

Position Paper

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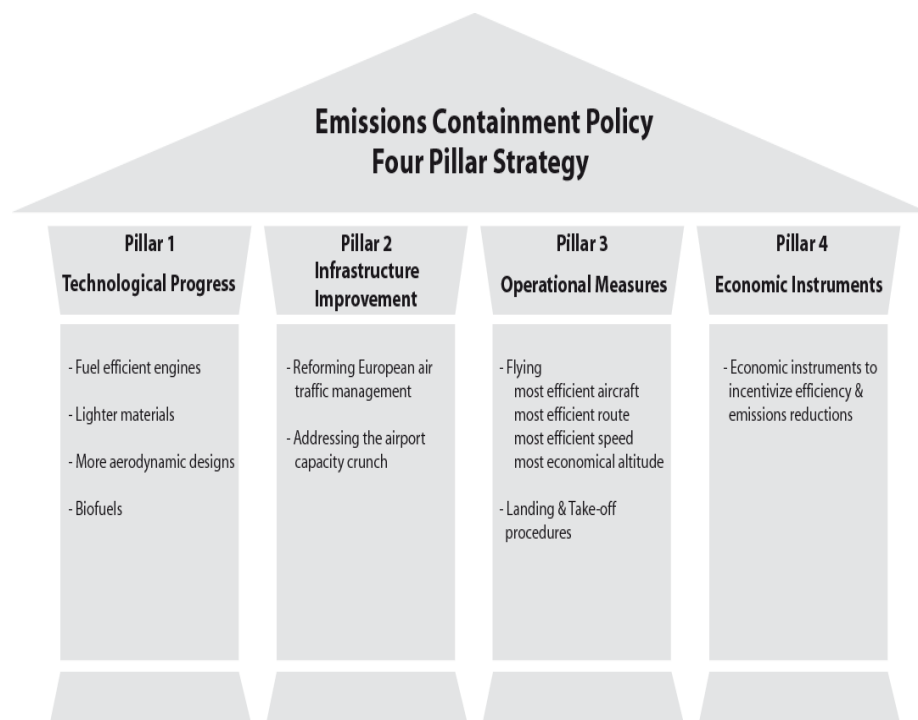
Striving for an ETS that supports a sustainable aviation sector

As the date of full implementation of the EU ETS Directive for aviation (2008/101) approaches (1st January 2012), the legal, technical and operational flaws of the scheme are becoming increasingly evident. These flaws undermine the potential of the EU ETS to serve as a robust pillar for the sustainable development of air transport.

Background information

The AEA developed a four pillar strategy for mitigating the impact of aviation on climate change. This approach has been endorsed by the entire aviation industry and by ICAO and seeks to achieve the sustainable development of aviation through:

1. Technological progress, including the development of alternative fuels;
2. Improved air traffic management and airport infrastructure;
3. The optimization of operational measures; and,
4. A non-distortive global cap-and-trade mechanism.



With respect to a cap-and-trade mechanism such as the EU ETS, AEA has always pushed for a system which is:

- viable, affordable and sustainable;
- efficient and incentivising; and
- does not distort competition or lead to carbon leakage.

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Acceptance of an emissions trading scheme was coupled with the clear message that airlines should only pay once for climate mitigation measures. However, an overview of current taxes, charges and levies within Europe leads to the conclusion that the industry runs the risk of being even more severely overtaxed in the years to come:

- Albania: air transportation tax (2009);
- Austria: eco-tax (2011);
- Bosnia & Herzegovina: government tax (2005);
- Croatia: civil aviation tax (2010);
- France: solidarity tax (2006) & civil aviation tax (2010);
- Germany: air passenger tax (2011);
- Ireland: air passenger tax (2009);
- Italy: government fund levy (2008);
- Serbia: CAD passenger and CAD cargo charges (2011);
- United Kingdom: air transportation tax / APD (1994);

The EU is also considering the introduction of new taxes on aviation.

Key political messages

The AEA Secretariat is conveying the following political messages at political and institutional level:

- Time is running out for the Commission to achieve a manageable EU ETS;
- EU regulators should pursue the full four-pillar strategy (incl. SESAR, sustainable aviation fuels) and not concentrate solely on a cap and trade system;
- Revenues from the EU ETS and levies imposed on air transport should be used to support the sustainable development of air transport;
- The industry cannot accept additional taxes and levies as these will constitute a multiple layer of costs that undermines its sustainability. A heavier financial burden on airlines will notably lead to a reduction of the sector's capacity to generate employment, contribute to local economies. and improve its environmental performance through investment in sustainable fuels or more efficient fleets;

By reinvesting the €7.7bn that will be generated through the auctioning of ETS aviation allowances by 2020 into R&D, Member States could support 10,000 skilled jobs in the European aeronautics industry, thereby accelerating R&D into greener technologies.

With only 20% of the revenues from the auctioning of ETS aviation allowances, the entire European fleet of A320s (more than 1400 aircraft) could be retrofitted with winglets, resulting in a saving of 1 million tonnes of CO2 and less noise around airports.

- The cost-efficiency of the scheme must be improved through the abrogation of superfluous and burdensome administrative and operational requirements;

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- Being a unilateral regional system, the EU ETS distorts the level playing field between EU and non-EU airlines and is detrimental to European competitiveness;

Non-EU carriers are much less exposed to the scheme than EU carriers. For example, while 99% of Air France's or Lufthansa's ASK are covered, only 20% of Emirates', 16% of Air China's and 12% of American Airlines' are.

- Increasing resistance from third countries to participation in the EU ETS leads to an unacceptable situation whereby EU carriers might be subject to retaliatory action;
- Only a multilateral approach will properly address the global environmental impact of a sector which is essentially international in nature;

- Priority should be given to the development of a global and harmonised system under the umbrella of ICAO and in line with its 2010 Assembly Resolution A37-19 on climate change;
- Equivalent measures as an option for linking various systems should be transparent and non-distortive. As the adoption of differing regional measures to address aviation's impact on climate change undermines a comprehensive global approach, they should be seen as a second priority.

A passenger's CO2 emissions on a journey from New York to Bombay will be covered by an emissions trading scheme only if his journey includes a stop in the EU. The additional costs associated with the EU ETS could therefore deter passengers on such journeys from travelling via the EU, resulting in carbon leakage and undermining the role of Europe as global aviation hub.

Reinforcing the fourth pillar

AEA believes that the EU ETS could contribute to mitigating the impact of aviation on climate change. However, the EU ETS will only play its role as pillar for the sustainable growth of air transport if several serious flaws are remedied. These flaws are discussed on the following pages.

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1. Unilateralism is not a sustainable approach

The majority of non-EU States and their operators consider the inclusion of international aviation in the EU ETS to be illegitimate and illegal.

- **Third States are targeting EU Member States through legal action**
 - In December 2009, the Air Transport Association of America (ATA) and three of its members (AA/CO/UA) initiated a claim against the UK Government. The case was referred to the Court of Justice of the European Union in July 2010; a decision is not expected before 2012.
 - Three major Chinese airlines (CA/MU/CZ) and the China Air Transport Association have declared their intention to jointly lodge a legal case against the EU ETS. An Algerian airline also reportedly intends to pursue legal action against France.
 - Some States are considering bringing EU Member States before ICAO’s Council for a decision on the legality of the EU ETS.
- **Third States are considering retaliatory measures against the EU**
 - Carriers of several States (incl. China, India and Russia) have affirmed their intention not to comply with the EU ETS.
 - The EU has stated that penalties, including operating bans, will be enforced against non-compliant operators.
 - Several governments (incl. China and Russia) will respond to the EU ETS and penalties against their carriers by taking retaliatory action against the EU and its carriers.
- **Unilateralism inevitably leads to distortions**
 - The overwhelming majority of flights operated by EU airlines will be covered by the EU ETS, while only a small proportion of flights of non-EU airlines will be affected. Non-EU airlines can therefore more easily absorb the cost of complying with the EU ETS.
 - By creating an uneven playing field between EU and non-EU airlines, the EU ETS undermines the role of Europe as a global aviation hub.

CONCLUSION

The lack of political legitimacy of Europe’s unilateral action results in uncertainty over the future regulatory environment and makes European aircraft operators a prime target for retaliatory action.

The EU’s unilateral approach will inevitably undermine the role of Europe as a global aviation hub.

RECOMMENDATION

The EU must intensify its efforts to negotiate a global agreement on aviation and climate change with its international partners.

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2. The environmental integrity of the scheme cannot be compromised

- **A clutter of regional measures may block the road to a global agreement**
 - The Commission seeks to conclude agreements with third States that adopt measures to reduce the climate change impact of flights from that country to the EU. These flights would be excluded from the scope of the Directive.
 - Discussions have been initiated or are envisaged with China, Russia, Switzerland, Turkey, Ukraine, the United Arab Emirates, and the United States.
 - A clutter of differing regional measures may not only block the road to a global agreement on aviation and climate change, it also hinders the orderly development of air transport by creating a labyrinth of regulatory requirements.
- **The integrity of measures adopted in third States must be guaranteed**
 - While the conclusion of agreements with third States may reduce the risk of market distortions, the environmental integrity of measures adopted to reduce climate change cannot be compromised.
 - The Commission must define transparent and comprehensive criteria to guarantee that measures adopted in third States are non-discriminatory and have an environmental effect at least equivalent to that of the EU ETS (cost-efficiency, revenues to be invested in climate change mitigation, incentive for improved environmental performance).
 - Should the adoption of levies be contemplated in third States, safeguards must be established to guarantee that the revenues generated are not used to subsidize their national airlines.

CONCLUSION

There is a strong risk that a proliferation of regional measures will block the road to a comprehensive global agreement.

RECOMMENDATION

Until a global agreement on aviation and climate change can be reached, bilateral discussions with third States may mitigate the distortions associated with the EU ETS.

The integrity of the measures considered as equivalent must however be guaranteed through comprehensive and transparent criteria.

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3. The EU ETS is drifting off course

The environmental objective of the EU ETS is being sacrificed by Member States through the proliferation of levies and the hijacking of EU ETS revenues to plug holes in their own finances.

- **Revenues are hijacked for unrelated purposes**
 - The EU ETS Directive calls for revenues generated from the auctioning of aviation allowances to be used to contribute to the reduction of the impact of aviation on climate change.
 - Under the auspices of ICAO, EU Member States recognized that revenues derived from emissions-related levies must be applied in the first instance to mitigating the environmental impact of aircraft emissions.
 - However, it is increasingly evident that Member States will not use the revenues of the EU ETS to fight climate change but rather to reduce their budgetary deficit or to finance bailout plans.
- **The proliferation of taxes is decapitating the EU's environmental policy**
 - Emissions trading is designed to stimulate investment in greener technologies and to achieve emissions reductions in the most cost-efficient manner. On the contrary, taxes are a blunt instrument which reduces the financial performance of airlines and, consequently, their capacity to fund research into sustainable aviation fuels or to improve the fuel efficiency of their fleets.
 - Furthermore, the adoption of emissions-related levies sends the signal that the EU ETS is not apt to address aviation's impact on climate change.

CONCLUSION

The proliferation of taxes on air transport limits the sector's ability to improve its environmental performance.

Air transport should not be penalised in order to compensate for the budgetary deficits of governments and other sectors.

RECOMMENDATION

Revenues from the auctioning of aviation allowances must be used to improve the environmental performance of air transport, notably through investment in infrastructure (SESAR) and sustainable aviation fuels.

The imposition of additional levies on air transport must be avoided.

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4. The implementation of the EU ETS is disproportionately burdensome

Instead of being a cost-efficient, incentivising, market-based measure, the EU ETS has turned into an inefficient, unpredictable administrative monster.

- **The current monitoring and reporting rules lead to unreasonable costs**
 - The rules established for the monitoring and reporting of aviation’s emissions result in unreasonable costs and disproportionate operational constraints, and are not justified by the environmental objective of the scheme.
 - The standard methodology laid down for the monitoring of the consumption of biofuels does not take into account the specificities of the aviation fuel supply chain and will never be workable in practice. As a consequence, the current framework adds obstacles to the deployment of sustainable fuels instead of incentivising their use.
- **The Directive is being erratically implemented in Member States**
 - As of 6 April 2011, 4 EU Member States (Cyprus, Estonia, Germany and Poland) had still not fully transposed Directive 2008/101 into national law (the deadline was 2 February 2010).
 - There are significant differences between the national regimes adopted to implement the EU ETS (deadlines, administrative fees, penalties, etc). Such differences lead to further distortions.
- **Airlines have to navigate through the fog of the EU ETS**
 - Navigating through the scheme has become extremely complex due notably to the unreasonable demands of the monitoring and reporting rules and the nebulosity surrounding their interpretation.
 - In addition to the complexity of the scheme, the failure of the Commission and Member States to meet key deadlines and the anticipated late decisions on the allocation of allowances create an uncertain environment for airlines, whose activities and tariffs need to be planned several months in advance.

CONCLUSION

The current EU ETS framework is too complex and burdensome, and its implementation is beset by too many discrepancies and uncertainties.

RECOMMENDATION

The implementation of the EU ETS needs to be streamlined in order to increase the cost efficiency of the scheme.

The amount of data to be collected for monitoring, reporting and verification purposes needs to be rationalized and more convergence should be sought between national implementing legislations.