Draft list of extraordinary circumstances following the National Enforcement Bodies (NEB) meeting held on 12 April 2013

Understanding between NEB –NEB[1] on a non-exhaustive and non-binding list of extraordinary circumstances for the application of the current Regulation (EC) 261/2004

Note 1: An extraordinary circumstance is defined by the following general principle: the event has to meet the three criteria, unpredictable, unavoidable and external.

Note 2: Whilst each of the circumstances listed below is likely to constitute extraordinary circumstances for the purpose of the Regulation, national enforcement bodies are required to examine individual cases to determine whether distinguishing factors exist.

Note 3: That in each of the following examples, the air carrier must provide proof of the circumstances alleged and it must also clearly demonstrate how these circumstances resulted in the flight disruption.

Note 4: After demonstrating the existence of extraordinary circumstances, the air carrier must also explain what reasonable measures it took to subsequently avoid the disruption.

Note 5: The incident needs to be evaluated in the context of the category to which it relates.

[1] This document has been published at the request of the NEBs. This document is for information and guidance. The content of the document does not necessarily reflect the position of all NEBs. The content of this document has not been adopted or in any way approved by the European Commission and should not be relied upon as a statement of the European Commission's position.

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Number	Category	Incident
1	**War/ Political Instability**	Unforeseen disruption arising from war & political instability of any kind where travel is not recommended.
2	**War/ Political Instability**	Where the supply of aircraft fuel is limited or unavailable at short notice and without pre-notification.
3	**Unlawful act**	Unlawful acts (for example terrorism).
4	**Sabotage**	Acts of sabotage to the aircraft scheduled to operate the flight or the air carrier's fleet.
5	**Security**	Closure of the airport of departure or the airport of arrival without pre-notification for security reasons.
6	**Security**	Bomb discovery or bomb scare either onboard the aircraft or at the airport of departure or the airport of arrival.

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7	**Security**	Hi-jacking of the aircraft.
8	**Security**	Removal of unaccompanied baggage due to a serious security concern.
9	**Security**	Removal of an unruly passenger from the aircraft for security reasons - thereby causing either a flight delay or diversion.
10	**Meteorological**	Weather conditions incompatible with the safe operation of the flight. These weather conditions may be forecast to arise at either the airport of departure, the airport of arrival or along the intended flight path of the aircraft.
11	**Meteorological**	Closure of either the airport of departure or the airport of arrival due to meteorological conditions.
12	**Meteorological**	Weather conditions resulting in capacity restrictions at either the airport of arrival or the airport of departure.
13	**Meteorological**	Damage to the aircraft which could affect the safety of the flight or the integrity of the aircraft and requires immediate assessment and/or repair and caused by other meteorological events (for example: lightning strikes, hailstones, thunderstorms, severe turbulence etc).

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14	**Meteorological/ De-icing**	Extreme weather conditions which result in the elevated consumption and subsequent exhaustion of what would usually constitute ample de-icing stocks due to third party supply failures - with the result that the aircraft cannot be de-iced for departure.
15	**Airport Closure**	Closure of either the airport of arrival or the airport of departure for non-security and non-meteorological reasons.
16	**Medical Grounds**	Passenger or crew member becomes seriously ill or dies on-board or during the flight.
17	**Bird-strikes**	Bird-strikes to the aircraft during a flight which might cause damage which requires immediate compulsory checks and possible repair.
18	**Manufacturing Defects**	Discovery of a hidden manufacturing defect by the air carrier (this is often noted by unusual failure of the same aircraft part.
19	**Unexpected flight safety shortcomings**	Damage to the aircraft primary or secondary structure (e.g. metallic or composite structure) caused by third parties on the ground prior to the departure of a flight and requiring immediate assessment and/or repair. For example a collision between an airport vehicle and an aircraft.
20	**Unexpected flight safety shortcomings**	In-flight damage to the aircraft during the preceding flight, caused by a foreign-object, and which requires immediate assessment and/or repair.

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21	**Unexpected flight safety shortcomings**	Any technical issues which cause the pilot to carry out an aircraft turnaround or diversion.
22	**Unexpected flight safety shortcomings**	Failure of the bleed-air system/environmental control system on an aircraft (which had been properly maintained) either immediately prior to departure or in-flight.
23	**Unexpected flight safety shortcomings**	Premature failure of life-limited parts (as referenced in applicable maintenance data, contained within the aircraft maintenance manual, or Maintenance Planning Document (MPD), or Maintenance Review Board Report (MRBR)) prior to their scheduled inspection/removal/retirement date (where those parts had been maintained in accordance with the required maintenance programme).
24	**Unexpected flight safety shortcomings**	Failure of on-condition/condition monitored parts i.e. parts which should not require unscheduled maintenance or replacement during normal operational service (for example propeller oil-temperature gauges. The premature failure of these parts during normal operational service when maintained in accordance with the maintenance programme is unpredictable).
25	**Unexpected flight safety shortcomings**	Failure of necessary or required aircraft systems (for example the cooling system, avionics system, flight control system, flaps, slats, rudders, thrust reverser, landing gear) either immediately prior to departure or in-flight (where those systems had been maintained in accordance with the required maintenance programme).

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26	**Unexpected flight safety shortcomings**	Any other technical defects which become apparent immediately prior to departure or in-flight (where the system or part had been maintained in accordance with the required maintenance programme) and which require investigation and/or repair before the aircraft is airworthy for the intended flight.
27	**Unexpected flight safety shortcomings**	Smoke, fire or fumes on board the aircraft unless the problem has been caused by a part not being maintained in accordance with the required maintenance programme or due to a failure to follow appropriate operational procedures.
28	**Industrial Relations Issues**	Strikes that affect the operation of an air carrier. For example strikes undertaken by Air Traffic Control.[2]
29	**Air Traffic Management**	Where Air Traffic Control suspends or restricts operations out of the airport of departure or into the airport of arrival.
30	**Air Traffic Management**	Where Air Traffic Control suspends or restricts operations into or out of a block of air-space through which the air carrier must travel in order to operate the flight.

[2] Drawn from Recital 14 of Regulation (EC) 261/2004

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List of circumstances which are NOT extraordinary

Note 1: Whilst the circumstances listed below are unlikely to constitute extraordinary circumstances for the purpose of the Regulation, national enforcement bodies are required to examine individual cases to determine whether distinguishing factors exist.

	Category	Incident
31	**Technical Issues**	Technical issues which arise as a result of the air carrier's failure to maintain its aircraft in accordance with the required maintenance programme.
32	**Technical Issues**	Technical issues which were found during maintenance where the part or system in question was scheduled to be checked. Over-running maintenance can be a reflection of poor maintenance planning.
33	**Crew Out- of-Hours**	When this occurs as a result of poor operational planning by the air carrier and inadequate flight and turnaround times being allocated for the aircraft.
34	**Absence of correct Flight Documentation**	Where the failure to prepare and submit the documentation necessary to operate the flight was due to factors within the air carrier's control.
35	**Safety Assessment of Foreign Aircraft (SAFA) Inspections**	SAFA aircraft inspections which reveal technical issues which require immediate assessment and/or aircraft repair. (These are issues that should have been addressed during the normal maintenance or operation of the aircraft)