



INTERNATIONAL CIVIL AVIATION ORGANIZATION

A35-WP/95<sup>1</sup>  
EX/32  
20/08/04

## ASSEMBLY – 35TH SESSION

### EXECUTIVE COMMITTEE

#### Agenda Item 15: Environmental protection

#### EMISSIONS-RELATED TAXES AND CHARGES

[Presented by the International Air Transport Association (IATA)]

#### SUMMARY

IATA invites the Assembly to adopt Appendix I, Resolving Clause 2b) on emissions-related taxes and charges of the draft *Consolidated Statement of Continuing ICAO Policies and Practices Related to Environmental Protection*, as proposed by the ICAO Council.

IATA also invites the Assembly to consider the initial airline views and analysis, which aim to assist ICAO in carrying out further studies and developing further guidance on the subject, with particular focus on outstanding issues identified in earlier studies.

### 1 BACKGROUND

1.1 In Assembly Resolution A33-7, “Consolidated Statement of Continuing ICAO Policies and Practices Related to Environmental Protection,” the Assembly urged the Council to carry out further studies and develop additional guidance on the subject of emissions-related taxes and charges, for greenhouse gas emissions.

1.2 The Council, through its Committee on Aviation Environmental Protection (CAEP), has undertaken additional studies, focusing on the use of taxes and/or charges to address CO<sub>2</sub>. These studies have confirmed what had previously been found -- that taxes and charges are extremely expensive, cost-inefficient means of seeking to limit CO<sub>2</sub> emissions. In fact, for the reduction targets assumed in the CAEP analysis, the costs of CO<sub>2</sub>-related taxes or charges would range from approximately 47 billion to 245 billion US\$ annually<sup>2</sup>.

1.3 In addition to addressing cost-effectiveness questions regarding taxes and charges, CAEP has undertaken analysis of legal, technical, administrative and policy questions associated with the application of emissions-related taxes and charges. An international aviation fuel tax to address CO<sub>2</sub>

<sup>1</sup> All language versions provided by IATA.

<sup>2</sup> FESG/MATG Final Report for CAEP/5, (Nov.2000), page A-3, Table A2

(whereby revenues would be added to States' general treasuries) is considered contrary to existing international law (Art.24 of the Chicago Convention) and ICAO policies (Doc.8632), which together provide for the reciprocal exemption from all taxes on fuels used in connection with international air services. The vast majority of bilateral air traffic agreements worldwide reflect these provisions.

1.4 Discussions on aircraft engine emissions charges have taken place within ICAO since the early 1990s. Charges are a type of levy from which the funds collected are not added to general treasuries, but are used to finance specific aviation facilities and services. CAEP/6 was unable to recommend any specific additional guidance in this regard and invited the ICAO Council to consider this matter and provide further instructions.

1.5 In line with what was agreed during the 172<sup>nd</sup> session, the Council now proposes to the Assembly (in Appendix I to the *draft Consolidated Statement of Continuing ICAO Policies and Practices Related to Environmental Protection (A35-WP/76)*) to carry out further studies and develop additional guidance on the subject, with a particular focus on the outstanding issues identified in earlier studies. In addition, the Council invites the Assembly to recognise that existing ICAO guidance is not sufficient at present to implement the application of greenhouse gas emissions charges and therefore to urge States to refrain from unilateral action to introduce emissions-related taxes or charges.

## **2 IATA VIEWS & INITIAL ANALYSIS**

2.1 IATA fully supports the Council's proposal and invites the Assembly to act accordingly.

2.2 In addition, IATA is willing to participate in the further studies that ICAO plans to carry out and offers hereafter a few initial, specific comments regarding the outstanding issues identified in previous studies.

### **2.2.1 Legal Issues**

Existing ICAO policies on user charges do not seem to provide for the legal and legitimate implementation of CO<sub>2</sub> emissions charges, especially since charges can only be used for "providing facilities and services," and since costs associated with a charge must be "properly identified and directly attributed" to air transport. This issue should be further analysed, perhaps by ICAO's Legal Committee, which would allow for input by experts from States and Observers.

### **2.2.2 Use of Revenues**

The inability to adequately identify, attribute or quantify the climate change impact of aviation CO<sub>2</sub> emissions makes it virtually impossible to apply revenues from a CO<sub>2</sub> emissions charge for any climate change mitigation measures specific to aviation and/or for the benefit of those clearly identified as suffering measurable climate change damage due to aviation.

### **2.2.3 Responsibility for Emissions**

In order to meet the "directly attributed" requirement, it would be necessary for a charging system to assign responsibility to those parties whose actions result in emissions (e.g., airlines, ATC providers, airports). Airlines should not be held responsible for emissions that are associated with inefficiencies of air traffic systems operated by third parties. Moreover, consistent with ICAO's general commitment not to disadvantage aviation relative to other modes of transport, should charges be levied on aviation, other transport modes should also be held responsible for their CO<sub>2</sub> emissions in a similar way.

2.2.4 Registry of Aircraft

Only airlines registered in the State imposing a CO<sub>2</sub> emissions charge could be subject to the charge. The charge may be extended to airlines registered in other States only after proper consultations with the States concerned to ensure that such actions are consistent with other international obligations. If some airlines were covered by the charge and some were not, this would appear to be in conflict with the non-discrimination provision in Article 15 of the Chicago Convention.

2.2.5 Geographic Scope of Charge

Given the sovereign rights of nations, a State can only assess a charge for CO<sub>2</sub> emissions over its own territory, unless otherwise specified under bilateral or multilateral agreements with other States. Assessment of CO<sub>2</sub> emissions charges over the high seas would require a worldwide agreement.

2.2.6 Equity Aspects

A revenue-neutral charge, through which modern, fuel efficient aircraft would get a rebate while older aircraft would be penalised, could lead to transferring funds from developing countries' airlines to the airlines of developed countries.

**3 ACTION BY THE ASSEMBLY**

3.1 The Assembly is invited

- a) to approve Appendix I, Resolving Clause 2 b) on emissions-related taxes and charges in the *Consolidated Statement of Continuing ICAO Policies and Practices Related to Environmental Protection*, as proposed by the Council in A35-WP/76;
- b) to urge the Council to bear in mind the interests of airspace users when carrying out further studies on emissions-related charges.