



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 6 October 2006**

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**AVIATION 153  
CODEC 1041**

## **REPORT**

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From : COREPER

To : Council

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No. prev. doc. : 13592/06 AVIATION 152 CODEC 1039

No. Cion prop. : 12588/05 AVIATION 129 CODEC 787

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Subject : **AVIATION**

**Proposal for a Regulation of the European Parliament and of the Council on  
common rules in the field of civil aviation security**

**- Political agreement**

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## **Introduction**

1. The above proposal for a Regulation was submitted by the Commission in September 2005 <sup>1</sup>. The proposal seeks to replace Regulation (EC) N° 2320/2002 of the European Parliament and of the Council establishing common rules in the field of civil aviation security <sup>2</sup>. That Regulation, which had been drafted and adopted in response to the terrorist attacks of 11 September 2001 in the United States, has been in force since January 2003. The replacement of Regulation n° 2320/2002 by a new text is considered necessary because its application has given rise to a number of implementation problems.

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<sup>1</sup> 12588/05 AVIATION 129 CODEC 787

<sup>2</sup> OJ L 355, 30.12.2002, p. 1.

3. On 27 March 2006, the TTE Council adopted a general approach (7910/06).
4. On 15 June 2006, the European Parliament adopted its opinion at first reading, containing 85 amendments (10377/06 + COR 1).

### **Work carried out by the bodies of the Council**

5. In view of the security incidents in the United Kingdom in August this year, the Presidency examined the possibility of obtaining a quick agreement with the European Parliament on the text of the draft Regulation. During informal contacts with representatives of the European Parliament, it appeared however that the issue of financing the security measures would need to be studied more carefully in order to arrive at a text that could be acceptable to all parties. The Presidency therefore decided that it would be advisable at this stage to invite the Council to adopt a (political agreement on a) common position, and to seek an agreement with the European Parliament at second reading.
6. The work in COREPER on the text of the draft Regulation was made more challenging by the Decision amending the comitology rules<sup>3</sup>. On the basis of an opinion by the Council Legal Service<sup>4</sup>, COREPER examined on various occasions the implications of this Decision for the text of the draft Regulation. It verified in particular in which cases the new "regulatory procedure with scrutiny" should apply, and which drafting should be used in that respect.
7. COREPER was also informed by Spain and the United Kingdom concerning their agreement on the revised wording to be used in the draft Regulation in respect of the Gibraltar issue, in the light of the agreement reached between the two countries at Ministerial level in Cordoba on 18 September 2006 (see in particular the text of recital 19).

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<sup>3</sup> Council Decision of 17 July 2006 amending Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission, OJ L 200, 22.7.2006, p. 11.

<sup>4</sup> 12813/06 JUR 347 AVIATION 129 CODEC 911

8. At its meeting on 6 October 2006, COREPER reached agreement on the text of the draft Regulation. This text, which is set out in the Annex to this report, is submitted to the Council for a political agreement.
  9. The only point outstanding is a Parliamentary scrutiny reserve by the UK.
  10. Once a political agreement has been reached, the text will be forwarded to the jurist-linguists for finalisation. Subsequently, the Council will be invited to formally adopt its common position as an “A” item at a future meeting.
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Draft

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**on common rules in the field of civil aviation security**  
**(Text with EEA relevance)**

EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80 (2) thereof,

Having regard to the proposal from the Commission <sup>5</sup>,

Having regard to the opinion of the European Economic and Social Committee <sup>6</sup>,

Having regard to the opinion of the Committee of the Regions <sup>7</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>8</sup>,

Whereas:

- (1) In order to protect persons and goods within the European Union, acts of unlawful interference with civil aircraft should be prevented by establishing common rules for safeguarding civil aviation. This objective should be achieved by setting common rules and common standards on aviation security as well as mechanisms for monitoring compliance.
- (2) It is desirable, in the interests of civil aviation security generally, to provide the basis for a common interpretation of the April 2002 issue of Annex 17 to the Chicago Convention on International Civil Aviation of 7 December 1944.

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<sup>5</sup> OJ C [...], [...], p. [...].

<sup>6</sup> OJ C [...], [...], p. [...].

<sup>7</sup> OJ C [...], [...], p. [...].

<sup>8</sup> OJ C [...], [...], p. [...].

- (3) Regulation (EC) No 2320/2002 of the European Parliament and of the Council of 16 December 2002 establishing common rules in the field of civil aviation security<sup>9</sup> was adopted as a result of the events of 11 September 2001 in the United States.
- (4) The content of Regulation (EC) No 2320/2002 should be revised in the light of the experience gained, and the Regulation itself should be replaced by a new act seeking the simplification, harmonisation and clarification of the existing rules and the improvement of the levels of security.
- (5) Given the need for more flexibility in adopting security measures and procedures in order to meet evolving risk assessments and to allow new technologies to be introduced, the new act should lay down the basic principles of what has to be done in order to safeguard civil aviation against acts of unlawful interference without going into technical and procedural details on how they are to be implemented.
- (6) The new act should apply to airports serving civil aviation located in the territory of a Member State, to operators providing services at such airports and to entities providing goods and/or services to or through such airports.
- (7) Without prejudice to the Convention on offences and certain other acts committed on board aircraft, Tokyo, 1963, the Convention for the suppression of unlawful seizure of aircraft, The Hague, 1970 and the Convention for the suppression of unlawful acts against the safety of civil aviation, Montreal 1971, the new act should also cover security measures that apply on board an aircraft, or during a flight, of Community air carriers.

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<sup>9</sup> OJ L 355, 30.12.2002, p. 1.

- (7a) Each Member State may decide for itself whether to deploy in-flight security officers on aircraft registered in that Member State and on aircraft of air carriers licensed by that Member State.
- (8) The various types of civil aviation do not necessarily present the same level of threat. In setting common standards on aviation security, the size of the aircraft, the nature of the operation and/or the frequency of operations at airports should be taken into account with a view to permitting the grant of derogations.
- (9) Member States should also be allowed, on the basis of a risk assessment, to apply more stringent measures than those to be laid down.
- (10) Third countries may require the application of measures that differ from those laid down in this act in respect of flights from an airport in a Member State to, or over, that third country. However, without prejudice to any bilateral agreements to which the Community is a party, it should be possible for the Commission to examine the measures required by the third country.
- (11) Even though, within a single Member State, there may be two or more bodies involved in aviation security, each Member State should designate a single authority responsible for the coordination and monitoring of the implementation of security standards.
- (12) In order to define responsibilities for the implementation of the common standards and to describe what measures are required by operators and other entities for this purpose, each Member State should draw up a national civil aviation security programme. Furthermore, each airport operator, air carrier and entity applying aviation security standards should draw up, apply and maintain a security programme in order to comply both with the new act and with whichever national civil aviation security programme is applicable.

- (13) In order to monitor compliance with the new act and with the national civil aviation security programme, each Member State should draw up and ensure the implementation of a national programme to check the quality of civil aviation security.
- (14) In order to monitor the application by Member States of the new act, and also to make recommendations to improve aviation security, the Commission should conduct inspections, including unannounced inspections.
- (15) Implementing acts setting out common measures and procedures for the implementation of the common standards and containing sensitive security information, together with Commission inspection reports and answers of national authorities should be regarded as “EU classified information” within the meaning of Commission Decision 2001/844/EC, ECSC, Euratom of 29 November 2001 amending its internal rules of procedure<sup>10</sup>. Those items should not be published; they should only be made available to those operators and entities with a legitimate interest.
- (16) The measures and procedures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>11</sup>.
- (16a) In particular, it is necessary to follow the regulatory procedure with scrutiny as regards measures of general scope designed to amend non-essential elements of this Regulation, inter alia by deleting some of those elements or by supplementing this Regulation by addition of new non-essential elements; such measures are referred to in Articles 4(3) and 9a(2) of this Regulation.

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<sup>10</sup> OJ L 317, 3.12.2001, p. 1.

<sup>11</sup> OJ L 184, 17.7.1999, p. 23. Decision amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

- (17) The goal of "one-stop security" for all flights within the European Union should be advanced.
- (17a) This Regulation is without prejudice to the application of rules on aviation safety, including those relating to the transportation of dangerous goods.
- (18) Penalties should be provided for infringements of the provisions of this Regulation. These penalties, which may be of a civil or administrative nature, should be effective, proportionate and dissuasive.
- (19) The Ministerial Statement on Gibraltar Airport, agreed in Cordoba on 18 September 2006 during the first Ministerial meeting of the Forum of Dialogue on Gibraltar, will replace the Joint Declaration on the Airport made in London on 2nd December 1987, and the full compliance with it will be deemed to constitute compliance with the 1987 Declaration.

HAVE ADOPTED THIS REGULATION:

*Article 1*

**Objectives**

1. This Regulation establishes common rules to safeguard civil aviation against acts of unlawful interference.  
  
It also provides the basis for a common interpretation of Annex 17 to the 1944 Chicago Convention on International Civil Aviation.
2. The means of achieving the objectives set out in paragraph 1 shall be:
  - a) the setting of common rules and common basic standards on aviation security;
  - b) mechanisms for monitoring compliance.



## *Article 2*

### **Scope**

1. This Regulation shall apply to the following:
  - a) all airports or parts of airports located in the territory of a Member State that are not exclusively used for military purposes;
  - b) all operators, including air carriers, providing services at airports referred to in point (a);
  - c) all entities applying aviation security standards that operate from premises located inside or outside airport premises and provide goods and/or services to or through airports referred to in point (a).
  
2. The application of this Regulation to the airport of Gibraltar is understood to be without prejudice to the respective legal positions of the Kingdom of Spain and the United Kingdom with regard to the dispute over sovereignty over the territory in which the airport is situated.

## *Article 3*

### **Definitions**

For the purpose of this Regulation:

- (1) ‘civil aviation’ means any air operation carried out by civil aircraft, excluding operations carried out by state aircraft referred to in Article 3 of the 1944 Chicago Convention on International Civil Aviation;
  
- (2) ‘aviation security’ means the combination of measures and human and material resources intended to safeguard civil aviation against acts of unlawful interference.
  
- (3) ‘operator’ means a person, organisation or enterprise engaged, or offering to engage, in an air transport operation;

- (4) 'air carrier' means an air transport undertaking holding a valid operating licence or equivalent;
- (5) 'Community air carrier' means an air carrier holding a valid operating licence granted by a Member State in accordance with Council Regulation (EC) No 2407/92 <sup>12</sup>;
- (5a) 'entity' means a person, organisation or enterprise, other than the operators referred to under point 3;
- (6) 'prohibited articles' means weapons, explosives or other dangerous devices, articles or substances that may be used to commit an act of unlawful interference;
- (7) 'screening' means the application of technical or other means which are intended to identify and/or detect prohibited articles;
- (8) 'security control' means the application of means by which the introduction of prohibited articles may be prevented;
- (9) 'access control' means the application of means by which the entry of unauthorised persons or unauthorised vehicles, or both, may be prevented;
- (10) 'airside' means the movement area of an airport, adjacent terrain and buildings or portions thereof, access to which is restricted;
- (11) 'landside' means those parts of an airport, adjacent terrain and buildings or portions thereof that are not airside;
- (12) 'security restricted area' means that area of airside where, in addition to access being restricted, other aviation security standards are applied;

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<sup>12</sup> OJ L 240, 24.8.1992, p. 1.

- (13) ‘demarcated area’ means an area that is separated by means of access control either from security restricted areas, or, if the demarcated area itself is a security restricted area, from other security restricted areas of an airport;
- (14) ‘background check’ means a recorded check of a person’s identity, including any criminal history, as part of the assessment of an individual’s suitability for unescorted access to security restricted areas;
- (15) ‘transfer passengers, baggage, cargo or mail’ means passengers, baggage, cargo or mail departing on an aircraft other than that on which they arrived;
- (16) ‘transit passengers, baggage, cargo or mail’ means passengers, baggage, cargo or mail departing on the same aircraft as that on which they arrived;
- (17) ‘potentially disruptive passenger’ means a passenger who is either a deportee, a person deemed to be inadmissible for immigration reasons or a person in lawful custody;
- (18) ‘cabin baggage’ means baggage intended for carriage in the cabin of an aircraft;
- (19) ‘hold baggage’ means baggage intended for carriage in the hold of an aircraft;
- (20) ‘accompanied hold baggage’ means baggage, carried in the hold of an aircraft, which has been checked in for a flight by a passenger travelling on that same flight;
- (21) ‘air carrier mail’ means mail whose origin and destination are both an air carrier;
- (22) ‘air carrier materials’ means materials either whose origin and destination are both an air carrier or that are used by an air carrier;
- (22a) ‘mail’ means dispatches of correspondence and other items tendered by and intended for delivery to postal services in accordance with the rules of the Universal Postal Union (UPU);

- (23) ‘cargo’ means any property intended for carriage on an aircraft, other than baggage, mail, air carrier mail and air carrier materials, and in-flight supplies;
- (24) ‘regulated agent’ means an air carrier, agent, freight forwarder or any other entity who ensures the security controls in accordance with this Regulation in respect of cargo or mail;
- (25) ‘known consignor’ means a consignor who originates cargo or mail for its own account and whose procedures meet common security rules and standards sufficient to allow carriage of that cargo or mail on any aircraft;
- (26) ‘account consignor’ means a consignor who originates cargo or mail for its own account and whose procedures meet common security rules and standards sufficient to allow carriage of that cargo on all-cargo aircraft or mail on all-mail aircraft;
- (27) ‘aircraft security check’ means an inspection of those parts of the interior of the aircraft to which passengers may have had access, together with an inspection of the hold of the aircraft in order to detect prohibited articles and unlawful interferences with the aircraft;
- (28) ‘aircraft security search’ means an inspection of the interior and accessible exterior of the aircraft in order to detect prohibited articles and unlawful interferences with the aircraft;
- (29) ‘in-flight security officer’ means a person who is employed by a State to travel on an aircraft of the air carrier licensed by it with the purpose of protecting that aircraft and its occupants against acts of unlawful interference.

## *Article 4*

### **Common basic standards**

1. The common basic standards for safeguarding civil aviation against acts of unlawful interference shall be as laid down in the Annex.
2. Detailed measures for the implementation of the common basic standards referred to in paragraph 1 shall be laid down in accordance with the procedure referred to in Article 16(2).

These measures shall, in particular, address:

- a) methods of screening, access control and other security controls;
  - b) methods of performing aircraft security checks and aircraft security searches;
  - c) prohibited articles;
  - d) performance criteria and acceptance tests for equipment;
  - e) staff recruitment and training requirements;
  - f) the definition of critical parts of security restricted areas;
  - g) the obligations of, and the validation procedures for, regulated agents, known consignors and account consignors;
  - h) categories of persons, goods and aircraft that for objective reasons shall be subject to special security procedures or shall be exempted from screening, access control or other security controls.
3. The Commission shall, by amending this Regulation through a decision in accordance with the procedure referred to in Article 16(2a), set criteria to allow Member States to derogate from the common basic standards referred to in paragraph 1 and to adopt security measures that provide an adequate level of protection on the basis of a local risk assessment. Such alternative measures shall be justified by reasons relating to the size of the aircraft, or by reasons relating to the nature, scale or frequency of operations or of other relevant activities.

The Member States shall inform the Commission of these measures.

4. Member States shall ensure the application in their territory of the common basic standards referred to in paragraph 1. Where a Member State has reason to believe that the level of security has been compromised through a security breach, it shall ensure that appropriate and prompt action is taken to rectify that breach and ensure the continuing security of civil aviation.

#### *Article 5*

#### **More stringent measures applied by Member States**

1. Member States may apply more stringent measures than the common basic standards referred to in Article 4. In doing so, they shall act on the basis of a risk assessment and in compliance with Community law. More stringent measures shall be relevant, objective, non-discriminatory and proportional to the risk that is being addressed.
2. Member States shall inform the Commission of such measures as soon as possible after their application. Upon reception of such information, the Commission shall transmit this information to the other Member States.
3. Member States are not required to inform the Commission if the measures concerned are limited to a given flight on a specific date.

#### *Article 6*

#### **Security measures required by third countries**

1. Without prejudice to any bilateral agreements to which the Community is a party, a Member State shall inform the Commission of measures required by a third country if they differ from the common basic standards referred to in Article 4 in respect of flights from an airport in a Member State to, or over, that third country.

2. At the request of the Member State concerned or on its own initiative, the Commission shall examine the application of any measures notified under paragraph 1 and may, in accordance with the procedure referred to in Article 16(2), draw up an appropriate response to the third country concerned.
3. Paragraphs 1 and 2 shall not apply if:
  - a) the Member State concerned applies the measures concerned in accordance with Article 5; or
  - b) the requirement of the third country is limited to a given flight on a specific date.

*Article 7*

**Appropriate authority**

Where, within a single Member State, two or more bodies are involved in aviation security, that Member State shall designate a single authority (hereinafter referred to as “the appropriate authority”) to be responsible for the coordination and monitoring of the implementation of the common basic standards referred to in Article 4.

*Article 8*

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## *Article 9*

### **National civil aviation security programme**

1. Every Member State shall draw up, apply and maintain a national civil aviation security programme.

That programme shall define responsibilities for the implementation of the common basic standards referred to in Article 4 and shall describe the measures required by operators and entities for this purpose.

2. The appropriate authority shall make available in writing on a 'need to know' basis the appropriate parts of its national civil aviation security programme to operators and entities which it deems to have a legitimate interest.

## *Article 9a*

### **National quality control programme**

1. Every Member State shall draw up, apply and maintain a national quality control programme.

That programme shall enable the Member State to check the quality of civil aviation security in order to monitor compliance both with this Regulation and with its national civil aviation security programme.

2. The specifications for the national quality control programme shall be adopted by amending this Regulation through the addition of an annex in accordance with the procedure referred to in Article 16(2a).

The programme shall allow for the swift detection and correction of deficiencies. It shall also provide that all airports, operators and entities responsible for the application of security standards that are located in the territory of the Member State concerned shall be regularly monitored directly by, or under the supervision of, the appropriate authority.



## *Article 10*

### **Airport security programme**

1. Every airport operator shall draw up, apply and maintain an airport security programme. That programme shall describe the methods and procedures which are to be followed by the airport operator in order to comply both with this Regulation and with the national civil aviation security programme of the Member State in which the airport is located.

The programme shall include internal quality control provisions describing how compliance with these methods and procedures is monitored by the airport operator.

2. The airport security programme shall be submitted to the appropriate authority, which may take further action if appropriate.

## *Article 11*

### **Air carrier security programme**

1. Every air carrier shall draw up, apply and maintain an air carrier security programme.

That programme shall describe the methods and procedures which are to be followed by the air carrier in order to comply both with this Regulation and with the national civil aviation security programme of the Member State from which it provides services.

The programme shall include internal quality control provisions describing how compliance with these methods and procedures is monitored by the air carrier.

2. Upon request, the air carrier security programme shall be submitted to the appropriate authority, which may take further action if appropriate.

3. Where a Community air carrier security programme has been validated by the appropriate authority of the Member State granting the operating licence, the air carrier shall be recognised by all other Member States as having fulfilled the requirements of paragraph 1. This is without prejudice to a Member State's right to request from any air carrier details of its implementation of:
  - a) the security measures required by that Member State under the provisions of Article 5;and / or
  - b) local procedures that are applicable at the airports served.

#### *Article 12*

#### **Entity security programme**

1. Every entity required under the national civil aviation security programme referred to in Article 9 to apply aviation security standards shall draw up, apply and maintain a security programme.

That programme shall describe the methods and procedures which are to be followed by the entity in order to comply with the national civil aviation security programme of the Member State in respect of its operations in that Member State.

The programme shall include internal quality control provisions describing how compliance with these methods and procedures is to be monitored by the entity itself.

2. Upon request, the security programme of the entity applying aviation security standards shall be submitted to the appropriate authority, which may take further action if appropriate.

*Article 13*

[renumbered as Article 9a]

*Article 14*

**Commission inspections**

1. The Commission, acting in cooperation with the appropriate authority of the Member State concerned, shall conduct inspections - including inspections of airports, operators and entities applying aviation security standards - in order to monitor the application by Member States of this Regulation and, as appropriate, to make recommendations to improve aviation security. For this purpose, the appropriate authority shall inform the Commission in writing of all airports in its territory serving civil aviation other than those covered by Article 4(3).

The procedures for conducting Commission inspections shall be adopted in accordance with the procedure referred to in Article 16(2).

2. Commission inspections of airports, operators and entities applying aviation security standards shall be unannounced. The Commission shall in good time before an inspection inform the Member State concerned thereof.
3. Each Commission inspection report shall be communicated to the appropriate authority of the Member State concerned, which shall, in its answer, set out the measures taken to remedy any identified deficiencies.

The report, together with the answer of the appropriate authority, shall subsequently be communicated to the appropriate authority of each other Member State.

*Article 15*

**Dissemination of information**

The following documents shall be regarded as “EU classified documents” for the purposes of Decision 2001/844/EC, ECSC, Euratom, and shall not be placed in the public domain:

- a) measures and procedures as referred to in Article 4(2), 4(3), 5(1) and 6(1), if containing sensitive security information;
- b) Commission inspection reports and answers of appropriate authorities, as referred to in Article 14(3).

*Article 16*

**Committee**

1. The Commission shall be assisted by a committee (hereinafter referred to as “the Committee”).
2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period referred to in Article 5(6) of Decision 1999/468/EC shall be set at one month.

- 2a. Where reference is made to this paragraph, Articles 5a (1)-(4) and (6), and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.
3. The Committee shall adopt its rules of procedure.

*Article 17*

[deleted]

*Article 18*

**Penalties**

Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.

*Article 19*

**Repeal**

Regulation (EC) No 2320/2002 is repealed.

*Article 20*

**Entry into force**

This Regulation shall enter into force on ..... (\*).

It shall apply from ..... (\*\*), with the exception of Articles 4(2), 4(3), 9a(2), 14(1) and 16, which shall apply from the date of entry into force.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the European Parliament*

*For the Council*

*The President*

*The President*

(\*) the twentieth day following that of publication in the *Official Journal of the European Union*

(\*\*) two years after entry into force of the Regulation

COMMON BASIC STANDARDS FOR SAFEGUARDING CIVIL AVIATION AGAINST ACTS  
OF UNLAWFUL INTERFERENCE (ARTICLE 4)

**1. AIRPORT SECURITY**

**1.1 Airport planning requirements**

1. When designing and constructing new airport facilities or altering existing airport facilities, requirements for the implementation of the common basic standards referred to in this Annex and implementing acts shall be fully taken into account.
2. At airports the following areas shall be established:
  - a) landside;
  - b) airside;
  - c) security restricted areas; and
  - d) critical parts of security restricted areas.

**1.2 Access control**

1. Access to airside shall be restricted in order to prevent unauthorised persons and vehicles from entering these areas.
2. Access to security restricted areas shall be controlled in order to ensure that no unauthorised persons and vehicles enter these areas.
3. Persons and vehicles may only be granted access to airside and security restricted areas if they fulfil the required security conditions.

4. Persons, including flight crew members, shall have successfully completed a background check before either a crew identification card or an airport identification card authorising unescorted access to security restricted areas is issued to them.

### **1.3 Screening of persons other than passengers and items carried**

1. Persons other than passengers, together with items carried, shall be screened on a continuous random basis upon entering security restricted areas in order to prevent prohibited articles from being introduced into these areas.
2. All persons other than passengers, together with items carried, shall be screened upon entering critical parts of security restricted areas in order to prevent prohibited articles from being introduced into these parts.

### **1.4 Examination of vehicles**

Vehicles entering a security restricted area shall be examined in order to prevent prohibited articles from being introduced into these areas.

### **1.5 Surveillance, patrols and other physical controls**

There shall be surveillance, patrols and other physical controls at airports and, where appropriate, in adjacent areas with public access, in order to identify suspicious behaviour of persons, to identify vulnerabilities which could be exploited to carry out an act of unlawful interference and to deter persons from such acts.

## **2. DEMARCATED AREAS OF AIRPORTS**

Aircraft parked in demarcated areas of airports to which alternative measures referred to in Article 4(3) apply, shall be separated from aircraft to which the common basic standards as laid down in the Annex apply in full, in order to ensure that security standards applied to aircraft, passengers, baggage, cargo and mail of the latter are not compromised.

## **3. AIRCRAFT SECURITY**

1. Before departure, an aircraft shall be subjected to an aircraft security check or aircraft security search in order to ensure that no prohibited articles are present on board. An aircraft in transit may be subjected to alternative measures.
2. Every aircraft shall be protected from unauthorised interference.

## **4. PASSENGERS AND CABIN BAGGAGE**

### **4.1 Screening of passengers and cabin baggage**

1. All originating, transfer and transit passengers and their cabin baggage shall be screened in order to prevent prohibited articles from being introduced into security restricted areas and on board an aircraft.
2. Transfer passengers and their cabin baggage may be exempted from screening, if:
  - a) they arrive from a Member State, unless the Commission or that Member State has provided information that those passengers and their cabin baggage cannot be considered as having been screened to the common standards; or



- b) they arrive from a third country where the security standards applied are recognised as equivalent to Community standards in accordance with the procedure referred to in Article 16(2).
3. Transit passengers and their cabin baggage may be exempted from screening, if:
- a) they remain on board the aircraft; or
  - b) they do not mix with screened departing passengers other than those who board the same aircraft; or
  - c) they arrive from a Member State, unless the Commission or that Member State has provided information that those passengers and their cabin baggage cannot be considered as having been screened to the common basic standards; or
  - d) they arrive from a third country where the security standards applied are recognised as equivalent to Community standards in accordance with the procedure referred to in Article 16(2).

#### **4.2 Protection of passengers and cabin baggage**

1. Passengers and their cabin baggage shall be protected from unauthorised interference from the point at which they are screened until departure of the aircraft on which they are carried.
2. Screened departing passengers shall not mix with arriving passengers, unless:
  - a) the passengers arrive from a Member State, provided that the Commission or that Member State has not provided information that those arriving passengers and their cabin baggage cannot be considered as having been screened to the common basic standards; or

- b) the passengers arrive from a third country where the security standards applied are recognised as equivalent to Community standards in accordance with the procedure referred to in Article 16(2).

### **4.3 Potentially disruptive passengers**

Before departure potentially disruptive passengers shall be subjected to appropriate security measures.

## **5. HOLD BAGGAGE**

### **5.1 Screening of hold baggage**

1. All hold baggage shall be screened prior to being loaded onto an aircraft in order to prevent prohibited articles from being introduced into security restricted areas and on board aircraft.
2. Transfer hold baggage may be exempted from screening, if:
  - a) it arrives from a Member State, unless the Commission or that Member State has provided information that this hold baggage cannot be considered as having been screened to the common basic standards; or
  - b) it arrives from a third country where the security standards applied are recognised as equivalent to Community standards in accordance with the procedure referred to in Article 16(2).
3. Transit hold baggage may be exempted from screening if it remains on board the aircraft.

## **5.2 Protection of hold baggage**

Hold baggage to be carried on an aircraft shall be protected from unauthorised interference from the point at which it is screened or accepted into the care of the air carrier, whichever is earlier, until the departure of the aircraft on which it is to be carried.

## **5.3 Baggage reconciliation**

1. Each item of hold baggage shall be identified as accompanied or unaccompanied.
2. Unaccompanied hold baggage shall not be transported, unless that baggage has been either separated due to factors beyond the passenger's control or subjected to additional security controls.

# **6. CARGO AND MAIL**

## **6.1 Security controls for cargo and mail**

1. All cargo and mail shall be subjected to security controls prior to being loaded on an aircraft. An air carrier shall not accept cargo or mail for carriage on an aircraft unless it has applied such controls itself or their application has been confirmed and accounted for by a regulated agent, a known consignor or an account consignor.
2. Transfer cargo and transfer mail may be subjected to alternative security controls as detailed in an implementing act.
3. Transit cargo and transit mail may be exempted from security controls if it remains on board the aircraft.

## **6.2 Protection of cargo and mail**

1. Cargo and mail to be carried on an aircraft shall be protected from unauthorised interference from the point at which security controls are applied until the departure of the aircraft on which it is to be carried.
2. Cargo and mail that are not adequately protected from unauthorised interference after security controls have been applied shall be screened.

## **7. AIR CARRIER MAIL AND AIR CARRIER MATERIALS**

Air carrier mail and air carrier materials shall be subjected to security controls and thereafter protected until loaded onto the aircraft in order to prevent prohibited articles from being introduced on board an aircraft.

## **8. IN-FLIGHT SUPPLIES**

In-flight supplies, including catering, intended for carriage or use on board an aircraft shall be subjected to security controls and thereafter protected until loaded onto the aircraft in order to prevent prohibited articles from being introduced on board an aircraft.

## **9. AIRPORT SUPPLIES**

Supplies intended to be sold or used in security restricted areas of airports, including supplies for duty-free shops and restaurants, shall be subjected to security controls in order to prevent prohibited articles from being introduced into these areas.

## **10. IN-FLIGHT SECURITY MEASURES**

1. Without prejudice to the applicable aviation safety rules:
  - a) unauthorised persons shall be prevented from entering the flight crew compartment during a flight;
  - b) potentially disruptive passengers shall be subjected to appropriate security measures during a flight.
2. Appropriate security measures such as training of flight crew and cabin staff shall be taken to prevent acts of unlawful interference during flight.
3. Weapons shall not be carried in the cabin or the cockpit of an aircraft, unless authorisation has been given by the States involved in accordance with their respective national laws.
4. Paragraph 4 shall also apply to in-flight security officers if they carry weapons.

## **11. STAFF RECRUITMENT AND TRAINING**

1. Persons implementing, or responsible for implementing, screening, access control or other security controls shall be recruited, trained and, where appropriate, certified so as to ensure that they are suitable for employment and competent to undertake the duties to which they will be assigned.
2. Persons other than passengers requiring access to security restricted areas shall, before either an airport identification card or crew identification card is issued, receive security training.

3. Training as referred to in paragraphs 1 and 2 shall be conducted on initial and recurrent basis.
4. Instructors engaged in the training of the persons mentioned in paragraphs 1 and 2 shall be qualified.

## 12. SECURITY EQUIPMENT

Equipment used for screening, access control and other security controls shall be capable of performing the security controls concerned.

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