



September 17, 2012

The Honorable Barack H. Obama  
 President of the United States  
 The White House  
 1600 Pennsylvania Avenue  
 Washington, D.C. 20500

Dear Mr. President:

The undersigned coalition of aviation stakeholders strongly encourages you to challenge the inclusion of international aviation under the European Union Emissions Trading Scheme (EU ETS) by initiating an Article 84 proceeding in the International Civil Aviation Organization (ICAO). Standing up against the application of this unilateral scheme on U.S. airlines and general aviation aircraft operators is necessary to protect U.S. sovereignty and jobs. And it is the right position for the environment, since it will foster implementation of a truly international approach to aviation greenhouse gas emissions that will produce a better environmental outcome than a unilateral scheme. In fact, draining away any funds through taxation or cap-and-trade schemes to general government funds reduces the ability of our industry to limit emissions.

If this EU breach of U.S. sovereignty - the imposition of an EU tax on U.S. airlines, aircraft operators and citizens while on the ground in the United States, over our airspace and international waters - goes unanswered, it almost certainly will result in other such schemes affecting a variety of sectors of the U.S. economy. In addition, the EU ETS will likely lead to job losses in the aviation, manufacturing and travel industries, which is undesirable under any circumstances, but especially in this time of economic uncertainty.

The aviation sector has a tremendous fuel efficiency and emissions-savings record. We have achieved this by investing hundreds of billions of dollars in new aircraft, new engines and new equipment. Because fuel costs represent about 40 percent of our operating costs, we are already highly incentivized to reduce our fuel consumption and emissions. That's why our industry represents just 2 percent of all greenhouse gas emissions in the United States while driving 5 percent of the nation's GDP. And we are not stopping there. U.S. airlines have committed billions of dollars toward the purchase of more efficient aircraft like the Boeing 787 Dreamliner and 737 MAX. Mr. President, this is how we reduce emissions, improve our efficiency and create good American manufacturing jobs.

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The United States must answer, and an Article 84 action is an appropriate and critical part of that answer. An Article 84 proceeding under the Chicago Convention is the dispute mechanism to which all 191 ICAO Member States have agreed by treaty. Further, contrary to what some have asserted, the private legal action heard by the European Court of Justice ECJ did not resolve the legal questions that would arise in an Article 84 case. In fact, the ECJ refused to hear questions posed under the Chicago Convention and determined that the private parties in that action did not have standing to bring sovereignty claims. Moreover, an Article 84 action will prompt, rather than impede, agreement and implementation of a global framework for addressing aviation greenhouse gas emissions.

Our organizations continue to support the global framework for addressing aviation greenhouse gas emissions as agreed at the 2010 ICAO Assembly. Work is going on now to further flesh out that agreement and to put it into operation. However, the EU ETS has been a roadblock to reaching full agreement and it must be removed.

ICAO has a proven track record of efficiently handling an Article 84 dispute while simultaneously advancing new environmental standards. Indeed, when the United States brought an Article 84 challenge to the illegal EU ban of aircraft fitted with noise "hushkit" technology in 2000, ICAO also was working on a new noise standard for aircraft and on a new international framework for addressing community noise exposure in the vicinity of airports. It was during the time the Article 84 proceeding was pending before ICAO that the EU first stayed and then withdrew its wrongful hushkit ban. The ICAO States not only advanced but unanimously adopted the Chapter 4 noise standard and a global framework for aircraft noise management, known as the "Balanced Approach to Noise". With ICAO currently working on a carbon dioxide standard for aircraft as a means of implementing the global approach to aviation and climate change, the parallels to today's dispute regarding the EU ETS are clear.

While the global emissions reduction program is being further developed, we are continuing to invest billions of dollars in new aircraft and engines, support the deployment of technology and procedures for the "Next Generation" (NextGen) air traffic management system and utilize the creativity of our employees to make operations more efficient without sacrificing safety. Working closely with the Department of Defense, we also are driving toward the deployment of sustainable alternative aviation fuels, which will not only bring additional emissions savings but will also allow the aviation industry to advance our shared goal of reducing the dependency of our nation on foreign oil.

Filing an Article 84 action at ICAO has worked to address difficult environmental issues before and the United States should take the lead again. We believe the Administration has all the tools necessary to prevent the EU ETS from implementing its unilateral scheme, and thus should support the passage and approval of the bipartisan S. 1956, the "European Union Emissions Trading Scheme Prohibition Act". As the aviation sector did during the hushkit dispute and in the ICAO work on the Chapter 4 noise standard and Balanced Approach policy, we are committed to working with the Administration to see the wrong measure overturned in favor of the right one.

Sincerely,

Aerospace Industries Association  
Aircraft Owners and Pilots Association  
Air Line Pilots Association  
Airlines for America  
Airports Council International - North America  
American Society of Travel Agents  
Cargo Airline Association  
Consumer Travel Alliance  
General Aviation Manufacturers Association  
Global Business Travel Association

Independent Pilots Association  
Interactive Travel Services Association  
National Air Carrier Association  
National Air Transportation Association  
National Business Aviation Association  
Professional Aviation Safety Specialists  
Regional Airline Association  
U.S. Chamber of Commerce  
U.S. Travel Association