

COMMON POSITION (EC) No 25/2002**adopted by the Council on 28 January 2002****with a view to adopting Regulation (EC) No .../2002 of the European Parliament and of the Council of ... establishing common rules in the field of civil aviation security**

(2002/C 113 E/02)

(Text with EEA relevance)

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 conclusions of the Transport Council of
16 October 2001, and in particular paragraph 9 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the Economic and Social
Committee ⁽²⁾,

Having regard to the opinion of the Committee of the
Regions ⁽³⁾,

Acting in accordance with the procedure laid down in Article
251 of the Treaty ⁽⁴⁾,

Whereas:

- (1) The criminal acts committed in New York and Washington on 11 September 2001 show that terrorism is one of the greatest threats to the ideals of democracy and freedom and the values of peace, which are the very essence of the European Union.
- (2) The protection of the citizen within the European Community should at all times be ensured in civil aviation by preventing acts of unlawful interference.
- (3) Without prejudice to rules of the Member States in the field of national security and of measures to be taken on the basis of Title VI of the Treaty on European Union, such objective should be achieved by the adoption of appropriate provisions in the field of air transport policy establishing common basic standards, based on the current recommendations of the European Civil Aviation Conference (ECAC) Document 30. Executive

powers should be delegated to the Commission to adopt the related detailed implementation measures. In order to prevent unlawful acts, certain of these implementation measures should be secret and not be published.

- (4) This Regulation respects fundamental rights and observes the principles recognised, in particular, by the Charter of Fundamental Rights of the European Union.
- (5) The various types of civil aviation activities are not necessarily subject to the same type of threat. It is therefore necessary for the detailed implementation measures to be duly adjusted to the special circumstances of each activity and to the sensitivity of certain measures.
- (6) At small airports, the application of common basic standards might be disproportionate or their implementation might be impossible for objective practical reasons. In such cases the appropriate authorities of the Member States should have the possibility to apply alternative measures providing an adequate level of protection. The Commission should examine whether these measures are justified for objective practical reasons and whether they provide an adequate level of protection.
- (7) The Convention on International Civil Aviation, signed in Chicago on 7 December 1944, (Chicago Convention) provides for minimum standards to ensure the security of civil aviation.
- (8) 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.
- (9) In view of the diversity of the parties involved in the implementation of security measures at national level, it is necessary for each Member State to designate a single appropriate authority responsible for the coordination and the monitoring of the implementation of aviation security programmes.

- (10) Member States should be given the possibility to apply more stringent measures.

- (11) The monitoring of security measures requires the setting up at national level of appropriate quality control systems and the organisation of inspections under the supervision of the Commission, so as to verify the effectiveness of each national system.

⁽¹⁾ OJ C 51 E, 26.2.2002, p. 221.

⁽²⁾ OJ C 48, 21.2.2002, p. 70.

⁽³⁾ Opinion delivered on 23 November 2001 (not yet published in the Official Journal).

⁽⁴⁾ Opinion of the European Parliament of 29 November 2001, Council Common Position of 28 January 2002 and Decision of the European Parliament of ... (not yet published in the Official Journal).

- (12) The measures 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 ⁽¹⁾.
- (13) Arrangements for greater cooperation over the use of Gibraltar airport were agreed in London on 2 December 1987 by the Kingdom of Spain and the United Kingdom in a joint declaration by the Ministers for Foreign Affairs of the two countries, and such arrangements have yet to come into operation.
- (14) Since the objectives of the proposed action, namely the establishment and application of appropriate provisions in the field of air transport policy, cannot be sufficiently achieved by the Member States and can therefore, by reason of the European-wide scope of this Regulation, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation confines itself to the common basic standards required in order to achieve the objectives of aviation security and does not go beyond what is necessary for that purpose,

HAVE ADOPTED THIS REGULATION:

Article 1

Objectives

1. The main objective of this Regulation is to establish and implement appropriate Community measures, in order to prevent acts of unlawful interference against civil aviation.
2. The additional objective is to provide a basis for a common interpretation of the related provisions of the Chicago Convention, in particular its Annex 17.
3. The means of achieving the objectives set out in paragraphs 1 and 2 shall be:
 - (a) the setting of common basic standards on aviation security measures;
 - (b) the setting up of appropriate compliance monitoring mechanisms.

Article 2

Definitions

For the purpose of this Regulation:

1. 'airport' shall mean any area in a Member State which is open for commercial air transport operations;

2. 'Chicago Convention' shall mean the Convention on International Civil Aviation and its annexes, signed in Chicago on 7 December 1944;
3. 'aviation security' shall mean the combination of measures and human and natural resources intended to safeguard civil aviation against acts of unlawful interference.

Article 3

Scope

1. The measures laid down in this Regulation shall apply to any airport located in the territories of the Member States to which the Treaty applies.
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.
3. Application of this Regulation to Gibraltar airport shall be suspended until the arrangements in the Joint Declaration made by the Foreign Ministers of the Kingdom of Spain and the United Kingdom on 2 December 1987 have come into operation. The Governments of Spain and the United Kingdom will inform the Council of such date of entry into operation.

Article 4

Common standards

1. The common basic standards on aviation security measures are laid down in the Annex.
2. The necessary measures for the implementation and the technical adaptation of these common basic standards shall be adopted in accordance with the procedure referred to Article 9(2), giving due consideration to the various types of operation and to the sensitivity of the measures relating to:
 - (a) performance criteria and acceptance tests for equipment;
 - (b) detailed procedures containing sensitive information;
 - (c) detailed criteria for exemption of security measures.
3. The appropriate authority of a Member State may, on the basis of a local risk assessment, and where the application of the security measures specified in the Annex to this Regulation may be disproportionate, or where they cannot be implemented for objective practical reasons, adopt national security measures to provide an adequate level of protection, at airports:
 - (a) with a yearly average of two commercial flights per day; or
 - (b) with only general aviation flights; or

⁽¹⁾ OJ L 184, 17.1.1999, p. 23.

- (c) with commercial activity limited to aircraft with less than 10 tonnes of maximum take off weight (MTOW) or less than 20 seats,

taking into account the particularities of such small airports.

The Member State concerned shall inform the Commission of these measures.

4. The Commission shall examine whether the measures adopted by a Member State in accordance with paragraph 3 are justified for objective practical reasons and provide an adequate level of protection. If the measures do not comply with these criteria, the Commission shall take a decision in accordance with the procedure referred to in Article 9(3); in such case the Member State shall revoke or adapt them.

Article 5

National civil aviation security programme

1. Within three months of the entry into force of this Regulation, each Member State shall adopt a national civil aviation security programme in order to ensure the application of the common standards referred to in Article 4(1) and the measures adopted in accordance with Article 4(2) by the date specified in these measures.

2. Notwithstanding that, within a Member State, one or more bodies or entities may be involved in aviation security, each Member State shall designate an appropriate authority responsible for the coordination and the monitoring of the implementation of its national civil aviation security programme.

3. Within six months of the entry into force of this Regulation, each Member State shall require its appropriate authority to ensure the development and implementation of a national civil aviation security quality control programme so as to ensure the effectiveness of its national civil aviation security programme.

4. Each Member State shall ensure that their airports and air carriers providing service from that State establish, implement and maintain airport and air carrier security programmes appropriate to meet the requirements of its national civil aviation security programme. These programmes shall be submitted for approval to and monitored by the appropriate authority.

5. Each Member State shall require the appropriate authority to ensure the development and implementation of a national civil aviation security training programme.

Article 6

More stringent measures

Member States may apply, in compliance with Community law, more stringent measures than those laid down in this Regulation. As soon as possible after their application, Member

States shall inform the Commission of the nature of these measures.

Article 7

Compliance monitoring

1. The specifications for the national civil aviation security quality control programme to be implemented by the Member States shall be adopted in accordance with the procedure referred to in Article 9(2). Such programme shall be based on best practices and allow for the swift detection and correction of failures. Each programme shall provide that all airports situated in the Member State concerned shall be regularly audited under the responsibility of the appropriate authority referred to in Article 5(2). These audits shall use a common methodology and shall be carried out by auditors that are qualified according to common criteria.

2. Beginning six months after the entry into force of the provisions of this Regulation in accordance with Article 12, the Commission shall conduct, in cooperation with the appropriate authority referred to in Article 5(2), inspections, including inspections of a suitable sample of airports, to monitor the application by Member States of this Regulation. Such inspections shall take into account the information obtained from national civil aviation security quality control programmes, in particular audit reports. The procedures for conducting such inspections shall be adopted in accordance with the procedure referred to in Article 9(2).

3. The officials mandated by the Commission to conduct inspections in accordance with paragraph 2 shall exercise their powers upon production of an authorisation in writing specifying the subject-matter, the purpose of the inspection and the date on which it is to begin. In good time before the inspection, the Commission shall inform the Member State concerned of the inspection and of the identity of the authorised officials.

The Member State concerned shall submit to such inspections and shall ensure that bodies or persons concerned also submit to those inspections.

4. The inspection reports shall be communicated by the Commission to the concerned Member State which shall, within three months of notification, indicate the measures taken to remedy any eventual shortcoming. The report and the answer of the appropriate authority referred to in Article 5(2) shall be communicated to the Committee set up by Article 9(1).

Article 8

Dissemination of information

1. Without prejudice to the public right of access to documents as laid down in Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents ⁽¹⁾,

⁽¹⁾ OJ L 145, 31.5.2001, p. 43.

(a) the measures relating to:

- (i) performance criteria and acceptance tests for equipment;
 - (ii) detailed procedures containing sensitive information;
 - (iii) detailed criteria for exemption from security measures;
- referred to in Article 4(2);

(b) the specifications referred to in Article 7(1); and

(c) the inspection reports and the answers of the Member States referred to in Article 7(4),

shall be secret and not be published. They shall only be made available to the authorities referred to in Article 5(2), which shall communicate them only to interested parties on a need-to-know basis, in accordance with applicable national rules for dissemination of sensitive information.

2. Member States shall as far as possible and in accordance with applicable national law treat as confidential information arising from inspection reports and answers of Member States when it is related to other Member States.

3. Unless it is clear that the inspection reports and answers shall or shall not be disclosed, Member States or the Commission shall consult with the Member State concerned.

Article 9

Committee

1. The Commission shall be assisted by a committee composed of representatives of the Member States and chaired by the representative of the Commission.

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 laid down in Article 5(6) of Decision 1999/468/EC shall be one month.

3. Where reference is made to this paragraph, Articles 6 and 7 of Decision 1999/468/EC shall apply having regard to the provisions of Article 8 thereof.

4. The Committee shall adopt its rules of procedure.

Article 10

Publication of information

Subject to Regulation (EC) No 1049/2001, the Commission shall publish each year a report on the implementation of this Regulation and on the situation in the Community as far as aviation security is concerned, drawing conclusions from the inspection reports.

Article 11

Penalties

Penalties for breaching the provisions of this Regulation shall be effective, proportionate and dissuasive.

Article 12

Entry into force

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Communities*, except for the following provisions of the Annex:

- on screening of hold baggage (point 5.2),
- on cargo, courier and express parcels (part 6), and
- on mail (part 7),

which shall enter into force on 31 December 2002.

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

Done at ...

For the European Parliament
The President

For the Council
The President

ANNEX

1. DEFINITIONS

1. 'Accompanied hold baggage': baggage accepted for carriage in the hold of an aircraft, on which the passenger who checked it in is onboard.
2. 'Airside': the movement area of an airport, adjacent terrain and buildings, or portions thereof.
3. 'Aircraft security check': an inspection of the interior of an aircraft to which passengers may have had access and an inspection of the hold for the purposes of discovering prohibited articles.
4. 'Aircraft security search': a thorough inspection of the interior and the exterior of the aircraft for the purpose of discovering prohibited articles.
5. 'Background check': a check of a person's identity and previous experience, including any criminal history, as part of the assessment of an individual suitability for unescorted access to security restricted areas.
6. 'Cabin baggage': baggage intended for carriage in the cabin of an aircraft.
7. 'Commercial flight': a scheduled or non-scheduled flight or flight activity rendered for hire to the general public or private groups for valuable consideration.
8. 'Co-Mat': abbreviation of air carrier company materials, shipped within its network of stations.
9. 'Co-Mail': abbreviation of air carrier company mail, shipped within its network of stations.
10. 'Continuous random checks': checks conducted during the entire period of activity, while those checks are to be conducted on a random basis.
11. 'General aviation': any scheduled or unscheduled flight activity not offered or available to the general public.
12. 'EDS — explosive detection system': a system or combination of different technologies which has the ability to detect, and so to indicate by means of an alarm, explosive material contained in baggage, irrespective of the material from which the bag is made.
13. 'EDDS — explosive device detection system': a system or combination of different technologies which has the ability to detect, and so to indicate by means of an alarm, an explosive device by detecting one or more components of such a device contained in baggage, irrespective of the material from which the bag is made.
14. 'Hold baggage': baggage intended for carriage in the hold of an aircraft.
15. 'Known consignor':
 - (a) for cargo: the originator of property for transportation by air for his own account and who has established business with a regulated agent or air carrier on the basis of criteria detailed in this Annex;
 - (b) for mail: the originator of mail for transportation by air for his own account and who has established business with a regulated postal authority/administration.
16. 'Landside': the area of an airport which is not airside and includes all public areas.
17. 'Mail': despatches of correspondence and other objects tendered by and intended for delivery to postal administrations. A postal authority/administration is defined by Member States.
18. 'Prohibited article': an object which can be used to commit an act of unlawful interference and that has not been properly declared and subjected to the applicable laws and regulations. An indicative list of such prohibited articles is found in the Attachment.
19. 'PEDS — primary explosive detection system': a system or combination of different technologies which has the ability to detect, and so to indicate by means of an alarm, explosive material contained in baggage, irrespective of the material from which the bag is made.

20. 'Regulated agent': an agent, freight forwarder or other entity who conducts business with an operator and provides security controls that are accepted or required by the appropriate authority in respect of cargo, courier and express parcels or mail.
21. 'Security restricted area': airside areas of an airport into which access is controlled to ensure security of civil aviation. Such areas will normally include, *inter alia*, all passenger departure areas between screening points and aircraft, ramp, baggage make-up areas, cargo sheds, mail centres and airside cleaning and catering premises.
22. 'Security controls': means by which the introduction of prohibited articles can be prevented.
23. 'Screening': the application of technical or other means which are intended to identify and/or detect prohibited articles.
24. 'Unaccompanied hold baggage': baggage accepted for carriage in the hold of an aircraft, on which the passenger who checked it in is not on board.
25. 'Terminal': the main building or group of buildings where the processing of commercial passengers and freight and the boarding of aircraft occurs.
26. 'TIP — threat image projection': a software programme, which can be installed on certain x-ray machines. The programme projects virtual images of threat articles (e.g. a gun, knife, improvised explosive device) within the x-ray image of a real bag under examination, and provides immediate feedback to the x-ray machine operator on the operator's ability to detect such images.
27. 'Trace detection equipment': technology system or combination of different technologies which has the ability to detect very small amounts (1/billion of a gram), and so to indicate by means of an alarm, explosive materials contained in baggage, or other articles subjected for analysis.

2. AIRPORT SECURITY

2.1. Airport planning requirements

The design or layout of airports, passenger and cargo terminals and other buildings having direct airside access shall take into account the essential requirements related to:

- (a) security controls applied to passengers, baggage, cargo, courier and express parcels, mail and air carrier catering stores and supplies;
- (b) the protection and control of access to airside, security restricted areas and other sensitive airport areas and facilities;
- (c) the efficient use of security equipment.

2.1.1. Airside/landside boundaries

Boundaries shall be established between landside and airside areas at airports.

2.1.2. Security restricted areas

Security restricted areas shall be established at each airport.

2.2. Access control

2.2.1. Security restricted areas and other airside areas

- (i) Access to security restricted areas and other airside areas shall be controlled at all times to ensure that no unauthorised person enters these areas and that no prohibited articles can be introduced into security restricted areas or aircraft.
- (ii) All staff requiring access to security restricted areas shall be subjected to a minimum five-year background check. The check shall be repeated at regular intervals not exceeding five years.

- (iii) All staff requiring access to security restricted areas shall also receive regular training in aviation security (see point 12.3) including the risks to aviation security and instructed to report to the relevant authority any incident which may pose a threat to aviation security.
- (iv) Airport identification cards shall be issued to all personnel working in the airport or visiting it frequently, (including airport and air carrier employees and employees of other organisations). The airport identification card shall carry a name and photograph of the bearer. It shall be valid for a limited period only. The relevant authority shall determine when a permanent airport identification card shall be issued to frequent visitors.
- (v) The airport identification card shall be worn in a visible place, at all times while on duty.
- (vi) Vehicles which need to be used airside shall remain airside to the extent practicable.
- (vii) Vehicles requiring to move between landside and airside areas shall be issued with a pass specific to the vehicle and fixed to it in an easily visible place. Other vehicles requiring airside access shall be admitted only after having been inspected and issued with a temporary pass. Vehicles on emergency missions may be exempt from these requirements.
- (viii) Airport identification cards and vehicle passes shall be checked at all airside and security restricted area checkpoints.

2.2.2. Terminal areas

Surveillance shall be maintained over all terminal areas accessible to the public. Terminals shall be patrolled and passengers and other persons kept under surveillance by security staff.

2.2.3. Other public areas

The means of controlling access to public areas which are close to aircraft movement areas, (spectator terraces, airport hotels and car parks), shall be provided. Other public areas which shall require supervision are, but are not limited to, facilities which are always located landside including patron and other public parking areas, terminal and public access roadways, rental car facilities, taxi and ground transportation staging areas, and any on-airport hotel facilities.

Arrangements shall also be made to ensure that such public areas may be closed at short notice in the event of an increase in threat. Security staff shall patrol these areas when open to the public.

2.3. Screening of staff, items carried and vehicles

- (a) 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 then persons and items shall be subjected to continuous random screening at a frequency indicated by risk assessments conducted by the appropriate authority in each Member State. The random screening shall be extended to all items carried on board aircraft by any services including cleaning, catering, duty free, and other parties with aircraft access. The screening procedure shall ensure that no prohibited article is carried and the methodology shall be the same as for screening passengers and cabin baggage.
- (b) Vehicles and supplies being conveyed airside or to other security restricted areas shall be inspected on a random basis.

2.4. Physical security and patrols

- (a) Aprons and other parking areas shall be adequately illuminated, and, in particular, the lighting provided shall illuminate vulnerable areas of the airport.
- (b) Technical and maintenance areas shall be protected by fencing, guards, patrols and access to these areas controlled by means of airport identification cards and vehicle passes. Similar measures shall be taken to protect the perimeter and such airport-based installations as power supplies, electrical substations, navigational facilities, control towers and other buildings used by the air traffic control services, and fuel and communications facilities. Special precautions shall be taken against attempts to sabotage fuel and communications facilities.

- (c) The perimeter fence and adjacent areas to security restricted areas, other airside areas outside this fence, including those in the immediate vicinity of the runway threshold and taxiways, shall be subjected to surveillance by patrols, closed circuit television or other monitoring measures. Strict challenging procedures for persons without airport identification displayed, and persons accessing areas for which they are unauthorised shall be implemented.
- (d) Access to airside and security restricted areas via airport tenant offices, maintenance hangars, cargo facilities, other service and facility buildings shall be restricted to the minimum required.

3. AIRCRAFT SECURITY

3.1. Searching aircraft

1. All aircraft shall be searched as follows:
 - (a) aircraft not in service, prior to originating flights, shall be subjected to an 'aircraft security search' immediately before being taken into a security restricted area for a flight; aircraft may be searched other than immediately before being taken into a security restricted area but shall be secured or guarded from the commencement of the search until departure; and
 - (b) aircraft in service, during turn-around, or transit stops, shall be subjected to an 'aircraft security check' immediately after passenger disembarkation or as late as possible before passenger boarding and baggage/cargo loading as appropriate.
2. All aircraft security searches and aircraft security checks shall be conducted once all service providers (caterers, cleaners, duty-free and others), other than those involved in the security function, have left the aircraft and sterility shall be maintained until and throughout the boarding process and pre-departure.

3.2. Protection of aircraft

1. Responsibility shall be established for controlling access to parked aircraft and executed as follows:
 - (a) for aircraft in service, access shall be controlled from the start of the aircraft security check until departure, in order to maintain the integrity of the check;
 - (b) for aircraft not in service which have been searched and brought into a security-restricted area, access shall be controlled from the start of the aircraft security search until departure, in order to maintain the integrity of the search.
2. Each aircraft in service shall be placed under surveillance sufficient to detect unauthorised access.
3. Access to aircraft not in service shall be controlled as follows:
 - (a) cabin doors shall be closed;
 - (b) air bridges and/or ventral stairs shall be secured, withdrawn or retracted as appropriate; or
 - (c) tamper evidence applied to aircraft doors.
4. In addition, when all staff are not screened for access into security restricted areas, each aircraft shall be visited at least once every 30 minutes by a foot or mobile patrol or placed under surveillance sufficient to detect unauthorised access.
5. Aircraft shall, wherever possible, be parked away from perimeter fences or other easily penetrable barriers and in well-illuminated areas.

4. PASSENGERS AND CABIN BAGGAGE

4.1. Screening of passengers

1. Other than as referred to in point 3 below, all departing passengers, (i.e. originating and transfer passengers, unless previously screened to the standard detailed in this Annex), shall be screened to prevent prohibited articles from being introduced into the security restricted areas and on board an aircraft. Passengers shall be screened by the following methods:
 - (a) searched by hand; or

- (b) screened by walk-through-metal-detection equipment. Where walk-through-metal-detection equipment is used there shall also be a continuous random hand search of screened passengers. Such hand searches shall be carried out on all passengers who cause the equipment to alarm, as well as a continuous random search which shall be carried out on those passengers who do not cause the equipment to alarm, and if:
 - (i) the alarm is activated, the person shall be required to be screened again with walk-through-metal-detection equipment; or
 - (ii) searched by hand where the support of a hand held metal detector may be employed.
- 2. Where walk-through-metal-detection equipment is used, it shall be calibrated to such a level as to reasonably ensure that small metallic items are detected.
- 3. Appropriate authorities may create categories of persons that shall be subject to special screening procedures or exempted from screening.
- 4. Security provisions shall be developed for potentially disruptive passengers.

4.2. Separation of passengers

Screened departing passengers shall not mix with arriving passengers who may not have been screened to the standard detailed in this Annex. Where these passengers cannot be physically separated then the security objective shall be achieved by the application of compensatory measures in accordance with the local risk assessment.

4.3. Screening of cabin baggage

1. The cabin baggage of all departing passengers, (i.e. originating and transfer passengers, unless previously screened to the standard detailed in this Annex), shall be screened prior to being allowed into security restricted areas and on board an aircraft. Any prohibited articles shall be removed from the passenger's possession or the passenger denied access into the security restricted area or the aircraft as appropriate. Cabin baggage shall be screened by one of the following methods:
 - (a) a full hand search of the content of each bag, with each bag being examined for suspicious signs such as inconsistent weight etc. or
 - (b) screened by conventional x-ray equipment with hand searching of screened bags also being conducted on a continuous random basis, where the percentage of persons so searched is not less than 10 %, including those about which the operator has concerns; or
 - (c) screened by high definition x-ray equipment fitted with TIP installed and employed. Only those bags about which the operator has concerns need be searched by hand but the hand search may be supported by use of trace detection equipment.
2. Cabin baggage of those parties listed under point 4.1(3) may be subject to special screening procedures or exempted from screening.

4.4. Screening of diplomats

Subject to the provisions of the Vienna Convention on Diplomatic Relations, diplomats and other privileged persons and their personal baggage, except 'diplomatic bags', shall be liable to screening for security purposes. Air carrier staff responsible for receiving diplomatic bags shall make sure that they have, in fact, been sent by duly-appointed officials of the missions concerned. Diplomatic couriers and their personal baggage are not exempted from screening.

5. HOLD BAGGAGE

5.1. Reconciliation of hold baggage

1. Hold baggage shall not be placed on board an aircraft unless the following measures are taken:
 - (a) hold baggage shall be properly marked externally to permit identification with relevant passengers; and
 - (b) the passenger to whom such baggage belongs shall be checked in for the flight on which it is to be carried; and
 - (c) prior to loading, hold baggage shall be held in an area of the airport to which only authorised persons have access; and
 - (d) all items of baggage taken into the custody of an air carrier for carriage in the hold of an aircraft shall be identified as either accompanied or unaccompanied. The process of identification shall be achieved either by manual or automated means.
2. Measures shall be established to ensure that if a passenger checked in for a flight, who has placed baggage in the custody of the air carrier, is not on board the aircraft, such hold baggage shall be removed from the aircraft and shall not be carried on that flight.
3. A hold baggage manifest or an alternative means of providing evidence which confirms the identification and screening of unaccompanied hold baggage shall be established.

5.2. Screening of hold baggage

1. Accompanied hold baggage: all items of accompanied hold baggage, (both originating and transfer hold baggage, unless previously screened to the standard detailed in this Annex), shall be screened by one of the following methods before being loaded onto an aircraft:
 - (a) hand search; or
 - (b) conventional x-ray equipment with at least 10 % of screened baggage also being subjected to either:
 - (i) hand search; or
 - (ii) EDS or EDDS or PEDS; or
 - (iii) conventional x-ray equipment with each bag being viewed from two different angles by the same operator at the same screening point; or
 - (c) conventional x-ray equipment with TIP installed and employed; or
 - (d) EDS or EDDS; or
 - (e) PEDS; or
 - (f) trace detection equipment on open pieces of baggage.
2. Unaccompanied hold baggage: all items of unaccompanied baggage, both originating and transfer hold baggage, shall be screened by one of the following methods, before being loaded onto an aircraft:
 - (a) EDS; or
 - (b) a multilevel PEDS, where at Level 2 the images of all bags are viewed by the operators; or
 - (c) conventional x-ray equipment with each bag being viewed from two different angles by the same operator at the same screening point; or
 - (d) hand search supplemented by the application of trace detection equipment on open pieces of baggage.

Unless the unaccompanied baggage, which has been previously screened to the standard detailed in this Annex, has been separated due to factors beyond the passenger's control, and the unaccompanied baggage has been within the care of the air carrier.

5.3. 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 accepted into the care of the carrier until departure of the aircraft on which it is to be carried. The following measures shall be taken in protecting hold baggage:

- (a) prior to being loaded, hold baggage shall be held in the baggage make-up area or other storage area of an airport to which only authorised persons may have access;
- (b) any person entering a baggage make-up or storage area without authorisation shall be challenged and escorted out of the area;
- (c) hold and transfer baggage shall not be left unattended on the ramp or plane side prior to being loaded on aircraft;
- (d) tail to tail transfer baggage shall not be left unattended on the ramp or plane side prior to being loaded;
- (e) access to lost-and-found offices in the terminal shall be restricted to prevent unlawful access to baggage and materials.

6. CARGO, COURIER AND EXPRESS PARCELS

6.1. Application

All cargo, courier and express parcels intended to be carried on passenger or all-cargo aircraft shall be subjected to the security controls detailed hereunder before being placed on board the aircraft.

6.2. Qualifications for a regulated agent

Regulated agents shall be:

- (a) designated, approved or listed by the appropriate authority;
- (b) subject to specified obligations.

6.3. Security controls

1. Cargo, courier and express parcels shall only be carried by air where the following security controls have been applied:

- (a) the reception, processing and handling of cargo shall be performed by properly recruited and trained staff;
- (b) cargo shall be:
 - (i) searched by hand or physical check; or
 - (ii) screened by x-ray equipment; or
 - (iii) subjected to simulation chamber; or
 - (iv) subjected to other means, both technical and biosensory, (e.g. sniffers, trace detectors, explosive detection dogs, etc.)

so as to reasonably ensure that it does not contain any prohibited article as listed in points iv and v of the Attachment, unless it has been declared and properly subjected to applicable safety measures.

Where none of the above means and methods of security control can be applied due to the nature of the consignment, the appropriate authority may specify a storage period.

2. Once security controls have been implemented, including cargo from known consignors, whether on or off airport grounds, sterility of the shipments shall be maintained until such time that it is placed on board aircraft and maintained until the departure of the aircraft.

3. The security controls detailed in paragraph 1 need not be applied in respect of:

- (a) cargo received from a known consignor;
- (b) transshipment cargo;
- (c) cargo which origin and handling conditions ensure that it presents no security threat;
- (d) cargo which is subject to regulatory requirements providing for an appropriate level of security protection.

6.4. **Criteria for a known consignor**

A regulated agent or air carrier may only recognise a consignor as a known consignor by:

- (a) establishing and registering the identity and address of the consignor and the agents authorised to carry out deliveries on his behalf; and
- (b) requiring the consignor to declare that he:
 - (i) prepares consignments in secure premises; and
 - (ii) employs reliable staff in preparing the consignments; and
 - (iii) protects the consignments against unauthorised interference during the preparation, storage and transportation; and
- (c) requiring the consignor:
 - (i) to certify in writing that the consignment does not contain any prohibited articles as listed in points iv and v of the Attachment; and
 - (ii) to accept that the package and contents of the consignment may be examined for security reasons.

6.5. **Carriage on all-cargo aircraft**

Where consignments can be positively identified for carriage only on all-cargo aircraft, the criteria detailed in point 6.4 need not apply provided the known consignor:

- (a) has a confirmed bona fide business address; and
- (b) has previously shipped with the regulated agent or air carrier; and
- (c) has an established business relationship with the regulated agent or air carrier; and
- (d) ensures that all consignments are protected from unauthorised access until taken into the custody of the air carrier.

6.6. **Transshipment cargo**

Transshipment cargo arriving by air need not have the security controls detailed in point 6.3(1) applied provided it is protected against unauthorised interference at the transit point. Other transshipment cargo, such as land or rail, not being submitted to security controls at the point of departure or en route shall be screened in accordance with point 6.3(1)(b) and protected from unauthorised interference.

7. **MAIL**

7.1. **Application**

Mail carried on passenger, all-cargo and all-mail aircraft shall be subjected to security controls before being placed on board an aircraft.

7.2. **Qualifications for regulated postal authority/administration**

Each regulated postal authority/administration submitting mail to an air carrier for carriage shall meet the following minimum criteria:

- (a) be designated, approved or listed by the appropriate authority;
- (b) fulfils the obligations towards air carriers to apply the required security controls;
- (c) employs properly recruited and trained staff; and
- (d) protects mail from unauthorised interference while in its custody.

7.3. **Security controls**

1. Time-sensitive mail: time-sensitive mail, (i.e. up to 48-hour delivery) shall only be carried by air where the following security controls have been applied:

- (a) the reception, processing and handling of mail shall be performed by properly recruited and trained staff;
- (b) mail shall be:
 - (i) searched by hand or physical check;
 - (ii) screened by x-ray equipment;
 - (iii) subjected to simulation chamber; or
 - (iv) subjected to other means, procedural, technical or biosensory, (e.g. sniffers, trace detectors, explosive detection dogs, etc.);

so as to reasonably ensure that the mail does not contain any prohibited articles; and

- (c) flight details and aircraft routing on which the mail is to be carried shall remain confidential.

2. Other mail: mail which is not time-sensitive may be carried by air provided that the measures detailed in paragraph 1(a) and (b) have been applied. The security controls detailed in paragraph 1(b) need only be applied to a random proportion of mail.

3. The security controls detailed in paragraph 1(b) need not be applied in respect of:

- (a) mail received from a known consignor;
- (b) letters under a specified weight or thickness;
- (c) bona fide consignments of life-saving materials;
- (d) high value goods which have been secured to a standard at least equal to that detailed in paragraph 1(b);
- (e) mail which is to be carried on all mail flights between the Community airports;
- (f) transshipment mail.

7.4. **Criteria for a known consignor**

Regulated postal authority/administration may only recognise a consignor as a known consignor by:

- (a) establishing and registering the identity and address of the consignor and the agents authorised to carry out deliveries on his behalf;
- (b) requiring the consignor to declare that he protects the consignment against unauthorised interference during preparation, storage and transportation; and

(c) requiring the consignor:

- (i) to certify in writing that the mail consignment does not contain any prohibited articles as listed in points iv and v of the Attachment;
- (ii) to accept that the packaging and contents of the mail consignment may be subjected to the security controls detailed in point 7.3.

7.5. **Transshipment mail**

Transshipment mail arriving by air need not have the security controls detailed in point 7.3 applied provided it is protected against unauthorised interference at the transit point. Other transshipment mail, such as land or rail, not being submitted to security controls at the point of departure or en route shall be screened in accordance with point 7.3(1) and protected from unauthorised interference.

8. **AIR CARRIER MAIL AND MATERIALS**

8.1. **Application**

Air carrier company mail and materials carried on its own aircraft shall be subjected to security controls before being placed on board an aircraft.

8.2. **Definitions**

Mail and materials shall mean internal dispatches of correspondence and materials, such as but not limited to, documentation, supplies, maintenance spares, catering and cleaning supplies and other articles, intended for delivery to its own or contracted organisation for use within air carrier operations.

8.3. **Security controls**

Any air carrier shipment of company mail 'co-mail' or company materials 'co-mat' shall be subject to the following measures:

- (a) it shall be controlled and security screened to ensure that no prohibited article has been introduced into company shipment; and
- (b) it shall not be left unattended prior to being loaded on board an aircraft.

9. **AIR CARRIER CATERING STORES AND SUPPLIES**

9.1. **Application**

Air carrier catering, stores and supplies on board aircraft shall be subjected to security controls to prevent any prohibited article being taken on board an aircraft.

9.2. **Security controls**

1. Suppliers of air carrier catering, cleaning stores and supplies shall implement security controls to prevent the introduction of prohibited articles into such stores and supplies intended to be carried on board aircraft. These measures shall include the following:

- (a) the appointment of a security officer responsible for the implementation and supervision of security in the company;
- (b) high standards of reliability when employing staff;
- (c) all staff who have access to security restricted areas shall comply with background checks and security instructions issued by the airport authority;
- (d) the company shall prevent unauthorised access to its facilities and supplies;

- (e) if the company is located outside the airport, all supplies shall be transported to the aircraft in locked or sealed vehicles; and
 - (f) processing and handling of stores and supplies shall be carried out by properly recruited and trained staff.
2. After delivery, stores and supplies shall be screened on a random basis.
 3. Stores and supplies from a company which has not been subject to measures listed under paragraph 1 shall not be taken on board an aircraft.

10. AIR CARRIER CLEANING, STORES AND SUPPLIES

10.1. Application and objective

Measures shall be taken by air carriers and cleaning companies to ensure that air carrier cleaning, stores and supplies taken on board do not contain any prohibited articles that could endanger the safety of the aircraft.

10.2. Security controls

1. Suppliers of air carrier cleaning services, stores and supplies shall introduce security measures necessary to prevent the introduction of prohibited articles into cleaning supplies to be taken onboard.

The following security measures shall be taken:

- (a) the appointment of a security officer responsible for the implementation and supervision of security in the company;
 - (b) high standards of reliability when employing staff;
 - (c) all staff who have access to restricted areas shall comply with background checks and instructions issued by the airport authority;
 - (d) the company shall prevent unauthorised access to its facilities;
 - (e) if the company is located outside the airport, cleaning supplies shall be transported to the aircraft in locked or sealed vehicles;
 - (f) processing and handling of cleaning supplies shall be carried out by properly recruited and trained staff; and
 - (g) the screening of cleaning supplies shall take place before co-mailing the supplies to other destinations.
2. After delivery, cleaning supplies shall be screened on a random basis.
 3. Supplies from a company which does not comply with the security control measures set out in paragraph 1 shall not be taken on board an aircraft.

11. GENERAL AVIATION

11.1. Security controls

1. General aviation aircraft at airports shall not be parked in close proximity to aircraft which are used for commercial flights in order to avoid breach of security measures applied to those aircraft, baggage, cargo and mail to be carried on board.
2. Provisions to separate screened passengers of commercial flights from occupants of general aviation aircraft shall be implemented, based on the following criteria:
 - (a) at major airports, physical arrangements and/or security controls shall be introduced to prevent mixing of departing and arriving occupants of general aviation aircraft with passengers who have been already security screened;

- (b) if possible, departing and arriving occupants of general aviation aircraft shall pass through a separate general aviation terminal and, also, when embarking or disembarking on the apron, shall either be separated from security screened passengers, or be transported in a special bus or car, or be under constant surveillance;
- (c) if no separate terminal is available, occupants of general aviation aircraft shall either:
 - (i) pass through a separate part of the terminal building and be escorted or transported by bus or car to and from their aircraft;
 - (ii) be subject to security screening prior to entering the security restricted area, if passing through security restricted areas of the terminal building is unavoidable; or
 - (iii) be subject to other security controls achieving the same effect depending on local circumstances.

12. STAFF RECRUITMENT AND TRAINING

12.1. National aviation security training programme

Each appropriate authority shall develop and implement a national aviation security training programme to enable aircrew and ground personnel to implement aviation security requirements and to respond to acts of unlawful interference with aviation.

12.2. Security staff

1. The national aviation security training programme should include selection, qualification, training, certification and motivation of security staff. People who are deployed to undertake security duties either as all or part of their employment shall fulfil the following requirements as specified by the appropriate authority:

- (a) managers developing and conducting security training for security and air carrier and airport ground staff, shall possess necessary certification, knowledge and experience which shall as a minimum include:
 - (i) extensive experience in aviation security operations;
 - (ii) certification approved by national appropriate authority, or other equivalent approval issued by the national appropriate authority; and
 - (iii) knowledge in the following areas:
 - 1. security systems and access control,
 - 2. ground and in-flight security,
 - 3. pre-boarding screening,
 - 4. baggage and cargo security,
 - 5. aircraft security and searches,
 - 6. weapons and prohibited articles,
 - 7. overview of terrorism, and
 - 8. other areas and measures related to security that are considered appropriate to enhance security awareness;
- (b) managers and instructors involved and responsible for security training of security and airport ground staff shall undergo annual recurrent training in aviation security and latest security developments.

2. Training of security staff

Security staff shall be trained to undertake the duties to which they will be assigned; such training shall include, but not be limited to, the following security areas:

1. screening technology and techniques,
2. screening checkpoint operations,
3. search techniques of cabin and hold baggage,
4. security systems and access control,
5. pre-boarding screening,
6. baggage and cargo security,
7. aircraft security and searches,
8. weapons and restricted items,
9. overview of terrorism, and
10. other areas and measures related to security that are considered appropriate to enhance security awareness.

The scope of training may be increased subject to aviation security needs and technology development. The initial training period for screening staff shall not be shorter than the International Civil Aviation Organisation (ICAO) recommendation.

3. *Certification of security staff*

Security screening staff shall be approved or certified by the national appropriate authority.

4. *Motivation of security staff*

Appropriate measures shall be promoted to ensure that security staff are highly motivated so as to be effective in the performance of their duties.

12.3. Other staff

Flight crew and airport ground staff security training and awareness training programme shall be conducted on an initial and recurrent basis for all airport and air carrier flight and airport ground staff. The training shall contribute towards raised security awareness as well as improving the existing security systems. It shall incorporate the following components:

1. security systems and access control,
2. ground and in-flight security,
3. pre-boarding screening,
4. baggage and cargo security,
5. aircraft security and searches,
6. weapons and prohibited articles,
7. overview of terrorism, and
8. other areas and measures related to security that are considered appropriate to enhance security awareness.

The security training course for all airport and air carrier ground staff with access to security restricted areas, shall be designed for a duration of at least three hours in the classroom and a one-hour field introduction.

13. GUIDELINES FOR EQUIPMENT

Equipment used in support of aviation security shall be approved by the appropriate authority in accordance with the guidelines outlined in this section.

13.1. Metal detection equipment

1. *Walk-through metal detectors*

Walk-through metal detectors used in passenger screening at airports shall fulfil the following requirements:

(a) security:

- (i) equipment shall be capable of detecting the smallest item of different metals, with a higher sensitivity for ferrous metals in all foreseeable conditions,
- (ii) equipment shall be capable of detecting metal objects independently of their orientation and location inside the frame,
- (iii) the sensitivity of the equipment shall be as uniform as possible inside the whole frame and should remain stable and be checked periodically;

(b) operating requirements:

the functioning of the equipment shall not be affected by its environment;

(c) alarm indication:

metal detection shall be indicated automatically, leaving nothing to the operator's discretion (go/no go indicator system);

(d) controls:

- (i) equipment shall be capable of being adjusted to meet all specified detection requirements, as well as the volume of the audible alarm,
- (ii) controls for adjustment of detection levels shall be designed to prevent unauthorised access. The settings shall be clearly indicated;

(e) calibration:

calibration procedures shall not be made available to unauthorised persons.

2. *Hand-held metal detectors*

Hand-held metal detectors used in passenger screening shall fulfil the following requirements:

- (a) equipment shall detect very small quantities of metal without being in direct contact with the object in all foreseeable conditions;
- (b) equipment shall detect both ferrous and non-ferrous metals;
- (c) the detector coil shall be designed to pinpoint the position of detected metal easily;
- (d) equipment shall be fitted with audible and/or visible alarm indicators.

13.2. Standards and testing procedures for X-ray equipment

1. *Applicability*

(a) Equipment

These requirements and guidelines for X-ray security equipment are applicable to any X-ray-based screening equipment that provides an image for an operator to interpret. This includes conventional X-rays as well as EDS/EDDS used in indicative mode.

(b) Items

Similarly, these requirements and guidelines for X-ray security equipment are applicable to every item being screened, whatever its type or size. Any item going on board an aircraft, if it has to be screened, has to be screened to the standards contained in this Annex.

2. *Performance requirements*

(a) Security

The X-ray equipment shall provide for the necessary detection, measured in terms of resolution, penetration and discrimination, to prevent prohibited articles being carried on board aircraft.

(b) Tests

Performance shall be assessed using appropriate test procedures.

(c) Operational requirements

The X-ray equipment shall display a complete image of any item fitting into the tunnel. There shall be no corner cut off.

Distortion of the item displayed shall be kept to a minimum.

The belt of the machine shall be marked to indicate where bags shall be placed on the belt to obtain optimum images.

Contrast sketching: the X-ray equipment shall have the ability to display groups of grey levels (scan a smaller range).

The image of any part of the item being screened shall be displayed on the screen for at least five seconds. In addition, the operator shall have the ability to stop the belt and, if necessary, reverse the belt when further examination is required.

Screen size: the monitor's screen shall be sufficient in size for the operator's comfort (typically 14 inches and over).

Screen characteristics: the screen shall be flicker-free and have at least 800 lines (typically 1 024 × 1 024 pixels, i.e. high-resolution monitors).

Where dual monitors are used, one shall be monochrome only.

The X-ray equipment shall indicate visually materials it cannot penetrate.

The X-ray equipment shall provide organic and inorganic stripping.

The systems shall provide automatic threat recognition to facilitate the operator's search.

3. *Maintenance*

No unauthorised changes, including maintenance or repair, shall be made. There shall be no change in the hardware or the software of the machine without verifying that it does not adversely affect image performance.

The composition of the belt material shall not be changed without verifying that this induces no change in image performance.

If modem access for maintenance or upgrades is available, access shall be controlled and monitored.

*Attachment***Guidelines for classification of prohibited articles**

These are guidelines of possible shape of weapons and restricted items, common sense shall however prevail in assessing whether an object gives cause to believe that it may be used as a weapon.

- (i) Firearms: any weapon from which a shot may be fired by the force of an explosion or compressed air or gas, including starter and flare pistols.
- (ii) Knives and cutting tools: including sabres, swords, cardboard cutters, hunting knives, souvenir knives, martial arts devices, professional tools and such other knives with blades of 6 cm long or longer and/or knives considered illegal by local law.
- (iii) Bludgeons: blackjacks, billy clubs, baseball clubs or similar instruments.
- (iv) Explosives/ammunition/flammable liquids/corrosive: any explosive or incendiary components, which by themselves or in conjunction with other items can result in an explosion or fire. These include explosive materials, blasting caps, fireworks, gasoline, other flammable liquids, ammunition, etc., or any combination of these items. Any corrosive or toxic substances, including gases, whether or not under pressure.
- (v) Disabling or incapacitating items: all tear gas, mace, and similar chemicals and gases whether in pistol, canister, or other container, and other disabling devices such as electronic stunning/shocking devices.
- (vi) Other articles: such items as ice picks, alpenstocks, straight razors, and elongated scissors, even though not commonly thought of as a deadly or dangerous weapon, but could be used as a weapon, including toy or 'dummy' weapons or grenades.
- (vii) Articles of any kind giving rise to reasonable suspicion that an item may be used to simulate a deadly weapon; such articles shall include but not be limited to objects resembling explosive devices or other items that may give appearance of a weapon or dangerous item.
- (viii) Chemical/biological attack items and substances: the possibilities for chemical/biological attacks include the use of chemical or biological agents to commit unlawful acts. Such restricted chemical/biological substances shall include but not be limited to the following: sulphur mustard, vx., chlorine, sarin, hydrogen cyanide, anthrax, botulism, smallpox, tularemia, and viral haemorrhagic fever (v.h.f.).

Items indicating the nature of the chemical/biological substance, or suspicion of such nature shall be immediately notified to airport authority, police, military or other relevant authority and isolated from public terminal areas.

STATEMENT OF THE COUNCIL'S REASONS

I. INTRODUCTION

On 12 October 2001 the Commission submitted a proposal to the Council for a Regulation of the European Parliament and of the Council establishing common rules in the field of civil aviation security. The proposal is based on Article 80(2) of the EC Treaty.

The European Parliament delivered its opinion at first reading at its part-session on 29 November 2001.

The Economic and Social Committee delivered its opinion on 28 November 2001.

The Committee of the Regions took up its position on 23 November 2001.

On 28 January 2002 the Council adopted its Common Position in accordance with the procedure laid down in Article 251 of the Treaty.

II. CONTEXT

The Commission proposal forms part of the plan to combat terrorism adopted by the European Council at its extraordinary meeting on 21 September 2001. In drawing up this plan, the European Union was reacting to the terrorist attacks perpetrated in the United States on 11 September 2001.

III. OBJECTIVES

The proposal is designed to:

- boost confidence in air transport in Europe,
- ensure that the public in the European Community is protected at all times in civil aviation by preventing acts of unlawful interference,
- adopt common basic standards based on the recommendations in Document 30 of the ECAC (European Civil Aviation Conference),
- enable each Member State to adopt a national civil aviation security programme and to designate an appropriate single authority responsible for the coordination of these programmes; it is also designed to institute appropriate quality control and organise inspections under the supervision of the Commission,
- provide a basis for a common interpretation of the relevant provisions of the Convention on International Civil Aviation signed in Chicago on 7 December 1944, in particular Annex 17 thereto.

The Regulation sets out to achieve these objectives by the following means:

- setting common basic standards on aviation security measures,
- setting up appropriate compliance monitoring mechanisms.

IV. ANALYSIS OF THE COMMON POSITION

General comments

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.

Specific comments: chief amendments to the Commission proposal

(a) National civil aviation security programmes (Article 5)

The Council substantially clarified this provision. Among other things it provided for national quality control programmes to be introduced for civil aviation security in order to ensure that national programmes in that area were subject to more rigorous monitoring.

(b) More stringent measures (Article 6)

The Council amended this provision by removing the Commission's power to decide that measures considered discriminatory or unnecessarily restrictive should be withdrawn.

The Council felt that the Commission already had sufficient powers under the Treaty to monitor Member States' action in the light of the principles of the Treaty. There was therefore no need for any specific provisions on the subject in the Regulation. This amendment is also in line with the European Parliament's wishes.

(c) Dissemination of information (Article 8)

The Council introduced this new provision, which is designed to strike a balance between public right of access to information and the need to keep certain sensitive measures confidential.

(d) Penalties (Article 11)

The Council brought in this new provision laying down that penalties for breaching the provisions of the Regulation should be effective, proportionate and deterrent.

(e) Entry into force (Article 12)

The Council thought it best to provide that some of the provisions in the Annex should enter into force on 31 December this year, as requested by the European Parliament.

V. COUNCIL POSITION ON THE EUROPEAN PARLIAMENT'S AMENDMENTS

The Council incorporated amendments 21, 4, 5, 7, 13 (first part) and 14 into its Common Position, either as they stood or in a different form of words.

Amendments 1, 2, 3, 22, 10, 19 and 13 (second part) are designed to ensure that the cost of certain extra security measures such as those provided for in the Regulation should be paid for, at least initially, from the public purse. The Council felt that it would be unwise to accept these amendments at this stage, as taking a position might prejudice the more general debate on fare pricing which was currently going on at Community level.

Amendment 8 was not taken on board, as the Council held that the Member State concerned had to be given ample notice if inspections were to be carried out properly and effectively.

Amendment 20 was rejected, as it was thought to go beyond the scope of the Regulation as described in Article 1(1).