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16 November 2000

## REPORT

on the Commission communication on Taxation of aircraft fuel  
(COM(2000) 110 – C5-0207/2000 – 2000/2114(COS))

Committee on Economic and Monetary Affairs

Rapporteur: José Manuel García-Margallo y Marfil



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## PROCEDURAL PAGE

By letter of 2 March 2000, the Commission forwarded to Parliament a communication on Taxation of aircraft fuel (COM(2000) 110 – 2000/2114(COS)).

At the sitting of 3 May 2000 the President of Parliament announced that she had referred the communication to the Committee on Economic and Monetary Affairs as the committee responsible, the Committee on Regional Policy, Transport and Tourism and the Committee on Environment, Public Health and Consumer Policy for their opinions (C5-0207/2000).

The Committee on Economic and Monetary Affairs had appointed José Manuel García-Margallo y Marfil rapporteur at its meeting of 17 April 2000.

The committee considered the Commission communication and the draft report at its meetings of 21 June, 28 August, 11 October and 7 November 2000.

At the last meeting it adopted the motion for a resolution by 32 votes with 4 abstentions.

The following were present for the vote: William Abitbol, acting chairman; Ioannis Theonas, vice chairman, José Manuel García-Margallo y Marfil, rapporteur, Richard A. Balfe, Luis Berenguer Fuster, Hans Blokland, Armonia Bordes, Hans Udo Bullmann, Benedetto Della Vedova, Jonathan Evans, Göran Färm (for Simon Francis Murphy), Marie-Hélène Gillig (for Christa Randzio-Plath), Robert Goebbels, Lisbeth Grönfeldt Bergman, Christopher Huhne, Pierre Jonckheer, Othmar Karas, Piia-Noora Kauppi, Gorka Knörr Borràs, Wilfried Kuckelkorn (for Bruno Trentin), Alain Lipietz, Astrid Lulling, Jules Maaten (for Carles-Alfred Gasòliba i Böhm), Thomas Mann (for Alejandro Agag Longo), Ioannis Marinos, Karla M.H. Peijs (for Marianne L.P. Thyssen), Fernando Pérez Royo, Mikko Pesälä (for Karin Riis-Jørgensen), Alexander Radwan, Bernhard Rapkay, Gilles Savary (for Pervenche Berès pursuant to rule 153(2)), Olle Schmidt, Peter William Skinner, Charles Tannock, Helena Torres Marques, Theresa Villiers.

The opinions of the Committee on Regional Policy, Transport and Tourism and the Committee on Environment, Public Health and Consumer Policy are attached.

The report was tabled on 16 November 2000.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

## MOTION FOR A RESOLUTION

### European Parliament resolution on the Commission communication on Taxation of aircraft fuel (COM(2000) 110 – C5-0207/2000 – 2000/2114(COS))

*The European Parliament,*

- having regard to the Commission communication on Taxation of aircraft fuel (COM(2000) 110 – C5-0207/2000<sup>1</sup>),
  - having regard to the Commission Communication 'Air Transport and the environment - towards meeting the challenges of sustainable development' (COM(1999) 640);
  - having regard to the Commission's proposal for a Council Directive 'Restructuring the Community Framework for the Taxation of Energy Products' (COM(1997) 30) and its resolution of 9 February 1999 thereon<sup>2</sup>;
  - having regard to the Report from the Commission to the Council and the European Parliament under Article 8(6) of Council Directive 92/81/EEC, on the situation with regard to the exemptions or reductions for specific policy considerations as set out in Article 8(4) of Directive 92/81 and concerning the obligatory exemption of mineral oils used as fuel for the purpose of air navigation other than private pleasure flying and the exemptions or reductions possible for navigation on inland waterways other than for private pleasure craft as set out in Articles 8(1)(b) and 8(2) (b) of the same Directive (COM(96)0549) and its resolution of 13 June 1997 thereon<sup>3</sup>
  - having regard to Rule 47(1) of its Rules of Procedure,
  - having regard to the report of the Committee on Economic and Monetary Affairs and the opinions of the Committee on Regional Policy, Transport and Tourism and the Committee on the Environment, Public Health and Consumer Policy (A5-0334/2000),
- A. Whereas air traffic is expected to continue to increase significantly over the next years;
- B. Whereas adequate measures must be found as fast as possible to limit the negative impact of this increase on the environment,
- C. Whereas these measures must promote environmental protection while respecting fair competition and the proper functioning of the internal market ;

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<sup>1</sup> OJ C not yet published

<sup>2</sup> OJ C 150 28 May 1999, p. 82

<sup>3</sup> OJ C 200 30 June 1997, p 244

- D. whereas at this stage an introduction of a tax on aircraft fuel would, due to legal constraints, be possible only for intra-Community flights of Community air carriers, which would, however, benefit the environment and result in net reductions of CO<sub>2</sub>,
- E. whereas if the airline industry would be left to expand without restriction, most of the reductions in greenhouse gases expected to be achieved by other industries in the next few years under the Kyoto Protocol, would be countered by increases in CO<sub>2</sub> from aviation;
- F. Whereas air transport enjoys a preferential treatment, e.g. as regards excise duties or VAT, compared with other modes of transport and whereas for the sake of coherence of the tax system and environmental concerns this positive discrimination must be ended;
1. Welcomes the Commission's Communication and the study it is based upon as a valuable contribution to address the environmental problems associated with air transport;
  2. Considers, however, that the Commission should have devoted more of its communication to analysing the environmental impact of a tax on aircraft fuel;
  3. Is alarmed at aviation's growing share of global greenhouse gas emissions; considers it to be of the utmost importance that measure be taken to limit emissions from aviation;
  4. Stresses that the use of economic instruments in this context is crucial for encouraging progress towards a cleaner airspace both in the Member States and in the applicant countries, as well as in the rest of the world; regards this as a more effective method than traditional legislation;
  5. Considers that the current situation whereby no tax is required to be paid on aviation fuel worldwide constitutes unfair treatment of other modes of transport and is thus not in keeping with the objective of equality of opportunity between all modes of transport;
  6. Notes the Commission's conclusion that, principally for economic reasons, it would not be immediately practicable for the Community as a whole to introduce taxation of aircraft fuel targeting exclusively intra-Community flights operated by Community air carriers;
  7. Agrees with the Commission's interpretation of the study's findings to the effect that a specific tax in the Community would have benefits for the environment and yield net reductions in CO<sub>2</sub> emissions;
  8. Considers that, as far as the issue of greenhouse gas abatement is concerned, relatively minor measures can never be regarded as insignificant, especially in a fast-growing sector, which is why the Commission's communication indicates that the Council ought to agree on common excise duties on aircraft fuel in the Union;

9. Welcomes the Commissions recommendation to permit Member States to levy tax on aviation fuel for domestic flights or, via bilateral agreements, on intra-Community flights, which is compatible with the findings of the study; emphasises that revenues accruing from such a measure would allow Member States to reduce other taxes, notably those on labour as recommended in Article 1 of the Commission Proposal for the taxation of energy products;
10. Points out that excise duty on aircraft fuel fits in perfectly with the principle of green taxes ;
11. Points out that measures in this sector may not unduly endanger the competitiveness of European air carriers towards air carriers from third countries;
12. urges for immediate measures to be taken to reduce the environmental impact of aviation and to create a more level playing field by making aviation subject to the same 5% greenhouse gas emission reduction targets as other sectors under the Kyoto treaty and an environmental charge to be introduced on flights to and from EU airports;
13. Stresses that the adverse socio-economic effects of excise duty on aviation fuel must be minimised; calls therefore on the Council to prepare for renegotiation of the bilateral agreements governing the treatment of aviation fuel and to examine how transport, both within the Union and to and from third countries, might be brought within the scope of such a tax regime; also calls on the Council to work energetically to ensure that a compromise is reached on the treatment of aviation fuel at the ICAO's 33rd conference in 2001.
14. Calls on the Council Presidency and the Commission to keep Parliament fully informed about the 33<sup>rd</sup> ICAO Conference in 2001; calls on the Presidency and the Commission to state before the conference what the EU's input will be, and, after it has finished, to report to Parliament on the work of the conference and its results, particularly with regard to excise duty on aircraft fuel;

15. Urges the Commission to submit a communication on proposals for internal EU measures if no satisfactory measures are taken by the ICAO at the 33<sup>rd</sup> Assembly next year.
16. urges the Commission to press for a re-negotiation of the 1944 Chicago Convention and the bilateral Air Service Agreements (ASAs), which fix the exemption from taxes for fuel supplied on the territory of the contracting parties;
17. Is of the opinion that also other measures are urgently to be envisaged to reduce CO<sub>2</sub> emissions of air transport such as emissions trading schemes; voluntary agreements by the air transport industry, research and development programmes for technological improvement of engines and fuel, differentiated environmental levies, the drawing-up of environmental contracts and better management of air traffic, and that these should include clear targets and monitoring procedures with penalties to safeguard fair competition in the internal market;
18. Calls on the Commission to undertake a study analysing these alternative solutions;
19. Instructs its President to forward this resolution to the Council and Commission.



## **Explanatory Statement**

### *1. Legislative framework: Council Directive 92/81/EEC*

The issue of taxation of aircraft fuel is currently governed by Council Directive 92/81(EEC) on the harmonisation of the structures of excise duties on mineral oils. Article 8 (1b) of this Directive requires Member States to exempt mineral oils from the harmonised excise duty 'when they are supplied for use as fuels for the purpose of air navigation other than private pleasure flying'. Article 8 (7) requires a review of this exemption by the Council based on a report and proposal by the Commission. This report shall take account of the external costs entailed in such means of transport and the implications for the environment.

### *2. Legal constraints on a revision*

There are two main legal constraints on the introduction of a tax on aircraft fuel. The first results from the Chicago Convention of 1944, which states in Article 24 that 'fuel, lubricating oils, spare parts regular equipment and aircraft stores on board an aircraft of a contracting state ...shall be exempt from customs duty, inspection fees or similar national duties or charges'. The ICAO Council of 14 December 1993 confirmed that not only 'goods' already on board the aircraft, but also fuel embarked on aircraft destined for another State shall be exempt and that excise duties and sales and consumption taxes where also included. All EU Member States are members of ICAO and have to abide by this regulation.

The second constraint results from the numerous bilateral Air Service Agreements (ASA's), which exist between individual Member States and also between Member States and third Countries. These agreements govern the treatment of fuel loaded on to an aircraft and usually contain a clause to the effect that both fuel in transit and fuel supplied in the territory of the contracting party are exempt from fuel taxes.

### *3. The revision procedure*

As required by Article 8(7) of Directive 92/81 the Commission produced the respective report in 1996<sup>4</sup>. It concluded that excise duties on mineral oil should be extended 'to aviation kerosene as soon as the international legal situation allows the Community to levy such a tax on all carriers including those from third countries'<sup>5</sup>.

This was taken up in the Commission's proposal for a Council Directive restructuring the Community framework for the taxation of energy products of 12 March 1997<sup>6</sup>, which is intended to replace Directive 92/81. Article 13 (1c) of the proposed Directive stipulates that Member States shall exempt from taxation 'Energy products supplied for use as fuels for the purpose of air navigation other than private pleasure flying for as long as such products are obliged to be exempted under international obligations.' Article 13 (2) states that 'Member States may limit the scope of the exemptions provided for in paragraph 1 (c)...to international and intra community transport. In addition, where a Member State has entered into a bilateral agreement with another Member State, it may also waive the exemption(s) provided for in paragraph 1(c) ... of this Article.' Member States shall thus be allowed to introduce an aviation tax on national flights and via- bilateral agreements on intra-Community flights.

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<sup>4</sup> COM(1996) 549

<sup>5</sup> COM(1996) 549, p. 11

<sup>6</sup> COM(1997) 030

In a next step the Council adopted the above mentioned report (while the adoption of the Council Directive is still pending) and – in June 1997 - requested the Commission to provide further information on the effects of the imposition of such taxation. In consequence the Commission assigned a group of independent experts to execute a study 'analysis of the taxation of aircraft fuel', the findings of which together with the Commission's conclusions are presented in the communication examined in this report.

#### *4. Convenience of the study*

The European air transport industry has been growing over the last decades at rates far above the average GDP and passenger traffic is expected to continue to increase at high levels. There is no doubt that the negative effects on the environment such as its contribution to the greenhouse effect and to the depletion of the ozone layer is reason for concern. In its above mentioned report from 1996 the Commission estimated that the rapid increase in air transport would be likely to lead to a doubling of CO<sub>2</sub> emissions from this source by 2005 compared to 1993. According to Commission estimates the transport sector as a whole will account for more than 70% of the overall increase in emissions between 1990 and 2010. It should be noted that air traffic accounts for around 12 % of CO<sub>2</sub> emissions (1995), compared to road transport's 85%. For 2010 this share is expected to rise to 15%.

More recently the Commission in its communication 'Air transport and the Environment - towards meeting the challenge of sustainable development (COM (99) 0640), which is examined in a separate report by the Parliament's Environment Committee, states that growth in air transport has outstripped 'environmental improvements resulting from continuous technology improvements and the industry's considerable own efforts' (p.3). These circumstances show the need for action and the need for a thorough and comprehensive study analysing the effects of the taxation of aircraft fuel.

#### *5. The study*

The study, finalised in January 1999, contains an impact assessment of different fuel taxation options in the air transport sector taking into account a wide range of analysis aspects (e.g. socio-economic and environmental aspects, legislation aspects, etc.) and compares the cost internalisation of the air transport sector with other transport sectors. For the sake of brevity your rapporteur will limit his presentation of the study to the description of its basic elements and main findings. Five basic tax options have been defined:

Fuel taxation for

1. all routes departing from the EU (including intra-EU routes) for all carriers;
2. all routes departing from the EU (including intra EU-routes) for EU carriers only;
3. all intra-EU routes for all carriers;
4. all intra-EU for EU carriers only and
5. all national routes within the EU for all carriers.

Furthermore three charging levels have been considered for the five tax options giving a total of 15 different taxation options:

- 245 Euro/1000 litres of fuel (minimum rate of excise duty for kerosene used as a propellant in the EU, which would apply did the exemption not exist);
- 185 Euro/1000 l (similar to charging level in Japan);
- 10 Euro/1000l (similar to charging level in the US).

The study shows that – with a view to environmental effects - in case of the highest tax rate

of 245 euro/1000 l on all routes the net reduction of total CO<sub>2</sub> emissions in 2005 would be 0,34% (1,4% of EU CO<sub>2</sub> emissions from transport). In case of taxing only intra-Community flights of Community air carriers the maximal CO<sub>2</sub> reduction that can be achieved amounts to just 0,26% of all EU CO<sub>2</sub> emissions from transport. Furthermore the study points out that taxation of Community air carriers would not only affect their competitive position but also worsen the ratio between environmental benefit and socio-economic impact for the Community aviation industry. Finally there is the possibility of tax avoidance e.g. through tankering and passengers switching to non-taxed carriers. Thus the study concludes not surprisingly that the overall environmental effect of taxation would be comparatively small unless all flights to all destinations would be taxed.

#### *6. The Commission's recommendations*

Based on these findings the Commission concludes that 'it would not be practicable or desirable for the Community as a whole to introduce taxation of aircraft fuel targeting exclusively intra-Community flights operated by Community air carriers at the present time' (p. 5).

The Commission recommends that

- the Council proceeds with the adoption of the Commission proposal for a Council Directive restructuring the Community framework for the taxation of energy products permitting Member States to levy tax on aviation fuel used on National flights, or by bilateral agreement, intra- Community movements;
- Member States intensify their work within the ICAO (International Civil Aviation Organisation) framework for the introduction of taxation on aviation fuel and other instruments with similar effects, and
- The Council reviews the situation on the basis of a Report by the Commission on the outcome of ongoing discussions and negotiations within the ICAO framework, targeting the 33<sup>rd</sup> ICAO Assembly.

#### *7. Comments*

- A. A European tax on aircraft fuel is, and this is stated very clearly in the Commission's communication and in the underlying study, not the right way at this stage. The legal constraints described in the study do not allow for a tax with a maximal effect, i.e. a tax on all routes for all carriers. The environmental effect of the only legally possible solution at this stage, a tax on intra-Community flights on EU carriers only, would – as mentioned above – amount to a reduction of CO<sub>2</sub> emissions from transport of only 0,26 %. This limited effect is certainly not worth the effort, especially when taking into account that with such a solution EU carriers would be put at a serious disadvantage compared to their extra-EU competitors.
- B. The above mentioned communication on 'Air transport and the environment' does take up the Commission's recommendations and the study's findings and stresses the necessity of striking the 'delicate balance between environmental, economic and internal market requirements for a coherent policy in this area' (p.9). Consequently - although ideally the mandatory exemption for aviation fuel should be abolished - as long as it is not possible to tax at least all flights operating out of Community airports taxation of aircraft fuel should not be considered.
- C. Your rapporteur therefore fully supports the Commission's recommendation that an introduction of taxation on aircraft fuel should be pursued within the ICAO framework.

Within ICAO work on 'Civil Aviation and the Environment' has been going on for quite some time and it is expected that the next (33<sup>rd</sup>) ICAO Assembly might bring about some progress in the matter.

Nevertheless your rapporteur does not feel that an introduction of a tax on aviation fuel on domestic flights or - via bilateral agreements between Member States – intra Community movements would have the desired environmental effect while still having a negative economic effect (distortion of competition).

- D. What – considering the need for action - are the alternatives? First of all there are technological improvements, but they cannot – as mentioned above- offset the increase in CO<sub>2</sub> emissions due to the increase in air traffic. But there are other possibilities. Many of the adverse environmental effects of civil aviation activity can be reduced by the application of integrated measures embracing technological improvements, appropriate operating procedures, proper organisation of air traffic and the appropriate use of airport planning and land-use control mechanisms. Other more market-based options, such as emissions trading, are viable options.

However, many practical problems need to be addressed and consequently much further work needs to be undertaken before any firm policy conclusions can be reached.

11 October 2000

## **OPINION OF THE COMMITTEE ON COMMITTEE ON THE ENVIRONMENT, PUBLIC HEALTH AND CONSUMER POLICY**

for the Committee on Economic and Monetary Affairs

communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions : Taxation of aircraft fuel (COM(2000) 110 – C5-0207/2000 – 2000/2114(COS)) Draftsman: Karl Erik Olsson

### **PROCEDURE**

At its meeting of 19 June 2000 the Committee on the Environment, Public Health and Consumer Policy appointed Karl-Erik Olsson draftsman.

It considered the draft opinion at its meetings of 19 September and 10 October 2000.

At the latter meeting it adopted the following conclusions by 29 votes to 5, with 1 abstention.

The following were present for the vote: Alexander de Roo (acting chairman), Karl Erik Olsson (rapporteur), Per-Arne Arvidsson, Maria del Pilar Ayuso González, David Robert Bowe, John Bowis, Dorette Corbey, Carlo Fatuzzo (for Marielle de Sarnez), Jim Fitzsimons, Marialiese Flemming, Cristina García-Orcoyen Tormo, Robert Goodwill, Françoise D. Grossetête, Anneli Hulthén, Christa Klaß, Hans Kronberger, Bernd Lange, Peter Liese, Torben Lund, Jules Maaten, Minerva Melpomeni Malliori, Patricia McKenna, Pietro-Paolo Mennea (for Marit Paulsen), Rosemarie Müller, Giuseppe Nisticò, Frédérique Ries, Guido Sacconi, Jonas Sjöstedt, Renate Sommer (for Emilia Franziska Müller), Bart Staes (for Hiltrud Breyer), Dirk Sterckx (for Chris Davies), Nicole Thomas-Mauro, Marianne L.P. Thyssen (for Horst Schnellhardt), Antonios Trakatellis and Phillip Whitehead.

### **SHORT JUSTIFICATION**

#### ***Background***

The Commission presented its communication (COM(2000) 110) in response to a request made by the Council on 9 June 1997 that it supply further information on all aspects of the taxation of aircraft fuel. The Commission accordingly carried out a comprehensive study, with the help of what it calls an independent consultancy. The communication is largely taken up by the results of that study and the conclusions the Commission draws from them.

It is your draftsman's intention that this opinion should set out general observations on the Commission's communication for the Environment Committee and suggest how the issue of aircraft fuel taxes could be dealt with in future at Community level and how other methods could be used for reducing greenhouse gas emissions from aviation in the European Union.

#### ***General points***

According to the IPCC<sup>7</sup> special report '*Aviation and the Global Atmosphere*', whose purpose was to study emissions of the main greenhouse gases, steam and soot particles and their estimated impact on the climate, based on various air traffic growth scenarios, emissions from aviation are responsible for about 3.5% of human-induced global warming. One basic reason for this is that air travel is the world's fastest growing source of greenhouse gases such as carbon dioxide. The world's commercial jets generate more than 600 m tonnes of carbon dioxide annually. Aviation also contributes to global warming as a result of its emissions of nitrogen oxides and condensation trails, that is to say ice particles that form when aircraft emit water vapour into the atmosphere at temperatures below -40°C. Since it is estimated that the number of people travelling by air will double over the next 15 years, aviation's contribution to the greenhouse effect is likely to increase correspondingly at the current level of technology. The report concludes that, despite a likely reduction in fuel consumption thanks to technological advances and more effective air traffic management, emissions of carbon dioxide, and of other gases, from aircraft will increase.

In view of what the Kyoto Protocol says about reducing greenhouse gas emissions, and this has been endorsed by the EU Member States, it is of the utmost importance that steps be taken to limit emissions from aviation. The use of economic instruments in this context is crucial for encouraging progress towards a cleaner airspace. Effective use of environmental taxes will help make it easier for Member State and applicant country governments to meet the targets they have set and is a better method than administrative means such as traditional legislation.

The Commission draws the conclusion that a tax only on flights within the Community would have very limited impact on the environment, and it is obviously not prepared to propose such a measure. On the other hand, the Commission considers that a tax on all flights from all airports in the Community would have a greater impact but that this would necessitate international agreements. With regard to the important issue of greenhouse gas abatement, it is important to point out that relatively minor measures are never insignificant, especially in a fast-growing sector. It is therefore quite wrong to dismiss a tax that the Community itself could introduce, on the grounds that it has little impact on the environment. The danger of taking such a stance is that no-one would ever do anything anywhere but would instead wait for international agreements that never come about.

### ***Excise duties on kerosene***

Despite the fact that, since the Council Directive of 19 October 1992<sup>8</sup>, the European Union has to a certain extent been moving towards structural harmonisation of excise duties on mineral oils, aviation fuel for commercial use has been exempt from the rules. The reason for this is the 1944 Chicago Convention, which stipulates that aviation fuel transiting through or supplied on the territory of the contracting parties shall be exempt from fuel tax. The Convention does not take account of the fact that some countries are part of a union. A flight between Stockholm and Copenhagen is therefore classified as an international flight, regardless of the fact that the entire European Union has a common target for all greenhouse gas emissions. To all appearances, the renegotiation of existing aviation agreements with a view to removing the exemption is going to be a lengthy process, but, just as the Commission recommended to the Council in 1996<sup>9</sup>, it now makes sense, well over 50 years since the

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<sup>7</sup> The UN intergovernmental panel of experts on climate change

<sup>8</sup> 92/81/EEC

<sup>9</sup> Report from the Commission to the Council and the European Parliament (COM(1996) 549

Chicago Convention was signed. The fact that there is no requirement to pay tax on aviation fuel in the European Union cannot be regarded as anything other than a hidden subsidy which represents a departure from the way other modes of transport are treated in the internal market. This state of affairs could be said to provide too much of a stimulus to air transport, and creating a level playing field in the transport sector is in keeping with the aim of deregulating the European air transport market.

The study to which the communication relates yields a quantity of interesting information regarding the impact of introducing excise duties on aviation fuel. It makes it clear that a specific Community tax, regardless of its level or coverage, will benefit the environment and result in net reductions in carbon dioxide emissions and shows yet again that air transport is a long way from covering its external costs, including the cost of air pollution and the social costs of accidents and noise.

Regrettably, the Commission focuses more on analysing the socio-economic impact than it does on examining the environmental impact of a tax on aviation fuel. It quite rightly draws the conclusion that, if the European Union were alone in introducing a fuel tax, EC airlines would be less able to compete with airlines from non-Community countries. The Commission also considers that the domestic aviation industry would suffer if fuel tax were levied in the Community. However, it takes the view that the effects on the Cohesion States of introducing a fuel tax would not work against Cohesion Fund policy, i.e. the direct effects of a tax would be no more significant in those countries than in other Member States.

Excise duty on kerosene fits in very well with the principle of green taxes and hence could be introduced as part of the shift away from tax on labour. At the present time, labour costs and environmental resources are both wrongly priced, which is creating an inefficient economy with overused environmental resources and underused labour resources. A Community-wide tax system should be structured so as to improve the market's price signals. In the long term, increased environmental taxes and lower taxes on labour will improve prosperity.

All in all, the Commission's communication shows that the Council ought to agree on common excise duties on aircraft fuel in the Union. It is reasonable to assume that the 1992 mineral oil directive has held back the Member States which wanted to allow taxation of aviation fuel, something which has been discussed in the Netherlands, Sweden and Germany. In establishing the internal market, the Union has been endeavouring to harmonise taxes on cross-border transport, and it goes without saying that this principle must also apply to aviation fuel. The Council ought to take this into consideration now that it is about to adopt the Commission proposal on the taxation of energy products (COM(1997) 30), which is to replace the mineral oil directive. The Commission should likewise incorporate this principle in the new environmental action programme which is to be prepared in autumn.

In order to minimise potentially adverse socio-economic effects of excise duties, the Community should prepare for renegotiation of the bilateral agreements governing the treatment of aviation fuel and review how transport, both within the Union and to and from third countries, might be brought within the scope of such a tax regime. The Council should also work energetically to ensure that a compromise is reached on this matter at the ICAO's<sup>10</sup> 33rd conference in 2001.

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<sup>10</sup> International Civil Aviation Authority (UN)

## *Other economic instruments and measures*

In parallel with the introduction of a fuel tax, it is necessary also to review how other economic instruments can be used and how other measures may be taken to reduce emissions from aviation. The scope of the problem makes it necessary to examine how different factors interact and can together help to achieve a cleaner airspace.

### *(a) Levies*

Like taxes, differentiated levies could also help encourage environmental improvements. The levies could be channelled directly back to the air transport sector and also be targeted directly at the source, as well as differentiated so as to give clearer signals and incentives for changes in 'behaviour'. They could be made more effective by rewarding 'good conduct'.

One type of levy could be a fuel levy, which in terms of structure would resemble a fuel tax. It could be used to influence fuel consumption and to support research into, and development of, fuel-efficient engines. Aviation levies are another example of levies designed to get airlines to use more environment-friendly aircraft and create demand amongst airlines so that manufacturers have to produce more fuel-efficient engines. Ideally, airlines would have the opportunity to adapt. Airlines that have introduced environment-friendly aircraft will have had to make substantial investments, and it must be possible to compensate them for doing so in the form of a lower levy rate. Such an approach would benefit the sector as a whole.

Sweden is the only Member State to have introduced emission charging in the form of emissions-based landing charges. The system applies, nation-wide, to aircraft with a maximum take-off weight of over 9 tonnes, and airports with more than 300 000 passengers or 30 000 tonnes of freight per year. The system of charges is based on a classification of aircraft emissions during the LTO<sup>11</sup> cycle. Information on aircraft emissions are provided by the airlines and based on ICAO statistical material. Under the Swedish system, aircraft engines are assigned to one of seven categories, based on these values for hydrocarbons and nitrogen oxides. Engines generating the least emissions are in Class 6, and those generating most emissions are in Class 0. Depending on the classification, a supplement ranging from 0% to 30% is added to the aircraft landing charges.

In Europe, only Iceland, Norway and Switzerland, all outside the European Union, have introduced environmental levies and/or taxes. And outside Europe, only the USA, Canada and Japan have introduced such levies/taxes in the air transport sector, albeit for domestic traffic only.

In September 1999, a proposal for a European aviation levy<sup>12</sup> was submitted to the German government. This levy would incorporate external costs by splitting the liability for the amount of pollutants emitted between the two countries linked by a flight. A levy of this type would be compatible with the Chicago Convention and bilateral aviation agreements.

### *(b) Environmental agreements*

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<sup>11</sup> Landing and Take Off. All aircraft movements under an altitude of 915 metres, including idling and taxiing

<sup>12</sup> *Proposal for a European Aviation Levy to internalise external costs of climate change*, Berlin, September 1999



Environmental levies could also be linked in with agreements between airlines and airports. One way of overcoming the problems associated with a long phasing-out period and allowing coverage of important environmental issues other than the performance of aircraft itself is to draw up what is known as an environmental contract or environmental agreement. This offers the advantage of ensuring a greater degree of reciprocal commitment from both the airport operators and airlines. Furthermore, an environmental contract offers the advantage of being able to address other matters in addition to levies. One example of such an instrument is to be found at Amsterdam's Schiphol airport.

*(c) Air traffic control*

Disruption to, and deficiencies in, the European air traffic control system are considered to be responsible for a not insignificant proportion of exhaust gas emissions from aircraft. Efficient air traffic control and management of traffic minimises waiting times in the air and on the ground, and this cuts emissions. Route charges, that is to say the charges airlines pay for the routes flown could be increased on the basis of environmental criteria. The charge is currently based on aircraft weight but could also take account of carbon dioxide emissions. This way of controlling carbon dioxide emissions has been discussed before at Union level, and pressure to take action on this issue could mount if the Community becomes a member of Eurocontrol, the body responsible for the route charges system.

## CONCLUSIONS

The Committee on the Environment, Public Health and Consumer Policy calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following amendments in its report:

1. Is alarmed at aviation's growing share of global greenhouse gas emissions; considers it to be of the utmost importance that measure be taken to limit emissions from aviation;
2. Stresses that the use of economic instruments in this context is crucial for encouraging progress towards a cleaner airspace both in the Member States and in the applicant countries, as well as in the rest of the world; regards this as a more effective method than traditional legislation;
3. Considers that the current situation whereby no tax is required to be paid on aviation fuel worldwide constitutes unfair treatment of other modes of transport and is thus not in keeping with the objective of equality of opportunity between all modes of transport;
4. Notes that, in its communication, the Commission emphasises the fact that air transport is a long way from covering its external costs, including the cost of air pollution and the social costs of accidents and noise; agrees with the Commission's interpretation of the results of the study to the effect that, irrespective of the level of taxation and coverage, a specific tax in the Community would have benefits for the environment and yield net reductions in carbon dioxide emissions;
5. Regrets that, in its communication, the Commission focuses more on analysing the socio-economic impact of a fuel tax than it does on examining the environmental impact;

6. Considers that, as far as the important issue of greenhouse gas abatement is concerned, relatively minor measures can never be regarded as insignificant, especially in a fast-growing sector, and that it is therefore quite wrong of the Commission in its communication to dismiss a tax that the Community itself could introduce, on the grounds that it would have little impact on the environment; considers that the Commission's communication shows that the Council ought to agree on common excise duties on aircraft fuel in the Union;
7. Considers that the Community's 1992 mineral oil directive has held back the Member States that wanted to allow taxation of aviation fuel; recalls the Union's endeavours, in establishing the internal market, to ensure harmonised taxation of cross-border transport, considers that it goes without saying that this principle must also apply to aviation fuel and that the Council ought to take this into consideration now that it is about to adopt the Commission proposal on the taxation of energy products (COM(1997) 30), the purpose of which is to replace the mineral oil directive; calls on the Commission to incorporate this principle in the new environmental action programme which is being prepared in autumn;
8. Points out that excise duty on kerosene fits in very well with the principle of green taxes and hence could be introduced as part of the shift away from tax on labour;
9. Stresses that the adverse socio-economic effects of excise duty on aviation fuel must be minimised; calls therefore on the Council to prepare for renegotiation of the bilateral agreements governing the treatment of aviation fuel and to examine how transport, both within the Union and to and from third countries, might be brought within the scope of such a tax regime; also calls on the Council to work energetically to ensure that a compromise is reached on the treatment of aviation fuel at the ICAO's 33rd conference in 2001.
10. Calls on the Council Presidency and the Commission to keep Parliament fully informed about the 33<sup>rd</sup> ICAO Conference in 2001; calls on the Presidency and the Commission to state before the conference what the EU's input will be, and, after it has finished, to report to Parliament on the work of the conference and its results, particularly with regard to excise duty on aircraft fuel;
11. Calls on the Council and the Commission to examine how other economic instruments could be used and how other measures could be taken to reduce emissions from aviation; points out that measures such as differentiated environmental levies, the drawing-up of environmental contracts and more effective air traffic control could also help reduce greenhouse gas emissions;
12. Considers that charges on aircraft landing within the EU can be an effective instrument; takes the view that the amount of the charge should take account of the type of aircraft, that energy-efficient aircraft must pay a lower rate than more polluting ones and that the charge must also be heavier on shorter distances.

13 September 2000

## **OPINION OF THE COMMITTEE ON REGIONAL POLICY, TRANSPORT AND TOURISM**

for the Committee on Economic and Monetary Affairs

communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions : Taxation of aircraft fuel (COM(2000) 110 – C5-0207/2000 – 2000/2114(COS)) Draftsman: Rijk van Dam

### **PROCEDURE**

The Committee on Regional Policy, Transport and Tourism appointed Rijk van Dam draftsman at its meeting of 23 May 2000.

It considered the draft opinion at its meetings of 22 June 2000 and 12 September 2000.

At the last meeting it adopted the amendments below by 20 votes to 18, with 2 abstentions.

The following were present for the vote: Konstantinos Hatzidakis chairman; Emmanouil Mastorakis and Helmuth Markov, vice-chairmen; Rijk van Dam, draftsman; Sir Robert Atkins, Rolf Berend, Felipe Camisón Asensio, Carmen Cerdeira Morterero, Luigi Cesaro, Giovanni Claudio Fava, Jacqueline Foster (for Karla M.H. Peijs), Jean-Claude Fruteau (for Danielle Darras), Juan de Dios Izquierdo Collado, Georg Jarzembowski, Dieter-Lebrecht Koch, Giorgio Lisi, Sérgio Marques, Mario Walter Mauro (for Francis F.M. Decourrière pursuant to Rule 153(2)), Erik Meijer, Rosa Miguélez Ramos, Francesco Musotto, James Nicholson (for Martin Callanan), Juan Ojeda Sanz, Samuli Pohjamo, Alonso José Puerta, Reinhard Rack, Carlos Ripoll i Martínez Bedoya, Isidoro Sánchez García, Gilles Savary, Dana Rosemary Scallon, Ingo Schmitt, Brian Simpson, Renate Sommer, Per Stenmarck (for Mathieu J.H. Grosch), Margie Sudre, Joaquim Vairinhos, Ari Vatanen, Demetrio Volcic, Mark Francis Watts and Jan Marinus Wiersma (for Ulrich Stockmann).

## **SHORT JUSTIFICATION**

### **Taxation of aircraft fuel**

#### **General background**

Before the establishment of the internal market in 1993 a certain harmonisation of excise duties was required. One such area within the Community was the taxation of mineral oils. It is currently covered by Council Directive 92/81/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on mineral oils. However, commercial aviation fuel has a compulsory exemption, pursuant to Article 8(1)(b) of this Directive. In Article 8.7 of the same Directive, it is stated that the Council shall review the exemptions provided for, on the basis of a report by the Commission and taking account of the external costs entailed in such means of transport and the implications for the environment. The Council shall decide unanimously, on a proposal from the Commission, whether to abolish or modify those exemptions.

This review was carried out in 1996 and the Commission recommended that excise duties on mineral oil should be extended to aviation kerosene, as soon as the international legal situation allows the Community to levy such a tax on all carriers, including those from third countries. This question is also connected to the Commission Proposal for a Council Directive restructuring the Community framework for the taxation of energy products, which is intended to replace Directive 92/81. The Commission's proposal, COM (1997) 030, implies that the Community system with a minimum rate of taxation on energy products, which until then just included mineral oils, should be extended to all energy products. At the same time - in order to avoid an increase in their overall tax burden - the Member States were encouraged to reduce the tax on labour costs. However, the Council has not yet adopted the Commission Proposal regarding the framework for taxation of energy products.

Both the above mentioned review and the Commission Proposal have been discussed in various Council working-Groups. This led to a Council Resolution of 9 June 1997, where the Council demanded further information from the Commission on all aspects of the taxation of aircraft fuel. In particular the Council requested the Commission to consider the environmental impact, the competitiveness and profitability of the Community air transport, as well as the competitive position of air transport in relation to other modes of transport. A detailed study (hereafter called the study) was thus conducted by the Commission and presented in 1998.<sup>13</sup>

#### **The study**

The study was carried out as an analysis of the effects of different levels of taxation and different extent of coverage. The results are presented in the form of a complete quantitative analysis for the year 2005.

A brief summary indicates the following:

- The environmental effect of taxation would be comparatively small, unless all flights to

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<sup>13</sup> "Analysis of the taxation of aircraft fuel", Resource Analysis, Delft 1998.

all destinations were taxed.

- A taxation which is limited to the Community air carriers would not only affect their competitive position but also worsen the ratio between environmental benefit and socio-economic impact for the Community aviation industry.
- There will be positive environmental effects in line with tax levels and coverage, even if the concerned Member States will try to avoid the tax.
- As the treatment of fuel loaded on to an aircraft is governed by a large number of bilateral Air Service Agreements (under the Chicago Convention of 1944) between individual Member States, as well as between Member States and third Countries, and as these agreements usually contain a clause that the contracting parties are exempt from fuel taxes, a kerosene tax might imply lengthy and cumbersome negotiations.
- One conclusion of the study is that air transport currently does not cover external costs such as costs for accidents, noise, air pollution etc.
- As the above mentioned conclusion is subject to a number of scientific uncertainties, the Commission believes that further research is needed, in order to attain a better understanding of the calculation of external costs.
- The overall conclusion of the study is the same as in the aforementioned 1996 report, namely because of economic reasons, at the present time it would not be practicable or desirable for the Community as a whole to introduce taxation of aircraft fuel, targeting exclusively intra-Community flights operated by Community air carriers.

The study and the conclusions were presented by the Commission at the Council - ECOFIN - meeting 13 March 2000, as a response to the request from the Council in its Resolution of 9 June 1997.

The Commission recommended that:

1. The Council proceeds with the adoption of the Commission Proposal for a Council Directive restructuring the Community framework for the taxation of energy products.
2. Member States, in close co-operation with the Commission, intensify their work within the International Civil Aviation Organisation (ICAO) in order to introduce taxation on aviation fuel and other instruments with similar effects.
3. The Council reviews the situation, targeting the 33<sup>rd</sup> ICAO Assembly in 2001.

### **General remarks**

Although this document does have a fiscal nature, a number of transport issues are related to it. Therefore your rapporteur would like to make a few brief remarks on the transport aspects of this dossier.

There are two main aspects of transport policy that the European Parliament has emphasised: the creation of a sustainable transport policy in which each user pays for the costs he incurs and the creation of a level playing field, in which each mode of transport is treated equally.

As far as aviation is concerned, not all costs (especially the environmental costs) are covered by the users. This item has also been addressed in the communication from the Commission entitled "Air Transport and the Environment, Towards meeting the Challenges of Sustainable Development" (COM(1999) 640 final). It points out that if the EU wants to fulfil the

environmental goals which have been laid down in the Amsterdam Treaty and the Kyoto Protocol, something will have to be done. Therefore several options for levying a charge on air traffic, in order to find the balance which is needed for sustainable development, are mentioned.

In addition, there are some examples of situations in which (international) aviation is favoured as opposed to other modes of transport. This is due to the fact that a great deal of the aviation regulation has – unlike most other modes - an international/global background. Therefore really effective changes can only be achieved within the international bodies. Nevertheless, the Commission has been asked to investigate whether, and to what extent, the exemption of air travel from value-added tax (VAT) and the exemption of international aviation from excise duty creates imbalances.<sup>14</sup>

The relevant body for aviation is the ICAO. Within this organisation the rules for international aviation are set. Of course it is possible to take measures at non-global levels, but these will probably result in a negative competitive effect for the contracting countries.

In order to create a level playing field between aviation and other modes of transport, the taxing of kerosene on a global scale is one key issue. Although alternative measures are being studied, the taxation of kerosene remains the optimal solution, as it is very closely linked to the use of fuel and thus the creation of pollution. Therefore, continued discussion within the ICAO, concerning this topic, should be encouraged.

At the 33<sup>rd</sup> assembly of the ICAO, which will probably take place in September-October 2001, there will be a discussion on “aviation and environment”, which is being prepared. At this moment it is unclear what the outcome of that discussion might be. Having regarded several studies<sup>15</sup>, an environmental charge, based on the emissions produced during the flight (including those at landing and take-off), seems to be both an acceptable and effective alternative to a kerosene tax. Both from a legal point of view as well as from the point of view of the availability of data, there seem to be minor problems, at this moment. It is recommended that the Commission makes further investigation on the details of this kind of charge, which can be used within the EU, without violating international agreements, in the case where ICAO does not make (enough) progress.

If the Council adopts the Common Position on the Proposal from the Commission (COM (1997) 030 final) and the amendments from the European Parliament, it will become possible to levy charges on internal national flights - a practice that has been introduced in some European countries.

## CONCLUSIONS

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<sup>14</sup> A5-0075-2000; EP resolution of 16 May 2000 on the communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions - The European Airline Industry: from Single Market to World-wide Challenges (COM(1999)182)

<sup>15</sup> e.g. "Analysis of the taxation of aircraft fuel", Delft, 1999 and "Proposal for a European Aviation Levy to Internalise External Costs of Climate Change", Berlin, 1999.

The Committee on Regional Policy, Transport and Tourism calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following points in its draft resolution:

1. Is of the opinion that aiming towards a sustainable transport development includes covering all costs incurred by the users and the creation of equitable conditions between all modes of transport; notes however that aviation already covers its costs and that the fiscal advantage of the kerosene tax exemption is a very minor element compared to the huge subsidisation of other modes of transport; and therefore considers that considerable further research is needed for a better understanding of the external costs;
2. Calls on the Commission to investigate whether, and to what extent, the exemption of international aviation from excise duty might create imbalances with respect to other transport modes;
3. Takes the view that for both environmental policy and competitive reasons, the introduction of a kerosene tax or other instruments with similar effects must happen on a global scale within the International Civil Aviation Organisation (ICAO) in a way which does not unreasonably penalise long flights and encourages the transfer of short flights to the railways, while also taking into account the need to protect transport services for thinly populated and remote localities, encourages co-operation between Member States and the Commission, in their discussions on this subject within the ICAO framework;
4. Agrees with the Commission with regard to its conclusion that the introduction of kerosene taxation on all intra-community flights operated by EU carriers, is neither desirable nor effective ; asks the Commission to make further investigations on the possibilities and difficulties on the design and implementation of other measures for the aviation industry, taking note of developments within ICAO; points out that certain emission values are already known;
5. Considers the difficulties posed in order to reach an international framework on a kerosene tax in the near future; therefore supports the studies connected with the ICAO, targeting alternative or complementary approaches;
6. Urges the Council only to proceed with the adoption of the Commission Proposal for a Council Directive restructuring the Community framework for the taxation of energy products (COM (1997) 030 final) after a careful analysis of the legal implications for Member States, within ICAO, of such action;
7. Calls on the Council to review the situation on the basis of a report from the Commission on the outcome of ongoing discussions and negotiations within ICAO before the 33<sup>rd</sup> ICAO Assembly;
8. Urges the Commission to submit a communication on proposals for internal EU measures if no satisfactory measures are taken by the ICAO at the 33<sup>rd</sup> Assembly next year.