

# **Operation of the UK Traffic Distribution Rules in relation to all-cargo services at London Gatwick Airport**

## **Consultation paper by BAA Gatwick**

### Introduction

1. This paper seeks the views of interested parties on the conditions under which BAA Gatwick should grant consent under the UK Government's 1991 Traffic Distribution Rule (TDR) for the operation of all-cargo services at Gatwick Airport. The paper explains the 1991 Rule, clarifies the link between this Rule and the EU Slot Allocation Regulations, describes the options that exist, and recommends a way forward.

### Background

2. In 1985 the UK Government used the powers in the 1986 Airports Act to make a set of traffic distribution rules for Heathrow and Gatwick Airports. In 1991 the UK Government amended the TDRs for Heathrow and Gatwick Airports, only retaining rules relating to 'whole plane cargo services or general or business aviation' (the 1991 TDRs are set out in Annex 1). The rules prevented these forms of air traffic from operating at the airports during the periods of peak congestion, except where 'the airport operator has given the aircraft operator permission to operate at the airport during the periods of peak congestion'. Although the TDRs relate to both all-cargo and general aviation traffic, this consultation paper focuses entirely on the treatment of all-cargo traffic.
3. In 1992 the European Union enacted legislation (2408/92) which, in Article 8, allowed Member States 'to regulate without discrimination on grounds of nationality or the identity of the air carrier the distribution of traffic between the airports within an airport system. The UK defined London's Heathrow, Gatwick and Stansted Airports as forming an airport system, enabling the continuation of the UK Government's Traffic Distribution Rules.
4. In 1993, and then in 2004, the EU enacted legislation covering slot allocation at airports including Gatwick Airport. Consequently all-cargo operators effectively require two permissions to fly services in the hours of peak congestion:
  - A slot granted by the slot coordinator, Airport Coordination Limited (ACL), under Regulation 793/2004; and

- A permission from BAA Gatwick under the TDRs to operate all-cargo services during periods of peak congestion.
5. The issue is made more complicated by the changes in which periods are defined as 'hours of peak congestion'. These periods have changed over time at Gatwick reflecting the evolving nature of the airport's traffic. This implies that an hour which was previously part of the peak period might now find itself inside that period, and vice versa. Annex 2 contains the peak periods which were notified by the CAA for the Summer 2004 and Winter 2004/05 seasons. Over time, it is likely that the peak periods will continue to grow so that they cover a large part of the operational day.
  6. The 1991 TDRs, and their predecessors, were based on the then Government's conclusion that "*all-cargo flights at Heathrow and Gatwick ..... can continue to operate where they do not conflict with passenger airline requirements*" (extract from a letter from the Secretary of State for Transport to the Chairman of the CAA, 21 July 1986). The UK Government's 2003 Aviation White Paper offered no particular guidance on preferences between passenger services and all-cargo services but the Department for Transport has indicated that it has no intention currently to review the TDRs.
  7. Given these uncertainties and complexities, BAA Gatwick now believes that it is necessary to provide clarity by clearly defining the conditions under which the company grants and reviews permission for all-cargo operations during hours of peak congestion.

#### Consultation options

8. We therefore invite comments from interested parties on the following two options for defining the conditions under which all-cargo operations may take place in peak hours.

#### *Option A – No permissions given for programmes of peak hour all-cargo services*

9. The purpose of the 1991 TDR was to ensure priority is given for Gatwick's slots in peak hours to passenger services. On this basis, all-cargo services should not be permitted to operate in the peak period where there is likely to be demand for passenger services. This option therefore assumes that BAA Gatwick would only grant permission for all-cargo services under exceptional circumstances. No new permissions would be granted for programmes of all-cargo services in peak periods.
10. BAA understands from ACL that there are very few, if any, all-cargo services which hold historic rights for slots in peak periods at Gatwick. Any such operators would be given the option by the airport operator to

re-time to hours outside the peak period, to transfer the service to another airport, or to use the peak period slot for a passenger rather than a cargo service. Three years would appear to be a reasonable notice period for this purpose, and therefore the Summer 2008 scheduling season would appear to be a suitable point in time at which BAA Gatwick would cease granting permission to existing all-cargo services in the peak period. However we are open to views on this timescale.

*Option B – Permissions given for the continuation of the existing level of peak hour all-cargo services*

11. Under this option, BAA would grant continuing permission to operate to those all-cargo services which held historic rights to slots operated in the peak hours as notified for the Summer 2004 and Winter 2004/05 seasons. (BAA would, however, reserve the right to revoke this continuing permission in the future). However, BAA would not grant any further permissions for all-cargo services to operate in peak periods; specifically, if a service operated in an off-peak hour in 2004 which was later defined as a peak hour, permission would not be granted for the all-cargo service in the newly defined peak hour. Again, it is relevant to note that there were very few, if any, all-cargo services hold historic rights to slots in the peak periods in the Summer 2004 and Winter 2004/05 seasons.

Procedural amendments

12. We have also considered procedural amendments which might be introduced alongside the options referred to above to maximize the availability of slots for whole plane cargo and would welcome your views.

*All-cargo peak period operations: granting permissions for use of unused slots*

13. Alongside any of the above options, it is envisaged that BAA Gatwick would create a procedure whereby air carriers wishing to operate all-cargo services during peak periods would be able to seek permission to use any unused slots up to, say, three weeks before the planned operation. BAA would welcome comments from interested parties on whether such an approach is appropriate, and how far in advance of the planned operation that all-cargo operators should be able to seek such permission.

*Amend the method for defining hours as peak hours*

14. Alongside any of the above options, it may be appropriate to amend the criteria for determining which hours of the day are defined as peak hours. The TDR places the responsibility on the CAA for the decision on which hours form the periods of peak congestion. In making any such decision the CAA must have regard to advice received from the

airport operator and the scheduling committee. The latter is a group of airline representatives which used to have a very significant role in determining slot allocation at Gatwick Airport but whose role is now largely supplanted by the slot coordinator and the Coordination Committee; however, the scheduling committee continues to operate as a sub-committee to the airport's Coordination Committee.

15. The current process is that the slot coordinator, Airport Coordination Limited (ACL), reviews the schedule after the slot handback deadline and notes those hours which have less than three slots available for allocation in a typical week. ACL then advise BAA Gatwick of the hours and write to the CAA, recommending that these hours be notified as the periods of peak congestion for the forthcoming scheduling season. The CAA then formally notifies the periods of peak congestion. In deciding what periods to declare the CAA has applied consistent criteria which usually leads it to follow the advice given, but it has the right to make a different decision.
16. BAA believes that it would be helpful if the peak hours were to be notified significantly earlier in the process: before the initial slot submission deadline for each season. This would enable all-cargo operators to determine the off-peak hours in which they could operate without separate permission from BAA Gatwick. This would require BAA, ACL and airline representatives to review demand in the previous equivalent season and apply an objective set of criteria to determine which peak hour period to recommend to the CAA for notification. If the CAA were to apply a precautionary principle, it might be necessary to define longer peak periods to ensure an effective priority is given to passenger services. However, it is for the CAA to make the final decision on how to determine the peak periods and at what stage they should publish their notification each season.
17. BAA Gatwick welcomes views from interested parties on whether to move to an earlier notification of the hours of peak congestion, and whether the existing set of criteria (less than three slots available in the hour) should continue to be applied when determining which hours should become the peak hours.

### Recommendation

18. Given the original purpose of the TDRs, BAA is minded to adopt option A, together with the ad-hoc permission process discussed at paragraph 13, and the earlier notification process discussed in paragraphs 16 to 17. However, prior to making a decision, we would welcome views from interested parties. Comments should be sent by **September 21<sup>st</sup> 2005** to Clive Woodward at BAA Gatwick by e-mail (clive\_woodward@baa.com) or by post to:

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South Roof Office Block,  
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West Sussex, RH6 0NP.

**BAA Gatwick**  
**June 2005**

## **The 1991 Traffic Distribution Rules**

Whereas

- (1) It appears to the Secretary of State that London (Heathrow), London (Gatwick), and London (Stansted) are airports serving the same area in the UK and he considers it appropriate to make the following rules; and
- (2) The Civil Aviation Authority (“the CAA”) has given advice to the Secretary of State in relation to the subject matter of these rules on 17 July 1989 and 14 January 1991;

Now therefore, the Secretary of State, in exercise of his powers under section 31(1) of the 1986 Airports Act (a) and of all other powers enabling him in that behalf, hereby makes the following traffic distribution rules:-

1. These rules may be cited as the Traffic Distribution Rules 1991 for Airports serving the London Area, and shall come into force on the 5 March 1991.
2. All classes and descriptions of air traffic are permitted under these rules to use London (Heathrow), London (Gatwick) and London (Stansted) unless restricted from doing so under these rules.

### **Heathrow**

3. Subject to paragraph 5 below, air traffic engaged on whole plane cargo services or general or business aviation, other than traffic in relation to which the airport operator has given the aircraft operator permission to operate at the airport during the periods of peak congestion, is restricted in the use of Heathrow airport in that it shall not be operated during such periods of peak congestion at the airport as have been notified by the CAA or may from time to time be notified by the CAA, having regard to advice from the airport operator and the scheduling committee at the airport.

### **Gatwick**

4. Subject to paragraph 5 below, air traffic engaged on whole plane cargo services or general or business aviation, other than traffic in relation to which the airport operator has given the aircraft operator permission to operate at the airport during the periods of peak congestion, is restricted in the use of Gatwick airport in that it shall not be operated during such periods of peak congestion at the airport as have been notified by the CAA or may from time to time be notified by the CAA, having regard to advice from the airport operator and the scheduling committee at the airport.
5. The rules in paragraphs 3 and 4 above shall not apply to any air traffic required to land at the airport in question because of an emergency or any

other circumstances beyond the control of the operator and commander of the aircraft.

6. In these rules:

“general or business aviation” means any air traffic not falling into any of the following categories, that is to say:-

- i. scheduled air services;
- ii. non-scheduled air transport operations for hire or reward and, in the case of passenger air transport operations, where the passenger seating capacity of the aircraft used exceeds 10;
- iii. official flights;
- iv. positioning flights;
- v. training flights;

“notified” means set forth in a document published by the CAA and entitled “United Kingdom Notam” or “United Kingdom Air Pilot” and for the time being in force;

“official flights” means any traffic engaged on the Queen’s flight, or on flights operated primarily for the purposes of the transport of Government Ministers or visiting Heads of State or dignitaries from abroad;

7. The Traffic Distribution Rules 1986 for Airports serving the London area are hereby revoked.

A.J.Goldman  
An Under Secretary  
Department of Transport

5 March 1991

**Periods of peak congestion  
Gatwick Airport**

Summer 2004 scheduling season (hours in UTC)

Monday	0500-1455	1700-1855
Tuesday	0500-1355	1700-1855
Wednesday	0600-1455	1600-1855
Thursday	0500-1555	1700-1855
Friday	0500-1955	
Saturday	0400-1455	
Sunday	0500-1855	

Winter 2004/05 scheduling season (hours in UTC)

Monday	0700-1355	1800-1955	
Tuesday	0700-0955	1100-1355	1800-1955
Wednesday	0700-1355	1800-1955	
Thursday	0700-1355	1800-1955	
Friday	0700-0955	1100-1355	1800-1955
Saturday	0700-1655		
Sunday	0700-1455	1600-1955	