

Aviation - Gas emissions: The Dutch government conference on carbon pricing and taxation in aviation to prepare a European initiative for a CO2 emission related aviation tax

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【概要 : Summary】

Currently, the ways of reducing CO2 emissions in aviation are still limited as the utilisation of biofuels and sustainable aviation fuels are still the only alternatives to fossil fuels. Furthermore, the EU-ETS for aviation does not accelerate the airlines' initiative to intensify their efforts to reducing GHG emissions as they receive large quantities of pollution permits for free. Furthermore, the International Civil Aviation Organization (ICAO)'s Carbon Offset and Reduction Scheme for International Aviation (CORSIA) to reduce CO2 emissions in aviation at global level is also considered being too weak to significantly cut the aviation sector's CO2 emissions. Air travel is currently taxed in different forms in European Member States, from VAT on domestic flight tickets to airport taxes. However, a kerosene tax is not levied, due to the Chicago international agreement from 1944.

Considering the rising CO2 emissions in aviation and the disadvantages in taxation of other, environmentally friendlier transport modes, the Dutch government has taken the initiative to start a political incentive and discussion of the possibilities to introduce carbon pricing and aviation taxes including a tax on kerosene in the EU. A possible introduction of taxes on jet fuel and air tickets are considered as meaningful measures towards achieving the EU's target of reaching carbon

neutrality by 2050.

【記事 : Article】

1. Background

The aviation sector is responsible for about 3% of the EU's total GHG emissions and more than 2% of the global CO2 emissions. Furthermore, the ICAO forecasts that until 2050 the GHG emissions of aviation could grow by a further 300-700%. One of the main problems regarding the CO2 emission reduction in aviation is that the alternatives to fossil fuels are still limited. Furthermore, under the EU-ETS for aviation the airlines flying in the EU receive a large number of pollution permits for free, which does not accelerate the airlines' initiatives to reduce their GHG emissions. The ICAO's CORSIA scheme to reduce CO2 emissions in aviation at global level is also considered being too weak to significantly cut the aviation sector's CO2 emissions. It is expected that CORSIA will only achieve a carbon natural growth (CNG) in the 2020-2035 period.

Aviation has a unique taxation regime as tax exemptions are based on the ICAO's Chicago Convention, which prohibits the taxation of aviation fuel already on board of an arriving aircraft. However, since the Convention does not explicitly exclude the taxing of fuel that is taken on board prior to departure, the EU Member States would be entitled to tax aviation fuel for domestic aviation or, through bilateral

agreements with other Member States, on intra-EEA flights. In the EU, the 2003 Energy Taxation Directive (ETD) also allows for a taxation of aviation fuel used in the EU. Some EU Member States, have introduced distance-related air ticket taxes. However, the currently levied surcharges on air tickets only partially offset competitive advantages resulting from tax exemptions for air transport compared to other environmentally friendlier modes of transport. Therefore, in the EU, some Member States are now considering the option to introduce a levy on aviation fuel. The idea is to introduce a taxation of aviation fuel on domestic flights in EU Member States and on intra-EU flights, which would also improve the conditions of fair competition between the modes of transport towards reaching a level playing field between transport modes.

2. The Dutch conference on a CO2 related tax regime for the EU' s aviation sector

As the first major initiative on introducing a common air travel tax in the EU in years, the Dutch government organised the Conference on Carbon Pricing and Aviation Taxes in The Hague on 20 and 21 June 2019. The aim was to discuss the options to introduce ticket taxes, kerosene levies and value-added tax (VAT) in the EU's aviation sector. The Dutch State Secretary for Finance Menno Snel hosted the international two-day conference on carbon pricing and aviation taxes in The Hague, Netherlands. The Dutch government wants to support the move towards an agreement within Europe on these taxes, which are expected to help achieving climate goals and create a level playing field between the transport modes. Representatives from 29 countries and from various international organisations attended the conference. The Dutch conference was also attended by the EU's economics commissioner Pierre Moscovici and finance and environment ministers. Furthermore, the Swedish Minister for Finance Magdalena Andersson, the French Secretary of State for the Ecological and Inclusive Transition Brune Poirson and Dutch Minister of Infrastructure and Water Management Cora van

Nieuwenhuizen contributed to the conference. According to Snel, the tax exemption on kerosene is laid down in aviation treaties and in EU law, but the Netherlands believes that it ought to be possible to tax kerosene if the countries join together and make arrangements with the other European Member States. Snel stated it was unfair aviation escaped taxes compared to other transport modes and called on states to work together to create a European aviation tax and carbon pricing system. Snel was supported by the ministers from Sweden and France, who called for a carbon tax on fossil aviation fuel and that the next European Commission should tackle the issue as a priority. The EU Commissioner responsible for taxation, Pierre Moscovici, stated the Commission was ready to work with the Member States willing to impose a fuel tax on flights between them. Moscovici underlined the Commission could assist Member States to sign bilateral agreements by providing guidelines and by working towards removing the fuel exemption from bilateral air service agreements with third countries including India, Japan, Brazil, Australia and the United States by agreeing to tax fuel on a reciprocal basis since those countries had already taxed aviation fuel domestically. New aviation taxes should be looked at alongside other measures that include emissions trading, offsets, alternative fuels and operational improvements.

According to Andersson, a tax on aviation fuel would also meet the "polluter pays" principle and raise public funds that could be used for important investments in climate-friendly technologies. However, Andersson also expects challenges to such a policy change in the EU at ICAO level, but she underlined Sweden was willing to take the initiative. According to French Secretary of State for the Ecological and Inclusive Transition Brune Poirson, a coordinated European approach would be the best way to avoid negative impacts, especially on competitiveness. It is only the beginning of the debate and all the relevant policy tools including a direct tax on aviation fuel should be discussed, as well as strengthening the EU-ETS for aviation by

reducing the free allocation of allowances for airlines and ticket or plane taxes. Poirson underlined that France strongly supported the initiative of the Netherlands, Luxembourg and Belgium to open a discussion on aviation taxes and emphasised the idea to make it a key part of the next European Commission's work programme. If an agreement would not be found within the EU within a reasonable timeframe, France would be open to becoming part of a "coalition of the willing" on aviation taxation. Also the Dutch minister Snel underlined that the Netherlands is ready to introduce a national aviation tax. The aim of the conference is to encourage the new European Commission to work on proposals for a European aviation tax, a tax on kerosene and carbon pricing. The goal of the conference was to present conclusions to the new European Commission regarding the possible introduction of taxes on jet fuel and air tickets as part of the target to achieve the EU's carbon neutrality by 2050. The Dutch government is planning to impose a ticket tax of EUR 7 per flight. However, a EU-wide approach would make carbon pricing and aviation taxes even more effective. It would create a level playing field where the EU Member States can all share the same benefits at the same time. However, other major European Member States like Germany and Spain have yet to express their political view on a EU-wide common approach to aviation taxation, while the UK might not be involved anymore in any action on European level due to its Brexit.

Asking aviation its share in the decarbonisation effort like other sectors of the economy and stepping up pricing efforts in aviation seems fair and efficient, and should complement broader carbon pricing efforts across all sectors. A tax on jet fuel, or its carbon content, is technically the most straightforward way. Coordination at the European and global level is crucial when it comes to a fuel tax, which is politically challenging. Ticket-based carbon charges have the same demand effect as carbon prices but the effect on efforts to reduce CO2 emissions per unit of travel is less direct. The head of IMF's tax policy division Ruud de Mooij stated that

carbon pricing was effective and efficient, and induced behavioural changes in terms of fuel efficiency, fuel switching and consumption patterns. It could also end the anomalous tax treatment of aviation, which along with international shipping, created large distortions.

Furthermore, the Professor of Commercial and Administrative Law at the University of Wurzburg Eckhard Pache underlined that the EU energy tax directive allowed for bilateral or multilateral agreements between EU Member States to remove the aviation fuel tax exemption for intra-EU flights, but air service agreements (ASAs) with third countries had to be respected. Third country aircraft operators, falling under those agreements that carried out intra-EU flights, would have to be exempted from the fuel taxation.

3. Reactions on the possible introduction of taxation to reduce CO2 emissions in aviation

Commenting on the discussions at the Conference on Carbon Pricing and Aviation Taxes, in The Hague on 20/21 June 2019, the Aviation Director at the environmental NGO Transport & Environment, Bill Hemmings, underlined the EU Member States had a unique opportunity to deal with the aviation sector's climate impacts. It would be a positive start to stepping up taxation of fuels and tickets and a further strengthening of the EU-ETS. It was time to create a level playing field on taxing fuel between sectors. The aviation industry's representative Airlines for Europe (A4E) emphasised that aviation taxes were not an effective tool to reduce CO2 emissions. A4E pointed out that a number of "green taxes" introduced in some EU Member States had neither helped reducing CO2 emissions nor been used to fund environmental initiatives. A4E members Airbus, Air France, EasyJet and Norwegian underlined the best way for aviation to address climate change was through continuous investment in technology for new aircraft, sustainable fuels and reformed air traffic operations. Instead taxes would weaken the airlines' ability to invest into new technologies by making it more

expensive to fly, according to the CEO of Norwegian Air Shuttle Bjørn Kjos.

Meanwhile, European rail operators called on the EU's finance ministers to end the tax exemption of aviation fuel. They stated the tax exemption on kerosene would contribute to the price imbalance between transport modes, resulting in an uneven playing field. At the Conference on Carbon Pricing and Aviation Taxes in The Hague, the Community of Railway and Infrastructure Companies (CER) stated that exempting aviation from fuel tax was not fair or appropriate. CER also underlined that the aviation sector had a significant climate impact of around six times that of rail in terms of CO₂ per passenger-km and there was no justification for a tax exemption.

Already on 30 April 2019, the European Commission decided to register a new European Citizens' Initiative on "Ending the aviation fuel tax exemption in Europe". This European Citizens' Initiative calls on the Commission "to propose to the EU Member States the introduction of a tax on aviation fuel (kerosene)" and to end the aviation sector's tax advantages, in particular due to its fast growing GHG emissions. Should this registered initiative receive 1 million statements of support within 1 year from at least 7 different Member States, the European Commission will analyse it and react within 3 months.

According to Josh Spero and Rochelle Toplensky, a leaked Commission report considers that the aviation sector's carbon footprint would fall by 11%, or some 16.4 million tonnes of emissions, if the EU scrapped the jet fuel's tax exemption. According to the Dutch consultants CE Delft study, commissioned by the European Commission, imposing a tax of EUR 330 per thousand litres of kerosene could help address global warming, reduce noise pollution and raise EUR 27 billion in revenues every year. Since there are numerous ways to taxing aviation and its CO₂ emissions, including ticket taxes, fuel taxes, VAT and air cargo taxes, the different pricing of a ticket, price of fuel, weight of cargo, etc. has to be considered in their effects. However, in order to create a level playing field also with respect to other transport

modes like road and rail transport, the exemption from taxes for fuels used for commercial aviation should come to an end.

Meanwhile, on 9 July 2019, the French government announced to take action and to impose a green tax on plane tickets. It will impose new taxes on plane tickets of up to EUR 18 per flight, taking effect from 2020. A tax of EUR 1,50 will be imposed on economy-class tickets on domestic and intra-European flights, EUR 9 for business class tickets within the EU and EUR 3 outside the EU in economy class and a maximum EUR 18 for flights outside the EU in business class. The green tax will only be applied on outgoing flights and not those flying to France. Furthermore, flights to the French Mediterranean island of Corsica and also the French overseas departments will be exempt from the measure. The new green tax seeks to limit the environmental impact of air travel and the expected revenues of about EUR 180 million a year are planned to be invested in greener transport infrastructure. However, this latest plan by the French government is not a unique action, as other EU Member States have already imposed such levies, without reaching any reduction of air travel.

4. Conclusion

Tax exemption on kerosene is laid down in aviation treaties and in EU law. However, under EU law, the EU Member States have also had the option since 2003 to impose kerosene tax for domestic flights or within Europe by using bilateral agreements. However, so far, airlines continue to be exempted from a kerosene tax and cross-border flights are VAT-exempt. Due to the negative environmental impact of aviation, several EU Member States are now considering more measures, including taxes, to achieve a further reduction of CO₂ emissions in the aviation sector. The Dutch government considers it to be possible to tax kerosene if the EU Member States join together and make arrangements with other European countries. Since the EU's Energy Taxation Directive (ETD) permits taxation on domestic and intra-EU flights and since the ICAO's Chicago Convention does not mention any prohibition

to tax fuel taken on board prior to departure, the possibilities of levying a tax on aviation fuel on intra-EU flights needs to be discussed. There exists the right to implement a kerosene fuel tax for these cases and states are considering their options to agree on a bilateral or multilateral agreements to implement a kerosene fuel tax with regard to Art. 14 paragraph 2 ETD. The ETD entitles two or more EU Member States to enter into an agreement (referred to as tax agreement) to implement a kerosene fuel taxation for flights between the agreeing states. Furthermore, they only have to notify the ICAO according to Art. 38 of the Chicago Convention. On the other hand, some ASAs may contain taxation exemptions rules, hence, some operators from foreign countries operating between these agreeing states cannot be taxed. However, there is only a relatively small amount of intra-EU flights by non-European carriers and the introduction of a de minimis threshold for governing the treatment of small amounts of flight of non-EU airlines could minimise the risk of legal action by non-EU carriers operating between Member States and enjoying a mutual exemption from the fuel tax. The international conference on carbon pricing and aviation taxes in The Hague has shown that if there is no European agreement by 2021, the Netherlands would introduce a national aviation tax. France is already preparing its green tax for aviation. However, they could also build a coalition of the willing for the introduction of a tax system on the aviation fuels, in case there is no consensus reached at EU level. The effect of such a measure of carbon pricing on the environment could be magnified by making joint agreements in such a coalition of the willing. No new laws are needed to tax aviation fuel in Europe and so far it only lacked of the EU Member State governments' willingness to abolish fossil fuel subsidies for European aviation. It remains to be seen if the Dutch government will be able to convince the other European Member States to end tax exemptions on jet fuel and plane tickets, in order to help making the EU carbon neutral by 2050.

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