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The collective securitization of aviation in the European Union through association with terrorism

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ABSTRACT

This article analyses the expansion of European Union cooperation on aviation security using the framework of collective securitization. It establishes how 9/11 was a precipitating event that put terrorism and aviation security in the spotlight. 9/11 changed the collectively held understanding of the security threat posed by terrorism sufficiently to establish aviation security as a common policy framework rather than a national issue. 9/11 was therefore used by EU actors to convince the EU Member States that they all faced one collective terrorist threat. The subsequent institutionalization of this cooperation contributed to a routinization of aviation practices in the EU. As a result of the association between terrorism and aviation, 9/11 pushed EU Member States into taking action on aviation security. This caused the Member States to acknowledge the need for both the highest possible standards of aviation security and the harmonized enforcement of these standards.

Introduction

This article is concerned with a particular aspect of the EU's twenty-first century expansion of its counter-terrorism remit. In the wake of the 11 September 2001 (9/11) attacks the EU began involvement in aviation security, a highly technical subject of which it had no experience. Given the globally inter-linked nature of aviation security, however, EU aviation security has effects outside the borders of the Member States. This resulted in the addition of a supranational dimension to part of the previously inter-governmental system. This article analyses the expansion of European Union cooperation on aviation security using the framework of collective securitization. It establishes how 9/11 was a precipitating event that put terrorism and aviation security in the spotlight, and, in addition, changed the collectively held understanding of the security threat posed by terrorism sufficiently to establish aviation security as a common policy framework rather than a national issue, as it was previously considered to be. 9/11 was therefore used by

EU actors to convince the EU member states that they all faced one collective terrorist threat, rather than each of them facing a distinctive threat.

Aviation was originally a matter for the individual state. However, towards the end of the Second World War, the great powers had begun to realize the importance and benefit of international consensus on matters of regulation. Thus in 1944 the International Civil Aviation Organisation (ICAO) was created. When aviation security became an issue at the beginning of the 1970s this too came under the purview of ICAO. As aviation is an international industry, it is developed and regulated at an international level. In contrast, it is controlled at a national level. The standards and practices developed by industry bodies and trade organizations are implemented by the organs of national governments. Aviation regulation has operated on this two-tier model since it began with the birth of international organizations. The system remained so in to the twenty-first century – regulations were set by the organs of the international community such as ICAO, but were implemented and controlled by national governments. All matters of aviation function around the clear and simple relationship between the individual nation state and the various international organizations.

Aviation security upon its inception in the 1970s was no different. Prior to 9/11 this also held true for the Member States of the EU. Aviation security was, as a matter of sovereignty, a national competence – ICAO and the other international organizations could recommend standards and practices but had no power to enforce implementation. This was the prerogative of the individual state. In the post-9/11 era, however, the situation changed – the EU saw integration in aviation security occur with the European Commission obtaining a new competence over aviation security. The growth of aviation has significantly expanded the scope of duties and issues covered by international organizations. It is to be noted that this article is only interested in civil aviation security rather than the security of military aviation, and commercial rather than general aviation. As such, when the article mentions aviation security it should be assumed to mean commercial aviation security.

Collective securitization, aviation security and terrorism

For years, several European countries, including Spain, Italy, the United Kingdom and West Germany, tackled the terrorist threat each of them was facing largely on their own. The general perception was that each state was faced with a distinct threat, namely ETA ("Basque Fatherland and Liberty") in Spain, the Red Brigades in Italy, the Irish Republican Army in the UK, and the Red Army Faction in Germany. Cooperation amongst European states remained extremely limited. Some European governments even accused others of actually enabling the growth of terrorism. Thus, compared to the lack of shared perception of the terrorist threat and the virtual absence of counter-terrorism cooperation amongst European states in the 1970s and 1980s, the existence of EU-wide debates, legislative instruments and practical cooperation nowadays is particularly remarkable. This section explores this change and seeks to explain it by drawing upon the concept of "collective securitization".

The concept of "securitization" was initially developed by Ole Wæver to make a major contribution to the so-called "widening-deepening" debate in security studies, which had begun in the 1980s and intensified with the end of the Cold War. The "widening"

dimension was defined as the extension of security to issues or sectors other than the military, such as the environment or the economy, whereas the "deepening" dimension addressed the question of whether entities other than the state, such as society or individual human beings, should be able to claim security threats (Krause & Williams, 1996, p. 230). Together with the concept of "security sectors" previously developed by Buzan (1991), "securitization" is at the heart of a new theoretical framework that, according to Wæver and Buzan, enables researchers to simultaneously widen and deepen the concept of security without rendering it too broad or meaningless. The key idea underpinning the securitization framework is that security is not about objective threats that "really" exist out there. Rather, still for Wæver and Buzan, it is about "the processes of constructing a shared understanding of what is to be considered and collectively responded to as a threat" (Buzan, Wæver, & de Wilde, 1998, p. 26). More precisely,

> [security] is about survival. It is when an issue is presented as posing an existential threat to a designated referent object (traditionally, but not necessarily, the state, incorporating government, territory, and society). The special nature of security threats justifies the use of extraordinary measures to handle them. (Buzan et al., 1998, p. 21)

In other words, according to Buzan and Wæver (also known as the "Copenhagen School"), security is a "speech act" (Buzan et al., 1998, p. 26) (see also Balzacq, 2005, pp. 174–179; Roe, 2008, p. 617; Stritzel, 2007, p. 358; Wæver, 1995, pp. 54–55). It is an intersubjective and socially constructed phenomenon. Key concepts in the securitization framework are the "securitizing actor", who socially constructs a specific issue as a threat to the survival of a given entity, known as the "referent object", which therefore requires urgent protection through the use of extraordinary measures. Another important concept is that of the "audience". According to the Copenhagen School,

> [a] discourse that takes the form of presenting something as an existential threat to a referent object does not by itself create securitization – this is a *securitizing move*, but the issue is securitized only if and when the audience accepts it as such. (Buzan et al., 1998, p. 25)

To sum up, securitization is understood as a process whereby a given actor frames a specific issue as an "existential threat", which is then presented to a target audience for approval in order to employ extraordinary means and measures to tackle it (Léonard & Kaunert, 2010, p. 57).

In its original formulation by the Copenhagen School and in subsequent studies by other scholars, securitization theory has overwhelmingly been applied to states, as well as nations to a lesser extent. According to Buzan and Wæver (2009, p. 255),

> the middle-scale "limited collectivities" have proved the most amenable to securitisation as durable referent objects [because] such limited collectivities (states, nations, and as anticipated by Huntington, civilisations) engage in self-reinforcing rivalries with other limited collectivities and that such interaction strengthens their we-feeling.

This in turn facilitates securitization. In contrast, collectivities at the system level lack the mass identity that is necessary for securitization to take place (Buzan & Wæver, 2009, p. 255). In other words, the level of analysis in the study of securitization processes has generally been the middle level of world politics, with a specific focus on states. This is not to say that the work of the Copenhagen School has exclusively focused on states. This can notably be illustrated by their other concept of "security constellation",

which "[links] across all of the levels and sectors in which securitisations occur", and that of "macrosecuritisation", which concerns "referent objects higher than those at the middle level" and "[aims] to incorporate and coordinate multiple lower level securitisations" (Buzan & Wæver, 2009, p. 257), as seen during the Cold War. In addition, some of Wæver and Buzan's writings also went beyond the national level to focus on regions, in particular their development of Regional Security Complex Theory. This was underpinned by the concept of "regional security complex", which they defined as "a set of units whose major processes of securitization and de-securitization or both are so interlinked that their security problems cannot reasonably be analyzed or resolved apart from one another" (Buzan & Wæver, 2003; Buzan et al., 1998, p. 201).

However, what is striking is that, even when Buzan and Wæver considered regions or the level above that of world politics, their work remained firmly focused on states, their patterns of amity and enmity, as well as the distribution of power amongst them and the role of global powers (Buzan & Wæver, 2003, 2009; Buzan et al., 1998). In particular, they did not consider how securitization processes may take place within regional arrangements. The first scholars to address this gap in the literature were Haacke and Williams (2008). They coined the concept of "collective securitization", which they defined as

> securitization within a regional arrangement as involving one or more securitizing actors within that arrangement identifying a particular development or issue as an existential threat to a security referent, making relevant validity claims, and finding a receptive audience among other regional actors. (Haacke & Williams, 2008, p. 785)

They also noted that one could expect securitizing moves within a regional arrangement to entail claims that a specific development "constituted a threat either to regional security or to the respective national security of participants, and required a collective response" (Haacke & Williams, 2008, p. 785). Nevertheless, as highlighted by Sperling and Webber (2016, p. 29), Haacke and Williams's approach "[assumed] that a state [would] initiate a securitising move that [would] then be generalised within a regional arrangement or organisation". They did not consider cases where a regional organization itself could initiate a securitizing move. This is to a significant extent linked to their case selection, as they focused on the cases of the African Union (AU) and the Association of Southeast Asian Nations (ASEAN). Those may indeed be considered "the primary multilateral arrangements in their respective region" (Haacke & Williams, 2008, p. 777). However, compared to a regional organization like the EU, the AU and ASEAN are characterized by a considerably lower degree of integration when it comes to the institutional set-up, the decision-making processes, the degree of legal integration, and the extent of political integration, amongst others. In contrast, Sperling and Webber have argued that the role of regional security organizations should not necessarily be reduced to that of a site for bargaining amongst their Member States. In their view, a regional security organization can also be an agent of collective securitization, especially "when an international organisation is possessed of legal and political authority, has agenda-setting powers, is the framework for formulating and implementing common policies, and is the repository of a common security narrative" (Sperling & Webber, 2016, p. 29).

In order to study this process of collective securitization, Sperling and Webber (2019) have outlined a six-stage model, which comprises (1) the *status quo* security discourse and policies; (2) a single precipitating event or a cascade of events; (3) the securitizing

move; (4) the response of the audience; (5) the formulation and execution of policies to address the securitized threat; and (6) routinization and the emergence of a new *status quo*. As emphasized by Sperling and Webber, although it might be analytically possible to distinguish the securitizing move from the audience response, the two stages "are co-dependent through the process of recursive interaction".

In this article, we are particularly interested in the links and associations between aviation, safety, security and terrorism. 9/11 highlighted the threat terrorism poses to the safety and security of aviation. This argument is not however new. Rather, it is one that has been put forward by scholars including the leading voices on the subject, prior to 9/11. Whilst the field of scholarly attention on aviation security was limited, mainly due to its origins and subsequent evolution as an area of expertise within the aviation industry, those involved have written repeatedly on the association between aviation and terrorism since the 1970s. This includes leading academics in terrorism studies such as: Bruce Hoffman[1]; Brian Jenkins[2]; Ariel Merari[3] and Paul Wilkinson[4] as well as political scientists such as Peter St John. The functional links between terrorism and aviation security are not only addressed in the literature prior to 9/11 by academics but also by practitioners, such as Rodney Wallis.[5]

The literature on aviation security has – similarly to the discourse, practices and policy outputs as this article will subsequently examine – often resulted from specific precipitating events such as: the 1968 attack on an El Al flight by the Popular Front for the Liberation of Palestine (PFLP) and subsequent political extortion of using the plane and passengers to demand the release of imprisoned Arabs, the bombing of the *Kanishka* – Air India Flight 182 from Toronto to New Delhi via London over the Atlantic Ocean in June 1985, or the bombing of *The Maid of the Seas* – Pan America World Airways (Pan Am) Flight 103 from London to New York over Lockerbie, Scotland in December 1988. With each take-over or bombing of a flight, or attack on an airport the threat to civil aviation from terrorism was further demonstrated. 9/11 brought the functional links between terrorism and aviation to the forefront of public consciousness, which magnified scholarly focus on aviation security. This has been further re-enforced by more recent examples such as: the failed "shoe bomb" attack in December 2001; the shooting of the El Al check-in desk at Los Angeles Airport in July 2002; the foiled liquids plot of 2006; the 2007 suicide vehicle bomb attack on Glasgow Airport; the failed "underwear bomb" attempt of Christmas Day 2009; and the foiled 2010 Toner Cartridge bomb plot (Argomaniz & Lehr, 2016; Barros, 2012; Sweet, 2004).

Thus, while a link between aviation and terrorism can be established empirically, the way this association is constructed linguistically and through practices remains at the heart of whether aviation does or not become securitized in the EU. While terrorism had long been viewed as a national security threat in several European countries, it was only after 9/11 that it was socially constructed as a collective security threat in – and to – the EU (Kaunert & Léonard, 2019). This article will examine the constructed links between this collective securitization, the practices and associations with terrorism, and aviation and safety regulation in the EU. The collective securitization of aviation through association with terrorism provided the impetus for supranational governance in aviation security. In addition to a major exogenous shock like 9/11, the EU saw very significant instances of policy entrepreneurship, most notably by the European Commission, as well as the Council Secretariat. As argued by Kaunert (2010c), EU

institutional actors have played a crucial role in shaping the development of the AFSJ in particular ways. The European Commission and its ally the Council Secretariat have acted in an alliance of supranational policy entrepreneurs in the area of counter-terrorism, as evidenced notably by the cases of the European Arrest Warrant (Kaunert, 2007). Member states have often been pushing towards dealing with these new security threats, which have traditionally called for national solutions. European institutions, in particular the European Commission, have managed to channel this process towards developing a "European" – rather than a "national" – solution. As a result, supranational governance has been increased in the AFSJ.

Aviation security prior to EU involvement – perceived as only a safety issue

International aviation was considered highly important by the major air powers during the Second World War and the need for international cooperation in civil aviation was recognized by all involved in it. This led to the International Civil Aviation Organisation's (ICAO) beginnings as a group of Second World War allies who saw an international body as being beneficial to the development of international air transport and its safety (MacKenzie, 2010). With the passing of the Convention on Civil Aviation otherwise known as the Chicago Convention on 7 December 1944, ICAO was officially created. ICAO, which is a specialized agency of the UN, was established with the mandate "to ensure the safe, efficient and orderly evolution of international civil aviation" (ICAO, n.d.a.). ICAO's initial remit centred on the issues discussed at the International Aviation Conference in Chicago. These can generally be split into the following categories: world route arrangements, the creation of the organization, and a multilateral aviation convention – concerned with air navigation, air transport, and technical aviation matters – or safety (MacKenzie, 2010). The Chicago Convention did not cover any form of unlawful interference however as "no one foresaw such threats and the need to address them" (ICAO, n.d.b). Another extremely prominent international organization involved in aviation is the International Air Transport Association (IATA), the trade association of the world's scheduled airlines. IATA was established with specific goals – one of which was "to promote safe, regular and economical air transport for the benefit of the peoples of the world" (Wallis, 1999, p. 162). Both ICAO and IATA were predominantly focused on aviation safety. As aviation is an international industry, it is developed and regulated at an international level. In contrast it is controlled at a national level. The standards and practices developed through the established discourse built on cooperation and consensus by industry bodies and trade organizations are legislated and implemented by the organs of national governments. Aviation regulation has operated on this two-tier model since it began with the birth of international organizations. The system remained so in to the twenty-first century – regulations were set by the organs of the international community such as ICAO but were implemented and controlled by national governments. All matters of aviation function around the clear and simple relationship between the individual nation state and the various international organizations. Aviation security upon its inception was no different.

Aviation has been a target of terrorism since the early days of commercial aviation which was in its first incarnation concerned with the hijacking of aircraft. The earliest

recorded instance dates back to 1930 when Peruvian revolutionaries attempted to hijack a mail plane to distribute propaganda leaflets (Wallis, 1993). In 1947, the first fatal hijacking occurred. 1948 saw not only the first hijacking for criminal rather than political purposes but also the first aircraft to crash due to air piracy. In 1950 the first multiple hijack occurred (St John, 1991). Despite this no action was taken by either the aviation industry or governments to counteract hijacking. The political change in Cuba which occurred when Fidel Castro became President caused an unparalleled surge in hijacking. Rather than the creation of aviation security occurring in response to any single precipitating event this escalation in hijacking acted as a cascade of events resulting in governments and international bodies beginning to act. In 1963 an ICAO treaty on hijacking, the Tokyo Convention on Offenses and Certain Other Acts Committed on Board Aircraft, was signed although it was not ratified until 1969. The Tokyo Convention, however, dealt only with the expedient return of hijacked aircraft and passengers (Arey, 1973; St John, 1991; Sweet, 2004). 1968 saw the first hijack for political extortion. In the same year, the first instance of non-hijacking aviation terrorism occurred – an armed attack against aircraft on the ground (Merari, 1999). 1970 saw the first attack against aviation related property other than aircraft or airports: that of the headquarters building of an airline (Phillips, 1973). Also in 1970, in an unprecedented move, the PFLP committed a multiple hijack which at the time was considered "the most remarkable event in the history of aerial piracy" (Phillips, 1973, p. 140). The 1970s was not only a significant evolutionary period for the threat itself but also for measures to counter the threat terrorism posed to the safety of aviation. The security discourse that had begun among ICAO's membership and resulted in the Tokyo Convention and the continuing view of terrorism as a threat to aviation resulted in furthered cooperation. In 1970 ICAO passed the Hague Convention for the Suppression of Unlawful Seizure of Aircraft declaring hijacking to be a criminal offense that was extraditable. The Montreal Convention for the Suppression of Unlawful Acts of Violence at Airports Serving Civil Aviation of 1971 declared the same as the Hague Convention for any action that endangers the safety of persons at airports. The Montreal Convention also covered attacks against aircraft both in flight and on the ground (Hill, 1989). One of the most important actions during this period was the official creation of aviation security. This occurred when the Chicago Convention was formally amended in 1974 to incorporate the newly created "Annex 17 – Security". ICAO considers aviation security to be concerned with preventing

> acts of violence directed against international civil air transport and airports and other facilities used by such air transport [which] jeopardize the safety thereof, seriously affect the operation of international air services and undermine the confidence of the peoples of the world in the safety of international civil air transport. (2009, p. 199)

These acts of violence "may be directed against aircraft, aircraft crews and passengers engaged in international air transport" or "against civil aviation personnel, civil airports and other facilities used by international civil air transport" (ICAO, 2009, p. 199). This is usually referred to as the safeguarding of international civil aviation against acts of unlawful interference where unlawful interference can be explained as "acts of sabotage, unlawful seizure of aircraft and the use of civil aircraft in terrorist attacks" (IATA, 2010). Discourse and resulting measures to protect the safety of aviation from the threat of terrorism were not confined solely to ICAO and IATA. The International Federation of

Airline Pilots Associations (IFALPA) also became involved in trying to curtail hijacking, by refusing to fly to airports in countries that were perceived to allow or condone aerial piracy. In 1978 the Bonn Summit, a meeting of government leaders from the seven Western industrial powers – the UK, the US, Canada, Germany, Japan, France and Italy – took place (St John, 1999; Wallis, 1999). This gave rise to the Bonn Declaration in which all countries present "agreed to impose sanctions against any state that supported or cooperated in the hijacking of aircraft" (ICAO, 2009). The introduction of security measures did not however cause hijacking to cease. There were three hundred hijacks between 1977 and 1986, and two hundred and twelve between 1987 and 1996 (Merari, 1999). Furthermore, the 1980s saw an increasing number of fatalities caused by hijacking.

From the 1970s onwards aviation terrorism appeared to take a new direction with sabotage becoming more prominent than hijacking. Between 1969 and 1999 there were more than seventy known attempts to sabotage aircraft in-flight with explosives (Jenkins, 1999). One act of sabotage that had the biggest impact on aviation security was the loss of Air India's *Kanishka* in 1985. An improvised explosive device (IED) blew the aircraft up resulting in three hundred and twenty-nine deaths, which was the largest loss of life to occur as the result of a single incident to date and remained so until 9/11 (Jenkins, 1999; Wallis, 1993). The result was the incorporation into ICAO's Annex 17 of an IATA developed security standard: that of full passenger and baggage reconciliation becoming mandatory (Jenkins, 1999; Sweet, 2004). This is regarded as the most significant change in international aviation security standards in the 1980s. In 1986, a TWA flight suffered an explosion that ruptured the aircraft killing one passenger instantly and causing three to fall to their deaths (Wallis, 2001). Subsequent investigation found the IED was planted by a passenger who deplaned at a transit stop, where the aircraft had been searched sufficiently to meet industry requirements. As a result of this, IATA recommended all airlines should include the lifting of seat cushions during searches at transit stops (Wallis, 2001). In 1987, a Korean Air flight crashed killing one hundred and fifteen. This was the result of an IED smuggled on board in hand luggage by passengers who deplaned at a transit stop (Wallis, 1993). The outcome

> was an instruction from the Council of ICAO to its Committee on Unlawful Interference to advise on changes needed to security procedures to control the movement of transit (by which they also mean transfer) passengers and for the detection of explosive substances. (Wallis, 1993, p. 19)

It is clear from the TWA and Korean Air incidents that new security measures came in response to terror attacks that previously occurred rather than from considering possible future threats. It is also evident that the reactions lacked the necessary strength. Instead of recommendations and instructions to advise, new mandatory procedures should have been developed. In 1988, Pan Am aircraft *The Maid of the Seas* designated Flight 103, exploded over the Scottish town of Lockerbie causing the deaths of all two hundred and fifty-nine on board, and eleven residents of the town. The Scottish Fatal Accident Inquiry found that the aircraft was destroyed by an IED hidden in an unaccompanied bag. One of the most jarring aspects of the Lockerbie tragedy was that those responsible used the same method as the perpetrators of the *Kanishka* bombing (Wallis, 2001; Wilkinson, 1999). With no major incidents occurring since the beginning of the 1990s, and

with security procedures becoming so developed, complacency settled in. This is another reason why the industry was so woefully unprepared for 9/11. Having never been proactive, and without any new stimulus for reaction, anticipation of an evolved future threat was at an all-time low. Furthermore, despite the prevalence of terrorist acts of unlawful interference, aviation security as it had been developed by the international organizations was still considered to be a safety issue. As such it was primarily a matter for the individual sovereign states that make up ICAO's contracting membership.

Collective securitization of aviation

Given the cross-border nature of aviation, what happens in one country can have both indirect and direct effects on other countries. If security is lacking in one country, it puts the security of other countries' aviation systems at risk. This was ably demonstrated by numerous incidences of hijacking and sabotage during the 1970s and 1980s. Terrorism directed at aviation is perceived to pose a threat at the global level. Thus, ever since its inception aviation security has been a common interest. Most of ICAO's work on aviation security has as such been concerned with Standards and Recommended Practices (SaRPs). ICAO relies on Contracting States adhering to SaRPs as it had no legislative power. In addition, the list of Contracting States spans the entire global scale in terms of both wealth and technological capability. It is therefore required to balance setting SaRPs at the lowest common denominator to ensure all Contracting States are capable of adhering and yet ensure this minimum provides an adequate level to achieve the designated aim. Many countries choose to implement their own programmes over and above ICAO's SaRPs in order to ensure that their own national aviation programmes are as strong as possible, especially in the area of security. It has therefore long since been the view of ICAO and the other international organizations that in order to ensure an adequate level of security in any given country, all countries must adhere to a certain standard. Without common basic standards there is no security. Even with the most stringent national aviation security programme, there is a significant risk if other states do not enact even the most basic requirements to ensure the security of aviation originating within their borders.

Prior to 9/11, the EU had no active involvement in aviation security, as it was considered by all to be a national competence. The EU merely followed European aviation security with it holding observer status at the European Civil Aviation Conference (ECAC) – the regional forum of European national Directors of Civil Aviation. As such, EU involvement in aviation security prior to 9/11 was limited to an awareness of both the issue itself and what the Member States were doing regarding it. Aviation security as a political competence was only developed in 2001 because of the precipitating event that was 9/11. In the immediate aftermath of 9/11, all Western governments not just the Member States of the EU were concerned with the protection of citizens and critical infrastructure within their borders. This required the strengthening of counter-terrorism capabilities to the fullest extent possible. The shock of the attacks was a wake-up call, and in the aftermath security issues became a critical point in politics. The immediate effect of 9/11 was a feeling amongst EU policymakers of needing to react to the situation. It was perceived that the reaction needed to be the swift and effective integration of security policy. One of the many significant effects of 9/11 was the collective securitization of

terrorism in the EU (Kaunert & Léonard, 2019). Whilst it may seem obvious that this was also the case with regard to aviation especially given the specific nature of the 9/11 attacks, without an exogenous shock of such magnitude there would not have been a suitable policy window for a policy entrepreneur to exploit.

Aviation security policy has been subject to much criticism over the years. Whilst aviation security by its very nature must be to a degree reactive, a prominent criticism is that national aviation policy is *simply* reactive, in that it focuses only on attempting to ensure protection against repeats of previous attacks. Furthermore, it is argued that: "Like all policy inspired by [precipitating] events … the window of opportunity … for policy change in aviation disasters is rather short after a large, attention-grabbing event" (Birkland, 2004, p. 342). Before 9/11, all Member States were happy with non-binding regulations at the EU level. Even the established security discourse and resulting policies and practices of the international organizations such as ICAO centred on the consensus and cooperation among states. The issue was considered one of national sovereignty. Moreover, the creation of a tertiary level through a supranational framework for aviation security would have been unthinkable. However, after the attacks the existing status quo was dramatically altered. There was the perceived need to strengthen the rules – harmonization through regulation – otherwise it would have been the same as it was prior to 9/11, which now was deemed not good enough. It was also felt that aviation security was a matter of the utmost priority. Not only did something need to be done, but it needed to be done quickly. At an emergency session of the Council on 14 September 2001, convened as a direct result of 9/11, the Ministers of Transport decided the EU needed common *binding* rules. The shock factor of 9/11, both in its apparent suddenness and its overwhelming magnitude, and the fear regarding the cost – both human and economical – of another such attack undoubtedly influenced the opinions of the Member States.

By recognizing the policy window that had opened in the wake of 9/11 and responding by pushing for its involvement, the Commission demonstrated its ability to perform the role of a supranational policy entrepreneur. Policy windows even when utilized fully by bona fide policy entrepreneurs do not translate directly into legislation. The Council had simply decided that aviation security as an issue should be given attention at the Community level. This could have taken a variety of forms up to and including the achievement of a legislative competence. In fact, in many other policy areas which are related to aviation security, for example many areas of aviation, involvement at the EU level is more along the lines of communicative cooperation than legislative action. The securitizing move in response to 9/11 and exploitation of the subsequent policy window which resulted in the EU beginning to legislate aviation security was shown to be successful through the acceptance of the Member States. This not only demonstrates the ability and strength of the Commission acting as a supranational policy entrepreneur but also the Commission's role as a securitizing actor.

Policy output and routinization

There was a perceived need for the Commission to act with a sense of urgency, to show that the EU could integrate security policy quickly and efficiently. Whilst in the immediate aftermath of 9/11 the national governments of Member States welcomed the EU

involvement, the EU recognized that as aviation security had previously been a national competence it was one in which they had no experience. As such, Regulation (EC) No 2320/2002 of the European Parliament and of the Council of 16 December 2002 establishing common rules in the field of civil aviation security, which was the EU's first legislative effort as part of the new competence, simply translated the recommendations of ECAC's Doc 30 into EU Law. By doing so the Commission made the formerly optional common standards mandatory. Due to the generally more affluent nature of ECAC's overall Membership to that of ICAO, it is able to set higher common standards than ICAO on account of the lowest common denominator having to take into account the poorest and least developed of the Contracting States. The rapidity with which the EU moved into aviation security suggests that the focus was on the occurrence of action rather than the substance of it. The self-proclaimed justification for Regulation (EC) No 2320/2002 was the need of the EU to ensure the safety of Europeans within its borders – by protecting civil aviation from acts of unlawful interference. In essence, to ensure another 9/11 could not happen in Europe. As the EU was aware that the Member States were, however, already doing this, the policy the EU produced was not the creation of new procedures for aviation security, but rather the legislating of that which was already in place. This, therefore, suggests the post-9/11 securitization of aviation was primarily a symbolic show of strength. Given the magnitude and nature of the threat, the EU needed to move quickly to appear strong and in control. The easiest and most effective way was to render the voluntarily maintained status quo mandatory. This was undoubtedly aided by the designating the referent object as "the very essence of the European Union" to which "terrorism is one of the greatest threats" (OJ L 355, 2002, p. 1). The added advantage of this was not only that it came replete with an established discourse but guaranteed an accepting audience response.

In addition to being expeditious and simple, using the current industry recommendations rather than attempting to develop new common basic standards was rational. By using the knowledge of others as the base on which to develop its efforts, the EU was able to ensure the securitizing move was accepted by the audience but also successfully generate policy output and thus fulfil the stated aim of establishing EU common basic standards on aviation security. This was achieved with the passing of Regulation (EC) No 2320/2002. Regulation (EC) No 2320/2002 passed legislative control of aviation security from the national level to the Community level. It did not however negate the role of the Member State. Given the EU's standing in aviation security in December 2002, it was dependent on the Member States for their equipment, personnel and to represent it as an actor in the established international system. Whilst the securitization of aviation in the EU established a security discourse and resulting policy outputs at the Community level it did not create a tertiary level in the wider aviation industry. International aviation still functions on the same two-tier regulatory structure between the sovereign states and the international organizations of which they are constituent members. Recursive interaction was thus a significant aspect of the collective securitization of aviation in the EU. The Member States as the audience were not simply the recipient subjects of a securitizing move, but also empowered it.

Upon review, the content of the Annex – ECAC's Doc 30, contains more specific standards than general levels. When these are rewritten from recommendations into requirements problems can occur upon implementation. Regulation (EC) No 2320/2002 was

fraught with problems resulting from it being drafted too quickly by those without the appropriate experience. The non-binding recommendations contained within ECAC's Doc 30 did not work as legislation and, therefore, implementation was severely problematic. The subject of implementation was addressed with the passing of Regulation (EC) No 622/2003 of 4 April 2003 laying down measures for the implementation of the common basic standards on aviation security. The purpose of Regulation (EC) No 622/2003 is to provide "the necessary measures for the implementation and technical adaption of common basic standards regarding aviation security". This new legislation, which was drafted and passed to amend the initial policy output, evidenced the spill-over from legislating standards to legislating implementation measures – or from policy to practice. With the new legislation, the EU began legislating the exact measures through which the common basic standards should be implemented. This presented a catch-22 situation: dealing in specifics requires experience – which the EU did not have, by legislating specifics the EU reduced the autonomy afforded to Member States – who did have the necessary experience. This is proven true by the failings of Regulation (EC) No 622/2003 as can be seen from the number of times it was necessary to amend it and the reasons for this. Only one amendment was a direct response to threat development, namely the introduction of measures concerning Liquids, Aerosols and Gels in response to the foiled liquids plot of 2006. This original legislative response to the new threat clearly demonstrates the increased actorness during the initial involvement. Rather than merely being a repository for a common security narrative and aggregating the security practices of its Member States, the Commission was now able to lead that narrative and respond to precipitating events with successful securitizations. The rest of the amendments, thirteen in a four-year period, were all concerned with correcting the shortcomings of the previous policies. The revisions to Regulation (EC) No 622/2003 did, however, make a positive contribution to EU aviation security: they demonstrated the strength of the EU's experience as an actor in counter-terrorism and how this was used to inform aviation security policy.

EU initial efforts highlighted both the importance of successful implementation and the gap between policy and practice. As such, it was necessary for the EU to learn the lessons of its mistakes and redraft its aviation security policy. This led to increased substantive exchanges between the EU and Member States. Therefore Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and repealing Regulation (EC) No 2320/2002 was passed. As Regulation (EC) No 622/2003 pertained to Regulation (EC) 2320/2002 it too was repealed and was replaced with Commission Regulation (EC) No 820/2008 of 8 August 2008 laying down measures for the implementation of the common basic standards on aviation security. Regulation (EC) No 820/2008 was however concerned with measures to facilitate the implementation of Regulation (EC) No 300/2008 rather than proscribing exactly how this was to be done. One of the key lessons learnt by the EU because of Regulation (EC) No 2320/2002 is the kinetic, almost fluid, nature of aviation security. Specifically, how it is wide ranging and ever changing, as well as its dependence on technologies that are continually expanding and developing. This is evidenced by the statement in Regulation (EC) No 300/2008 that EU aviation security policy needs to be more flexible. As such it

should lay down the basic principles of what has to be done in order to safeguard civil aviation against acts of unlawful interference without going into technical and procedural details of how they are to be implemented. (OJ L 97, 2008, p. 72)

This is a far cry from the attitude originally adopted under Regulation (EC) No 2320/ 2002 and furthered by Regulation (EC) 622/2003 and its many amendments. Recursive interaction became a much more prominent feature in the routinization of aviation security and can be evidenced in the increasing implementability and coverage of successive policies. This supports Sperling & Webber's assertion that exception and routine are not mutually exclusive in all securitizations. Whilst it was the precipitating event of 9/11 that initiated the securitization of aviation, the subsequent development of it was determined by both further precipitating events but also prior experience and practices which in turn shaped the routinization and new status quo.

Whilst Regulation (EC) No 300/2008 stated the EU would not dictate to Member States how they should go about implementing the common rules and common basic standards it contains, it did, however, state that the EU would inspect whether or not these rules and standards were in fact implemented. A historical weakness of aviation security is that the international organizations are unable to ensure the necessary standards due to lacking the power to enforce implementation at the national level. Whilst ICAO has always been the preeminent body for setting standards, it was unable to enforce them, and was not involved in compliance monitoring prior to 9/11. Whilst common basic standards are by their very nature the necessary measures, wherever they have existed so has the right to derogate from them – the allowance to go over and above. This is not simply to prevent the infringement of sovereignty. This is also due to the necessity for security measures to vary in accordance with the differing nature of the threat which tends to be specific to a particular locale. By including common basic standards in legislation with which the Member States are required to comply, the EU thus theoretically countered this weakness. The reality is, however, that no legislation is self-implementing. In order to achieve a common basic standard, the EU had to ensure that implementation occurred. Regulation (EC) 2320/2002 contained the requirement that Member States develop and implement a National Quality Control Programme. Further legislation was subsequently passed which was designed to ensure harmonization of NQCPs across Member States in order to allow for successful monitoring at the EU level. The monitoring of compliance through inspections of the implementation of the legislated common basic standards has been a significant focus of EU efforts. Through this vertical spill-over from the EU's involvement in creating aviation security policy to the strong focus on compliance monitoring, the EU ensured the implementation of its common basic standards. This is something which its antecedents have always been unable to do, thus countering one of the biggest obstacles to successful international regulation of aviation security. As such, the EU has proven its strength and relevance as an aviation security actor.

Conclusion

This article has focused on a particular aspect of the expansion of the EU's counter-terrorism activities, namely aviation security. Prior to 9/11, aviation security operated on a

two-tier structure. SaRPs were set by the international organizations of the industry and were implemented by the national governments. In the wake of the focusing event that was 9/11 the EU begun involvement in aviation security, adding a supranational dimension to the previously inter-governmental system, through the collective securitization of terrorism in the EU (Kaunert & Léonard, 2019). Given the globally inter-linked nature of aviation security, however, the effects of EU involvement were not constrained to aviation security within its Member States.

The purpose of the article was to analyse EU involvement in aviation security. Given the wide field this article is located within, the article has made an original contribution to numerous areas of the existing scholarly literature. First, it has significantly widened the scope of the field of literature concerned with aviation security. Previously this field tended to have a three-fold focus. First, the practical and technical aspects of aviation security. Second, aviation security in individual countries – most often the USA. Third, the history of aviation security – the threat it faces and the response of the international organizations involved in it. First, this article, by considering the development of aviation security in the EU, has not only added to these existing areas individually but also in conjunction with one another. Furthermore, it has not only identified a gap in the existing literature, but has also addressed it. Second, this article expands and builds upon the field of EU counter-terrorism through the consideration of the EU's involvement in aviation security. The article has contributed to those works that consider the issue of both the effect of 9/11 on the political remit of the EU and the subject matter of this expanded remit. Third, the article has also made a contribution to the field of EU policy entrepreneurship (Kaunert, 2007, 2010a, 2010b, 2010c) through its consideration of the role of the Commission in driving integration in this area.

This article has demonstrated that aviation security both by way of its very creation and also continually through its subsequent evolution, is reactive in nature. This has been explained by the fact that in the absence of unequivocal provocation resulting from public opinion in the aftermath of fatal attacks, the industry has historically had a tendency to favour profit and thus increased national revenue over costly security measures. The evolution of aviation security has been guided and regulated by international organizations which are constrained by having to set standards at the LCD as a result of the sheer diversity, both economically and technically, of their Member States. These organizations have an additional inherent weakness, which is that they lack the power of enforcement and have to rely on the national organs of the individual states to ensure implementation. When combined these factors can potentially have a significant negative impact on the level of aviation security. This fact was exploited by the perpetrators of the 9/11 attacks, demonstrating not only the need for high standards of aviation security but also its global nature and thus the magnitude of the consequences of these standards not being met.

It has been shown that the 9/11 attacks were the main reason for the instigation of the EU's efforts in aviation security. Furthermore, this occurred at the behest of the Member States, all of whom were in agreement that EU involvement was now necessary. However, as the EU previously had no experience in aviation security, the decision was to follow in the footsteps of those who did with the aim of building on this. This article has shown this

aim to be establishing the harmonization of aviation security across the EU through the creation of EU common basic standards.

Notes

1. Hoffman was a Founding Director of the Centre for the Study of Terrorism and Political Violence at the University of St. Andrews (along with Paul Wilkinson) and was appointed as a Commissioner to The National Commission on Terrorist Attacks Upon the United States (the 9/11 Commission). He succeeded Brian Jenkins at RAND (Council on Foreign Relations, n.d.; Committee on Homeland Security, 2010; Wilkinson & Jenkins, 1999).
2. A terrorism and counter-insurgency expert who has been lauded as one of the first and foremost leaders in academic research on terrorism, who started the RAND terrorism research programme in 1972, and was appointed to the White House Commission on Aviation Safety and Security in 1996 as well as serving as an advisor to the National Commission on Terrorism from 1999 to 2000 (RAND Corporation, n.d.; Wilkinson & Jenkins, 1999).
3. In addition to academic work on political terrorism including establishing the Tel Aviv University's Jaffe Center for Strategic Studies' Terrorism and Low intensity Conflict Program, Merari also established and commanded Israel's Hostage Negotiations and Crisis Management Unit (International Institute for Counter-Terrorism, n.d.; Wilkinson & Jenkins, 1999).
4. Wilkinson remains to date the most prominent academic on aviation security. In addition to numerous published works on terrorism and democracy from 1974, he was a guest lecturer and frequent expert consultant and advisory. Wilkinson began to focus on aviation after Lockerbie not only authoring numerous highly respected works but also advising both the UK Department for Transport and the US Federal Aviation Administration, many other governments, as well as both NATO and the United Nations (Rengger, 2011; Wallis, 1993, 2003).
5. A former Director of Security for the International Air Transport Association and has served on the International Civil Aviation Organization's Aviation Security Panel, as well as participating in and appearing before both American commissions and other national government committees (Wallis, 1993, 2003; Wilkinson & Jenkins, 1999).

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Acknowledgment

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