

DEPARTMENT OF TRANSPORTATION

SINGAPORE AIRLINES LIMITED



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DOCKET SECTION

53275
FAA - 98-4758-45

US Department of Transportation Dockets
Docket No: FAA-1998-4758
400 Seventh Street, SW
Room Plaza 401
Washington, DC 20590
, USA

ORIGINAL

SEC 75 1.2 59/99

3 1 March 1999

Dear Sir,

--- Please find attached the submission by Singapore Airlines Ltd in response to the FAA's Notice of Proposed Rulemaking Docket No: FAA- 1998-475 8.

Thank you.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Alex de Silva'.

Capt Alex de Silva
Vice President
Safety, Security & Environment

ADS:ag



DEPARTMENT OF TRANSPORTATION
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DOCKET SECTION

**UNITED STATES DEPARTMENT OF TRANSPORTATION NOTICE OF PROPOSED
RULEMAKING ON SECURITY PROGRAMMES OF FOREIGN
AIR CARRIERS DOCKET NO. FAA -1998 - 4758**

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Introduction

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This document presents the response by Singapore Airlines to the FAA's Notice of Proposed Rulemaking Docket No. FAA-1998-4758. This submission has been prepared by the Safety, Security and Environment Dept of Singapore Airlines Ltd.

The proposed rule will require Singapore Airlines to adhere to aviation security measures mandated by the FAA at all airports from which Singapore Airlines flies to the U.S. More importantly, such measures will have to be "identical" to those required by US carriers operating out of the same airports on flights to the U.S.

This rule if implemented will establish a very significant divergence to the international aviation practice of matching optimal security measures to the accurate assessment of risk for the particular flight or airline, will result in monumental additional costs to SIA's operations and will contradict and go beyond the requirements of Annex 17 of the Chicago Convention.

Singapore Airlines Stand

Singapore Airlines is seriously objecting to this NPRM and is concerned at the implications and problems that will arise if the rule is established. The areas of concern are :-

➤ **Assessment of risk**

Singapore Airlines has always taken the matter of aviation security very seriously and has not spared its commercial requirements in the implementation of effective security measures. Effective security measures must commensurate with the risks involved for the airline and for particular flights. The factors influencing this will be the political status of the host country, particular destinations, nationality of carrier, nature of passengers as well as information from intelligence sources both local and abroad. The most appropriate authority to evaluate, decide and implement security measures will be the national security agencies.

In addition, as has been the practice, appropriate and effective security measures should be developed and implemented in mutual co-operation by the affected countries and airlines. Security measures to be implemented in a host state should not be unilaterally declared in a legal proceeding by a foreign state.

The FAA's proposed imposition of identical security measures for U.S. airlines on foreign airlines is heavy handed and ignores the varying and changing character of aviation security. The threat and risk vary at different airports for different flights and in particular for different airlines. The FAA is therefore attempting to reason that a threat situation facing U.S. carriers as a result of adverse reactions to U.S. foreign policy and actions is exactly the same threat situation facing a foreign carrier!

➤ **Cost of Compliance**

Considering the present political climate, the existing threat level facing the U.S. will continue. Consequently, U.S. carriers will face a much higher threat level than the other carriers for some time. By requiring foreign carriers to adhere to identical security measures unnecessarily and for an indefinite period of time would result in Singapore Airlines having to bear significant additional costs. Attachment A indicates additional costs for some of our stations. The total number of flights into and out of the U.S. for Singapore Airlines is 72 per week. On average it would cost 245,000 SID per week to implement the proposed measures.

Singapore Airlines has not calculated the loss of revenue due to capacity and passenger loss caused by longer connecting times, expected increased parking charges at the European airports and expansion of airport facilities and infrastructure, but expects this to be considerable.

The effort in expanding excessive human resources to the implementation of unnecessary additional measures indefinitely is a waste. The initial motivation in such a situation will deteriorate to complacency, be counterproductive and the system will lose its credibility eventually.

➤ **International Law**

The Chicago Convention is the basic document governing the conduct of international civil aviation. Its purpose is to avoid chaos and confusion through mutually agreed rules within the context of territorial sovereignty.

Annex 17 to the convention, which addresses aviation security, clearly explains in para 3.1.18 that the host state is in charge of regulating aviation security on its own soil.

“Each Contracting State shall require operators providing service **from** that State to implement a security programme appropriate to meet the requirements of that State.”

The FAA in attempting to impose, security requirements on a foreign air carrier operating to the U.S., contravenes the host state rationale of Annex 17.

Annex 17 para 3.2.2 states

“Each Contracting State shall ensure that requests from other States for special security measures in respect of a specific flight or flights by operators of such other States, as far as may be practicable, are met.”

The paragraphs 3.1 .18 and 3.2.2 explain clearly that States shall **require** security measures by foreign carriers for flights operating from the State, but where a State desires additional measures for flights into its territory then this is to be the subject of a **request** and not a regulatory requirement.

The proposed rule is an extraterritorial imposition by the FAA, that seeks to regulate the operations of foreign carriers outside U.S. territory or even in their own territory, with the threat of sanctions. We propose that matters of this sort be discussed within the framework of a treaty or addressed to an internationally designated body charged with the establishment of aviation security standards i.e. ICAO.

Conclusion

While Singapore Airlines recognises the FAA as a world leader in aviation safety and security, we urge the FAA to reconsider the implementation of the proposed rule for the above stated reasons. If passed, the rule will set a precedent that can and may be used by other States for other than security issues.

Safety, Security & Environment Dept

Singapore Airlines

2 April 1999

**Estimated Additional Costs Incurred with Implementation
of the Hatch Amendment**

	<u>No. of Flts/ Month</u>	<u>Additional Costs/ Month</u>	<u>Add Cost/Flt</u>
NRT	30	8,548,785 ¥	284959% 4045 SID
HKG	30	165090HK\$	5503 HK\$ (1172 SID)
SPL	13	74,900 NLG	5762 NLG (5078 SID)
FRA	30	100,000 DEM	3,333 DEM (33 10 SID)