



WORKING PAPER

**HIGH-LEVEL MEETING ON INTERNATIONAL AVIATION
AND CLIMATE CHANGE**

Montréal, 7 to 9 October 2009

Agenda Item 2: Proposals for strategies and measures to achieve emissions reductions

**THE VIEW OF THE ARAB REPUBLIC OF EGYPT, AS ONE OF THE DEVELOPING
COUNTRIES, ON CIVIL AVIATION EMISSIONS TRADING**

(Presented by Egypt)

SUMMARY

This paper presents the view of the Arab Republic of Egypt, as one of the developing countries, on civil aviation emissions trading. The paper presents Egypt's recommendations in this respect and in regard to the working paper to be presented by ICAO to the United Nations Conference on (Climate Change) in Copenhagen in December 2009.

Action by the conference is in paragraph 7.

1. INTRODUCTION

1.1 The Egyptian civil aviation community values the protection of the environment at the local, regional and global levels; based on that, the Arab Republic of Egypt wishes to adhere to ICAO's Standards that lead to the maintenance of a coherent system for air transport industry at the global level.

1.2 The issue of emissions reduction is associated with the United Nations Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol, noting that developing countries have been excluded from the emission reduction commitments under Kyoto Protocol, which called on developed States to address the issue of emissions from international civil aviation through the International Civil Aviation Organization.

1.3 Kyoto Protocol has excluded the civil aviation industry from carbon dioxide limitation procedures, and also the possibility of buying emissions trading certificates from the market to meet industry needs for these emissions.

2. GLOBAL CIVIL AVIATION ACTIVITY OF DEVELOPING COUNTRIES

2.1 The international civil aviation activities of developing countries are limited, both in terms of aviation traffic or operating fleet, a fleet of one of the major powers can consist of a number of aircrafts equal to that of the developing countries' fleets combined.

2.2 Many of the operators in the developing countries do not have the economical ability to renew their fleets on regular basis and in short periods, especially after the global financial crisis and its negative impact on these countries. Nonetheless, some developing countries' fleets have witnessed many modernization programs to comply with ICAO's SARPs on environmental protection since their adoption as international regulations.

3. BACKGROUND

3.1 The environmental concern represents an increasing priority, particularly in regard to the greenhouse warming and the increase of the greenhouse gases, which led most countries of the world, and the different organizations concerned with environmental affairs to shed the light on the various causes of greenhouse gases that many scientists believe they increase the phenomenon of greenhouse warming.

3.2 Some single States or group of States acting together in a form of a union are seeking recently to bring the civil aviation sector and other sectors in the emissions cap limitation system, and to bring it in the framework of emissions trading.

3.3 In its 36th Session, the Assembly of the International Civil Aviation Organization (ICAO) urged the Contracting States to refrain from individually applying the trading of gas emissions from aircrafts, and such application should be subject to a prior agreement between these States of which ICAO should be notified.

3.4 The contribution of the civil aviation in gas emissions is not exceeding at present 2 per cent of the global emissions.

3.5 The Kyoto Protocol that excluded, up to now, the aviation industry from the environmental goals, will expire by the end of 2012. The United Nations will convene the conference on climate change in Copenhagen in December 2009, where the United Nations will discuss the post-Kyoto standards.

4. DEVELOPING COUNTRIES AND THE APPLICATION OF CIVIL AVIATION EMISSIONS TRADING

4.1 The Contracting States of ICAO are bound by Chicago Convention. Hence the Chicago Convention does not contain any provisions that expressly deal with charges on emissions in particular. However, it includes a provision, which is Article 15 that includes, inter alia, the following texts on charges:

- a) provides for the principle of non-discrimination regarding charges on the use of airports and air navigation facilities by an aircraft of any Contracting State.

- b) provides for the impermissibility of imposing fees, dues or other charges in respect solely of the right of transit over or entry into or exit from its territory of any aircraft of a contracting state.

4.2 Article 15 applies to the charges imposed on entry to or exit from or transit over airports open for international airlines and particularly, the last sentence of Article 15 pertaining to the charges imposed solely for the right of transit over or entry into or exit from a territory.

4.3 In the light of the rest of Article 15, as interpreted by Council decisions and also applied throughout States practices over time, these charges are banned unless they are based on costs and related to the provision of civil aviation services and facilities (see Council decision on environmental charges and taxes adopted on 9/12/1996, sixteenth meeting of 149th Session, this in addition to *ICAO's Policies on Charges for Airports and Air Navigation Services* (Doc 9082)).

4.4 These charges, if only associated with the quantity of emissions, might be banned by Article 15 of Chicago Convention, where there is no relation linking them to the facilities or services or the cost of damage repair and subsequently are incompatible with Chicago Convention.

4.5 If these charges are associated with the quantity of fuel consumed only, they will be banned by Article 15 of Chicago Convention, since there is no relation linking them to the facilities or services or the cost of damage repair and subsequently are incompatible with Chicago Convention.

4.6 The charge imposed on emissions based on quantity of fuel will in itself represent a tax on fuel making it legally incoherent with Article 24 whereas that article exempts fuels carried on board an aircraft from custom charges, inspection charges and other similar charges and levies imposed by the State or the local authorities.

5. INDICATORS OF THE IMPACT OF THE APPLICATION OF CIVIL AVIATION EMISSIONS TRADING ON DEVELOPING COUNTRIES

5.1 Since the contribution of developing countries in global pollution from civil aviation at the global level is very limited, it would be unfair to impose heavy financial burdens on these States because of damages for which their share of responsibility is minimal, although their costs are very high taking into consideration the vulnerability of the economies of these States, the significant increase rate of fuel prices and the repercussion of the global financial crisis on the economies of these States.

5.2 The air transport is considered a vital necessity at the overall and economic levels in many developing countries in which means of land transport are not effective. The severe environmental rules for emissions trading may result in restricting the development of these means of transport thus threatening the economic interests and trade activities of these countries at both national and international levels.

6. RECOMMENDATIONS

6.1 The protection of the environment is a global concern, this is due to the fact that it is associated with the future of humanity. Accordingly, it is a concern for all, but in reality, the economic facts in developing countries call for the need to adopt a realistic, scientific and global approach to civil aviation emissions trading, that takes into account the interests of the operators, the interests of the

peoples of developing countries and of other countries. Egypt, therefore, emphasizes the importance of including in the working paper presented by ICAO to the United Nations Conference on Climate Change to be held in Copenhagen in December 2009, the following recommendations:

- a) ICAO should be the only forum that develops a global approach for international civil aviation emissions trading, through which contracting States should address any issues related to civil aviation environment. The decisions of ICAO in this respect must be binding for the Contracting States. This approach should take into account the economic situation of the developing countries.
- b) Egypt affirms that no decision should be taken on the inclusion of the aviation industry in the environmental goals after the end of Kyoto Protocol, including an approach for trade exchange of gas emissions.
- c) Affirms that no decision should be taken individually by a number of States or a group of States on civil aviation emissions trading which may have an adverse economic impact on other States, especially there should be no new financial burdens imposed by some States or some groups of States on developing countries regarding aviation emissions trading.
- d) Emphasizes the necessity of member States' compliance with Chicago Convention especially Articles 15 and 24 in respect to imposing national or regional charges or taxes related to the environment on emissions from aircraft engines.
- e) Endorses placing priority on a balanced approach to overcome problems of aircrafts emissions as is the practice with aircrafts noise.
- f) Considers that the paper presented by ICAO should indicate that civil aviation is concerned with limiting greenhouse gas emissions from aircrafts by taking the necessary aviation safety procedures which are governed by decisions and recommendations of ICAO to Contracting States since its inception and up to now. It should also be indicated that ICAO established a committee on aviation and environmental protection which functions include the limitation of greenhouse gas emissions from civil aviation.
- g) Considers that ICAO should urge Contracting States to encourage their delegations participating in the United Nations Conference on Climate Change in Copenhagen in December 2009 to stress that civil aviation should be excluded from emissions trading systems and to reaffirm their support to the working paper presented by ICAO in this regard.
- h) Considers the importance of adhering to the recommendations issued by GIACC which are adopted by ICAO Council.

7. ACTION BY THE HIGH-LEVEL MEETING

7.1 The HLM-ENV is invited to:

- a) take note of the information in paragraphs 1 to 4 of this document; and

- b) take into consideration the recommendations in paragraph 5 of this document.

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