

# EU Puts Trust in UN by Freezing Airline Law

By [Gerard Wynn](#)

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The European Commission's retreat from forcing airlines to pay for carbon emissions when flying in or out of the bloc puts huge faith in action by the UN's International Civil Aviation Organization.

The decision also brings risks of litigation by European operators.

It made sense to look for a compromise after the U.S., Russia, China and India balked at complying with a European Union emissions-trading program known as EU ETS. The program would force airline operators to pay for a portion of the carbon emissions from their flights entering and leaving the EU.

But the European Commission may have gone too far in showing good will to the UN specialized agency, the International Civil Aviation Organization, or the ICAO.

The commission said Monday that it would put "on hold" plans to include international flights from outside the EU in its program, giving the ICAO time to forge a proposal for a global deal in time for its congress next year.

That leaves flights within the EU still covered by the program, risking a backlash from budget carriers, whose business is biased toward short-haul flights.

And the commission may still have to reintroduce its original plans to include non-EU operators if its gamble fails.

The ICAO is far from reaching the kind of deal that the commission has previously defined as acceptable.

"For the EU, an agreement in ICAO on market-based measures must include three key elements: It must deliver aviation emission reductions at least as big as the EU ETS is doing; it must be nondiscriminatory for all airlines; and it must contain targets and measures for ICAO member countries," the EU's long-stated position says.

The EU has capped aviation CO<sub>2</sub> emissions over the next decade at 95 percent of their historical levels from 2004 to 2006 while allowing operators to buy additional permits from other industries.

European emissions from international aviation have doubled since 1990.

ICAO previously backed the idea, at its congress two years ago, of "carbon neutral growth," by which, starting in 2020, emissions would stop rising compared with 2005 levels, even as traffic continued to increase.

The timing of the commission announcement suggests that it wrung assurances from ICAO member countries at a meeting last week to support the negotiation of a global deal.

At a meeting that concluded Friday, the ICAO permanent council of 36 countries, which acts on behalf of the full 191 member states, agreed to set up a political group to propose a market-based mechanism, such as a global emissions trading scheme, and submit that as an official resolution at the ICAO's full assembly at the end of next year.

ICAO has achieved little since the Kyoto Protocol in 1997 gave it the task of cutting emissions from aviation.

The commission could have made a less drastic retreat, for example by agreeing to include only the outbound flights of non-EU routes and thus effectively halving the burden for operators.

Such a route-based approach, where each country globally regulates the emissions from its outbound flights (to avoid double-counting) has been suggested in the past 10 months by a technical ICAO working group.

Another compromise may have been to take a sovereign airspace approach, in which the EU regulated only emissions in its own airspace, including those from flights originating outside the bloc. But that is almost impossible to implement given the difficulty of telling when

an aircraft crosses any particular national border.

Alternatively, it could have waived noncompliance penalties for a limited period, pending an ICAO deal.

There is precedent for EU moves spurring action by a specialized UN agency — in this case the shipping equivalent to ICAO, the International Maritime Organization, or the IMO — but you have to go back a long way.

On Dec. 12, 1999, the oil tanker Erika broke in two in heavy winds 65 kilometers off the north coast of France. It spilled more than 10,000 tons of heavy fuel oil, polluting about 400 kilometers of beaches and causing an ecological disaster and public outcry.

The tanker was a conventional single-hull oil tanker with segregated ballast tanks built in Japan in the mid-1970s.

It subsequently emerged that four out of the eight ships built in the same series had suffered serious structural damage involving cracking or buckling of the deck.

Just three months after the incident, the European Commission adopted its first package of post-Erika measures, which included a faster phasing-out of single-hull tankers in European waters.

A double-hull is a ship designed so that both the bottom and sides have two independent layers of watertight surface. One watertight layer is the normal hull of the ship and the second an additional, inner shell that is normally redundant but provides an extra barrier if the outer hull is breached.

Later in 2000, following the EU action, the Maritime Environment Protection Committee of the IMO agreed to accelerate the phase-out of single-hull tankers, which until then had applied only to vessels of a certain weight and ordered after a certain date.

By retreating now from its plans on aviation, the commission has put the burden of action on ICAO while at the same time defusing growing tensions with China, India and the United States.

The commission can now be clearer about exactly what outcome at next year's ICAO assembly it would deem satisfactory, which will allow EU-based airlines and carbon market participants to better appreciate where they stand.

Gerard Wynn is a markets analyst for Reuters, which published this comment.

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