



NEWS BRIEF

ADVOCATE GENERAL'S OPINION ON THE EU ETS' LEGALITY

Dear Members,

In an eagerly awaited opinion released this very morning, the Advocate General of the European Court of Justice (ECJ) in charge of the Case brought by the ATA and American Airlines against the legality of the EU ETS has stated that:

- The EU ETS doesn't breach international law and is actually fully compatible with its provisions and principles, and
- The EU ETS is compliant with the EU-U.S. Open Skies of 2009, in particular with its clause on Environment and its underlying obligation for "fair and equal opportunity"

Despite the fact that this is ONLY an opinion, and that the Court is not bound by it, it still represents an important indication of how the ECJ will eventually rule the case. The Commission, and in particular DG CLIMA, must be sighing in relief: the legal challenge subsides for now.

Not the political one though. You may have seen that earlier on this week, a coalition of 21 States (incl. all the BRIC countries) has signed a resolutely anti-ETS declaration. Nothing concrete, measures of retaliation, refusal to abide, etc., has been clearly unveiled yet, but the intention to put pressure on the Commission to a) abandon, b) defer or c) reduce the scope of, the EU ETS is growing by the day. No doubt declarations such as this one will multiply in the coming weeks.

Best regards,

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