



ASSEMBLY – 35TH SESSION

EXECUTIVE COMMITTEE

- Agenda Item 14: Aviation security**
Agenda Item 14.1: Developments since the 33rd Session of the Assembly
Agenda Item 14.2: Universal Security Audit Programme (USAP)

**LEGISLATIVE DEVELOPMENTS AND INSPECTION PROGRAMME ON CIVIL AVIATION
SECURITY IN THE EUROPEAN COMMUNITY**

(Presented by the European Commission)

INFORMATION PAPER

SUMMARY

This paper gives an overview of legislation that to date has been developed in the European Community in the field of civil aviation security. Security measures adopted include the screening of all departing hold baggage and the screening of all staff working at Community airports. The paper also outlines the EC programme on inspections which is somehow similar to the Universal Security Audit Programme (USAP).

1. BACKGROUND

The European Commission brought forward its first proposal for Community legislation in the field of civil aviation security following the terrible events of 11 September 2001. The primary act of legislation was Regulation 2320/2002 which came into force on 19 January 2003. As primary legislation it was adopted by the co-decision procedure, which required that it be supported by both the European Parliament and the Council (the Transport Ministers from all Member States)².

2. LEGISLATION AND LEGISLATIVE DEVELOPMENTS IN THE EUROPEAN COMMUNITY

2.1 Regulation 2320/2002 addresses several issues. Firstly, it lays down mandatory general legislative requirements and standards for aviation security to be applied at Community airports, based on

¹ French and Spanish versions provided by the European Commission.

² At the time of adoption the European Community comprised of 15 Member States, namely Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden and the United Kingdom. Since 1 May 2004 the European Community has grown to 25 Member States by the addition of Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia.

the rules developed by the European Civil Aviation Conference (ECAC) in its so-called Document 30. In simple terms the legislation applies to ground-based aviation security and addresses airport security, aircraft security, passengers and cabin baggage, hold baggage, cargo, courier and express parcels, mail, air carrier mail and materials, catering, air carrier cleaning, stores and supplies, general aviation, staff recruitment and training, and security equipment. It does not cover in-flight aviation security, such as sky marshals or cockpit doors.

2.2 Secondly, Regulation 2320/2002 mandates the European Commission to conduct inspections, including inspections of a suitable sample of Community airports, to monitor the application by Member States of the legislation.

2.3 Thirdly, it obliges all Member States to have in place their own quality control programmes to ensure that they regularly and efficiently control aviation security standards at their own airports.

2.4 Fourthly, the framework regulation mandates the European Commission to develop additional, more detailed implementing legislation. This the Commission has done and in the first year there have been four pieces of secondary legislation in the field of civil aviation security. Two of the regulations, Regulation 622/2003 and Regulation 68/2004, have laid down more detailed requirements for aviation security that complement the general requirements in Regulation 2320/2002. A third regulation, Regulation 1217/2003, has laid down more detailed requirements for the quality control programmes required from Member States. The fourth regulation, Regulation 1486/2003, lays down requirements governing the auditing of Community airports by the Commission.

2.5 With the entry into force of the Regulation, Member States have the obligation to screen at their airports all departing passengers and hold baggage (100% HBS) -both originating and transfer-, unless these passengers or hold baggage have previously been screened to the standards of the Regulation. This implies that for flights coming to the European Community from other ICAO Contracting States which can demonstrate that they meet equivalent standards, then transfer passengers and transfer hold baggage could be exempted from re-screening at Community airports.

2.6 It is the Commission's mandate to develop additional pieces of legislation as needed on an on-going basis so as to ensure that Community requirements for aviation security remain of the highest standard. One such example is the adoption of Regulation 1138/2004 that requires all staff, including flight crews, entering defined critical parts of security restricted areas of airports to be subject to 100% screening. In this regard a 3-step approach has been set which is a worldwide benchmark for staff security at airports:

- From 1 July 2004 all staff have to be screened before entering those parts of airport terminal buildings which departing passengers after screening have access to.
- From 1 January 2006 all staff have to be screened before being allowed access to all parts of an airport in which departing passengers after screening may have access to. This includes the jetway or walkway to the aircraft and the aircraft itself.
- From 1 July 2009 all staff have to be screened before being allowed access to all parts of an airport through which departing hold baggage may pass or be held after screening, if the baggage has not been sealed so as to prevent the introduction of objects.

2.7 In addition to the legislation that is primarily dealing with aviation security there is considerable other Community legislation that affects aviation security and facilitation issues. This

includes legislation on data protection (of particular relevance to APIS/PNR), air safety, standardisation of Community passports and common customs and immigration policies.

3. EUROPEAN COMMUNITY INSPECTION PROGRAMME

3.1 As referred to above the Commission has a mandate to conduct inspections of national appropriate authorities and of Community airports. For this task the Commission has created its own teams of inspectors and a complementary training programme, developed in coordination with the European Aviation Security Training Institute (EASTI). Inspections of Community airports commenced in February 2004 and it is foreseen that forty inspections will have been made in 2004. The Community legislation requires that the inspections shall be unannounced to the airports concerned and so no calendar of planned inspections is made public. The results of the inspections are shared with all 25 Member States since one of the goals is to create mutual confidence in the level of aviation security provided throughout the European Community.

3.2 Full-time Commission inspectors have undertaken the initial inspections. In addition, there are now also mixed inspection teams comprising of both Commission staff and inspectors seconded from the Member States (with the proviso that national inspectors are not selected to inspect airports in their own country). Both categories should have successfully completed a Community training course. As well as helping to maximise resources this approach is also seen as a further way of spreading mutual trust between Member States.

3.3 It should be noted that EC inspections are in many respects very similar to the ICAO Security Audits. They both examine quality controls and security measures, procedures and structures at both national and airport levels. However, there are also important differences, such as the degree of detail of the standards to be implemented and inspected as well as the requirement that EC inspections at Community airports are unannounced.

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