU States and air carriers to encourage the EU and its member states to (a) cover internal EU flights only (85% of daily EU traffic) in its ETS, (b) seek the mutual consent of third-party governments (i.e., negotiate with foreign governments on inclusion of their air carriers), (c) cooperate internationally on technological and operational improvements in air traffic management to reduce aviation's environmental impact, and (d) present to ICAO data on the internal EU aviation experience in the ETS.

2.7 The United States recommends a positive strategy to manage aviation's long-term emissions growth. We actively support an approach based on aviation's traditional strengths of technological innovation. This includes efforts to:

- Promote better scientific understanding
- Accelerate air traffic efficiency improvements
- Foster energy efficiency in aircraft and engines
- Explore development of alternative fuel sources
- Use cost-beneficial market-based options on the basis of mutual consent

2.8 Further, the US stands ready to discuss with the EU or any other State the utility of ETS or other market based approach as part of a discussion on how to manage the environmental impacts of aviation- assuming such discussions start from the basis of mutual consent.

3 Recommendations

3.1 Recommend that Civil Aviation Authorities:

a) support an approach based on aviation's traditional strengths of technological innovation to manage aviation's long-term emissions growth; and

b) support endorsement of the guidance that ICAO has produced on emissions trading, provided that incorporation of airlines of other States is done based on mutual consent, which is the only acceptable manner for implementation of emissions trading for international aviation.

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