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**Comments of the International Air Transport Association (IATA)
on**

**DISCUSSION PAPER on the operation of Regulation (EC) 785/2004 on
insurance requirements for air carriers and aircraft operators**

Incorporated in 1945 under an Act of the Canadian Parliament, IATA represents 240 airlines, comprising 94% of scheduled international air traffic. It maintains a global presence in 150 countries with 90 office locations that cover 8 principal regions:

- Africa
- Middle East and North Africa (MENA)
- Europe
- Russia and C.I.S. Countries
- China and North Asia
- Asia Pacific
- Latin America and The Carribean
- North America

IATA's comments are devoted entirely to the specificity of the insurance requirement in Regulation 785/2004 and its impact on airlines' ability to operate if an insurance market failure occurs. The potential for an insurance market failure is likely to be triggered by a 9/11-type disaster. The concerns are that:

1. The regulation specifically requires third party liability coverage for war and terrorism risks which include weapons of mass destruction (Article 4, paragraph 1);
2. It does not define what constitutes "insurance market failure" (Article 5, paragraph 5);
3. It does not provide any alternative to the minimum insurance requirement in the case of a market failure, whatever that may be; and
4. It does not provide for any stop-gap measures which could be taken temporarily to address availability of coverage, or lack thereof, that could cause aircraft to be grounded.

As a result, there is a likelihood that operator certificates are in jeopardy in European Union states until a decision is made by the Commission concerning the insurance market. The impact would be felt by all air carriers and operators regardless of whether they are flying within, into, out of, or over the territory of a Member State.

Therefore, IATA recommends a more flexible approach in 785, e.g. one that would allow for an immediate response to a major disaster that could trigger a market withdrawal of coverage.

Yours truly,



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Cc:

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