

Response of Transport & Environment to DG Clima's Consultation on ICAO Assembly

Question:

What should be the major considerations to assess the four different geographical scope options for the ICAO Framework listed above?

Answer:

In the first instance NGOs object in the strongest possible terms to the Commission posing this question in a public consultation closing on September 10 when it has already recommended to Member States via Coreper that the EU should change its policy in ICAO from supporting departing flights in the Framework to a regional airspace approach, a recommendation which was subsequently approved by Coreper on 17 July and the decision conveyed to ICAO and incorporated in the draft Assembly text.

Since no other state/region has any obvious intention of taking early MBM action, the geographic scope options for the Framework should be considered in light of the EU ETS.

The Commission has omitted to include 50/50 amongst the options and the EU failed to promote it at ICAO despite 50/50 having been mentioned in the HGCC, and included in ICAO's ETS guidelines and the SBSTA options. This omission is all the more amazing given that 50/50 is likely to be the most politically and environmentally appropriate option when balancing environmental needs and political feasibility.

The 50/50 option has same environmental coverage as departing flights but is more politically acceptable to ICAO States as in virtually all cases it does not reach into the country of arrival's airspace or runways. The EU should actively promote this option.

Major Considerations:

1. Environmental effectiveness at EU and global level. A 50/50 approach if copied worldwide would cover 100% of emissions; an airspace approach only 22%;
2. Feasibility of monitoring, reporting and verification (MRV). The ETS has proved that MRV for departing flights (and therefore for 50/50) is straightforward. On the contrary, MRV and enforcement of overflights would be unworkable. Any airspace option would have major MRV issues - defining the boundary; measuring emissions at that point et cetera.
3. Providing an incentive to operators to reduce emissions; best achieved by capturing whole flight emissions. A national airspace approach which only captured about 10% of long-haul emissions would hardly provide the same incentive. The idea that lack of geographic coverage could be compensated for through higher carbon prices may be theoretically correct, but is practically and politically unlikely to materialise in practice as it will require consensus on either decreasing the volume of free allowances or introducing a more stringent cap.

Options based on airspace/regional airspace are unacceptable because of the vastly reduced geographical coverage and CO₂ reductions. The Commission's impact assessment of the environmental coverage of the various options must show the tons of CO₂ reduced for each option not only for the base year (2014) but also for 2020 and 2025 given the large disparity in effectiveness between the options that will develop over time. It must also show the climate warming (RF)/temperature response impacts over similar periods.

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Environmental Integrity – cap:

Implementation of any ICAO Framework through a new Commission proposal provides the opportunity for a tightening of the existing cap. At the very least the aviation EU ETS cap should be lowered by 1.74% per annum in line with other industrial sectors.

Question:

Which elements of the "Roadmap for a Global MBM" do you consider a priority, and what would be the optimal timeline for implementation?

Answer:

Priority 1: It is essential that the 38th ICAO Assembly formally agree to apply a global market based measure to international aviation. The start date should be 2016 so a Special Assembly should agree to the details and implementation in 2015. The Carbon neutral growth target should then start in 2016 or better yet, a cap similar to that facing other sectors of 2005 levels minus 10%.

Priority 2: Agree a proper modus operandi for assessing and agreeing the details. The responsibility should rest with CAEP. The EU should press for a CAEP committee approach where member states are represented - not just "independent" nominated experts - and where civil society has full observer access – able to speak and contribute papers. The EU has an obligation to resist member state only decision-making on climate change issues.

Priority 3: Quality of offsets. See below

Priority 4: Agree allocation. Preferably state of registration provided there is a standard MRV.

Priority 5: Legal mechanism. No global Treaty. Adopt the application of a global MBM by states as a recommended standard under Annex 16 on the express understanding that all countries to be included agree to implement it.

Priority 6: MRV. Major issue. The EU should fight hard for an EU ETS based approach.

Priority 7: SCRC. Route based de minimis.

Major Considerations

Environmental Integrity - coverage

The Chicago Convention recognises that every state has complete and exclusive sovereignty over the airspace above its territory. Implementing a national airspace regime requires no further reference to ICAO. Since the Framework is intended to facilitate/guide states wishing to take early action – the premise must be that the scope would be wider than sovereign airspace. It is clear under Chicago (and reinforced by the ECJ) that a regulation based on flights landing and/or taking off does not conflict with the Chicago Convention.

Offsetting

It needs to be recognised in ICAO that offsetting is not a long term solution because it does not lead to emissions reductions in the aviation sector itself but merely compensates these emissions throughout investment in reduction projects elsewhere. A clear distinction needs to be made and

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recognised between emissions permits (such as EAU) and offset credits (such as from the UNFCCC's recognised flexible mechanism CDM). ICAO needs to decide whether the definition of offset also includes permits, or only offset credits. Because offsetting delays in-sector reductions, it cannot deliver the large long-term emissions cuts required to mitigate the aviation sector's emissions and projected growth in air-traffic. To make things worse, if the offsets are of low quality, climate impacts actually get worse. For example, offset credits from voluntary offset programmes and bilateral offset mechanisms lack international oversight and should therefore not be eligible under an ICAO scheme because the quality of these credits cannot be evaluated. There are also quality concerns about the Kyoto Protocol's flexible mechanisms Joint Implementation (JI) and Clean Development Mechanism (CDM). JI has been repeatedly criticised for a severe lack of quality control. 95% of all ERUs issued to date are issued by host countries without international oversight. Despite the on-going reform it is unlikely that JI projects post 2012 will be of significantly better quality. Offset credits from JI should therefore not be eligible under an ICAO scheme.

Also the CDM has been found to be lacking environmental integrity. Research commissioned by the CDM Policy Dialogue in 2012 found that potentially two thirds of all CDM credits expected between 2013 and 2020 could come from business-as-usual projects and therefore cause an increase in GHG emissions of up to 3.6 billion tonnes if used for compliance. Moreover, quality restrictions already in place in regional Emissions Trading Schemes, such as the ban for offset credits from industrial gas projects must be taken into account. Thus the EU needs to ensure that ICAO addresses the following issues in relation to the use of offsets:

- Quality restrictions should be placed on CDM offset credits to ensure that only CERs that come from projects with high environmental quality can be used
- Offset credits from JI should not be eligible
- NMM credits should only be eligible if they are verified to be real, permanent and additional
- Offset credits from the voluntary market should not be eligible
- Offset credits from bilateral offsetting mechanisms should not be eligible

As for the eligibility of emissions permits, cap-and-trade systems only lead to emissions reductions if there is a scarcity of allowances. Allowing the use of surplus allowances from over-supplied schemes such as the EU-ETS or the international Emissions Trading under the Kyoto Protocol would therefore, as things stand, not lead to emissions reductions.

Question:

What essential requirements should be taken into account for the development of a common set of monitoring, reporting, and verification standards for measuring greenhouse gas emissions from international aviation?

Answer:

This is not a job for ICAO Secretariat. CAEP WG aided by outsourced expert project. ICAO could learn here from IMO. Emission data must be measured and collected from each departing flight. No alternative makes any sense. Airlines must report aggregated data to the agreed administering State using a common methodology. Member States should report the data annually to ICAO. Airlines with difficulties managing MRV should be offered assistance through their state of registration or have the alternative to accept default values.

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Questions:

Would you be in favour of exempting non-commercial aircraft operators altogether from the scope of EU ETS similar to the de minimis exemption of commercial operators?

Which consideration is the most important when choosing a de minimis threshold for small aircraft operators?

Answer:

We would first like to note that we agree that it would be preferable to find a way for the business aviation community and other small emitters to continue to contribute to the climate goals of the EU rather than having a full exemption. In deciding between the options we feel that the most important criteria are environmental effectiveness and administrative burden. The main reason for considering changing the way small emitters are administered is due to the administrative burden and so it must be ensured that any new proposal does not simply create a different burden. Similarly, in terms of environmental effectiveness we think that most of the options are promising but we are very concerned about the offsetting option.

We considered the other options and think the Upstream approach could be a very interesting approach but may have high regulatory hurdles and administrative issues with regards to the fuel supplier and/or for airport deliveries.

We are inclined to prefer a route charging /climate fund approach. If Eurocontrol can determine an activity inventory (e.g. miles flown) for the relevant operators, then a charge related to carbon price could be imposed with revenues collected centrally for allocation to a climate fund.