



*The International Air Carrier Association*



Mr Eckard Seebohm  
Head of Aviation Security  
DM24 05/4  
European Commission  
B-1049 Brussels

28 July 2009

Dear Eckard,

**Subject: Response to EASA NPA 2009-02 IR Operations: Security Proposals**

With this joint letter, [AEA, EEA, ELFAA, ERA, IACA, IATA,], would like to re-iterate our concerns regarding both the duplication of and the conflicting requirements that airlines may be subjected to in terms of aviation security regulations currently proposed by the European Aviation Safety Agency (EASA) in their proposed draft Implementing Rules on Part Operations.

Following a constructive meeting between DG-TREN, EASA and Stakeholders held earlier this year, you will remember that our concerns were confirmed by an EASA presentation. There is now a real possibility of duplication of regulatory activity between the new EU security Regulation 300/2008 and EASA's proposed Implementing Rules for Part Operations. EASA has promulgated their proposals by means of a formal Notice of Proposed Rulemaking (NPA 2009-02) the comment period for which closes on the 31 July 2009.

Fundamentally the Stakeholder Associations believe aviation **security** measures are within the competence, and should remain the remit of DG TREN F.5 Aviation Security and not F.3, Air Safety under EASA's competence.

You requested that Stakeholders submit copies of their detailed comments to the NPA both by means of the EASA web based Comment Response Tool (CRT) and directly to yourself as Head of Unit at DG-TREN. Please find attached our joint Association responses to the NPA and we will also be encouraging our respective membership to make similar comments direct to EASA as part of the formal NPA comment process.

We believe that any ambiguity in the area of aviation security regulation and the responsibility for same could only be detrimental to the fundamental goals of Regulation (EC) 300/2008 which we understand are to “establish and implement appropriate Community measures” and “to provide a basis for a common interpretation of the related provisions of the Chicago Convention, in particular its Annex 17”.

DGTREN, working in consultation with the AVSEC Committee, SAGAS and the Implementing Working Groups has made great advances in developing effective and practical security arrangements. We are concerned that the positive developments and solid working arrangements may be undermined and confused by an inappropriate rule making by another agency.

We very much hope that you will support efforts to address the existing inconsistencies and to prevent future conflicting regulations/implementing European security legislation.

Best regards

*For further information please contact:*

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**Specific Comments EASA NPA 2009-02 Air Operations: To be made on EASA Web-based Comment Response Tool by 31 July 2009**

**2009-02A Explanatory note and appendices**

**2009-02B Draft Opinion Part-OPS & Draft Decision Part-Ops**

**2009-02C Draft Opinion Part-OR (Subpart OPS), Draft Decision CS Part-OR (Subpart OPS) and Draft Decision AMC/GM Part-OR (Subpart OPS)**

**2009-02D Draft Opinion Part AR (Subpart GEN, CC, OPS) and Draft Decision AMC/GM Part-AR (Subpart GEN, CC, OPS)**

**2009-02E Draft Opinion Part-CC, Draft Decision AMC/GM Part-CC and Supplement to Draft Opinion Part-MED**

**2009-02F Cross Reference Tables**

**2009-02A Explanatory note and appendices**

**P54 paragraph 60**

‘The requirements in this section (Section IX of Subpart OR.OPS) address disruptive passenger behaviour, security and security training programmes, aircraft search procedure checklists and cockpit security’.

**Associations comment -general**

- Fundamentally the Stakeholder Associations believe that aviation **security** measures are within the competence, and should remain the sole remit of European Commission DG TREN F5 and should not be confused by those **safety** measures under the responsibility of DG TREN F.3 / EASA.
- EU300/2008 will be implemented by April 2010 latest, EASA Part Operations will not have legal status to replace EU OPS 1 until April 2012, thus airlines and airports should not have to change their approved security programmes under EU300/2008 to accommodate EASA Part Operations.
- Security measures to be applied by Commercial Air Transport should not be split between, duplicated or be contradictory in separate EU Regulations. Regulations (if required) and competence for ‘In flight’ security measures must be under a single legislative body (DG TREN F5, Aviation Security).
- ‘Disruptive passengers’ are addressed in more detail in sections referenced below; conflict between Regulation (EC) 300/2008 and OR.OPS.SEC must be removed
- Security training programme requirements are already specified in and mandated by Chapter 11 of EU300/2008 –Section IX of OR.OPS must be amended to reflect this.
- Aircraft search procedures are already specified in and mandated by Chapter 3 of EU300/2008 – Section IX of OR.OPS should be amended to reflect this.
- With the exception of certification requirements for anti intrusion reinforced cockpit doors (where required to be fitted), aircraft cockpit security should be included in Chapter 10 of EU300/2008



<p>Commercial Air Transport</p>	
<p><b>2009-02C Draft Opinion Part-OR (Subpart OPS), Draft Decision CS Part-OR (Subpart OPS) and Draft Decision AMC/GM Part-OR (Subpart OPS)</b></p> <p><b>P.30 OR. OPS Section IX – Security</b></p> <p><b>P30 OR.OPS.020.SEC Disruptive Passenger Behaviour</b></p> <p><b>P31 OR.OPS.025.SEC Security Programme &amp; security Training</b></p> <p><b>P31 OR.OPS.030.SEC Aircraft Search Procedure checklist</b></p>	<p><b>Associations comment</b></p> <ul style="list-style-type: none"> <li>• Fundamentally the Stakeholder Associations believe that aviation <b>security</b> measures are within the competence, and should remain the sole remit of European Commission DG TREN F5 and should not be confused by those <b>safety</b> measures under the responsibility of DG TREN F.3 / EASA.</li> <li>• The term ‘potentially disruptive passenger’ in the context of Regulation (EC) 200/2008 means a “passenger who is a deportee, a person deemed to be inaccessible for immigration purposes or a person in lawful custody”.</li> <li>• Although not defined in Regulation 216, it is clear that the term ‘disruptive passenger’ is used in a much wider context. This anomaly must be clarified and any confusion removed. Disruptive passengers (actual) are both a safety and security risk.</li> <li>• Regulation (EC) 300/2008 already requires Operators to develop and implement a security programme. To avoid conflict, any reference to the Operators Security Programme or a requirement to include elements of this programme in the operations manual must be removed. Otherwise Operators may be subject to duplicated information and approval processes. Inclusion of specific security provisions in the Operations Manual must remain at the discretion of the Operator.</li> <li>• Security training programme requirements are already specified in and mandated by Chapter 11 of EU300/2008 –Section IX of OR.OPS must be amended to reflect this.</li> <li>• This should be removed. Aircraft search procedures are specified in and are mandated by Chapter 3 of EU300/2008 –Section IX of OR.OPS should</li> </ul>

**P31 OR.OPS.030.SEC Cockpit Security - Aeroplanes**

**P.123/4 GM OR.OPS.020.SEC Disruptive Passenger behaviour**

**P.124 GM OR.OPS.020.SEC Disruptive Passenger behaviour Para3.1(b)**  
**The operator should 'Minimise passenger frustration that occurs over long waiting times, the flight being overbooked, lack of information,**

be amended to reflect this.

- With the exception of certification requirements for anti intrusion reinforced cockpit doors (where required to be fitted), aircraft cockpit security should be included in Chapter 10 of EU300/2008
- The term 'potentially disruptive passenger' in the context of Regulation (EC) 200/2008 means a "passenger who is a deportee, a person deemed to be inaccessible for immigration purposes or a person in lawful custody".
- Although not defined in Regulation 216, it is clear that the term 'disruptive passenger' is used in a much wider context. This anomaly must be clarified and any confusion removed.
- GM OR.OPS.020.SEC – Operators have already, on the basis of operational experience, invested heavily in the development of effective policy and procedures for handling disruptive passengers. These procedures may not require the use of "restraining devices onboard" or a "warning" system therefore references to both must be removed.
- GM OR.OPS.020.SEC 2.1 should be amended as follows to ensure uniformity with GM OR.OPS.020.SEC 1  
*"The operator should inform all staff members" that come in contact with passengers, both on the ground and in the air "about the contents of..."*
- GM OR.OPS.020.SEC 2.2 – the operator is not the only entity with responsibility for passenger communication and education. This paragraph requires amendment to include State, Airport etc responsibilities in this area.
- GM OR.OPS.020.SEC 3 – Operators have no responsibility for providing nicotine replacement therapy to passengers – this must be removed.
- This paragraph should be withdrawn as it implies that all these are all Air carriers fault and that these situations can definitively be resolved as they are under the direct control of airlines – other issues such as adverse

<p>technical deficiencies, etc’</p> <p><b>P.124 GM OR.OPS.020.SEC Disruptive Passenger behaviour Para3.1(d) – The operator should ‘maintain accurate and updated reports and statistics of disruptive passenger incidents so as to continually monitor the types of incidents and identify potential training needs etc.’</b></p> <p><b>P.125 GM OR.OPS.020.SEC Disruptive Passenger Behaviour Para 4</b></p> <p><b>P.126 GM OR.OPS.020.SEC Disruptive Passenger behaviour Para6.1 Location of restraint devices – ‘Should be kept in a secure location such as the cockpit’</b></p> <p><b>P.126 GM OR.OPS.020.SEC Disruptive Passenger Behaviour Para 7.2 – Training Requirements</b></p> <p><b>p. 127 GM OR.OPS.020.SEC Disruptive Passenger Behaviour Para 8</b></p>	<p>weather, airport congestion, industrial action, ATC delays, security screening procedures can all equally ‘frustrate’ passengers.</p> <ul style="list-style-type: none"> <li>• This is also an airport security and police issue (many operators are not aware of incidents of disruption prior to boarding).</li> <li>• It is primarily a member state control authority issue to evaluate and analyse both mandatory and non mandatory reports.</li> <li>• Reference to restraints must also be removed (ref above comments)</li> </ul> <ul style="list-style-type: none"> <li>• This must be removed. Operators have already, on the basis of operational experience, invested heavily in the development of effective policy and procedures for handling disruptive passengers. These procedures may not require the use of “restraining devices onboard” or a “warning” system therefore references to both must be removed.</li> </ul> <ul style="list-style-type: none"> <li>• No mandate should be envisaged to carry restraints – they are not appropriate for all commercial aircraft types</li> <li>• Remove ‘such as the cockpit’ – As locked door policy is mandated OR.OPS.035.SEC cockpit must remain secure; terrorists could use simulated ‘disruptive’ behaviour in the knowledge this may open secure flight deck doors.</li> </ul> <ul style="list-style-type: none"> <li>• To take account of operators who do not carry restraint devices onboard i. and j. should be amended as follows: <ul style="list-style-type: none"> <li><i>i. restraint device training (if applicable)</i></li> <li><i>j. restrained passenger welfare (if applicable)</i></li> </ul> </li> </ul> <ul style="list-style-type: none"> <li>• This would appear to refer to the Regulation (EC) 300/2008 definition. Any confusion, anomaly between the two Regulations must be removed. The term “persons travelling under special status” does not appear in any existing or draft security Legislation.</li> </ul>
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<p><b>P.127 GM OR.OPS.020.SEC Disruptive Passenger behaviour Para 9.1 Additional Guidance material in the handling of disruptive passengers</b></p> <p><b>P.129 Appendix 1 to GM OR.OPS.020.SEC</b></p> <p><b>P.132 Appendix 3 to GM OR.OPS.020.SEC Disruptive Passenger behaviour</b></p> <p><b>P.132 GM OR.OPS.020.SEC Disruptive Passenger behaviour AMC OR.OPS.025.SEC Security programme and Security training Para 1 (c) ‘appropriate self-defence responses’</b></p> <p><b>P.132 GM OR.OPS.020.SEC Disruptive Passenger behaviour AMC OR.OPS.025.SEC Security programme and Security training Para 1 (c) ‘use of authorised protective devices’</b></p> <p><b>P 133 OR.OPS.025.SEC Security programme and Security training Para 1 (f) ‘live situational training exercises regarding various threat conditions’</b></p> <p><b>GM OR.OPS.025.SEC – Security Programme and Security Training</b></p> <p><b>P133 to 136 OR.OPS.025.SEC Security programme and Security training</b></p>	<ul style="list-style-type: none"> <li>• All references to additional Guidance material are in ICAO and ECAC Restricted documents and are not routinely available to airlines. These documents must be made available to all operators.</li> <li>• As this form makes reference to a ‘warning system’ it should be removed.</li> <li>• Any reference to time allocation for training (e.g. 8 hours/½ day) is irrelevant and must be removed. Effective training is the goal.</li> <li>• REMOVE – Crew should be trained in de-escalation techniques. Self defence or ‘martial arts’ type training is not appropriate.</li> <li>• REMOVE – Crew should be trained in de-escalation techniques. What are ‘authorised’ protective devices?</li> <li>• Define ‘live situational training exercises regarding various threat conditions’</li> <li>• This GM should refer to Regulation (EC) 300/2008</li> <li>• Delete – These sections are covered variously under state National Aviation Security Programme’s and relevant Chapters of Implementing Legislation of EU300/2008 (these sections include specific requirements for pre employment screening and training of personnel, screening and protection of hold baggage, airport perimeter security and pre/post searching of aircraft, testing of security procedures) and should <b>not</b> be under the remit of EASA. Moreover, procedures for aircraft and premises protection might be contradictory to the upcoming EU300/2008 Implementing Legislation, especially the requirements for aircraft sealing.</li> </ul>
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<p><b>P136 GM OR.OPS.030.SEC Aircraft search procedure checklist</b></p>	<ul style="list-style-type: none"> <li>• There is no basis in security for such a checklist nor does it serve any security benefit. Aircraft search procedures are specified in and mandated by Chapter 3 of EU300/2008 – Section IX of OR.OPS should be amended to reflect this.</li> </ul>
<p><b>2009-02D Draft Opinion Part AR (Subpart GEN, CC, OPS) and Draft Decision AMC/GM Part-AR (Subpart GEN, CC, OPS)</b></p>	<p>No comments in the context of security</p>
<p><b>2009-02E Draft Opinion Part-CC, Draft Decision AMC/GM Part-CC and Supplement to Draft Opinion Part-MED</b></p> <p>P6 CC.TRA.120 Initial safety training and examination Para (b) (7) security training</p>	<ul style="list-style-type: none"> <li>• Security training programmes are already mandated in Chapter 11 of EU300/2008 – EASA section CC.TRA.120 should be amended to reflect this.</li> <li>• Safety and security are two different disciplines – the title should reference both subjects or be amended to just ‘Training’</li> </ul>
<p><b>2009-02F Cross Reference Tables</b></p>	<ul style="list-style-type: none"> <li>• Security training programmes are already mandated in Chapter 11 of EU300/2008 – EASA section IX / Subpart S should be amended to reflect this.</li> <li>• Aircraft search procedures are already mandated in Chapter 3 of EU300/2008 – EASA section IX / Subpart S should be amended to reflect this.</li> <li>• Aircraft cockpit security should be included in Chapter 10 of EU300/2008, once Competence is decided for ‘In Flight’ issues’’</li> </ul>