

Just Three Years Left to Win Europe's Battle for 'Green Skies' Aviation and global warming after the 2004 ICAO Assembly

Oct 2004: European freedom to set rational aviation policy attacked

From 28 September until 8 October 2004, ICAO, the UN's International Civil Aviation Organisation, held its triennial Assembly in Montreal. The aviation community and environmental groups watched this Assembly anxiously. At stake was the future of economic instruments to tackle the sector's growing contribution to global warming.

For background information, please refer to T&E's briefing on the subject, published in September.

This paper aims to inform stakeholders about the outcome of the Assembly and provides an interpretation of what action Europe can now take.

Analysis of the outcome of the Assembly

This section describes the changes made to Annex I wording on emission-related levies and emissions trading in the ICAO Assembly Resolution A33-7 (*Consolidated statement of continuing ICAO policies and practices related to environmental protection*) compared to the previous text.

In the run-up to the Assembly, several proposed amendments were circulated by States and by the ICAO Council as working documents (the latter in response to changes requested by the US-led group of 22 countries from the ICAO Council). These formed the basis of discussion at the Assembly. We have NOT compared the agreed text with these proposed amendments. It is important that we focus only on what has actually changed in the adopted Resolution.

Legend :

Normal font:	<i>unchanged</i> compared with the previous text of the Environmental Resolution A33-7
Strikethrough	text that was <i>deleted</i> at the last Assembly
Shadow	<i>new text added</i> at the last Assembly
Bold italics	<i>commentary</i> by T&E

Appendix I starts, as is usual, with a number sentences that begin 'whereas', 'noting' and the like. Some changes to this preamble were made. The following sentence is the most interesting:

Noting that the ICAO policy on exemption of aviation fuel from taxation has been called into question in some Contracting States which impose taxes on other transport modes and other sources of greenhouse gases;

This sentence, in itself meaningless and largely symbolic, is nevertheless encouraging: an ICAO text recognises concerns by some States about the fiscal advantages for the sector.

The core text on levies and emissions trading follows.

b) Emission-related levies

- 1) *Recognizes* the continuing validity of Council's Resolution of 9 December 1996 regarding emission-related levies; ***unchanged***
- 2) *Urges* States to follow the current guidance contained therein; ***unchanged***
- 3) ~~*Urges* States to refrain from unilateral action to introduce emission-related levies inconsistent with the current guidance; and~~ ***Recognizes that existing ICAO guidance is not sufficient at present to implement greenhouse gas emissions charges internationally, although implementation of such a charge by mutual agreement of States members of a regional economic integration organization on operators of those States is not precluded, and requests the Council to:***
 - a) carry out further studies and develop additional guidance on the subject;
 - b) place a particular focus on the outstanding issues identified in earlier studies and by the Assembly; and
 - c) aim for completion by the next regular session of the Assembly in 2007;

This is NOT the most important new text and is somewhat chaotic. The first part, ending with 'internationally', is a remnant from the US-led action. It is a weak and unclear statement because it contradicts parts b1 and b2 and the word 'internationally' can be interpreted very broadly (global, between two countries, et cetera). The second part, starting with 'although' was obviously inserted by request of the ECAC countries (41 European states). This requirement is also essentially meaningless, because of the words 'of those States'. It means ICAO gives Europe the right to charge its own carriers, but not others! Europe can't be too proud of this right to do others a favour ...

The requirement under c) to finish the work by 2007 is wishful thinking. Given the current status, agreement by 2007 seems virtually impossible. In brief, this text is a chaotic result of the negotiation process with probably little bearing in practice. It is probably a better illustration of the difficulties encountered in achieving an agreement than anything else.

- 4) ~~*Urges* the Council to carry out further studies and develop further guidance on the subject; Contracting States to refrain from unilateral implementation of greenhouse gas emissions charges [prior to] the next regular session of the Assembly in 2007, where this matter will be considered and discussed again;~~

This text is crucial and although at first sight the text looks very negative, and although it is certainly more restrictive than the current wording, Europe has managed to keep its hands free. Two issues were very heavily debated.

First, whether the word 'implementation' should be replaced by 'action for implementation'. 'Action for implementation' would have tied Europe's hands. 'Implementation' means that Europe can propose - and in fact even adopt ! - a Directive on charging in the meantime, provided it does not enter into force until after the next Assembly, for example 1 January 2008.

Second, whether the Assembly should not just 'discuss' the issue but rather 'decide' upon it. This was also unacceptable for Europe.

So, on crucial points Europe retained a free hand free to prepare new initiatives. But it was certainly a close call.

5) Requests the Council to study the effectiveness of, and to develop further guidance on emissions levies related to local air quality by the next regular session of the Assembly in 2007, and urges Contracting States to actively participate and share information in this effort; and

6) Urges Contracting States to ensure the highest practical level of consistency with ICAO policies and guidance on emissions levies related to local air quality;

These two new pieces of text indicate that ICAO wants to have a greater say in charges targeted at local emissions. There is a danger that the eventual result of the requested ICAO study and guidance could make such charges more difficult at some stage in future, so there is a new task here for the EU to ensure that this does not happen. This is something that Europe had to give away in order to keep developing countries on board. Why they insisted on the charges for local emissions is not clear; only a few EU airports deploy landing charges that are differentiated on the basis of local engine emissions, and we are not aware of developing countries' airlines being hit by them.

c) Emissions trading

1) Endorses the development of an open emissions trading system for international aviation; and **unchanged**

2) Requests the Council to develop as a matter of priority the guidelines for open emissions trading for international aviation focussing on establishing the structural and legal basis for aviation's participation in an open trading system, and including key elements such as reporting, monitoring, and compliance, while providing flexibility to the maximum extent possible consistent with the UNFCCC process., in its further work on this subject, to focus on two approaches. Under one approach, ICAO would support the development of a voluntary trading system that interested Contracting States and international organizations might propose. Under the other approach, ICAO would 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. Under both approaches, the Council should ensure the guidelines for an open emissions trading system 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.

This text effectively allows Europe to move in this field. It says that the ICAO Council has a role to play in providing guidance and guidelines. Previous versions stated that the Council should not just address but should establish the structural and legal basis, which is, of course, much more restrictive and would imply that guidance is a prerequisite for action.

In summary, the 41 European (EU/ECAC) States in the Assembly have made an enormous effort to 'keep options open', and it seems to have won that battle, at least for the next three years. According to various reports, a difficulty in the Assembly discussions was that the talks were largely about the hypothetical moves that Europe would make. Europe's position would have been stronger if it had made real progress on one of the options discussed.

The way forward

The next three years are absolutely critical. Europe has been given an opportunity to show how it plans to act in the area of emissions charging for aviation. Although Europe has the right to keep options open indefinitely, in our view, the European position at the next Assembly would undoubtedly be stronger if a concrete European policy initiative were (on its way to being) adopted.

For background information and to find out about the impact on the sector, please refer to T&E's briefing on the subject, published in September.

Contact and more info:

T&E, European Federation for Transport and Environment, Brussels

Jos Dings, Director

+32 2 502 9909 jos.dings@t-e.nu www.t-e.nu

GreenSkies Alliance, London

Tim Johnson, Director

+44 20 7248 2223 www.greenskies.org