



October 31, 2012

David Weiner  
Deputy Assistant U.S. Trade Representative for Europe  
Office of the United States Trade Representative  
600 17th Street NW.  
Washington, DC 20508

**Re: Promoting U.S. EC Regulatory Compatibility**  
**Docket No. USTR-2012-0028**  
77 Federal Register 59702 (September 28, 2012)

Dear Mr. Weiner:

Airports Council International – North America (“ACI-NA”) and Airports Council International Europe (“ACI EUROPE”), on behalf of their member airports, submit these comments in response to Docket No. USTR-2012-0028, Promoting U.S. EC Regulatory Compatibility, 77 Federal Register 59702 (September 28, 2012).

ACI-NA is the trade organization that represents local, regional and state governing bodies that own and operate commercial airports in the United States and Canada. Our 345 member airports enplane more than 95 percent of the domestic and virtually all of the international airline passenger and cargo traffic in North America. Over 375 aviation-related businesses are members of ACI-NA, providing goods and services to airports.

ACI EUROPE represents the interests of over 400 airports in 46 European countries. Its members account for over 90 percent of commercial air traffic in Europe, welcoming nearly 1.5 billion passengers and handling over 17 million metric tonnes of cargo and over 20 million aircraft movements each year.

ACI-NA and ACI EUROPE members appreciate the opportunity to offer comments on the U.S. Government’s and European Commission’s (EC) initiative for Promoting U.S. EC Regulatory Compatibility.

Members of both organizations have long supported an approach to rulemaking whereby regulatory agencies afford industry the opportunity to comment on proposed security measures. Over the years we have participated on various national and international government/industry working groups intended to enhance aviation security and passenger facilitation as well as improve efficiency. We believe this coordinated process has been very effective in allowing governments to identify the key threats to civil aviation and industry, to collaboratively develop procedures that minimize unnecessary

costs and operational impacts while identifying aviation security enhancements and passenger facilitation efficiencies at airports in both the United State and Europe.

With respect to regulations that fall under the auspices of this solicitation, the primary areas of focus are associated with rules and requirements promulgated by the Transportation Security Administration (TSA) and U.S. Customs and Border Protection (CBP), most notably those under 49 CFR Part 1542 (Airport Security) and 8 CFR (Aliens and Nationality).

### **Risk-Based Security and Trusted Traveler Programs**

The global aviation community must continue to shift from a rigid process of screening for bad things to a system that draws upon the vast amount of available data and the latest intelligence information to focus limited resources and the most invasive security processes and screening technology on bad people. A risk-based system is absolutely what is needed and TSA should be commended for implementing risk-based security initiatives involving pilots, passengers and cargo.

ACI-NA and ACI-EUROPE fully support the TSA Pre✓™ known traveler program. From a practical perspective, this risk-based program harnesses available data – provided by passengers on a voluntary basis – and intelligence information to serve as an indicator to guide the application of screening resources. The most invasive screening resources and technologies are applied to individuals about whom the least is known. This not only reduces traveler frustration by providing known travelers a certain level of predictability – while including an essential random security element – but also streamlines the process today and allows for the development of a sustainable system in the future.

In the United States, TSA has partnered with CBP to allow members of existing international trusted traveler programs, Global Entry, NEXUS and SENTRI to participate in TSA Pre✓™. Airports in the United States, Canada and Europe are very supportive of these risk-based international trusted traveler programs that provide the dual benefit of enhancing both security and processing efficiency. Since travelers do not have to spend time waiting in line, CBP officers can focus on travelers about whom less is known. The partnership between TSA and CBP provides an effective platform for expanding known or trusted traveler programs in the international arena to further leverage available data and better focus limited screening resources.

Building upon existing international trusted traveler programs, which should be further expanded, we urge the United States and European Union (EU) to work collaboratively to develop and implement risk-based trusted traveler programs that provide mutual recognition of and expedited screening/processing for properly vetted passengers.

### **Technology Standards**

While there have been significant advances in the research and development of cutting edge passenger and baggage screening technologies, a cohesive screening technology research and development plan that leverages government and industry expertise has yet to be formulated. With the significant focus on screening passengers and baggage, the development of next generation screening technology, as well as that for screening air cargo, has suffered and should also be a priority. The research and development of next generation security technologies could be further advanced through the introduction of government-administered grant programs that provide incentives to manufacturers.

We encourage the U.S. and the EU to collaboratively develop mutually recognized detection standards and operational procedures for security screening technology. The identification of such standards will allow manufacturers to develop screening technologies that can be used in different countries while stimulating healthy competition between manufacturers, resulting in technology enhancements and lower costs. Further, the deployment of screening technology developed in accordance with such standards will allow passengers, baggage and cargo to be screened once, thus paving the way for true one-stop security, something that is essential to further enhance the effectiveness and efficiency of the security process, especially as we prepare for the anticipated increase in the number of passengers and volume of cargo in the coming years.

### **One-Stop Security**

In the years since the September 2001 terrorist attacks, aviation security has been significantly enhanced. Screening processes, procedures and technologies have evolved and even more data is available about passengers – including that which is shared between governments – and cargo to enable risk assessments, conducted well in advance of flight time.

However, passengers arriving from the EU and connecting to other flights at U.S. hub airports must be screened a second time. Even though it has already flown thousands of miles, their baggage has to be physically transported back to the checked baggage screening location for rescreening by TSA before it can be loaded on a connecting flight. These duplicative screening processes impose unnecessary manpower requirements on TSA staff and contribute to wait times, flight delays and higher costs for TSA, airports and the airlines.

Indeed, at the recent High Level Conference on Aviation Security, ICAO encouraged Member States “to explore with each other mutual recognition arrangements, including one-stop security, which recognizes the equivalence of their aviation security measures where these achieve the same outcomes.”

We encourage the U.S. and the EU to pursue agreements that ensure mutual recognition of aviation security measures that eliminate the need for redundant screening processes for passengers, baggage and cargo. When implemented, such agreements will help preserve limited resources while enhancing the passenger experience.

### **Liquids, Aerosols and Gels**

The coordinated process identified by the TSA and the European Commission (EC), working closely with industry, to identify a phased approach for lifting the restrictions on liquids, aerosols and gels (LAGs) has proven to be very effective.

Through this process the U.S. and EC, along with industry participants signed a “Statement of Intent” that outlines a plan for gradually lifting the LAGs restrictions, with the first phase scheduled to be implemented in January 2014. At that point, medically exempt items and baby formula (over 100 ml) and LAGs in Security Tamper-Evident Bags (STEBs) will be screened, allowed to be carried into the sterile area and transported on-board aircraft.

Given the initial success of this collaborative process, we encourage the U.S. and the EU to continue to work closely with industry to develop operationally feasible procedures for screening LAGs, and to adopt this model for other security initiatives and rulemaking proceedings.

### **100 Percent Non-Passenger Screening**

ACI-NA is concerned that the International Civil Aviation Organization (ICAO) is under pressure to issue standards for 100 percent non-passenger screening without conducting a risk assessment. Significant facility modifications would be necessary to incorporate non-passenger physical search stations. As it would negatively impact airport operations and drive significant costs with a negligible enhancement to the overall level of aviation security, ACI-NA is strongly opposed to any such standards.

A requirement or standard for 100 percent screening of non-passengers is wholly inconsistent with current initiatives to develop risk-based approaches to aviation security. In the U.S., ACI-NA worked with TSA to develop layered security measures which proved to be more effective than 100 percent non-passenger screening, and much less costly.

We believe a layered approach, incorporating random and unpredictable measures (including some physical screening), provides an equal or better security outcome than 100 percent screening and should be considered by the EU.

### **International Trusted Traveler Programs**

Earlier this year, CBP issued a final rule establishing the Global Entry Program. ACI-NA and ACI EUROPE continue to be very supportive of the Global Entry program and encourage CBP to further expand it to other airports.

According to recent CBP statements and testimony, Global Entry has reduced average wait times for enrollees by more than 70%. In addition, the program is crucial in helping to leverage limited CBP resources during the busy summer travel season, when passenger demand increases significantly. Expanding Global Entry to additional airports and airport terminals will increase the value of the program to enrollees and thus promote increased enrollment, benefitting both domestic and international passengers, the aviation industry and CBP.

Through Executive Order (EO) 13597, issued January 19, 2012, President Obama directed the Department of Homeland Security (DHS) to "Expand reciprocal recognition programs for expedited travel, such as the Global Entry program". Currently, the U.S. has fully reciprocal international trusted traveler programs with only three countries--- Canada, the Netherlands and the Republic of South Korea. It is also conducting very limited pilot programs through which citizens of the Germany, Qatar and the United Kingdom can utilize Global Entry.

Given the success of the Global Entry program and the ability to expedite processing of international passengers arriving in the U.S., we encourage the U.S. and the EU to establish reciprocal agreements that significantly expand the eligibility to citizens of all EU countries.

### **Planning for the Future**

We encourage the U.S. and EU to work together, building upon existing risk-based initiatives to plan for the future by designing a sustainable aviation security system capable of efficiently and effectively screening passengers and baggage. With limited resources, risk-based security programs are essential as we simply cannot continue the process of adding security layer upon security layer and installing even more screening technology at airport security checkpoints. Although technology will always be an essential element of the aviation security system, funding is limited and most airport security checkpoints are already space constrained, so the deployment and application of the most invasive screening technology needs to be informed by known traveler programs.

### **Conclusion**

ACI-NA and ACI EUROPE appreciate the opportunity to comment on the U.S. Government's and European Commission's (EC) initiative for Promoting U.S. EC Regulatory Compatibility. Through a collaborative rulemaking process in which governments afford regulated parties an opportunity to comment on proposed regulations, and routinely conduct intelligence-informed reviews of existing requirements for applicability, we can better achieve our mutual goals of enhancing security and passenger facilitation while minimizing unnecessary costs and operational impacts.

Please do not hesitate to contact us if you have any questions or should you need any additional information.

Sincerely,



Greg Principato  
President  
ACI-NA



Olivier Jankovec  
Director General  
ACI EUROPE