

EU court backs bloc in airlines emissions fight

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China Southern Airlines and Eastern Airlines planes are seen on the tarmac of the Beijing Capital International airport in Beijing. An EU decision to force foreign airlines to buy carbon permits "is compatible with international law," the advocate general of the European Union Court of Justice has said.

An EU decision to force foreign airlines to buy carbon permits "is compatible with international law," the advocate general of the European Union Court of Justice said Thursday.

The court's legal opinion, which judges usually follow although they are not bound to agree with it, relates to a case brought by north American carriers, but will likely also affect Chinese and Indian airlines who have said they will launch a similar case before the end of the year.

In a legal opinion issued by the Luxembourg-based court, its advocate

general Juliane Kokott said "the inclusion of international aviation in the EU emissions trading scheme is compatible with the provisions and principles of international law invoked."

The legal argument is pressing because from January 1, airlines will have to buy credits allowing them to emit gases scientists say are harmful to the earth's atmosphere whenever they use European airspace.

The new EU law was drawn up as part of Europe's long-running efforts to mitigate climate change.

After taxing industry's emissions in this way, the EU now wants airlines -- which contribute 3.0 percent of global greenhouse gas emissions -- to reduce their carbon footprint.

Several carriers and airline associations have challenged the decision by the 27 EU states to force airlines flying in and out of Europe to buy the permits under the bloc's Emissions Trading System (ETS).

"We are disappointed with the opinion of the advocate general, but it is only part of a complex set of developments concerning" the trading system, head of industry group the International Air Transport Association Tony Tyler said.

Tyler said that "many governments are rightly concerned about the infringements on sovereignty" that the trading system implies and warned that 20 states had signed a declaration "vowing to challenge the plan's extra-territoriality" at the International Civil Aviation Organization.

"India, for example, has very clearly indicated that if Europe proceeds it will retaliate," Tyler said.

Last month, the China Air Transport Association warned that "dozens of airlines" would be involved in another lawsuit it aimed to lodge by the end of the year.

At the Paris air show in June, China reportedly blocked an order by Hong Kong Airlines for billions of euros worth of European Airbus aircraft due to the EU carbon tax plan.

China has said it fears its aviation sector will have to pay an additional 800 million yuan (about \$125 million) a year on flights originating or landing in Europe, and that the cost could be almost four times higher by 2020.

Under the scheme, airlines will be given emissions allowances based on their size and polluting record.

Initially they will only have to pay for 15 percent of the polluting rights accorded to them, the figure rising to 18 percent between 2013-2020.

If credits are not fully used, they can be traded -- which means polluters can buy extra rights, which carriers see as a tax.

EU climate action commissioner Connie Hedegaard has said the 85 percent of allowances not initially charged will be worth 20 billion euros over the next decade.

She suggested that airlines could use the funds to modernise their fleets, improve fuel efficiency and use non-fossil aviation fuel.

Within the detail of the court's legal opinion, the advocate general underlined that the market-based levy is concerned purely with the emission of greenhouse gases, and not "fuel consumption or the persons or property on board."

"I am glad to see that the Advocate General's opinion concludes that the EU Directive is fully compatible with international law," Hedegaard said.

"The EU reaffirms its wish to engage constructively with third countries during the implementation of this legislation," she added.

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