



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 04.03.1998

COM(1998) 123 final

97/0039 (SYN)

Amended proposal for a

COUNCIL DIRECTIVE

establishing a safety assessment of third countries aircraft

using Community airports

(presented by the Commission pursuant to Article 189 a (2)
of the EC-Treaty)

EXPLANATORY MEMORANDUM

On 17 February 1997 the Commission adopted a proposal for a Council Directive establishing a safety assessment of third countries aircraft using Community airports.

On 19 November the European Parliament approved the proposal subject to certain amendments.

The Commission can accept amendments 1, 3 - 12, 14 and 15 since they are consistent with the purpose of the proposed Directive, namely to contribute to the improvement of air safety by inspecting third countries aircraft whenever there is a suspicion that they are not operating in accordance with international safety standards, by collecting and disseminating information relating to shortcomings, so that sufficient evidence can be established to decide on measures required to ensure the safety of passengers, and by providing for measures to rectify identified shortcomings. Parliament's amendments are essentially intended to specify a number of details in the proposed provisions and the categories of aircraft which should be subject to ramp inspections, to publish information on the results of these inspections and to provide for the drawing-up by the Commission of a report on the operation of the Directive, possibly accompanied by proposals for revising it.

On the other hand, the Commission cannot accept amendment 13 calling for the deletion of Article 12 of the Commission's proposal, since it takes the view that this article, which provides for the imposition by the Member States of penalties for breaches of national provisions adopted pursuant to the Directive, is needed in order to ensure effective compliance with Community legislation, e. g. , any refusal by a third country aircraft operator to be subjected to an inspection..

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Recital 1

Whereas the Resolution adopted by the European Parliament on 15 February 1996 and the Council Conclusion of 11 March 1996 both point to the need for the Community to take a more active stance and develop a strategy to improve the safety of its citizens travelling by air or living near airports;

Whereas the Resolutions adopted by the European Parliament on 15 February 1996 and 17 July 1997* and the Council Conclusion of 11 March 1996 both point to the need for the Community to take a more active stance and develop a strategy to improve the safety of its citizens travelling by air or living near airports;

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Article 1

The purpose of this Directive is to contribute to the improvement of air safety by checking third countries aircraft whenever there is suspicion that they are not operated in accordance with international safety standards, by collecting and disseminating the information related to shortcomings so that sufficient evidence can be established to decide on measures required to ensure the safety of the travelling public; and by providing for measures concerning the rectification of identified shortcomings.

The purpose of this Directive is to contribute to the improvement of air safety by inspecting third countries aircraft, their operations and their crew whenever there is suspicion that they are not operated in accordance with international safety standards, by collecting and disseminating the information related to shortcomings so that sufficient evidence can be established to decide on measures required to ensure the safety of travellers and all those affected on the ground (especially the residents of areas near airports); and by providing for measures concerning the rectification of identified shortcomings.

Article 3, definitions 4, 5 and 6

'*International safety standards*' means the safety standards contained in the Annexes to the Convention on International Civil Aviation signed in Chicago on 7 December 1944 as in force at the date of adoption of this Directive;

'*Ramp inspection*' means the examination on board and around an aircraft to check both the validity of the aircraft documents and those of its crew and the apparent condition of the aircraft and its equipment;

'*Third countries aircraft*' means an aircraft operated by an air carrier of which the Air Operator Certificate is delivered by a State which is not a Member State of the Community.

'*International safety standards*' means the safety standards contained in the Annexes to the Convention on International Civil Aviation signed in Chicago on 7 December 1944 as in force at the time of the inspection;

'*Ramp inspection*' means the examination on board and around an aircraft to check both the validity of the aircraft documents and those of its crew and the apparent condition of the aircraft and its equipment;

'*Third countries aircraft*' means an aircraft operated by an air carrier of which the Air Operator Certificate is delivered by a State which is not a Member State of the Community or an aircraft which is not used or operated under the control of a competent authority of a Member State.

Article 4(1), introduction and first indent

1. Competent Authorities of the Member States shall collect any information deemed useful for the fulfilment of the objective stated in Article 1 of this directive, including:

- important safety information accessible, especially, through
 - passenger complaints,
 - pilots reports,
 - maintenance organisation reports,
 - incidents reports;

1. The competent authorities of the Member States shall collect any information deemed useful for the fulfilment of the objective stated in Article 1 of this directive, including:

- important safety information accessible, especially, through
 - complaints by passengers, airport users and residents of areas near airports,
 - pilots reports,
 - maintenance organisation reports,
 - incidents reports,
 - relevant reports from other organizations, independent from the competent authorities of the Member States;

Article 5

1. The competent authority of each Member State shall ensure that third countries aircraft suspected of non-compliance with international safety standards landing at any of its airports is subject to ramp inspections as follows:

(a) all aircraft:

- showing signs of poor maintenance condition or with obvious damage or defect;
- which have been reported to perform abnormal manoeuvres since entering the airspace of a Member State;
- having been subjected to a previous ramp inspection which has revealed deficiencies as long as such deficiencies have not been corrected;

(b) 10% of the movements, with a minimum of once a week, of:

- an aircraft the operator of which has been the subject of a standard report according to Article 4,
- an aircraft the operator of which or the country of the operator of which has been the subject of a decision according to Article 9.

1. The competent authority of each Member State shall ensure that third countries aircraft suspected of non-compliance with international safety standards landing at any of its airports is subject to ramp inspections.

1a. In particular, the competent authorities shall carry out ramp inspections on all aircraft:

- showing signs or where information has been received of poor maintenance condition or obvious damage or defect;
- which have been reported to perform abnormal manoeuvres since entering the airspace of a Member State;
- having been subjected to a previous ramp inspection which has revealed deficiencies giving rise to serious concerns that the aircraft does not comply with international standards and where the Member State is concerned that the defects may not have been corrected;
- where there is evidence that the competent authorities of the country of registration may not be exercising proper safety oversight;
- where information collected under Article 4 gives cause for concern about the operator or where a previous ramp inspection of an aircraft used by the same operator has revealed deficiencies, pending the adoption by the operator of satisfactory arrangements for corrective measures;
- whose operator or the country of the operator has been the subject of a decision according to Article 9, pending the adoption by the competent authority of that third country of satisfactory arrangements for corrective measures.

2. The ramp inspection shall be performed according to the procedure described in Annex 2 and using a ramp inspection report form containing at least the items described in the form appended to this Annex. On completion of the ramp inspection, the commander of the aircraft shall be provided with a copy of the ramp inspection report.

3. When executing a ramp inspection under this Directive, the competent authority shall make all possible efforts to avoid an aircraft being unduly delayed.

2. The ramp inspection shall be performed according to the procedure described in Annex 2 and using a ramp inspection report form containing at least the items described in the form appended to this Annex. On completion of the ramp inspection, the commander of the aircraft shall be informed of the contents of the ramp inspection report and if the report disclose deficiencies, it shall be sent to the operator of the aircraft and to the competent authority of the country of registration.

3. When executing a ramp inspection under this Directive, the competent authority shall make all possible efforts to avoid an aircraft being unduly delayed unless there are reasonable grounds for a more thorough investigation.

Article 6, heading and (1)

Exchange of information

1. The competent authorities of the Member States shall participate in a mutual exchange of information.

Exchange of information and cooperation

1. Member States shall make provision for the exchange of information and cooperation between their competent authorities, the competent authorities of all other Member States and the Commission.

Article 7(1)

1. The information exchanged in accordance with Article 6 shall be used for the sole purpose of this Directive and its access will be limited to the participating competent authorities and the Commission.

1. The information exchanged in accordance with Article 6 shall be used for the sole purpose of this Directive and its access will be limited to the participating competent authorities and the Commission without prejudice to the provisions laid down herein concerning the publication of groundings.

Article 8(2)

2. In the event that an aircraft is grounded, the competent authority of the Member State where the inspection took place shall immediately inform the competent authorities of the countries concerned.

2. In the event that an aircraft is grounded, the competent authority of the Member State where the inspection took place shall immediately inform in writing the operator and the competent authorities of the country of the operator and of the State where the aircraft is registered.

Article 8(5)

5. The owner or the operator of the aircraft or his representative in the Member State concerned shall have a right of appeal against a grounding decision taken by the competent authority of the Member State. The lodging of an appeal shall not cause in itself the grounding to be suspended.

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Article 8a

Right of appeal

2. Member States shall establish and maintain appropriate procedures for this purpose in accordance with their national legislation.

3. The competent authority shall properly inform the commander of the aircraft of the right of appeal.

Article 9, first paragraph, first indent

- systematic ramp inspection and other surveillance measures of a specific operator or of operators of a specific third country;

- systematic ramp inspection and other surveillance measures of a specific operator or of operators of a specific third country pending the adoption by the operator or the competent authority of that third country of satisfactory arrangements for corrective measures;

Article 10(1)

1. Member States shall report to the Commission the operational measures taken and the resources allocated to implement the requirements of Articles 4, 5 and 6.

1. Member States shall report to the other Member States and to the Commission the operational measures taken and the resources allocated to implement the requirements of Articles 4, 5 and 6.

Article 10a (new)

Article 10a

Publication of groundings

1. Each competent authority shall as a minimum publish quarterly information available to the public concerning aircraft grounded during the previous three-month period.

2. Such information shall also include all aircraft, operators, countries of operators and States of registration whose aircraft have been detained more than once during the past 24 months.

3. The information published shall include in particular the type of aircraft, the name and country of the operator, the State of registration, the reason for grounding and the airport and date of grounding.

Article 13a (new)

Article 13a

Information report and revision

No later than two years after the entry into force of this Directive, the Commission shall draw up a report on its application, taking into account *inter alia* developments in the European Union and in international fora. Such a report may be accompanied, if it is appropriate, by proposals for a revision of this Directive.

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