

Aviation – Gas emissions: Coalition of nine European Member States call on incoming European Commission to propose a EU-wide pricing system for negative externalities of aviation

Andrea Antolini Former Researcher JTTRI

【概要 : Summary】

The options to reducing CO₂ emissions in aviation are still limited and the utilisation of biofuels and sustainable aviation fuels are still the only alternatives to replace fossil fuels. Furthermore, the EU-ETS for aviation does not adequately encourage the airlines to take decisive GHG emission reduction measures as they receive large quantities of pollution permits for free. At the same time, the International Civil Aviation Organization (ICAO)'s Carbon Offset and Reduction Scheme for International Aviation (CORSIA) to reduce CO₂ emissions from aviation is considered being too weak to significantly cut the international aviation's CO₂ emissions.

In the EU, not only environmental groups but also EU Member States are calling for the introduction of additional legislative measures to reduce the aviation industry's emissions. While the new European Commission has not officially started its work yet, one of the new Commission's tasks will be to deal with the call for introducing a EU-wide pricing for the aviation industry's air pollution. Environmental groups have been demanding the introduction of a kerosene tax for years in order to reduce the aviation industries' CO₂ emissions and to create a level playing field with the other transport modes. However, recently, also nine EU Member States have decided to join forces and call on the European Commission to

prepare a proposal on aviation pricing. Based on a Dutch-led initiative, the finance ministers of nine European Member States call on the incoming European Commission to bring the debate on aviation pricing a step further. The nine EU Member States are convinced that "aviation is not sufficiently priced" compared to other transport modes. By introducing aviation taxation or similar policy measures, a level playing field with other transport modes should be reached. The new European Commission should take action in order to coordinate measures on this matter, as this is the most effective and harmonised way for all EU Member States.

The new European Commission is expected to start its work on 1 December 2019 and it will soon have to deal with this task to prepare a proposal for pricing the aviation sector for its negative environmental impacts.

【記事 : Article】

1. Background of the new initiative to introduce aviation emission pricing

Initially, aviation had not been in the focus of the GHG emission reduction debate, as aviation and shipping were excluded from the Kyoto Protocol and Paris Agreement. However, the aviation sector is responsible for about 3% of the EU's total GHG emissions and more than 2% of the global CO₂ emissions. Due to the expected seven-fold further increase in

global aviation emissions over the next 30 years, CO₂ emission reduction measures have to be considered. One of the main problems of reducing the CO₂ emissions in aviation is the fact that there are only few alternative propulsion systems or fuels viable for the aviation industry. The ICAO will introduce CO₂ emission reduction measures under its CORSIA scheme, starting in 2021. However, CORSIA is not expected to provide the right structural changes to lead to sustainability, because carbon offsetting under the CORSIA programme will probably only achieve a carbon natural growth (CNG) in the 2020–2035 period. On the other hand, the aviation sector is excluded from fuel tax or VAT taxes and consequently, there exist disparities in energy taxation between different transport modes. The aviation sector has a unique taxation regime as tax exemptions are based on the ICAO's Chicago Convention, which prohibits the taxation of aviation fuel, which is already on board of an arriving aircraft. However, since the Convention does not explicitly exclude the taxing of fuel that is taken on board after arrival and prior to departure, the EU Member States would be entitled to levy taxes on European domestic flights and intra-EU flights through bilateral agreements with other Member States and also under the 2003 Energy Taxation Directive (ETD).

2. Study results on possible taxation in aviation

Aviation has a unique taxation regime that is characterised by a lower level of taxation than other economic activities. Aviation fuel is exempted from fuel taxes on the grounds that the ICAO's Chicago Convention Article 15 prohibits states to levy charges "in respect ¹¹~~SEP~~ solely of the right of transit over or entry into or exit from its territory", and prohibits the taxation of aviation fuel already on board of an arriving aircraft. Although the Chicago Convention does not explicitly prohibit taxing fuel taken on board prior to departure, it became common practice to keep aviation excepted. As a result, all aviation fuel used in the EU is exempted from taxes

also on European domestic flights and intra-EU flights, although this could be permitted. However, in the EU, the 2003 Energy Taxation Directive (ETD) Article 14 would allow to tax aviation fuel for domestic aviation or on intra-EEA flights. However, Member States to continue to exempt aviation fuel from taxation on domestic, intra and extra-EU flights. A study of CE Delft entitled "Taxing aviation fuels in the EU" of November 2018 examined the possibility of taxing aviation fuels in the EU with a view to identifying legal options and legal implications of a fuel tax on all carriers operating within Europe. The study's legal analysis shows that it appears to be possible for EU Member States to tax aviation fuels on flights between them even when non-EU carriers are enjoying a mutual exemption from fuel tax when operating on those routes. Since this exemption could potentially distort the competitive market, the report explores such a market distortion and how it could be limited or avoided. The legal analysis shows that it appears to be possible for EU Member States to tax aviation fuels on flights between them even when non-EU carriers are enjoying a mutual exemption from fuel tax operate on those routes. The most promising option seems to be the introduction of a de minimis threshold. If Member States were to enter into a bilateral agreement to tax fuel on flights between them, aircraft operators registered in a non-EU Member State and operating on these intra-EEA routes, would be subject to separate bilateral air service agreements.

Another CE Delft study entitled "A study on aviation ticket taxes" of November 2018 analyses the option to introduce taxes on aviation tickets. The study analyses how climate externalities can be used as a basis for differentiation without risking that the tax is viewed as a fuel tax. Moreover, the study analyses how and to which extent aviation ticket taxes can be used to internalise external costs of aviation, with a focus on climate impacts.

In order to still raise fiscal revenue from aviation, a number of countries have introduced aviation ticket taxes in the last decades. Inevitably, these

initiatives have been met by opposition from airlines and often opposed in courts. However, in most cases, the taxes were judged to be lawful. The study shows that transfer and transit passengers may be exempted in order to avoid double taxation; differentiation of taxes with regards to distance is permissible, but the differentiation should not interfere with the working of the internal market. ^[1] Consequently, an aviation ticket tax can withstand legal challenges if it is not linked to fuel consumption and if it does not differentiate rates within the EU, while it may exempt transfer and transit passengers.

Another study by the CE Delft and seo Amsterdam economic entitled “Taxes in the Field of Aviation and their impact” of June 2019 analysed all taxes and charges that are related to the aviation industry and used for general public purposes. It includes all taxes that are specific to the aviation industry and general taxes that affect the industry for which there is a special regime for aviation, such as VAT and luxury tax. Currently, the weighted average aviation tax in the EU across all Member States and destinations amounts to € 11 per ticket. If all aviation taxes in the EU would be abolished, the number of passengers would increase by 4%. This would result in an approximately equivalent increase in the number of flights, connections, jobs in the aviation sector and value added in the aviation sector. The CO₂ emissions of aviation would also increase by 4% and the number of people affected by airport noise by 2%. The study comes to the conclusion that abolishing the exemption of energy taxation on aircraft fuel would, if it were possible, result in an increase of the average ticket price by 10% and a decrease in passenger demand of 11%. This is expected to have a negative impact on employment in the aviation sector (11% reduction) and value added (11% reduction). However, the higher fiscal revenue would entirely offset the adverse impacts on aviation employment and value added, leading to an only negligible impact on employment and GDP.

Instead, the CO₂ emissions of the aviation sector would decrease by 11% and the number of people

affected by airport noise would decrease by 8%.

The study shows that taxes lower demand as it would cause a 10% increase in average ticket price and an 11% decline in passenger demand. However, aviation CO₂ emissions would decrease as well as the number of people affected by airport noise.

3. The Dutch initiative on pricing aviation

The low-tax regime for aviation has been so far continued although the taxation of aviation activities per se is not prohibited, but only restricted by the Chicago Convention for aviation fuel already on board of an arriving aircraft.

Since some studies have shown that taxes have an impact on demand, an introduction of aviation ticket or fuel taxes can be expected to reduce also the aviation’s environmental impacts. However, a ticket tax does not take the actual environmental impacts of a passenger on a specific flight into account. If taxes were differentiated with regards to the environmental impact, the transport system would become more efficient and an additional incentive to reduce the impacts would be provided.

On 12 February 2019, at the European Economic and Financial Affairs (ECOFIN) meeting, the Dutch State Secretary for Finance Menno Snel raised the idea of taxing kerosene and provided information on the Dutch initiative to hold an international conference to discuss ways to enhance cooperation at EU level on carbon pricing in the aviation sector on 20–21 June 2019. The EU finance ministers gave tentative support to considering a EU-wide tax on aviation fuel to help reduce carbon emissions from passenger and airfreight flights. The Conference on Carbon Pricing and Aviation Taxes in The Hague followed on 20 and 21 June 2019 with the aim to discuss the options to introduce ticket taxes, kerosene levies or a value-added tax (VAT) in the EU’s aviation sector at EU level.

The Dutch government has been planning to impose a ticket tax of EUR 7 per flight and 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. The green tax will only be applied on outgoing flights and not those flying to France. Furthermore, also the German government is moving towards increasing existing levies on passengers. Under a draft climate law, domestic and international departures would be subject to higher taxes as of April 2020.

4. Nine EU Member States call on European Commission for enhancing pricing of aviation

Meanwhile, several EU Member States have started to introduce some mechanisms at national level to put a price on airline emissions. However, no measure is so far planned at EU level. On 7 November 2019, on behalf of nine EU Member States, including Belgium, Bulgaria, Denmark, France, Germany, Italy, Luxembourg, the Netherlands and Sweden, the Dutch Finance state secretary Menno Snel submitted a letter to the designated Executive Vice President and responsible for the European Green Deal and a European Climate Law of the new European Commission Frans Timmermans to prepare a proposal to introduce a pricing scheme for the aviation sector. The letter is calling for the introduction of a new European level legislation to tackle emissions of the aviation sector by measures of pricing aviation for its emissions.

Without calling for a specific pricing measure, the aim is to establish a level playing field with the other transport modes and to limit CO₂ emissions in aviation in the EU. However, the nine Member States, which account for more than half of the EU's aviation sector's emissions, are convinced that the introduction of a EU-wide legislation on putting a price on the EU's aviation sector would be the best solution in order to achieve a level playing field with the other transport modes and to introduce a common and fair pricing system.

In the letter signed by the finance ministers of all nine EU Member States, the group calls on Ursula von der Leyen's incoming new European Commission to "bring the debate on aviation pricing, e.g. in the form of aviation taxation or similar policies, a step further".

In the nine EU Member States' political statement on EU coordination for aviation pricing the Ministers of Finance point out the aviation transport's significant impact on the environment as it is responsible for approximately 2.5% of global CO₂ emissions and it causes negative externalities, such as noise and air pollution. The Ministers underlined that compared to most other means of transportation, aviation is not sufficiently priced and it is exempted from excise duties. No VAT is levied on international flights, there is no coordinated ticket tax and there are no economic instruments to reduce GHG emissions in place at EU level. Therefore, CO₂ emissions and negative externalities are on average not sufficiently covered in the price of airplane tickets. Therefore, in the statement, the nine EU Member States call on the European Commission to bring the debate on aviation pricing, e.g. in the form of aviation taxation or similar policies a step further, while taking into consideration existing effective national systems and policies, the competitiveness of the sectors concerned as well as the geographical position and the development of the transport infrastructure in the EU Member States. The nine Member States believe that more coordination on pricing of negative externalities of aviation could ensure that the polluter pays a fairer price for the use of aviation transport and EU coordination on this matter is the most effective approach for all Member States. Therefore, they call upon the European Commission to bring forward a proposal for a EU initiative on aviation pricing.

While the nine Member States have left open how aviation should be taxed, the polluter pays principle for the consequences of CO₂ emissions, noise, and air pollution from aviation needs to be applied. In their letter, the Member States ask the Commission to take account of existing national regulations, competitiveness, policies and geographical position. However, the statement does not suggest imposing a jet fuel tax, although the Dutch and German governments do consider this as an option. In any case, a EU-wide approach should 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, while nine European Member States are supporting the initiative, other major European Member States like Spain will have yet to express their political view on a EU-wide common approach to aviation taxation. The UK might not be involved anymore in any action due to Brexit.

5. Reactions on the nine EU Member States Joint Declaration

Already after the Dutch conference in June 2019, the idea of introducing a tax or pricing on aviation was discussed controversially. The aviation industry's representatives like Airlines for Europe (A4E) emphasised that aviation taxes were not an effective tool to reduce CO₂ emissions. They also pointed out that a number of "green taxes" introduced in some EU Member States had neither helped reducing CO₂ emissions nor were used to fund environmental initiatives. Instead the European rail operators called on the EU's finance ministers to end the tax exemption on kerosene. The Community of Railway and Infrastructure Companies (CER) stated that exempting aviation from fuel tax was not fair or appropriate. Instead, the Executive Vice President Timmermans had already mentioned in the past the possibility to consider the introduction of a legislation on aviation pricing and supports the aim for a level playing field for aviation regarding taxation. However, the newly appointed European Commissioner for Transport Adina-Ioana Vălean, was asked at her hearing at the European Parliament whether she intends to support the introduction of a kerosene tax for the aviation sector. However, she stated that taxation was only one of the possibilities to make aviation more sustainable and efficient. Vălean intends to push for the completion of the Single European Sky in order to reduce airspace congestion and emissions.

Meanwhile, the industry group Airlines for Europe (A4E) stated again that "taxes levied specifically on

aviation are not an effective way to pursue environmental objectives". A4E insists that fully rolling out SES would cut sector emissions by 10%, by reducing the amount of time wasted by idle aircraft and improving flight paths. Most recently, the US airlines criticised Germany's plan to tax international flights. Airlines for America (A4A) insisted that Germany's plan to tax air tickets would undermine the ICAO's CORSIA agreement on offsetting emissions from international aviation. However, the German government wants to increase taxes on passenger tickets, both domestic and international, and at the same time reduce VAT on train tickets in order to create a level playing field. Instead A4A president Nicholas Calio criticised this plan, calling it illegal, as it would violate the EU's open skies aviation agreement with the US due to the cross-subsidisation of the railways at the expense of the airlines, as well as the CORSIA scheme.

6. Conclusion

Considering the rising CO₂ emissions in aviation and the advantages of aviation in taxation compared to other, environmentally friendlier transport modes, a possible introduction of taxes on jet fuel and air tickets are considered. Since the EU will have to further significantly reduce its CO₂ emissions, in particular in the transport sector for meeting its climate targets under the Paris Agreement and under its own climate targets by 2050, the EU Member States are considering new pricing approaches for the aviation sector to create a level playing field with the other transport modes.

In fact, nine EU Member States are now calling on the incoming European Commission to deal with the problem and to prepare a proposal on measures for introducing a pricing system for the aviation sector, which could also include the introduction of fuel taxes. A tax on jet fuel, or its carbon content, would be the most straightforward approach. 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 considered being less direct.

The 9 EU Member States' statement does not suggest any concrete measure or the imposition of a jet fuel tax. However, the initiative clearly demonstrates the Member States' objective to introduce a EU-wide pricing on aviation in order to reduce demand and to create a level playing field with other transport modes. This could lead to a proposal of a new Aviation Package.

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