

Mr. Daniel Calleja Crespo
Director, Directorate F
EUROPEAN COMMISSION
DG Energy & Transport
Rue De Mot, 24
B - 1040 Brussels
Belgium
Email letter: daniel.calleja-crespo@cec.eu.int

CC Mr. Eckard Seebohm
Cc Mr. Robert Missen DG TREN

Date 27 August 2008
Ref: secgc

Dear Daniel,

Financing of Aviation Security

The ERA Directorate is grateful to the European Commission (EC) for facilitating the current consultation process considering future financing for aviation security, including the opportunity to comment on the options proposed by the EC.

Founded in 1980, ERA is the recognised representative body for intra-European air transport. ERA currently represents 60 airlines and over 140 Associate and Affiliate members, including airframe and engine manufacturers, airports, suppliers and service providers from all over Europe.

Subsequent to article 22 of Regulation EU 300/2008, the Consultation Document issued on 20 June, and in the light of the constructive discussion at the meeting held in Brussels on 17 July, the ERA Directorate submits the following comments and remains available to offer any additional assistance to the Commission in the preparation of its Report.

Our members firmly believe that, in this current critical economical environment facing civil aviation in Europe, any expenditure on security must be identified as necessary, proportionate to the risk, cost-effective, transparent and properly accounted for.

The Directorate's position is fully supported by feedback from consultation with our members and proposes the following fundamental four positions:

- The ERA Directorate and ERA members believe that Governments have responsibility for the protection of citizens in the air and on the ground, and that therefore aviation security should be funded from central tax, not just from airports, airlines and passengers. **This should not be construed as 'State Aid'**.

- More stringent individual state security measures, above EU ‘base line’, are the manifestation of specific attacks on those states policies or actions and therefore should be funded by that state.
- Quantifying the specific security costs is not possible by our members, as charges are not fully transparent. However our members all agree that that there have been very large increases in costs for crew and ground staff training, searching and guarding of aircraft and the installation of additional equipment for security measures e.g. anti intrusion cockpit re-enforced doors (CRD).
- Other modes of transport (our direct competitors) do not have to fund their own security costs (yet have also been targeted by terrorism) – anti terrorist security should be funded by central taxation or EU funding.

State Responsibility for Anti-Terrorism Security Costs

The significant increase in aviation security costs in recent years is primarily due to the need to protect the travelling public and the air transport industry against terrorism. Airlines are perceived by terrorist groups as both a target and a weapon. Many ERA airlines are affiliated to “flag-carriers”, associated with member states. Attacks against airlines thus form part of the strategy of some terrorist campaigns against individual EU states. It therefore must be understood that the provision of anti-terrorism protection is a state responsibility and that the costs of all measures related to counter-terrorism should be borne by states through general taxation.

- Any argument that “the user pays” is not valid in the case of aviation security as the threat is against states and their citizens as a whole and the potential victims are not limited to airline passengers but also to citizens on the ground.
- More stringent (extra) measures are introduced in response to a heightened threat to an individual state or its policies. Such measures, often imposed by states at short notice, have a potentially distorting effect upon competition. The state concerned should have to justify its decision to the Commission in terms of its threat and risk assessment. The state should also justify any intention to impose the costs of any such measures upon the industry.

Cost-sharing of Other Security Measures

ICAO Document 9082 states that “*Civil aviation should not be charged for any costs that would be incurred by more general security functions performed by States such as general policing, intelligence gathering and national security.*” While fully supporting this statement, the ERA Directorate recognises that a certain level of day-to-day policing and security is necessary at airports and that a system of cost-sharing for these services may be appropriate, subject to the application of the following principles:

- Adequate cost and risk impact assessments, before the imposition of costs;
- Fair and equitable cost-recovery from all users, including airports, airlines, passengers, concessionaires and retailers;
- Charges directly related to security costs (no overcharging or profit);
- Cost-efficiency of security measures;
- Transparency of costs;
- Regular review of costs and allocation by an independent body (comparing estimated and actual costs).



DETAILED ASSESSMENT OF THE EU COMMISSION OPTIONS

Reference is made to the Options outlined in the EU Commission Consultation Paper issued on 20 June 2008.

Option 1

The option of including security charges was not considered in drafts of the recent Directive on Airport Charges. More transparent security charges will not solve the inherent problem that the air transport industry has always covered an inordinately high percentage of the bill for security investment, deployment and staffing, especially when compared to other modes of transport. (E.g. 100% hold baggage screening requirements post Lockerbie).

What Option 1 addresses

- Non-discrimination, cost-relatedness, transparency and consultation when determining security charges;
- Distortions arising from costs of more stringent measures.

Option 2

This option attempts to solve the major problem of financing security measures that exceed the common EU baseline, i.e. “more stringent” measures.

What Option 2 addresses

- Distortions arising from costs of more stringent measures

Option 3

This option is more from a ‘cost-saving’ perspective than a ‘security financing’ perspective. However it does not address how this could work (considering that “more stringent” measures are still allowed) It is more a demonstration of more “efficient regulation” rather than addressing the specific financing aspects.

What Option 3 addresses

- The relevance and value of the regulations (proportionality, non-duplication);
- Lack of an ongoing review of cost/benefit and effectiveness of existing legislation.

However none of the Options proposed independently fully address all of the fundamental concerns regarding:

- The existing low level of direct State contributions to aviation security financing;
- Non-discrimination, cost-effectiveness and transparency when determining security charges;
- Need for a cost/benefit and impact analysis when developing new legislation and regulation;
- Need for an ongoing review of cost/benefit and effectiveness of existing legislation;
- Distortions arising from additional costs of more stringent measures;
- Cost distortions with third countries (e.g. level of funding made available to US carriers by US Administration post 9-11)

Option 4

Agreements with third countries are the most logical and sensible way of gradually reaching more consistency between security régimes. It is not clear however how an ICAO policy on charging would



help solve distortions of competition arising from existing heavily-financed countries like the US or Japan.

What Option 4 addresses

- Non-discrimination, cost-relatedness, transparency and consultation when determining security charges;
- Cost distortions with third countries (partly);
- The relevance and value of the regulations (proportionality, non-duplication).

What Option 4 does not address

- The low level of direct State contributions to aviation security financing;
- Lack of a cost/benefit analysis and visibility related to costs when developing new legislation and regulation;
- Lack of an ongoing review of cost/benefit and effectiveness of existing legislation;
- Distortions arising from costs of more stringent measures.

CONCLUSION

The ERA Directorate therefore supports the Commission's proposal for a Directive or, preferably, a Regulation covering the issue of the financing of aviation security. As no single Option that has been promulgated thus far fully resolves the problems, ERA proposes that the Commission's response should consist of a combination of the best elements of each Option, consistent with the arguments expressed above.

One further suggestion would be to consider the subsidy of aviation security measures by the EC from revenues generated by charges to be levied by the future Emissions Trading schemes.

The ERA Directorate would again like to thank the EC for being able to contribute to this study and would confirm both our continued support in these discussions and our active participation in the EU's Stakeholder Advisory Group on Aviation Security (SAGAS).

Best regards



Nick Mower
General Manager Technical Services

