



**AIR TRANSPORT ASSOCIATION OF CANADA
ASSOCIATION DU TRANSPORT AÉRIEN DU CANADA**

255 ALBERT STREET, SUITE 1100, OTTAWA, ONTARIO K1P 6A9
255, RUE ALBERT, PIÈCE 1100, OTTAWA (ONTARIO) K1P 6A9

TEL./TÉL: (613) 233-7727
FAX: (613) 230-8648

WEB: <http://www.atac.ca>
EMAIL: atac@atac.ca

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U.S. Department of Transportation Dockets
 Document No: FAA-1998-4758 - 18
 400 Seventh Street S.W.
 Room Plaza 40 1
 Washington, DC 20590
 U.S.A.

Dear Sir,

**RE: 14 CFR Part 129 - Security Programs
of Foreign Air Carriers; Proposed Rule**

This letter, an associated list of questions (which is being sent to sensitive security information docket) and an estimate of cost of compliance (which will follow), constitute the comments of the Air Transport Association of Canada (ATAC). ATAC represents approximately 170 Canadian air carriers. On behalf of our membership, ATAC objects to the above noted Notice of Proposed Rulemaking, on the following grounds:

- (1) The Notice of Proposed *Rulemaking* violates the principle of managing security risk with commensurate appropriate security measures.

The NPRM attempts to apply a single rule to many varying jurisdictions which in turn have varying security risks.

- (2) The NPRM does not make an adequate case that a significantly increased threat exists from Canada which the Rule purports to address.
- (3) The Proposed Rule appears commercially motivated as it proposes to put into place identical security measures the FAA obligates U.S. carriers to follow on only those routes served by U.S. carriers - not on routes to the U.S. that may bear substantial risk. Tying security threats faced by U.S. carriers to all carriers is an incorrect approach.
- (4) The Rule clearly will impose additional costs and inconvenience upon Canadian air carriers. Neither the NPRM nor the confidential assessment of cost of compliance prepared by the FAA are sufficiently detailed to allow ATAC to accurately assess the direct and indirect costs

associated with the NPRM. As a consequence, ATAC has directed a separate listing of questions to the confidential docket and would encourage the FAA to respond to the questions by way of a memorandum to the docket setting out the clarifications requested.

Suffice it to say that ATAC's preliminary review of costs of compliance as set out in the Costs Estimate, would indicate the estimate fails to address the significant indirect costs that intermediate foreign stop searches will cause by way of increased stand time - reductions in numbers of flights at slot constrained Canadian airports and increased congestion in Canadian airports as a consequence.

ATAC will file a complete estimate of the cost of compliance for Canadian air carriers and Canadian airports in a separate letter to follow.

- (5) ATAC members are concerned that the NPRM will leave the door open for further unwarranted increases in security measures either through (i) future amendments to the Air Carrier Standard Security Program (which Canadian carriers or their government regulatory agency [Transport Canada] do not even have a copy of either to compare with the model security program or update themselves on changing circumstances), or (ii) a reclassification of airports security levels. Canadian carriers are concerned that "across the board" changes under (i) or (ii) above could be instituted which will not take into account lower threat levels inherent at Canadian airports.
- (6) The Amendment calls for extraterritorial application of U.S. law to foreign jurisdictions. This violates ICAO Annex 17 and the Chicago Convention (inasmuch as this would constitute a special [different] security provision imposed upon a sovereign jurisdiction). In and of itself this alone is unsatisfactory, but when viewed in a larger context (i.e. that the Rule will set a precedent for other countries to impose special provisions), it may set the stage for multiple, conflicting (and certainly confusing) security measures to be set into place worldwide.
- (7) The Amendment may serve as a disincentive for foreign governments to grant U.S. carriers access to new airports, because having U.S. carriers operating on the same routes as the foreign flag carrier will add significant costs and operating inefficiencies to the airports under consideration.

In view of the above noted concerns ATAC recommends that the FAA revise the rulemaking to address the above noted concerns.

Yours very truly,

A handwritten signature in black ink that reads "Michael Skrobica". The signature is written in a cursive style with a large, prominent initial "M".

Michael Skrobica
Vice President

MS/pcm