



The U.S. House of Representatives has passed a bill prohibiting American aviation operators from taking part in the E.U. Emissions Trading Scheme (ETS).

If it became law, the European Emissions Trading Scheme Prohibition Act of 2011 would ban U.S. airlines from taking part in the ETS, which is due to come into force on January 1st.

The bill will now be considered by the U.S. Senate. President Obama supports the bill, so it is likely to be passed.

Earlier this month, Advocate General Juliane Kokott of the European Court of Justice gave advice that the E.U. ETS is compatible with international law, regarding a case brought against the E.U. by American airlines, who believe it is not.

The court's judges are expected make a final ruling early next year and usually follow an advocate general's guidance.

It therefore looks like Europe and America are on a collision course over the issue.

**Aircraft emissions and the ETS** Under the ETS, all flights in Europe will be subject to an emissions tax, just as European utilities and factories are now.

The scheme will cover emissions from all domestic and international flights that arrive at or depart from an airport in the 27 EU Member States, plus the three EEA-EFTA States (Iceland, Liechtenstein and Norway) and, from 1 January 2014, Croatia.

Airlines whose emissions are above their cap will have to buy carbon permits to cover these emissions. If they emit less than their limit, they can sell spare permits from their emission allowances and keep the revenue.

The cap will first be set at a lenient 97% of average greenhouse gases emitted in 2004-2006 for the year 2012 and then lowered to 95%.

Globally, air travel is responsible for about 3% of greenhouse gases. Its emissions have doubled since 1990 and could triple by 2020, observes the European Commission.

American opposition to the taxThe U.S. Travel Association (USTA) welcomed the news about the bill.

“Anything done to inhibit travel will be a drag on the global economy and impede recovery,” said its president and CEO Roger Dow.

The U.S. aviation industry argues that it is unfair that a flight from Los Angeles would have to pay for emissions for the whole of its journey, not just that over Europe, calling it "a tax grab by the European Union".

Republican environmentalist Edward Markey was a minority voice in the House of Representatives opposing the bill.

He observed that it is hardly unknown for the United States itself to pass legislation on security and pollution standards for foreign ships and planes that enter U.S. territory.

Free emissions allowancesAnd yet the emission allowances will be given free of charge to more than 900 aircraft operators and the airlines will be allowed to keep surplus revenue.

Just 15% of aviation allowances will be auctioned, initially.

Climate Action Commissioner Connie Hedegaard has said that these free allowances "represent more than €20 billion over the decade" which "airlines could invest in modernising their fleets, improving fuel efficiency and using non-fossil aviation fuel."

The Air Transport Association of America, however, claims that there will be a cost of \$3.1 billion between 2012 and 2020 and calls it "an exorbitant tax that siphons away from aviation the very funds it needs to invest [in emissions-reduction technology]".

Its campaign, Stop Air Tax Now, is not afraid to play the patriotism card, even citing 9/11 prominently in its publicity as a cost burden with which it has already had to deal.

Over 20 countries, including Brazil, Japan, China, India and Russia are all opposed to the EU's emissions trading system.

Members of the International Civil Aviation Organization (ICAO) are due next month to overwhelmingly approve a statement opposing the E.U. scheme.

The US Deputy Assistant Secretary of State for Transportation Affairs, Krishna R. Urs, is urging the European Commission to exclude non-EU air carriers from the EU-ETS and "instead to work with the International Civil Aviation Organization to take additional positive steps" to address emissions reduction.

But the E.U. has only taken the step of including airlines in the E.U. ETS because it lost patience with the ICAO dragging its feet on taking measures itself.

Last year the ICAO reached an agreement after 13 years of talks to make air travel 2% more

fuel efficient every year, but this is only an aspirational goal, and will only start after 2020.

The weakness of the resolution was slammed by the European Federation for Transport and Environment (T&E).

What will be the eventual outcome? Perhaps a clue lies in this statement from the E.C.: "The EU ETS legislation contains provisions which allow the EU to take into account measures adopted by third countries in relation to incoming flights to the EU with a view to exempting them from the system.

"Such exemptions would follow consultations with these States, and the EU is ready to engage constructively in such consultations so as to reach agreement."

In other words, a compromise looks likely. But the E.U. is not going to give up without a fight.