

Proposal for a Directive of the European Parliament and of the Council on the safety of third countries aircraft using community airports

(2002/C 103 E/26)

(Text with EEA relevance)

COM(2002) 8 final — 2002/0014(COD)

(Submitted by the Commission on 14 January 2002)

THE 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,

Having regard to the opinion of the Economic and Social Committee,

Having regard to the opinion of the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas:

- (1) The Resolution adopted by the European Parliament on 15 February 1996⁽¹⁾ points to the need for the Community to take a more active stance and develop a strategy to improve the safety of its citizens traveling by air or living near airports.
- (2) The Commission has issued a Communication to the Council and the European Parliament entitled *Defining a Community Aviation Safety Improvement Strategy*⁽²⁾.
- (3) This Communication clearly identifies that safety may be effectively enhanced by ensuring that aircraft comply fully with the international safety standards contained in the Annexes to the Convention on International Civil Aviation, signed in Chicago on 7 December 1944.
- (4) Experience has shown that some third countries do not always implement and enforce international safety standards; and that therefore, in order to improve

transport safety in the Community, it is necessary for the monitoring of compliance with international standards to be ensured by the Community Member States themselves at their airports.

- (5) The rules and procedures for ramp inspections, including aircraft grounding, should be harmonized to ensure consistent effectiveness in all airports throughout the Community, which in turn would also reduce the selective use of certain airports of destination by third countries aircraft trying to avoid proper control.
- (6) A harmonized approach to the effective enforcement of international safety standards by the Member States will avoid distortions of competition and benefit of the strength of a common stance in the relations with third countries.
- (7) Information gathered in each Member State should be made available to all the other Member States and the Commission in order to ensure the most efficient monitoring of the compliance of third countries aircraft with international safety standards.
- (8) For the above mentioned reasons there is a need for establishing, at Community level, a procedure for the assessment of foreign aircraft and related co-operation mechanisms between Member States to share and analyze information and draw conclusions.
- (9) Aircraft landing in the Community at any given time shall undergo an inspection when there is suspicion that they do not comply with international safety standards
- (10) The sensitive nature of safety related information is such that the only way to ensure the gathering of such information is by ensuring its proper usage and the confidentiality of its sources without prejudicing the right of the citizens of the Union to be informed of the efforts made to ensure their safety and of the most serious cases affecting air safety.
- (11) Aircraft on which corrective action is required must, where the identified deficiencies are clearly hazardous to safety, be grounded until such time when non-compliance with international safety standards has been rectified.

⁽¹⁾ Resolution B4-0150/96 (OJ C 65, 4.3.1996, p. 172).

⁽²⁾ Communication from the Commission to the Council and the European Parliament, Report by the High Level Group established by the Council Decision of 11th March 1996 addressed to the European Parliament and to the Council, *Defining a Community Aviation Safety Improvement Strategy*, SEC(96) 1083 final, 12.6.1996.

- (12) The facilities in the airport of inspection may be such that the competent authority will be obliged to authorize the aircraft to proceed to an appropriate airport, provided that conditions for a safe transfer are complied with.
- (13) It is necessary for the Commission to draft measures in relation to specific cases of safety hazards as well as for the implementation of requirements of Articles 4, 5 and 6, a Committee shall be created and a procedure established for close co-operation between the Member States and the Commission within that Committee.
- (14) Since the measures necessary for the implementation of this Directive are measures of general scope within the meaning of Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽¹⁾, they should be adopted by use of the regulatory procedure provided for in Article 5 of that Decision.

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Objective

The purpose of this Directive shall be to contribute to the improvement of air safety by ensuring that:

- information is collected and disseminated so that sufficient evidence can be established to decide on measures required to ensure the safety of the travelling public as well as of people on the ground;
- third-country aircraft, their operation and crew are inspected whenever there is reasonable suspicion that international safety standards are not being met and such aircraft are grounded if this is necessary to ensure immediate safety;
- appropriate measures for rectification of identified shortcomings are decided and implemented.

Article 2

Scope

This Directive shall apply to third-country aircraft landing at airports located in the Member States.

State aircraft, as defined in the Convention on International Civil Aviation signed in Chicago on 7 December 1944, (hereinafter referred to as 'the Chicago Convention'), and aircraft of a maximum take off weight of less than 5 700 kg not engaged in commercial air transport shall be excluded from the scope of this Directive.

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

This Directive shall not, however, limit the Member States' right, with due regard to Community law, to carry out inspection of, ground, ban, or impose conditions on, any aircraft landing at its airports.

Article 3

Definitions

For the purpose of this Directive:

'grounding' means the formal prohibition of an aircraft to leave an airport, and the taking of such steps as are necessary to detain it;

'international safety standards' means the safety standards contained in the Chicago Convention and its Annexes as in force at the time of the inspection;

'ramp inspection' means the examination of third-country aircraft in accordance with Annex II;

'third-country aircraft' means an aircraft which is not used or operated under the control of a competent authority of a Member State.

Article 4

Collection of information

Member States shall put in place a mechanism to collect any information deemed useful for the fulfilment of the objective stated in Article 1, including:

- (a) important safety information accessible, especially, through:
- pilots reports,
 - maintenance organization reports,
 - incidents reports,
 - other organizations, independent from the competent authorities of the Member States,
 - complaints;
- (b) information on action taken subsequent to a ramp inspection, such as:
- aircraft grounded,
 - aircraft or operator banned from the country,
 - corrective action required,
 - contacts with operator's competent authority;

(c) follow-up information concerning the operator, such as:

- corrective action implemented,
- recurrence of discrepancy.

This information shall be kept, using a standard report form containing the items described, in the form set out in Annex I.

Article 5

Ramp inspection

1. Each Member State shall put in place the appropriate means to ensure that third-country aircraft suspected of non-compliance with international safety standards landing at any of its airports open to international air traffic shall be subject to ramp inspections. In implementing such procedures, particular attention shall be given by the competent authority to aircraft:

- where information has been received indicating poor maintenance condition or obvious damage or defects;
- which have been reported as performing abnormal manoeuvres since entering the airspace of a Member State such as to give rise to serious safety concerns;
- in respect of which a previous ramp inspection has revealed deficiencies which give rise to serious concern that the aircraft does not comply with international standards and where the Member State is concerned that the defects may not have been corrected;
- there is evidence that the competent authorities of the country of registration may not be exercising proper safety oversight; or
- where information collected under Article 4 gives cause for concern about the operator or where a previous ramp inspection of an aircraft used by the same operator has revealed deficiencies.

2. Member States shall ensure that appropriate ramp inspections and other surveillance measures as decided within the framework of Article 9(3) will be implemented.

3. The ramp inspection shall be performed according to the procedure described in Annex II and using a ramp inspection report form containing at least the items described in the form appended to Annex II. On completion of the ramp inspection, the commander of the aircraft shall be informed of the contents of the ramp inspection report, and if defects have been found, the report shall be sent to the operator of the aircraft and to the competent authority concerned.

4. When executing a ramp inspection under this Directive, the competent authority shall make all possible efforts to avoid an unreasonable delay of the aircraft inspected.

Article 6

Exchange of information

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

2. All standard reports referred to in Article 4 and the ramp inspection reports referred to in Article 5(3) shall be made available without delay to the competent authorities of the Member States and the Commission, at their request.

3. Whenever a standard report shows the existence of a potential safety threat, or a ramp inspection report shows that an aircraft does not comply with international safety standards and may pose a potential safety threat, the report will be communicated without delay to each competent authority of the Member States and the Commission.

Article 7

Protection and dissemination of information

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

2. Each Member State shall publish half yearly information available to the public concerning:

- the number of aircraft grounded during the previous six month period, including in particular the type of aircraft, the name and country of the operator, the State of registration, the reason for grounding and the airport and date of grounding, as well as any corrective measures notified as a consequence of the grounding,
- type of aircraft, State of registration and name and country of the operators whose aircraft has been detained more than once during the past 24 months, the reason for grounding and the airport and date on which the grounding was imposed, as well as any corrective measures notified as a result of the grounding,
- the list of airports open to international traffic, the number of ramp inspections carried out and the number of movements of third country aircraft at each airport on the list,
- the number of ramp inspections communicated in accordance with the provisions of Article 6, paragraph 3.

3. The Commission may, in accordance with the procedure laid down in Article 11(2), decide on the release of supplementary information to parties likely to benefit from it with regard to improving air safety.

4. Confidentiality of information given voluntarily, in particular by the crew of aircraft subjected to ramp inspections, will be ensured by de-identifying extensively the source of such information.

Article 8

Grounding of aircraft

1. Where non-compliance with international safety standards is clearly hazardous to safety, the competent authority performing the ramp inspection shall ground the aircraft until the hazard is removed.

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

3. If the hazard is such that the aircraft may be safely flown without fare-paying passengers or cargo, the competent authority of the Member State where the inspection took place shall, in co-ordination with the State responsible for the operation of the aircraft concerned, prescribe the necessary conditions under which the aircraft could be allowed to fly safely, without fare-paying passengers or cargo, to an airport at which the deficiencies could be corrected, and inform the States which will be overflowed by such aircraft.

Article 9

Safety improvement and implementation measures

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

2. On the basis of the information collected under paragraph 1, the Commission may, in accordance with the procedure laid down in Article 11(2), take any appropriate measures to facilitate the implementation of Articles 4, 5 and 6 such as:

- establish the list of information to be collected;
- detail the content of, and procedures for, ramp inspections;
- define the format for the storage and dissemination of data;

- create or support the appropriate bodies for managing or operating the tools necessary for the collection and exchange of information.

3. On the basis of the information received under Articles 4, 5 and 6, and in accordance with the procedure laid down in Article 11(2), a decision may be taken on appropriate ramp inspection and other surveillance measures, in particular of a specific operator or of operators of a specific third country pending the adoption by the competent authority of that third country of satisfactory arrangements for corrective measures,

4. The Commission may take any appropriate measures to co-operate with and assist third countries to improve their aviation safety oversight capabilities.

Article 10

Imposition of a ban or conditions on operation

If a Member State decides to ban or impose conditions on the operation of a specific operator or operators of a specific third country from its airports pending the adoption by the competent authority of that third country of satisfactory arrangements for corrective measures:

- a) that Member State shall notify the Commission of the measures taken;
- b) the Commission may, in consultation with the Committee laid down in Article 11(1), identify the Community-wide implications of the perceived safety hazard;
- c) the Commission may, in accordance with the procedure laid down in Article 11(2), take any measure deemed necessary including the extension to the Community of the measures notified under (a).

Article 11

Procedure for decisions

1. The Commission shall be assisted by the committee instituted by Article 12 of Council Regulation (EEC) No 3922/91 of 16 December 1991 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation ⁽¹⁾.

2. Where reference is made to this paragraph, the regulatory procedure laid down in Article 5 of Decision 1999/468/EC shall apply, in compliance with Article 7(3) and Article 8 thereof.

⁽¹⁾ OJ L 373, 31.12.1991, p. 4.

3. The period provided for in Article 5(6) of Decision 1999/468/EC shall be three months.

4. The Committee may furthermore be consulted by the Commission on any other matter concerning the application of this Directive such as the identification of the Community-wide implications of the perceived safety hazard as provided for in Article 10.

Article 12

Implementation

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive two years after its entry into force at the latest. They shall forthwith inform the Commission thereof.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Article 13

Report

Not later than . . . (*), the Commission shall draw up a report on its application, and in particular on Article 10, which, inter alia, takes into account developments in the Community and in international fora. The report may be accompanied by proposals for a revision of this Directive.

Article 14

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Communities*.

Article 15

This Directive is addressed to the Member States.

(*) Two years after the entry into force of this Directive.

ANNEX I



National Aviation Authority (Name)

(State)

SAFA

Standard Report

¹No:

² Source: SR ⁴Place:

³ Date:

⁵ (Unused)

⁷ AOC number:

⁶ Operator:

⁸ State:

¹⁰ Flight number:

⁹ Route: from

¹² Flight number:

¹¹ Route: to

¹⁴ Charterer's State:

¹³ Chartered by Operator (*):

¹⁶ Registration mark

(*) (where applicable)

¹⁵ Aircraft Type

¹⁷ Construction number

¹⁸ Flight crew: State of licensing:

¹⁹ Remarks:
.....
.....
.....
.....
.....
.....
.....
.....

²⁰ Action taken:
.....
.....
.....
.....
.....
.....
.....

²¹ (Unused)

²² National Co-ordinator's name

²³ Signature

ANNEX II

- I. The ramp inspection should cover all or a selection of the following aspects, according to the time available.
1. Checking for presence and validity of the documents necessary for international flights such as: registration certificate, log book, certificate of Airworthiness, crew licenses, radio license, list of passengers and freight.
 2. Check that flight crew composition and qualification comply with the requirements of Annex 1 and Annex 6 to the Chicago convention (ICAO annexes).
 3. Check of operational documentation (flight data, operational flight plan, technical log), and of flight preparation necessary to show that the flight is prepared according to ICAO annex 6.
 4. Check for presence and status of items required for international navigation according to ICAO, annex 6.
 - Air operator certificate
 - Noise and Emission Certificate
 - Operation manual (including MEL ⁽¹⁾) and flight manual.
 - Safety equipment
 - Security cabin equipment
 - Equipment necessary for the specific flight including radio communication and radio navigation equipment
 - Flight recorders.
 5. Check that the condition of the aircraft and its equipment (including damages and repairs) ensures continuous compliance with ICAO annex 8 standards.
- II. A ramp inspection report must be established after the ramp inspection and must include standard general information described hereunder, and a list of items checked together with an indication of any deficiencies found for each of these items, or of any specific remark is necessary.

⁽¹⁾ Minimum Equipment List.



National Aviation Authority (Name)

(State)

SAFA

Ramp Inspection Report

¹ No:

² Source: RI ⁴ Place:

³ Date:

⁵ Local time:

⁷ AOC number:

⁶ Operator:

⁸ State:

¹⁰ Flight number:

⁹ Route: from

¹² Flight number:

¹¹ Route: to

¹⁴ Charterer's State:

¹³ Chartered by Operator (*):
(* (where applicable))

¹⁶ Registration mark

¹⁵ Aircraft Type

¹⁷ Construction number

¹⁸ Flight crew: State of licensing

¹⁹ Remarks:

Code/Std/Remark		
----	-:
----	-:
----	-:
----	-:
----	-:
----	-:
----	-:
----	-:
----	-:
----	-:
----	-:
----	-:
----	-:
----	-:
----	-:
----	-:
----	-:
----	-:
----	-:
----	-:
----	-:
----	-:

²⁰ Action taken:
.....:
.....:
.....:

²¹ Inspector's names:

This report represents an indication on which was found on this occasion and must not be construed as a determination that the aircraft is fit for the intended flight.

²² National Co-ordinator's name

²³ Signature

National Aviation Authority (Name)

(State)

Item	Checked	Remark
A. Flight Deck		
<i>General</i>		
1. General Condition	1 <input type="checkbox"/>	1 <input type="checkbox"/>
2. Emergency Exit	2 <input type="checkbox"/>	2 <input type="checkbox"/>
3. Equipment	3 <input type="checkbox"/>	3 <input type="checkbox"/>
<i>Documentation</i>		
4. Manuals	4 <input type="checkbox"/>	4 <input type="checkbox"/>
5. Checklists	5 <input type="checkbox"/>	5 <input type="checkbox"/>
6. Radio Navigation Charts	6 <input type="checkbox"/>	6 <input type="checkbox"/>
7. Minimum Equipment List	7 <input type="checkbox"/>	7 <input type="checkbox"/>
8. Certificate of registration	8 <input type="checkbox"/>	8 <input type="checkbox"/>
9. Noise certificate (where applicable)	9 <input type="checkbox"/>	9 <input type="checkbox"/>
10. AOC or equivalent	10 <input type="checkbox"/>	10 <input type="checkbox"/>
11. Radio licence	11 <input type="checkbox"/>	11 <input type="checkbox"/>
12. C of A	12 <input type="checkbox"/>	12 <input type="checkbox"/>
<i>Flight data</i>		
13. Operational flight plan	13 <input type="checkbox"/>	13 <input type="checkbox"/>
14. Load distribution	14 <input type="checkbox"/>	14 <input type="checkbox"/>
<i>Safety Equipment</i>		
15. Hand fire extinguishers	15 <input type="checkbox"/>	15 <input type="checkbox"/>
16. Life jackets/flotation device	16 <input type="checkbox"/>	16 <input type="checkbox"/>
17. Harness	17 <input type="checkbox"/>	17 <input type="checkbox"/>
18. Oxygen equipment	18 <input type="checkbox"/>	18 <input type="checkbox"/>
19. Flash Light	19 <input type="checkbox"/>	19 <input type="checkbox"/>
<i>Flight Crew</i>		
20. Flight crew	20 <input type="checkbox"/>	20 <input type="checkbox"/>
<i>Journey Log Book/Technical Log or equivalent</i>		
21. Journey Log Book	21 <input type="checkbox"/>	21 <input type="checkbox"/>
22. Maintenance release	22 <input type="checkbox"/>	22 <input type="checkbox"/>
23. Deferred defect rectification	23 <input type="checkbox"/>	23 <input type="checkbox"/>
24. Preflight inspection	24 <input type="checkbox"/>	24 <input type="checkbox"/>

Item	Checked	Remark
B. Safety/Cabin		
1. General Internal Condition	1 <input type="checkbox"/>	1 <input type="checkbox"/>
2. Cabin Attendant's seat	2 <input type="checkbox"/>	2 <input type="checkbox"/>
3. First Aid Kit/Emergency medical kit	3 <input type="checkbox"/>	3 <input type="checkbox"/>
4. Hand fire extinguishers	4 <input type="checkbox"/>	4 <input type="checkbox"/>
5. Life jackets/Flotation devices	5 <input type="checkbox"/>	5 <input type="checkbox"/>
6. Seat belts	6 <input type="checkbox"/>	6 <input type="checkbox"/>
7. Emergency exit, lighting and marking, Torches	7 <input type="checkbox"/>	7 <input type="checkbox"/>
8. Slides/Life-Rafts (as required)	8 <input type="checkbox"/>	8 <input type="checkbox"/>
9. Oxygen Supply (Crew and Passengers)	9 <input type="checkbox"/>	9 <input type="checkbox"/>
10. Safety Instructions	10 <input type="checkbox"/>	10 <input type="checkbox"/>
11. Sufficient number of cabin crew members	11 <input type="checkbox"/>	11 <input type="checkbox"/>
12. Access to emergency exits	12 <input type="checkbox"/>	12 <input type="checkbox"/>
13. Safety of passenger baggage	13 <input type="checkbox"/>	13 <input type="checkbox"/>
14. Sufficient seat capacity	14 <input type="checkbox"/>	14 <input type="checkbox"/>
C. Aircraft Condition		
1. General external condition	1 <input type="checkbox"/>	1 <input type="checkbox"/>
2. Doors and hatches	2 <input type="checkbox"/>	2 <input type="checkbox"/>
3. Flight controls	3 <input type="checkbox"/>	3 <input type="checkbox"/>
4. Wheels and tyres	4 <input type="checkbox"/>	4 <input type="checkbox"/>
5. Undercarriage.....	5 <input type="checkbox"/>	5 <input type="checkbox"/>
6. Wheel well	6 <input type="checkbox"/>	6 <input type="checkbox"/>
7. Intake & exhaust nozzle	7 <input type="checkbox"/>	7 <input type="checkbox"/>
8. Fan blades	8 <input type="checkbox"/>	8 <input type="checkbox"/>
9. Propellers.....	9 <input type="checkbox"/>	9 <input type="checkbox"/>
10. Obvious repairs	10 <input type="checkbox"/>	10 <input type="checkbox"/>
11. Obvious unrepaired damage	11 <input type="checkbox"/>	11 <input type="checkbox"/>
12. Leakage.....	12 <input type="checkbox"/>	12 <input type="checkbox"/>
D. Cargo		
1. General condition of cargo compartment	1 <input type="checkbox"/>	1 <input type="checkbox"/>
2. Dangerous Goods	2 <input type="checkbox"/>	2 <input type="checkbox"/>
3. Security of cargo on board	3 <input type="checkbox"/>	3 <input type="checkbox"/>