

Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	2001/0234(COD) Procedure completed
Air transport: common rules for civil aviation security	
Amended by 2003/0222(COD) Repealed by 2005/0191(COD)	
Subject 3.20.01.01 Air safety 7.30.20 Action to combat terrorism	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	DELE EP Delegation to Conciliation Committee		26/06/2002
		PPE-DE FOSTER Jacqueline	
	Former committee responsible		
	RETT Regional Policy, Transport and Tourism		20/11/2001
		PPE-DE FOSTER Jacqueline	
	RETT Regional Policy, Transport and Tourism		20/11/2001
		PPE-DE FOSTER Jacqueline	
	Former committee for opinion		
BUDG Budgets			12/11/2001
		PPE-DE STENMARCK Per	
Council of the European Union	Council configuration	Meeting	Date
	Environment	2473	09/12/2002
	Economic and Financial Affairs ECOFIN	2460	05/11/2002
	General Affairs	2406	28/01/2002
	Transport, Telecommunications and Energy	2374	15/10/2001
European Commission	Commission DG	Commissioner	
	Energy and Transport		

Key events			
10/10/2001	Legislative proposal published	COM(2001)0575	Summary
15/10/2001	Debate in Council	2374	
25/10/2001	Committee referral announced in Parliament, 1st reading		

21/11/2001	Vote in committee, 1st reading		Summary
21/11/2001	Committee report tabled for plenary, 1st reading	A5-0415/2001	
28/11/2001	Debate in Parliament		
29/11/2001	Decision by Parliament, 1st reading	T5-0628/2001	Summary
28/01/2002	Council position published	15029/4/2001	Summary
06/02/2002	Committee referral announced in Parliament, 2nd reading		
18/04/2002	Vote in committee, 2nd reading		Summary
18/04/2002	Committee recommendation tabled for plenary, 2nd reading	A5-0134/2002	
13/05/2002	Debate in Parliament		
14/05/2002	Decision by Parliament, 2nd reading	T5-0217/2002	Summary
02/08/2002	Parliament's amendments rejected by Council		
19/09/2002	Formal meeting of Conciliation Committee		
24/10/2002	Final decision by Conciliation Committee		Summary
24/10/2002	Report tabled for plenary, 3rd reading	A5-0402/2002	
14/11/2002	Joint text approved by Conciliation Committee co-chairs	3660/2002	
05/12/2002	Decision by Parliament, 3rd reading	T5-0584/2002	Summary
09/12/2002	Decision by Council, 3rd reading		
16/12/2002	Final act signed		
16/12/2002	End of procedure in Parliament		
30/12/2002	Final act published in Official Journal		

Technical information

Procedure reference	2001/0234(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Amended by 2003/0222(COD) Repealed by 2005/0191(COD)
Legal basis	EC Treaty (after Amsterdam) EC 080-p2
Stage reached in procedure	Procedure completed
Committee dossier	CODE/5/16397

Documentation gateway

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Legislative proposal	COM(2001)0575 OJ C 051 26.02.2002, p. 0221 E	10/10/2001	EC	Summary
Committee report tabled for plenary, 1st reading/single reading	A5-0415/2001	21/11/2001	EP	
Economic and Social Committee: opinion, report	CES1485/2001 OJ C 048 21.02.2002, p. 0070	28/11/2001	ESC	
Text adopted by Parliament, 1st reading/single reading	T5-0628/2001 OJ C 153 27.06.2002, p. 0031-0247 E	29/11/2001	EP	Summary
Council position	15029/4/2001 OJ C 113 14.05.2002, p. 0017 E	28/01/2002	CSL	Summary
Commission communication on Council's position	SEC(2002)0065	30/01/2002	EC	Summary
Committee recommendation tabled for plenary, 2nd reading	A5-0134/2002	18/04/2002	EP	
Text adopted by Parliament, 2nd reading	T5-0217/2002 OJ C 180 31.07.2003, p. 0023-0085 E	14/05/2002	EP	Summary
Commission opinion on Parliament's position at 2nd reading	COM(2002)0327	12/06/2002	EC	Summary
Report tabled for plenary by Parliament delegation to Conciliation Committee, 3rd reading	A5-0402/2002	24/10/2002	EP	
Joint text approved by Conciliation Committee co-chairs	3660/2002	14/11/2002	CSL/EP	
Text adopted by Parliament, 3rd reading	T5-0584/2002 OJ C 027 30.01.2004, p. 0025-0110 E	05/12/2002	EP	Summary
Implementing legislative act	32003R0622 OJ L 089 05.04.2003, p. 0009-0010	04/04/2003	EU	Summary
Follow-up document	COM(2005)0428	22/09/2005	EC	Summary
Follow-up document	COM(2007)0542	20/09/2007	EC	Summary
Follow-up document	COM(2008)0582	29/09/2008	EC	Summary
Follow-up document	COM(2009)0518	08/10/2009	EC	Summary
Follow-up document	COM(2010)0725	10/12/2010	EC	Summary

Additional information

European Commission

[EUR-Lex](#)

Final act

[Regulation 2002/2320](#)
[OJ L 355 30.12.2002, p. 0001-0022](#) Summary

Air transport: common rules for civil aviation security

PURPOSE : to establish common rules in the field of civil aviation security. CONTENT : in light of the 11 September attacks in the USA, air

transport must respond to the threat which it may face as a symbol of freedom of movement and trade in order to restore public confidence and to help keep businesses operating. It is against this background to this decision, taken the day after the attacks by the Heads of State and Government, the President of the European Parliament, the President of the Commission and the High Representative responsible for the common foreign and security policy, the European Union must take urgent decisions to respond to the new challenges facing it. For its part, the Council asked the Ministers of Transport to evaluate the measures taken to ensure air transport security and any additional measures which should be taken. As requested by the European Council on 21 September 2001, the Community will therefore give itself to ensure civil aviation security through the following rules. The common measures will be based on the rules set out in Document 30 of the European Civil Aviation Conference (ECAC) and will aim at the increased control of both international and domestic flights. They will chiefly be concerned with: - control of access to sensitive areas of airports and aircraft; - control of passengers and their hand luggage; - control of monitoring of hold luggage; - training of ground staff; - definition of specifications for the equipment for the above controls; - classification of weapons and other items which it is prohibited to bring on to aircraft or into the sensitive areas of airports. There may be exceptional cases, however, where the common measures are not fully suitable for dealing with a particular threat on certain flights. The Member States must therefore be able to take additional measures to deal with such events. It should be pointed out that the Community can only legislate for the territory for which it is competent. It therefore cannot impose measures to be taken in third country airports for flights which land at Community airports or overfly the Member States. It will therefore be necessary to establish bilateral and multilateral arrangements necessary to guarantee civil aviation security throughout the world. Lastly, the Commission will immediately set up a peer review of the effective and uniform application of air security measures. It will also propose measures to ensure the protection of European Union citizens throughout the world by means of appropriate bilateral or multilateral arrangements.?

Air transport: common rules for civil aviation security

The committee adopted the report by Jacqueline FOSTER (EPP-ED, UK) approving the proposal under the codecision procedure (1st reading), subject to a few amendments. The committee felt that airports and airlines should not be required to pay for the increased security needed in their industry following the tragic events of 11 September 2001 and said that it was up to governments to shoulder the costs of aviation security on the ground that threats against the latter constitute a threat against the state. Member States were urged to coordinate their efforts in order to draw up a comprehensive policy for financing the highest possible level of security for air travel. Other points raised in the report included a call for the "peer review" inspections by teams of government inspectors across the EU to be unannounced and for airlines operating in the airports concerned to have the right to see the inspection reports. The report also said that background screening of personnel should be carried out by national authorities. Lastly, the committee felt that the short deadline for implementing the new measures (20 days after the regulation was published) might not always be feasible. It therefore adopted an amendment allowing for derogations for implementing structural modifications to airports and/or terminals, such as separating screened and unscreened passengers. ?

Air transport: common rules for civil aviation security

In approving the report by Mrs Jacqueline FOSTER (EPP-ED, UK) by 398 to 100 with 21 abstentions, the European Parliament adopted numerous amendments. A majority of MEPs did not agree with the Transport Committee that the costs of security in civil aviation should be borne by the Member States. It was pointed out that it was essential that both users of air transport and the air transport sector would, in the medium term, have to contribute to the ensuing costs. MEPs felt that the financing of the cost of certain additional air security measures might not lead to distortion of competition between operators and between airports. It was therefore necessary that Member States adopted, in close cooperation with the Commission, a clear, coordinated approach towards financial compensation. If implementation of this Regulation was found seriously to jeopardise the survival of airports, the cost of certain additional air security measures could be met in the short term by public authorities. But this financial compensation could only be granted on a one-off basis and could not be greater than the level of investment committed pursuant to this Regulation. An amendment was also passed, calling on the Commission to submit, within six months of entry into force of the Regulation, proposals to introduce uniform arrangements in the Member States for the financing of security measures in order to avoid any distortion of competition between operators and Member States within the Community. Parliament also adopted an amendment that specifically recognised the role of the European Civil Aviation Conference (ECAC) regarding common standards for security measures at airports and the technical equipment used for aviation security. Another amendment was adopted demanding that checks on airports by EU inspection teams should be unannounced. It should also be added that it is proposed that the Commission develop a mechanism to assess, together with the International Civil Aviation Organisation (ICAO) and ECAC, whether third-country airports meet the essential security requirements. Finally, Parliament called for measures of an administrative nature to be implemented immediately. Where measures might require changes to airport infrastructure, immediate implementation would not be practicable but implementation should apply six months after entry into force of this regulation.?

Air transport: common rules for civil aviation security

In its common position adopted unanimously, the Council accepts the 2 amendments rejected by the Commission, while rejecting 10 amendments that the Commission had accepted, albeit that the Commission gave its agreement in principle to some of these amendments. The Council agrees to 2 amendments agreed by the Commission. The 2 rejected amendments concern the transposition by reference of standards produced by an external organisation (ECAC) and the deletion of a Community control mechanism aimed at verifying that more stringent measures adopted by Member States remain proportionate and do not affect the proper functioning of the internal market. The 10 amendments rejected by the Council and previously accepted by the Commission may be placed into 4 groups: 1) where they raise the important issue of public financing of security measures; 2) where they refer to current budgetary practice; 3) where the Council had modified the text of the original proposal in a way that largely responds to Parliament's amendment; 4) amendments which seek to enhance the effectiveness of security measures in general. Furthermore, in its common position, the Council does not accept 12 amendments proposed by the European Parliament. These are as follows: - including a reference to the financing of additional security measures; - the confidentiality aspects included in a new Article "Dissemination of information"; - unannounced inspections; - third-country dimensions; - the reference of standards produced by an external organisation (ECAC); - Community control mechanisms aimed at verifying that more stringent measures adopted by Member States remain appropriate and do not affect the functioning of the internal market. In addition, the Annex to the common position contains common basic standards on air security measures. In the Commission proposal, the standards were similar to those in

ECAC Document 30. It was proposed that, at a later date, a committee procedure could be used to bring the standards into line with the Community's current needs. The Council felt that a committee procedure would considerably delay the introduction of measures that were required urgently. It therefore instructed the ad hoc multi-disciplinary Working Party set up following the extraordinary Council on 14 September 2001 to start work at once on bringing the standards into line with current requirements. ?

Air transport: common rules for civil aviation security

The Commission notes that the common position largely follows the opinion of the European Parliament in its first reading. As the diverging issues are not directly related to the objective of improving aviation security, the Commission is in a position to accept the common position as unanimously adopted by the Council.?

Air transport: common rules for civil aviation security

The committee adopted the report by Jacqueline Foster (EPP-ED, UK) amending the Council's common position under the second reading of the codecision procedure. It retabled a number of amendments adopted by Parliament at first reading, which had not been taken up in the common position. In particular, it called on the Commission to submit proposals for uniform arrangements in the Member States for the financing of security measures, to prevent distortions of competition. It also restated Parliament's call for coordinated action by the Member States to draw up a comprehensive policy for financing and guaranteeing the highest possible level of security for air travel. Other retabled amendments called for explicit reference to be made to ECAC Document 30 on aviation security measures, for inspections to be unannounced, for an assessment of action taken to be submitted to the budgetary authority and for a mechanism to assess whether third country airports meet essential security requirements. The committee also amended the new text in the common position on airport and air carrier security programmes. It stipulated that Member States should shoulder an equitable share of the costs of those programmes on the grounds that ensuring citizens' safety from terrorist attacks is a state responsibility. In addition, the committee adopted a number of new technical amendments on security measures at airports (relating to detectors, the screening of staff and their access to restricted areas and baggage). Lastly, it called for certain provisions of the Annex (on screening of hold baggage, on cargo, courier and express parcels and on mail) to enter into force on 31 December 2003, rather than 31 December 2002 as proposed by the Council, so as to give airports and airlines more time to buy the necessary equipment and train staff.?

Air transport: common rules for civil aviation security

The European Parliament adopted the report by Jacqueline FOSTER (EPP-ED, United Kingdom) and backed amendments retabled from its first reading to ensure that operators will not pay the costs of additional security. (Please refer to the document dated 18/04/02.) Parliament stated that effective, uniform application of security measures will entail substantial costs for all operators. If implementation of the Regulation is found to jeopardise the survival of airports, the cost of additional security measures could be met in the short term by public authorities. Both users of air transport and the air transport sector should in the medium term contribute to the ensuing costs. The financing of the cost of additional security measures should not lead to the distortion of competition between operators and between airports. Member States must adopt a clear, coordinated approach towards financial compensation. Amongst the technical amendments adopted was one stating that air carriers must ensure that any co-mail or co-mat shipment made on behalf of the carrier by a contract organisation such as catering equipment or cleaning supplies, are inspected prior to loading on board an aircraft. Articles considered dangerous or hazardous should not be permitted on board as co-mail or co-mat.?

Air transport: common rules for civil aviation security

The European Parliament adopted, at second reading, 32 amendments to the Council common position. These amendments relate mainly to the part of the proposal that had been revisited by the Council when adopting its common position. Of those 32 amendments, the Commission can accept 12, and a further four in principle but subject to redrafting. The remaining 16 amendments were considered to be unacceptable. As regards the amendments accepted by the Commission, these refer to those which: - seek either to strengthen rules on aviation security, or to improve the text of the Regulation without changing its substance: - require that all staff should be screened systematically when entering security areas (100% screening). The Commission agrees that staff should be subject to the same levels of security screening as passengers, and not inferior levels. - suggest that the content of the section dealing with searching and checking aircraft should be fully described in the heading. - aim at removing a restriction introduced by the Council common position regarding the security of parked aircraft. - constitute various editorial improvements to the annex when dealing with screening of passengers and protection of hold baggage. - ensure that risk assessment is undertaken by suitable responsible authorities. - ensure that the specified obligations of the regulated agents in charge of security controls for cargo, courier and express parcels shall be defined by the appropriate authority. - improve security of air carrier mail and materials. - points out that section 9 does not deal with cleaning materials. - change the wording regarding metal detection equipment. The amendments acceptable in principle subject to redrafting concern those which: - state that requiring unannounced airport inspection is acceptable in principle. It is intended that airports should not know in advance of inspections. But it is also the wish of the Commission that airports should be inspected with the knowledge and cooperation of the national regulatory authorities in the same way that the Competition or Agriculture services of the Commission undertake inspections. As a consequence, the following drafting is suggested: "Inspections at airports shall be unannounced. The Commission shall in good time before scheduled inspections inform the Member States concerned of the inspections. - require the overall responsibility of the Member States for the surveillance of all terminal areas accessible to the public, for controlling access to public areas which are closed to aircraft movement areas and for perimeter fence and adjacent areas to security restricted areas are acceptable in principle, as Member States authorities are already fully responsible for overall functioning of aviation security measures. The aim of the annex is not to outline the individual responsibilities for execution of the various security measures, but to identify security measures that should be undertaken by the Member States. The amendments not accepted by the Commission concern those which: - seek either to dilute the regulation or to broaden its scope. - raise the issue of financing of additional security measures. The Commission understands the political objective of these amendments and recalls that in its Communication of 10 October 2001 on the

economic impact of terrorist attacks, it stated it would be ready to consider positively public financing for the compensation of additional security measures, which are clearly a concern of airports and air carriers. However, as indicated by the Commission in its communication of 30.01.2002 concerning the common position of the Council, these provisions are not directly related to the objective of improving aviation security. Therefore this Regulation should be restricted to establishing the commitments of the Member States as opposed to possible rules on funding of such measures. Furthermore, even if it were possible to adopt rules in this Regulation concerning additional funding, it would not negate the overlying EU rules on state aid which would still apply to the financing of aviation security. The Commission is ready to look at the funding issue from a broader perspective. This could include the need for more harmonisation in the area of financing expenditure for aviation security, avoiding distortion of competition and, if necessary, after carrying out detailed studies, it could bring forward a legislative proposal. But, such action should be stand-alone and not a part of this Regulation. An inter-institutional declaration could identify the objectives of this work. - refer to the recommendations of the European Civil Aviation Conference (ECAC) Document 30, there is the risk that the Community refers to a document which could be amended without its consent. - would conflict with the implementing legislation that will result from this Regulation and address this issue. Moreover, the reference to ECAC is superfluous, as it has no mandate to draft legislation. - indicate an entry into force on 31 December 2003.?

Air transport: common rules for civil aviation security

The Conciliation Committee reached agreement on a joint text for the regulation. The main points of the compromise package may be summarised as follows: - inspections at airports shall be unannounced. The Commission shall inform the Member States concerned in good time before scheduled inspections; - all staff, including flight crew, together with items carried, shall be screened before being allowed access into security-restricted areas. Where this is not practicable, persons and items shall be subject to continuous appropriate random screening. One year after the entry into force of the Regulation, all staff together with items carried shall be screened before being allowed access into critical parts of security-restricted areas, as identified by the competent authorities of each Member State. By 1 July 2004 the Commission will adopt a common definition of the critical parts of those areas (100% staff screening); - finally, and despite the fact that Council underlined from the beginning its strong resistance to the idea of all countries providing financial aid to the aviation sector, members of the EP delegation stressed the importance of Council committing itself to a fair share of the funding concerning the additional security costs. An interinstitutional declaration to be attached to the final text and published in the Official Journal states that the institutions: recognise that this policy raises important questions in relation to its funding aspects; take into account the policy position taken by the Member States of the EU at the Montreal Ministerial Conference on Aviation Security (where there was agreement that some aspects be financed by the public authorities); take note of the Commission's position that it would consider positively public financing for the compensation of additional security measures; and take note of a study undertaken by the Commission concerning the way the financing is shared between public authorities and the operators. ?

Air transport: common rules for civil aviation security

The European Parliament, with the agreement of the rapporteur Jacqueline FOSTER (EPP-ED, UK) approved the joint text and drew attention to the statement on the text.?

Air transport: common rules for civil aviation security

PURPOSE : to establish and implement appropriate Community measures, in order to prevent acts of unlawful interference against civil aviation. COMMUNITY MEASURE : Regulation 2320/2002/EC of the European Parliament and of the Council establishing common rules in the field of civil aviation security. CONTENT : this Regulation, adopted in the framework of the fight against terrorism adopted following the 11 September 2001 attacks in the United States, was approved by an exchange of letters with the Parliament in accordance with the codecision procedure. In order to achieve the objectives of this Regulation , each Member State should adopt a national civil aviation security programme, as well as a corresponding quality control programme and a training programme. The following conditions are applicable: - as regards screening measures for security-restricted areas at airports : all staff, including flight crew, are to be screened before being allowed access to a restricted area. Where this is not practicable, they are to be subjected to random screening, which will also cover all items carried on board aircraft; - one year after the entry into force of the Regulation, all staff and all items will be screened before being allowed access to the most critical areas within airports. By 1 July 2004 the Commission will adopt implementing measures which will be fully applicable at the latest five years after that date. In a statement concerning the funding of security measures, adopted in conjunction with the Regulation, the European Parliament, the Council and the Commission recognise the diversity of situations existing in Member States and the need to avoid the distortions of competition which might result. They take account of the fact that the Commission will give favourable consideration to public funding of additional security measures. The Commission will undertake a study which will address in particular the way that funding is shared between the public authorities and the operators, without prejudice to the distribution of competences between the Member States and the European Union, and will submit proposals to the Parliament and Council if necessary. ENTRY INTO FORCE : 19/01/2003.?

Air transport: common rules for civil aviation security

COMMUNITY MEASURE : Commission Regulation 622/2003/EC laying down measures for the implementation of the common basic standards on aviation security. CONTENT : the Commission is required to adopt measures for the implementation of common basic standards for aviation security throughout the European Union. A Regulation is the most suitable instrument for this purpose. In accordance with Regulation 2320/2002/EC and in order to prevent unlawful acts, the measures laid down in annex to this Regulation should be secret and not be published. For this purpose it is necessary to permit a distinction between airports in the light of local risk assessment. Therefore, the Commission should be informed of airports that are considered to present a smaller risk. Implementing measures should also be permitted to vary according to the type of aviation activity. The Commission should be informed when compensatory measures are applied to ensure equivalent levels of security. The measures provided for in this Regulation are in accordance with the opinion of the Committee on Civil Aviation Security. This Regulation lays down the necessary measures for the implementation and technical adaptation of common basic

Air transport: common rules for civil aviation security

This report is published pursuant to the requirement that the Commission should publish each year a

report on the implementation of the common rules in the field of civil aviation security and on the situation in the Community as far as aviation security is concerned, drawing conclusions on inspections conducted by the Commission.

The Commission's inspections started in February 2004 and a total of 43 Commission inspections have been conducted since (as at 30 June 2005). 23 Member States had already been inspected by the Commission at least once. All the Member States of the EU 15 had been inspected at least once in 2004. Since December 2004 the inspections have been extended to the 10 new Member States.

Inspections have been particularly valuable in allowing the implementation of the legislation to be examined objectively. In this regard the report concludes that, in general, the sum total of Regulation 2320/2002 and its associated implementing legislation is helping to ensure a satisfactory level of security throughout the EU. In the absence of data on the actual level of security before the Community legislation entered into force, it is certainly difficult to assess the scope of progress made in each of the Member States and at the airports inspected.

There are a number of areas of non-conformity repeatedly detected during inspections of Community airports. Examples include the following:

-the screening of staff showed noticeable variations in the extent of such controls. Significant harmonisation and improvement of security standards in this area can be expected upon entry into force on 1 January 2006 of the second phase foreseen in Regulation 1138/2004 requiring the screening of all staff entering any area to which screened passengers have access.

-the performance of the air carriers is not always homogenous, with some complying better with the requirements than others. Verification and protection of aircraft should in particular be improved.

-non-conforming practices have also been observed with regard to freight, where there seems to be a strong need for a more harmonised common approach.

-particular provisions of the regulations are sometimes considered insufficiently unclear by the air carriers concerned.

Internal quality control mechanisms among all air transport operators ? in particular airport authorities, air carriers and freight managers ? would enable them to measure their own performance with regard to security and their conformity with the European standards.

Despite these areas of non-conformity it can be concluded that the introduction of binding Community legislation in the field of aviation security has contributed to a significant improvement of the protection of European citizens from acts of unlawful interference against civil aviation.

The existing legal system including the powers to ensure proper enforcement rules as well as legal requirements more demanding than the obligations and recommendations laid down in Convention of International Civil Aviation allows for the conclusion that the quality of aviation security in the EU is standard-setting in a global context.

On the need to develop Regulation 2320/2002, the report states that, overall there is still some room for improving the protection of European citizens further without compromising the operators' legitimate interests. These improvements should be addressed by means of a revision of Regulation 2320/2002.

This revision is necessary to meet various needs connected with the simplification of procedures for adapting existing specifications, technical harmonisation, clarification of particular provisions, improvement of the level of security, and determination of mechanisms for cooperation with third countries.

Air transport: common rules for civil aviation security

The Commission has presented its second report on the implementation of Regulation (EC) No 2320/2002 on civil aviation. This second report covers the period July 2005-December 2006 and is based more particularly on the conclusions drawn from some fifty new inspections carried out by the Commission. It enables a comprehensive evaluation to be made of the state of security in the European Union four years after the entry into force of the European legislation.

Since February 2004 when inspections began, the Commission has carried out 89 inspections, including 47 new inspections conducted between July 2005 and December 2006 in EU-25 and

Switzerland. To date, all Member States have been inspected between two and five times, with visits either to the national appropriate authorities for civil aviation security or to airports themselves.

Inspections of national appropriate authorities: the initial conclusions drawn in 2005 can be confirmed: while transposition of the regulatory obligations is more or less satisfactory, the effectiveness of the Member States' national quality control is not. The operational implementation of national quality programmes has been found to have numerous deficiencies which are often considered by inspectors to be serious; the effectiveness of national quality control is at present structurally inadequate in ten or so Member States. The report notes the following:

- in many Member States, audits are neither regular enough nor comprehensive enough;
- many of the Member States do not have enough national inspectors to carry out quality control tasks with adequate frequency;
- the performance of the rectification process, i.e. the speed at which deficiencies found required to be put right, varies;
- in some Member States, sanctions are imposed only in exceptional circumstances.

Inspections at airports: the results of the 23 new initial inspections carried out since July 2005 confirm the main points highlighted in the Commission's first report. The basic principles, such as 100% screening of passengers, hand luggage and hold luggage, are being soundly applied.

In overall terms, the level of security in the European Union is high. However, the level of security is not uniform throughout the Union as there

are substantial differences between airports. Deficiencies are still regularly found which compromise the general quality of the security measures: i) recurring deficiencies of minor or average seriousness were found in respect of essential procedures concerning access control, aircraft protection, the screening of passenger and the protection of hold luggage; ii) the cases of non-compliance with European regulations are often more serious as regards the screening of staff, aircraft searches, and the screening of hand luggage and cargo. Within the same airport, for example, identical procedures might not be used for the screening of staff and passengers, the methods applied to staff being more flexible and not allowing the systematic detection of prohibited articles; iii) the tests carried out during inspections confirm the need for technical harmonisation of security equipment; this process has been initiated and 2 regulations have been approved; iv) some operators find the regulations unclear, and further provisions have been drafted in this respect too.

The seriousness of the deficiencies found must not be underestimated: nine initial inspections out of ten are still pointing to serious deficiencies which have repercussions on the security chain. Given the principle of one-stop security which underpins Regulation No 2320/2002, the deficiencies are often likely to have a direct negative impact on security at other European Union airports.

Regulatory developments in 2006: numerous Regulations have been adopted to try to improve the existing systems in place. They aim to: i) give greater precision on security procedures for those vehicles that are entering security restricted areas of airports; ii) lay down more harmonised rules on air cargo security; iii) implement a regulatory solution to allow for Member States to deviate from the technical standards laid down in the legislation in order to trial new technologies; iv) adopt of a Commission Regulation on the risks of liquid explosives arising from the events of 10 August 2006 in the United Kingdom.

In 2007, several lines of action in particular should be pursued:

1) Action to strengthen the performance of quality control by the appropriate authorities of the Member States:

- Member States' performance of quality control has so far been identified as the weak link in the civil aviation security chain. Strengthening it should therefore have a lever effect. It is in particular essential that Member States carry out quality control in line with Community requirements and make the lessons drawn known at all their airports. This means combining the mobilisation of human resources in the form of the inspectors needed with the use of adequate implementing powers;
- cooperation between Member States on auditing with a view to the regular evaluation of operators with business activities throughout the EU should also be encouraged;
- the Commission for its part will continue to conduct inspections and infringement proceedings will be brought where necessary.

2) Actions to improve the present regulatory framework:

- in order to strengthen the complementarity between Community and national audits, Regulations (EC) Nos 1486/2003 and 1217/2003 should be revised. Requirements regarding national audit procedures, the rectification of deficiencies and the proportionality of quality control with the national airport system will have to be defined more clearly;
- given the importance of the human factor for the quality of the security control process, the Commission is examining proposals for improving training requirements for security staff;
- it is the Commission's intention that Regulation (EC) No 622/2003 should be developed further on a regular basis in order to revise security requirements either whenever technical developments or the need for additional precision at the Community level justifies it;
- the Commission intends to re-assess the continued necessity of the range of regulatory requirements in the field of aviation security based on operational experience and on updated risk assessments. Successive incidents over past years have necessitated emergency action to respond to immediate threats, putting considerable strains on available security control resources and on operational requirements at airport level. It is clear, however, that reviewing and subsequently removing or redefining some of the current requirements will necessitate prior adoption of the Commission's proposal for a new, simplified and more flexible framework Regulation which is currently in the legislative process. There would be considerable potential for operational facilitation if ways could be found to extend the intra-EU concept of one-stop security to like-minded third countries with equivalent high standards of security;
- the Commission is actively working on this concept and is expecting first results in due course following adoption of the new framework Regulation.

Air transport: common rules for civil aviation security

The Commission has presented its third report on the implementation of Regulation (EC) No 2320/2002 establishing common rules in the field of civil aviation. It covers the period January-December 2007 and is based in particular on the conclusions drawn from 28 new inspections carried out by the Commission during this period.

The report confirms continuing progress in the implementation of common rules for civil aviation security, from a strong global base - although there is certainly still room for improvement. It also details the proactive approach being taken by the Community in developing a flexible, practical and harmonised system, designed to facilitate the movement of passengers and cargo through a secure airport environment.

Altogether, 117 inspections were undertaken between February 2004 and December 2007. Between 1 and 6 airport inspections have been completed in each Member State (except Bulgaria) and all Member States' appropriate authorities (except Rumania) have been monitored at least once. Switzerland has also been included in the Community programme, while since December 2005 Norway and Iceland have been inspected against parallel provisions by the EFTA Surveillance Authority.

Inspections of national appropriate authorities: each Member State is required to adopt a national aviation security programme and nominate a single appropriate authority to co-ordinate and monitor its implementation. All 27 have done so. Appropriate authorities must:

- develop and implement a quality control programme;
- monitor airport and airline security programmes;
- develop and implement an aviation security training programme.

During 2007, the Commission inspected 10 appropriate authorities. The inspections involved an examination of documentary evidence, supported by interviews and - for the first time in 2007 - on-site verifications at an airport implementing the national measures. The findings of the inspections were consistent with those from previous monitoring exercises, essentially:

- there is a good level of compliance as regards the establishment of an adequate legal framework;

- there is a less satisfactory achievement as regards the effectiveness of implementation of the common standards.

Legal framework: as a general rule, the contents of Member States' national aviation security programmes accurately reflect the requirements of European legislation. However, the updating of the programmes to reflect changes in Community law has not always been carried out as promptly as would have been desirable. Most Member States have established satisfactory national quality control programmes, clearly setting out the recruitment, training, duties and powers of the national inspectors, the priorities and methodology for the inspection programme. Sometimes, however, the programmes fail to meet all requirements, for instance they do not make provision for a test programme or omit frequencies for monitoring activities. There is a clear case for improved sharing of best practice and generally for greater harmonisation of national programmes.

Inspections at airports: in general terms, the level of security at European airports is high ? especially when measured against global standards and practices. The level of compliance has improved by almost 40% since inspections began and the number of serious deficiencies continues to fall. The 2007 findings tend to repeat the pattern of earlier inspections. As regards what may be regarded as the core areas of aviation security - airport security, aircraft security, passenger and cabin baggage screening and hold baggage screening ? the results are certainly improving; but there nonetheless remain significant areas of non compliance. These relate in particular to areas where the human factor is key, but other relevant issues would be:

- overly prescriptive requirements in parts of the current legislation;
- lead times required for adjusting to new requirements;
- insufficient monitoring at national level;
- lack of enforcement powers at the level of the appropriate authorities.

The 2007 inspections also initiated EU monitoring of areas which were rarely included in previous reports ? catering, cleaning, company mail and material and technical requirements for equipment. Although there is still insufficient data in these areas to provide meaningful conclusions, Commission inspectors have expressed some concerns about the monitoring of standards for equipment. This may reflect a lack of available technical expertise in some Member States.

Follow up inspections: 8 follow up inspections were conducted at EU airports during 2007. In these cases, it has generally been found that at least a third of the serious deficiencies identified during the initial inspection were rectified within a reasonable time frame; but no airport was able to remedy all serious deficiencies before the follow up inspection was carried out. The most intractable difficulties appear to involve staff screening (human factors, the inappropriate use of hand held metal detectors) and aircraft security.

The results of the Commission inspections have indicated a number of difficulties in connection with implementation of the Regulations. Annual reports and other information from Member States and the industry have flagged up similar problems. The main issues appear to be:

- lack of clarity or over-onerous requirements in the current legislation;
- variations between Member States' requirements, leading to a lack of harmony across the Community;
- lack of transparency and proper review;
- a perception that operational requirements are not sufficiently taken into account;
- lack of standardisation on technological requirements;
- variations between Community requirements and those of third countries, particularly the US;
- excessive demand on Member States resources arising from duplication of requirements, especially in relation to different inspection regimes (ICAO and TSA in addition to EU).

Considerable efforts were made to address each of these issues in 2007, with the express aim of facilitating passenger movements through Community airports and easing the burden on the industry, without compromising security standards.

Regulatory Developments in 2007: 2007 saw a heavy programme of legislative development, including: i) the second reading and conciliation stage of the adoption of the framework regulation to replace Regulation 2320/2002; ii) further development of the planned new implementing Regulation to replace Commission Regulation 622/2003; iii) further work on new texts to replace Regulations 1217/2003 (national quality control) and 1486/2003 (Commission inspections of Member States); iv) a new layer of legislation to give the European Parliament greater powers of scrutiny for implementing legislation in the field of aviation security; v) agreement on technical standards for threat image projection; and review and amendment of the legislation addressing the threat from liquid explosives (cabin bag size, third country agreements).

2008 work programme: the Commission intends to:

- finalise the new implementing legislation;
- find better ways of addressing the threat from liquid explosives;
- consider the most appropriate approach to the funding of aviation security;
- continue the inspection programme (including involvement as observers in some inspections in the US);
- introduce new technical standards;
- assist Member States to improve and harmonise national quality control programmes;
- analyse the results of studies; and
- advance agreements with third countries.

While security considerations must always be paramount, the active involvement of stakeholder groups, rigorous appraisal of new proposals and regular review of existing legislation will ensure that this programme will be developed in a way which takes full consideration of practical concerns and benefit from the lessons of experience.

The report concludes that progress since 2002 has been substantial. The future programme will build on this achievement, enhancing security on flights in to and out of the Community, protecting European interests and maintaining public confidence in the air transport system. It will lead to a further, and significant, stage in the development of a comprehensive air transport security regime, taking full account of the needs of passengers and the industry.

Air transport: common rules for civil aviation security

The Commission presents its fourth report on the implementation of Regulation (EC) No 2320/2002 establishing common rules in the field of

civil aviation security.

This report covers the period 1 January ? 31 December 2008. It notes that 2008 marked a significant stage in the building of an effective aviation security regime in the EC. It was a time for fundamental reassessment, drawing on 5 years' experience of implementing and inspecting the regime adopted in 2002 after the 9/11 terrorist attacks. It was also a year of enhanced international co-operation and further technological development. The reassessment process revealed much that was positive.

The main requirements of the legislation were clearly understood and generally well implemented at European airports. Levels of compliance continued to move ? albeit slowly ? upwards and several Member States had increased their compliance monitoring resources. However, it was also evident that some provisions did require adjustment, to achieve a common understanding, address recurring deficiencies or take account of other developments. The inspection regimes themselves were equally in need of fine-tuning.

The Community response to new and emerging threats was similarly challenged, following the considerable disruption caused by the 2006 liquid explosives alert. This led to increased efforts to collaborate with manufacturers and international partners in the development of security screening procedures. It added impetus to the drive towards reaching agreement with third countries on recognition processes.

Lastly there was recognition of the need for greater transparency. The restrictions on access to much of the implementing legislation had come to be judged as excessive, with members of the public not able to retrieve the facts necessary for making informed decisions. In response, there was an immediate restructuring of the original provisions and a commitment to ensure appropriate levels of access in the future.

In all, 2008 was a year of considerable achievement towards the establishment of a mature aviation security environment. Member States, the aviation industry and manufacturers demonstrated a high level of commitment in working together to find security solutions and minimise inconvenience to passengers. However, at the end of the twelve month period, none would remain in any doubt about the considerable amount of work still to be done.

The Commission draws attention to the following points:

Inspections: under Regulation 2320/2002, the Commission is required to carry out inspections to determine Member States' level of compliance with the legal provisions on aviation security. Switzerland is also included in the programme while Norway and Iceland are inspected against identical provisions by the EFTA Surveillance Authority. There are three types of inspection:

- national appropriate authority: the Commission inspected 9 appropriate authorities during 2008. The 2008 exercise demonstrated high standards in 5 and reasonable standards in 2 states; but the remaining 2 reports were unsatisfactory. National civil aviation security programmes generally covered the legal requirements well, despite a few omissions and outdated references. Provisions for small airports for which an exemption had been claimed under the terms of the Regulation were fairly frequently omitted from national civil aviation security programmes, along with some requirements for air cargo. Frequencies for monitoring activities and provision for security audits within the EU definition of the term were often missing from national quality control programmes. A number of national security training programmes failed to include adequate provisions for general awareness and recurrent training. Most deficiencies, however, were found in respect of the capacity to detect and correct failures swiftly;
- initial inspections at airports: 10 initial inspections of airports were conducted during 2008. The weakest areas at the 10 airports related to access control and staff screening. Overall, air carriers' standards of compliance were less robust than those of airports, although there was a greater overall improvement between 2007 and 2008. The areas needing most additional effort were search and check of aircraft and aircraft protection. Compliance with the provisions covering passengers and cabin baggage was mostly high although serious deficiencies stemming from human factors were reported at some of the inspected airports. Compliance in the area of hold baggage screening was extremely high, with no deficiencies at all recorded against a good number of the provisions;
- follow-up, to assess deficiency correction activities: 8 follow-up inspections were conducted at EU airports during 2008. The findings revealed that a greater number of deficiencies had been remedied by the time of the follow-up inspection than had been the case in previous years. However, a number of serious deficiencies (about 13% of those found) had not been adequately addressed by the time the Commission inspectors returned. In general terms, deficiencies that could be remedied by structural changes had been addressed very effectively, while those involving human factors were proving particularly intractable.

The consistency of the inspection results enabled the Commission to identify weaknesses and analyse the causes. It could then propose the necessary new legislation, or identify areas for future study or research.

Legislation: although there was much legislative development during 2008, there were few legislative changes. This gave Member States the opportunity to consolidate progress made in previous years, especially in respect of newer provisions, such as those relating to cargo. Following a legal challenge concerning access to information, the Commission reassessed the elements of aviation security legislation that had previously been kept out of the public domain. It decided to publish a new Regulation order to facilitate public access, notably to details of prohibited articles. The report notes that legal challenges resulted in a much greater focus on transparency, communicating with the public and providing opportunities for debate. The agenda was fortunately uninterrupted by any major new terrorist attempts directed against European airports or the discovery of any new terrorist techniques likely to pose a threat to civil aviation.

The main requirements of the legislation were clearly understood and generally well implemented at European airports.

New framework and implementing package:

- [The new framework Regulation \(EC\) No 300/2008](#), which will repeal and replace Regulation (EC) No 2320/2002 in April 2010, was published in March 2008. Work on the second and third levels of implementing rules and new inspection texts had reached an advanced stage by the end of the year.
- The second level elaborates the framework by, inter alia, listing screening techniques that may be used for passengers, baggage or cargo, categories of prohibited articles and criteria for making agreements with third countries. Based on positive results from trials, the Commission originally proposed including provisions to allow the use of body scanning equipment, within parameters yet to be defined. The European Parliament, however, felt that a number of questions regarding human rights, health and data protection would have to be answered before this could be accepted. The Commission accordingly amended the draft legislation to remove this possibility, pending further study.
- The third level will provide the detailed implementation requirements and address the issues of overly onerous provisions in some areas of the current legislation and security gaps in others. Amongst the issues discussed were possible modifications in the aircraft search and check requirements, lifting the requirement for all airlines to submit security

programmes to Member States for approval, providing an updated, internationally agreed prohibited article list, developing more detailed rules for catering and cleaning supplies and elaborating policies for staff recruitment and training.

Dialogue with third countries: bilateral efforts with third countries essentially fall into two categories: work towards future one-stop agreements and preparations for liquids exemptions. The one-stop element is the most advanced with the US, which has similar high standards of security. An EU-US transport co-operation group was set up in 2008 and a detailed comparison between the measures implemented on each side of the Atlantic has been drawn up. Significant differences are few and Member States have indicated considerable interest in reaching an agreement.

Potential threats: the Community response to new and emerging threats was similarly challenged, following the considerable disruption caused by the 2006 liquid explosives alert. This led to increased efforts to collaborate with manufacturers and international partners in the development of security screening procedures. It added impetus to the drive towards reaching agreement with third countries on recognition processes. Throughout, the EU demonstrated its willingness and ability to make an effective contribution towards facilitating passenger movements and finding global solutions. The Commission notes that dealing with the potential threat from liquid explosives has strengthened international co-operation and links with manufacturers. This should pave the way towards a more seamless aviation security environment for travellers moving between continents, while raising the awareness of legislators concerning future technological possibilities.

Financing aviation security: this issue has been raised regularly during discussions on aviation security measures. Member States generally take the view that the industry should meet the costs, with the freedom to pass them on to passengers, while the industry and some MEPs argue for a greater State contribution. In the context of adopting the new framework Regulation (EC) No 300/2008, the Commission undertook to produce a report on the subject, in order to identify principles which could form the basis for a future legislative initiative.

Future work: the Commission's work programme for 2009 will include:

- finalising the new implementing legislation;
- finding better ways of addressing the threat from liquid explosives;
- advancing one stop security agreements with third countries;
- continuing the inspection programme (including involvement as observers in some inspections in the US);
- assisting Member States to improve and harmonise national quality control programmes;
- analysing the results of studies;
- considering the most appropriate approach to the funding of aviation security.

Air transport: common rules for civil aviation security

The Commission presents its fifth report on the implementation of Regulation (EC) 2320 on the common rules on aviation security. Under the terms of the Regulation, it is required to conduct inspections of Member States' aviation security administrations and of EU airports.

Initial inspections at airports: 19 initial inspections of airports were conducted during 2009, almost double the number carried out in 2008. The overall percentage of core measures found to be in compliance rose once again by a small margin, to almost 85%. The deficiencies which were found tended, by and large, to occur in the same areas as for previous inspections, frequently stemming from human factor issues.

The weakest areas at the airports inspected during 2009 related to the quality of staff screening, the provisions governing staff use of prohibited articles and implementation of cargo security requirements. For instance, staff were not always required to remove their jackets before screening and hand searches of staff did not follow the same methodology as for passengers. Several airports also failed to implement adequate procedures for identifying staff members formally authorised to carry prohibited articles into the security restricted area.

All seven inspections covering cargo security revealed a number of problem areas, including poor security programmes and failure to select the most appropriate screening method, given the nature of the consignment. Other common deficiencies concerned the requirements for taking liquids into the security restricted area (such as the use of proper tamper-evident plastic bags), failure to fully protect baggage in the make-up area, vehicle search and technical standards for equipment.

Compliance with the provisions covering passengers and cabin baggage was mostly high although sometimes continuous random search ratios were not observed and/or the quality of passenger hand search was not fully satisfactory. Compliance in the area of hold baggage screening was extremely high, although at one location dogs were used to screen hold baggage, despite the fact that this was not allowed under the then existing legislative provisions.

As regards air carriers, the areas needing most additional efforts were search and check of aircraft and procedures for dealing with rush bags.

Open files, Article 15 cases and legal proceedings: 20 files (14 airport and 6 appropriate authorities) were closed during 2009. In all, 17 appropriate authority and 20 airport inspection files remained open at the end of the year. There were no Article 15 cases open at the beginning of the year and none were initiated during 2009. The Commission closed 1 infringement procedure in 2009, after a 14 month delay, when the key issues, relating to lack of resources and lack of enforcement, had been resolved. In total three infringement cases were pending at the end of 2009.

Member States own evaluations on the results of their national compliance monitoring: harmonisation of these compliance monitoring regimes in the EU has in fact proved difficult since the programme began in 2003. This has been because the different Member States varied in their understanding of terms, development of methodologies and reporting requirements. This situation has improved over time, but could still be better. A certain number of discrepancies between the results of national compliance monitoring and the findings of Commission inspections stem from the lack of harmonisation, with the latter often indicating a lower level of compliance than the national reports might suggest.

Legislation: the report outlines new security legislative acts published during 2009. Separately, work was also begun on new rules for the screening of liquids, the use of dogs in aviation security screening and the use of metal detectors for screening certain specialised types of cargo.

The greatest efforts of the Commission and Member States during 2009 were concentrated on the preparation of the detailed implementing package and the new inspection and quality control regulations.

Trials: a number of trials were conducted during 2009. These concerned the use of security scanners for passenger and staff screening and

the use of dogs for security screening. Information from the scanner trials was passed to the Commission to assist with the preparation of the planned report on the use of this equipment. Information from the dog trials was considered in the work towards a future legislative proposal.

Third countries: the Commission actively continued the dialogue with aviation security issues with the US in a number of fora, in particular the EU-US Transportation Group, which progressed work towards one-stop security. The Commission also intervened on a number of occasions when Member States raised particular concerns about additional US security demands, which appeared to give inadequate consideration to the robust EU systems already in place.

Lastly, the report notes that the security incident on Northwest Airlines flight 253 from Amsterdam to Detroit which occurred just days before the end of the year served as a reminder that the adequacy of screening options must constantly be reviewed and close cooperation with international partners continued. The Commission will maintain and, as necessary, extend its programme in these two key areas.