Dutch perspective on Taxing Aviation

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Workshop on Carbon Taxation
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✓ Netherlands: introduction aviation tax in 2021
✓ Conference on carbon pricing and aviation taxation
   20-21 June 2019, The Hague, Netherlands
✓ Important outcome: Chicago Convention is no obstacle to aviation taxes
Current situation

• No excise duties nor VAT in international aviation, unlike other modes of transport

• Aviation causes 2.5% of the global CO2-emissions, climate impact serious and still rising; locally noise and air pollution.
Dutch aviation tax in 2021

- Based in Dutch 2017 coalition agreement
- Preference for a European tax on aviation
- If in 2021 no European aviation tax has been reached: introduction of national aviation tax
- Bill for national tax submitted to parliament May 2019
- Anticipated returns of € 200 million (price level 2017)
Elements Dutch aviation tax 2021

• A ticket tax
  o Ticket tax with fixed rate of about € 7 per departing passenger
  o Transfer passengers not included

• An additional tax on air cargo transport
  o Due per departing airplane
  o Rate depends on maximum take-off weight and noise level of aircraft
Conference June 2019

• Goal: sharing knowledge and exploring common grounds to make international aviation pay a fairer price, including external costs

• Participants from 31 countries, EC, IMF and OECD

• Focus on ticket taxes and fuel taxes on kerosene
Most participants saw urgent need to make aviation pay a fair price for their carbon emissions

Special tax status aviation considered outdated, should be normalised

Global or multilateral approach (e.g. within EU) is most effective, and improves level playing field between countries

Explore all options: ticket tax, kerosene tax, VAT
Ticket taxes

- No legal obstacles
- Tax imposed on air passengers (transfer passengers and fright usually not included)
- 7 European countries have a ticket tax in different forms, and also outside Europe, for example Australia, Brazil, China, Oman, Mexico, USA
- In the EU the European Commission might take the lead for coordination
Fuel taxes on kerosene

- Already levied on a national level in several states

Possible legal obstacles for international flights:

- Chicago Convention
- EU energy taxing directive.
- Bilateral air services agreements

Outcome of the Conference: all are solvable!
Chicago Convention

- Established the International Civil Aviation Organization (ICAO) in 1947
- Purpose: *create and preserve friendship and understanding among the nations and peoples of the world*

- principles and arrangements for international aviation to be developed in a safe and orderly manner, on the basis of equality of opportunity
Chicago Convention article 15 (airport and similar charges)

- Prohibits fees, dues or other charges for aircrafts solely for the right of transit over, enter into or exit from its territory
- Case law in UK and NL confirms: prohibition refers to charges only (a levy for a service rendered, in this case for the right of transit/enter/exit the territory)
- This in contrast to a tax which is, by definition, levied without any service given in return
Chicago Convention article 24 (customs duty)

- Bans parties from imposing taxes on fuel *already on board* an aircraft when it lands in another country
- No prohibition of taxing fuel *taken on board* in a particular country
- Purpose of this article is to prevent double taxation
Other obstacles Fuel taxes on kerosene

- EU energy directive: fuel tax possible national, exemption international aviation.
  - Solution EU members can agree bilaterally to allow taxing fuel for flights between the two countries

- Bilateral air services agreements mostly prohibit a fuel tax, but can be changed bilaterally
Conclusion

• The Chicago Convention is not an obstacle to aviation (ticket or fuel) taxes

• Normalisation of fiscal position international aviation is possible, if states agree on a bilateral or multilateral basis.

• Next steps?
Thank you for your attention!