Could US Port Authorities Adopt Climate Solidarity Levies?

A case study of New York City and Los Angeles

ecbi Discussion Note

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1. Introduction and Outline

Given the urgency to provide the poorest and most vulnerable countries and communities with financial support to respond to loss and damage resulting from climate change and given the current global economic and fiscal situation, it is difficult to see how the newly established multilateral Fund for responding to Loss and Damage (Loss and Damage Fund or LDF) can get adequately capitalized without new 'innovative sources' to avoid diverting funds from other existing multilateral climate funds.

The idea of a Climate Solidarity Alliance (CSA) has been put forward to address precisely this need. The CSA would establish an alliance of national and sub-national actors that are able and willing to introduce a Climate Solidarity Levy (CSL) earmarked as an innovative funding source both for domestic (local) loss and damage funds as well as for the LDF. While momentum from national governments is key, some may be unwilling (politically) or unable (legally) to establish national CSLs. This is why the CSA concept also envisions the adoption of CSLs by interested sub-national agents, such as port authorities, as a source of revenue for the LDF, as well as for addressing local adverse climate impacts.

This Discussion Note examines the legal potential and relevant precedents for CSLs on air travel and shipping in two major American cities and tourist destinations: New York and Los Angeles. These are major transportation hubs which also stand out among American cities for their progressive climate policies. If it is possible for New York and Los Angeles to institute CSLs on air/maritime travel/transport to their cities, such fees could raise consistent revenues for the local authorities and the LDF—without requiring the approval of the US Congress, the President, or federal agencies.

First, the paper provides some background on CSLs and a CSA. Second, it deconstructs customer-facing federal airline ticket charges to show what air passengers are already paying to visit the US, and why a levy at the national level is unlikely. Third, it analyzes the potential for CSLs on high-carbon activities such as aviation and shipping, exploring pathways through the Port Authority of New York and New Jersey (PANYNJ) and the Port of Los Angeles (POLA). Finally, the paper concludes that while there is no direct precedent for a CSL-like tax—one which sends some revenues abroad—it does find some relevant decisions and processes through which a CSL may be possible.

2. Background: CSLs and the CSA

On 1 July 2006, France began collecting a solidarity tax on airplane tickets (*taxe de solidarité sur les billets d'avion*) to help finance the fight against HIV/AIDS, tuberculosis, and malaria in severely affected countries. The tax, initially proposed by Presidents Jacques Chirac of France and Luiz Inácio Lula da Silva of Brazil in Paris in September 2005, introduced a surcharge of €1 on economy class flights within Europe, €4 on long-haul economy class, €10 on business class within Europe, and €40 on long-haul business class. It was and is still collected by the French Directorate General for Civil Aviation, which transfers it to a dedicated 'Solidarity Fund for Development' managed by the French Development Agency. In 2023, the French tax raised around € 370 million, € 210 million of which was channelled towards Unitaid. According to the French government, "no impact has been observed on French air traffic or on tourism following the establishment of the airline-ticket levy".

The CSA proposal envisages several possible CSLs, collected at the national or sub-national level, based on the French solidarity levy collection model, i.e., easily collectable and channelled into a dedicated trust fund.

It is anticipated the CSLs would be used both domestically and to contribute to the LDF, according to a distribution formula (to be agreed between CSA members). This formula could set limits on domestic use and introduce a Loss and Damage 'solidarity pay-back multiplier' for certain contributors, as suggested in the table below, whereby developed country members would reward any LDF contribution by a developing country member with a differentiated multiple direct payback to the domestic loss and damage fund of the developing country member in question. For example (following the differentiation proposed in the table), if a small island developing State such as Fiji were to contribute USD 100 to the LDF from its CSL revenue, then the developed country members of the CSA would apply a two-fold 'solidarity multiplier' and contribute USD 200 to Fiji's Loss and Damage Trust Fund from their CSL revenue as 'solidarity pay-back'. One of the advantages in this scheme is that countries with domestic loss and damage funds can receive innovative contributions from a variety of sources, including international ones, for responding to domestic loss and damage.

Equitable Participation	Most Vulnerable	Other Developing	Developed
Domestic use of revenue (up to):	100%	50%/100%	25%
LADF Contribution Pay-back	2x	1.5x/1x	0

The following two sections explore the introduction of CSLs through US port and air transportation authorities as a source of innovative finance for loss and damage. This would involve a small fee applied to airline tickets and/or shipping or cruise vessels, generating funds from passengers and cargo entering the major terminals and airports in New York/New Jersey and Los Angeles.

3. Aviation Charges

A compelling approach to sub-national aviation charges is the implementation of a levy at three major airports (John F. Kennedy [JFK] International, LaGuardia, and Newark Liberty International) through the Port Authority of New York and New Jersey (PANYNJ). A comparison is made to the implementation of a recent Ground Transportation Levy that was approved in 2019 by the PANYNJ.

Airline customer-facing ticket fees in the US are federally regulated. For example, passengers flying from the UK to the US via JFK International Airport incur multiple federal fees on their tickets, including security, infrastructure, and customs fees. A significant fee is the Passenger Facility Charge (PFC), introduced by the Federal Aviation Administration (FAA) in 1992 to support eligible airport improvement projects in safety, security, and capacity.

3.1. Passenger Facility Charge

The PFC, capped at USD 4.50 per passenger per flight segment, is collected by airlines and remitted to a dedicated fund managed by the FAA. This revenue is accounted for separately from other airline revenues, and is considered a trust fund for public agencies to finance airport projects. Through the PFC application and approval process, multiple levels of stakeholders, including air carriers and the public, are engaged through written notices and consultations to ensure transparency and collaboration. This process ensures that new PFCs or budget redirections among airports are thoroughly vetted and supported.

3.2. The Port Authority of New York and New Jersey

The Port Authority of New York and New Jersey (PANYNJ) operates and manages all major airports and several major marine terminals. This includes the three main airports in the New York and New Jersey region: LaGuardia, JFK International , and Newark Liberty International, as well as all primary shipping ports. Both JFK and LaGuardia have been owned by the City of New York and leased to the Port Authority for operating purposes under a long-term lease since 1947. The Port Authority is a self-funded, independent agency that does not rely on taxpayer funding from the states of New York or New Jersey for its operations. Instead, it relies primarily on revenue generated from facility operations-tolls from its bridges and tunnels between New York and New Jersey, user fees from the airports and the bus terminals, and rent from retail stores.

In 2023, the PANYNJ experienced a record year of travel, with 144 million passengers traveling to and from their three main airports. While only federal authorities may apply fees to tickets, the Port does charge fees to For-Hire Vehicles (FHVs), such as Uber and Lyft, dropping off or picking up passengers. In large urban areas like New York City, we may assume that about half those passengers, or 72 million, take a FHV to or from those airports. A CSL of USD 5 applied to those 72 million passengers would raise USD 360 million, which is more than half of the LDF's current pledged capitalization.

1.1.1. a. Possible Precedent: PANYNJ Ground Transportation Tax

The PANYNJ has 10-year budget and investment plans on funding critical projects. In 2019, proposed changes to the current 10-year plan included a new "Ground Transportation Airport Access Fee". This new fee was proposed in line with peer airports in Los Angeles, Chicago, San Francisco, and Washington DC. The proposal suggested that additional funding was required from tolls and other fees, in order to maintain the Port Authority's "unprecedented investment and tangible progress in rebuilding and improving the region's infrastructure". The fees collected by FHVs, such as Uber and Lyft, were to be remitted directly to the Port Authority. Six public hearings regarding this proposal were initiated by governing members across both states to engage public input and feedback, and to ensure that transparency measures were taken to advance public participation.

In October 2020, the Ground Transportation Airport Access Fees for taxis and FHVs were implemented at Newark, LaGuardia, and JFK. Revenue from the new fees is meant to support safer and improved infrastructure within the airports for drivers, including better traffic management and enhanced passenger safety.

1.1.2. b. PANYNJ: Procedural and Application Mechanics

The governors of New York and New Jersey each appoint six members to the Port Authority's Board of Commissioners, subject to state senate approval. The Executive Director of the PANYNJ is overseen by the Board of Commissioners, who are ultimately responsible for preparing proposals for the PANYNJ's Capital Plan. The overall goal of the proposal, as per Board guidelines, was to introduce new revenue sources for the PANYNJ, since it is a self-funded entity.

Following hearings, all Commissioners review transcripts and reports before a majority vote by the Board determines proposal approval. Once a proposal is approved, the Executive Director oversees implementation and ensures compliance in accordance with board directives.

FHVs that operate at JFK, Newark, and LaGuardia must obtain a permit from the PANYNJ to operate legally. This permit grants vehicles the right to access airport facilities in designated passenger pick-up and drop-off zones. Once the permit is obtained, FHVs are tracked using an electronic tracking system or "geofence" that records each trip made to the designated airport passenger pick-up/drop-off areas. Trip data and fees collected are remitted to the Port Authority via wire or electronic transfer. The Port Authority also regularly audits the monthly reports and records submitted by FHV permit holders to ensure compliance.

4. Maritime Charges

As an alternative to aviation-related charges, the CSA also proposes levies on maritime travel for containers/cargo and passengers. This Discussion Note explores the potential for such charges through the Port of Los Angeles (POLA) in California. In contrast to the federal regulation of customer-facing air ticket charges—and similar to the operations of the PANYNJ—container cargo and maritime passenger charges at the POLA are governed by local authorities.

4.1 Port of Los Angeles

The Port of Los Angeles (POLA) is the busiest port for commercial containers in North America. It operates as a financially self-supporting entity, under the governance of the Los Angeles Board of Harbor Commissioners, which sets the policies and approval of tariffs pertaining to port charges. The Port's operations, detailed in Tariff No. 4, include specific rates and charges pertaining to cargo such as *Dockage* and *Wharfage Fees*, applied to cargo vessels, and *Passenger Fees*, applied to "vessels carrying passengers for compensation" or cruise ships.

In 2023, 8.6 million Twenty-Foot Equivalent Units (TEUs) of containers passed through the POLA. A levy of USD 10 USD per TEU on 8.6 million TEUs would raise USD 86 million USD in total—more than the combined pledges of the United States, Canada, Denmark, and Norway to the LDF.

In 2023, POLA also experienced its busiest cruise ship year on record, with 219 total cruise calls and 1,323,313 total passengers (Port of Los Angeles, 2023). A levy of USD 10 on each cruise ticket—which can range from several hundred to several thousand dollars–would raise around USD 13.2 million, about the same as the combined contributions of Japan and Finland to the LDF.

1.1.3. a. Maritime Passenger Charge

As per Tariff No. 4, passenger-carrying vessels must remit *Passenger Fees.* These fees are part of the port's tariff structure and are applied to each vessel carrying passengers. The fee is levied on cruise carriers based on the number of passengers embarking from or debarking at the port. This passenger fee is specific to each vessel that docks at the port, and is inclusive of dockage, wharfage, and the "Lay Day Fee", pertaining to the passenger vessel, all bundled into one charge. For maritime passenger fees, cruise ship carriers collect the fees from passengers as part of the cruise ticket price, but, ultimately, cruise lines are accountable for remitting this fee to POLA. The revenue generated from these passenger fees for the Port are used for various operational and infrastructure needs.

1.1.4. b. Cargo Container Levy

The Clean Air Action Plan (CAAP) at POLA suggests one potential way a levy on cargo containers could be applied. Through the CAAP, the Port collects fees from vessels that are subject to various environmental requirements and uses the revenues to fund its climate goals. In 2022, the Port introduced its Clean Truck Fund (CTF) Rate as a way to fund its efforts to transition to a zero-emissions truck fleet by 2035. The Rate is applied to all cargo containers that enter or leave the port via drayage trucks, and targets containers that utilize drayage trucks on land which do not meet the

Port's environmental standards. It is collected by the terminal operators from cargo owners (or their agents) utilizing PortCheck, an online fee collection and management platform.

Under the CTF program, cargo owners register with PortCheck to report container numbers, record movement, and pay fees using various payment methods. The system provides detailed records to support compliance and audits. Given this existing precedent and success in collecting/managing such fees, a similar levy could be applied to cargo containers using the same PortCheck system. Collection of a similar maritime levy applied per cargo container—for example, USD 10 per TEU through the PortCheck system—would ensure effective collection and compliance monitoring.

1.1.5. c. POLA: Procedural and Approval Mechanics

Making any amendments to Tariff No. 4 requires the approval of both the Board of Harbor Commissioners (the Board) and the Los Angeles City Council. The Board of Harbor Commissioners consists of five members appointed by the Mayor of Los Angeles and confirmed by the Los Angeles City Council. The Los Angeles City Council is composed of 15 members, representing all of the city's districts, who enact local laws including those affecting POLA.

Once the proposed amendments are developed, the Board schedules a public hearing to discuss the changes as an opportunity for stakeholders (e.g., port users, industry representatives, and community members) to provide input and comments. Following Board approval, proposed amendments are delivered to the Los Angeles City Council for approval, which is required for the final review of amendments.

5. Conclusion

This paper has examined the precedents and potential for implementing CSLs on aviation and maritime transport in two major US cities. After introducing the CSL concept and proposal for a CSA, the paper identified several possible pathways at the subnational level via the port authorities of New York/New Jersey and Los Angeles, two of the world's largest cities, ports, and tourist destinations. While there is no direct precedent for a CSL-like levy—that is, one which earmarks revenues and sends them abroad—the paper finds several recent precedents which suggest it may be possible, given requisite political will from Governors, city officials, and voters. Applying the levies proposed in the document—USD 5 per FHV entering or leaving the airport, USD 10 per cruise ship ticket, and USD 10 per TEUs of containers—would raise a combined USD 458 million in annual revenue. Sending just a quarter of this to the LDF would make New York/New Jersey and Los Angeles the Fund's top contributors.

When considering a subnational levy, proposing a pathway that minimizes complexities and that can potentially leverage an existing and robust infrastructure is important. Though Port authorities lack the federal authority to collect fees directly from customers, both PANYNJ and POLA already have some existing mechanisms for indirectly generating and collecting funds. The Ground Transportation Fee from taxis and FHVs at PANYNJ and Passenger Fees collected from cruise ships or CTF cargo charges at POLA show pathways to indirect fee collection from port authorities. Despite these fees, the record-breaking numbers of passengers on US-based flights and' cruises and continued high demand for imported goods demonstrates that consumers and travellers are not deterred by these small and dispersed charges.