

**E.N.A.C.**  
**ENTE NAZIONALE per l'AVIAZIONE CIVILE**

Il Direttore Generale

54250

ORIGINAL

Rome, **18 MAR. 1999**  
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U.S. DEPARTMENT OF TRANSPORTATION DOCKETS  
DOCKET NUMBER FAA-I **998-4758-50**  
400 SEVENTH STREET, SW.  
ROOM PLAZA 402  
WASHINGTON DC 20590

FEDERAL AVIATION ADMINISTRATION  
OFFICE OF THE CHIEF COUNSEL  
ATTN: RULE DOCKET (AGC-200)  
DOCKET NUMBER FAA 1998-4758  
800 INDEPENDENCE AVENUE, SW.  
WASHINGTON, D.C. 20591  
U.S.A.

DEPT. OF TRANSPORTATION  
DOCKETS  
99 APR 27 PM 4:16

Re: Comments on the Notice of Proposed Rule Making relating to docket FAA 1998-4758.

Sits,

The Italian Civil Aviation Authority appreciates the opportunity to make its comments on the proposed Rule Making FAA 1998-4758.

In relation to the proposed US legislation that would require foreign air carriers operating to and from airports in the United States to adhere to security measures "identical" to those required of U.S. carriers operating to and from the same airports, the Italian Civil Aviation Authority wishes to express its concern for the proposed introduction of such Rule-Making for the following reasons:

- 1) The proposed Rule appears to be totally against the international principles established by Article 1 of the Chicago Convention (ratified by the United States) that assign to each State exclusive sovereignty over the airspace above its territory.
- 2) The requirements contained in the proposed Rule-Making do not take into consideration that ICAO Annex 17 already establishes the responsibility for States to ensure a full implementation of well identified security measures aimed at protecting all flights departing from their territories.
- 3) ICAO Annex 17 and ICAO Resolution **A32-22**, while respecting Contracting States' sovereignty, enhance co-operation and co-ordination between them on aviation security.

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- 4) The level of the threat existing against one Country or against one or more carrier representing that Country cannot be automatically considered identical to that existing against another Country or other carriers representing such Country.
- 5) The degree of protective security applied to international air operations should be commensurate with the level of threat in order to manage risk effectively.
- 6) The unilateral imposition of the security measures such as it is envisaged in the NPRM threatens the international co-operation while all Contracting States should enhance co-operation and co-ordination in relation to aviation security.
- 7) The imposition on foreign air carriers of requirements which differ from or are more exacting than the **ICAO SARPs** could seriously damage the multilateral framework within which international civil aviation has developed and operates.
- 8) Should a change in the content or implementation of **ICAO SARPs** be deemed desirable by a particular State, it should effect such change through ICAO. The rationale behind the desirability of achieving such uniformity through the Chicago System is clear if one considers the chaos which could potentially result if States require foreign aircraft flying to their territory to comply with their own national security provisions where these differ from the **ICAO** provisions.
- 9) The proposed Rule-Making conflict with the ECAC approach to aviation security throughout the **European** region as it introduces security requirements that are not in line with development plans and programs established by ECAC and its member States.
- 10) The impact in terms of operational **constraints** that the implementation of the proposed Rule-Making would have on the aviation system of the involved Italian airports is very high. It would surely cause, *infer aia*, the loss of numerous departure slots, additional airport congestion, increase of minimum connecting time for involved airlines, etc..

In light of the above, the Italian Civil Aviation Authority believes that a reconsideration by the appropriate U.S. Authorities of this issue is suitable and necessary.

Yours Sincerely,

  
Pierluigi Di Palma  
Avvocato dello Stato

  
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