

MINUTES OF MEETING
Special FCL and OPS TAG meeting FRM
27 May
Room 04.049, EASA premises

Organised by Flight Standards Directorate, Air Operations Department, Air Operations Regulations Section

AGENDA

1.	Welcome and introduction.....	1
2.	Adoption of the agenda.....	1
3.	Adoption of MoM Special FCL & OPS Meeting FRM 27 November 2014	2
4.	IFTSS Evaluation.....	2
5.	Approval of flight time specification schemes/FRM	3
6.	Minimum number of CC during cruise on flights with in-flight rest	3
7.	Personnel on board the aircraft	4
8.	Questions raised by MS	5
9.	Meaning of “by derogation” in Art. 2 Reg. 83/2014	6
10.	Information on FRM WS planned for November 2015	6
11.	AOB - Inspector qualification.....	7
12.	Conclusions of the meeting and closing.....	7

Related Links/Documents:

Agenda and minutes will be published on the [EASA website](#).

MoM Distribution:

OPS TAG, appointed experts and observers

MoM prepared by	Adina Szonyi Angeliki Karakoliou	18.06.2015
MoM reviewed by	Daniel COUTELIER	25.06.2015

1. Welcome and introduction <i>Presented by: CTR, Chair TAG OPS&FCL</i>
<ul style="list-style-type: none"> • Short welcome. • Quick round of introductions. • Request for feedback at the end of the meeting on the efficiency of the meeting.
2. Adoption of the agenda <i>Presented by: DCO</i>

- Request for AOBs.
- AOB proposed by DCO: inspector qualifications for FRM.

3. Adoption of MoM Special FCL & OPS Meeting FRM 27 November 2014

Presented by: DCO

There were no additional comments. The latest version of minutes is considered final and will be published.

4. IFTSS Evaluation

Presented by: DCO

WP2_IFTSS_Evaluation_combined comments:

Comments on Question #1

("Does the operator have an approved FRM in accordance with ORO.FTL.120?")

One MS asked whether an approved FRM was necessary when an operator applied for derogation. EASA replied that the process of applying for derogation and the FRM assessment could go in parallel. EASA elaborated that the purpose of the FRM was that operators demonstrated that they were able to collect meaningful data, draw the right conclusions and design effective mitigating measures.

Another MS asked if there was a procedure or guidelines MSs should follow. EASA replied that there was a guidance document developed by EASA to help MSs evaluate an operator's FRM. According to the suggested process, the MS should prepare a dossier with an application and send it along with all supporting documents (e.g. assessment of the case, suggestions for mitigation, etc.) to EASA. Due to the tight deadline in Art. 22.2 of the Basic Regulation, the assessment is to be completed in one month. EASA explained that the use of the guidance document as an assessment tool was not mandatory, but recommended when sending the documentation to EASA, with a summary highlighting whether the NAA was satisfied with the operator's proposal. This would save time and spare the resources involved in the verification of the operator's documents.

If the application contained elements of derogation (Article 14), the Agency would perform an assessment of the case; however, the Commission would formally take the decision. It was explained that the approval is not time limited, however, conditional to a review after 2 years (see ORO.FTL.125 (c)). One MS suggested replacing the term "temporary approval" with "initial approval" as the scheme would possibly be continued to be implemented after the 2-year re-assessment.

Comments on Question #4

("Has the operator previously undertaken a similar change successfully?")

One MS requested supporting information related to the topic. EASA explained that question #4 aimed at assessing the operator's management capability.

Comments on Question #5

("Is the IFTSS to be controlled by the management team internally without the use of external consultants to support the project?" External consultants might help improving the quality of the data.)

One MS suggested rewording to clarify that operators having experienced people in FRM did not need external experts.

Comments on Question #7

("Is the impact of IFTSS low in respect of the operator and the aviation system?")



EASA explained that there could be deviations with a higher or with a lower risk. The following principle would apply: *The higher the risk, the more risk mitigation is necessary*. In this context, the issue of how to assess scientific knowledge, considering the industry's lacking of experience in this approach, was raised. In such cases an external consultant could, with his/her expertise, be reassuring to the competent authority (CA) and support the proper evaluation of an operator's scheme and scientific data. The external consultant would, however, not be mandatory. MSs suggested to rephrase question #7 (e.g. "Do you have FRM expertise or not?", "Is the CA confident that it can read the operator's scientific data in an appropriate way?") and describe in a footnote how this confidence may be achieved.

Evaluation guidance

EASA clarified that the evaluation guidance document was only a tool for the CA's inspectors. The tool should help them to save time. It should also help the CA in assessing whether the operator would be capable to manage the risk by itself. The evaluation guidance document should be used with caution. The tool is only an open list of questions to examine and it should be noted that not all points need be ticked. MSs requested to add one sentence in the document to state that it was a guidance tool and not a mandatory procedure. It should not be a burden, but rather be seen as a helpful tool, especially because the expertise in assessing an operator's IFTSS is still insufficiently mature. EASA and the MSs agreed that an amended version of the document would be circulated for further comments and then the final document should be published on the EASA website.

Risks during the transition period

This discussion was based on a document presented by the Latvian TAG member. The Agency thanked Latvia for sharing that document as an example.

5. Approval of flight time specification schemes/FRM

Presented by: DCO

Sharing of best practices

MSs discussed if checklists produced by authorities should be shared with the industry. Some MSs stated that they had already published all relevant material on their websites. The Swedish and the UK compliance checklists for FTL and FRM, using the UK CAA's and the ICAO model respectively, were used as examples to show how helpful it would be if MSs shared their common practices. Sharing the checklists would also support operators in setting up an FRM and would give them an idea of how they would be evaluated. EASA suggested creating a Sinapse e-community for the MS' FRM experts. The purpose of such a platform would be to share all relevant documents and information; it would also avoid duplication of work by MSs. EASA explained that the presentation ('FTL implementation_flight time specification schemes.pdf') shared with the group and prepared for the FRM forum was focused on providing the operators with information on the steps to follow and the rules to apply while setting up their IFTSS. EASA informed that over the past 15 months operators had contacted EASA directly for clarifications on the regulation. During that time, EASA responded in detail, however, from now on operators will be encouraged to contact their CA. The same approach is followed when dealing with enquiries from associations (e.g. national trade unions or national trade associations).

6. Minimum number of CC during cruise on flights with in-flight rest

Presented by: Swedish TAG member

During the last meeting, EASA had asked for MS' feedback on their current practices. The feedback showed that MSs had chosen a rather prescriptive approach when regulating this issue. EASA encouraged MSs to indicate their views on what the best regulatory tool would be to address the issue and the best way to publish it, taking into account the applicability date of FTL rules (February 2016). It was also explained that



publishing AMC/GM material by that date would also contribute to a level playing field.

EASA recommended to MSs to examine what could happen during the cruise phase of a flight and how cabin surveillance and passenger handling should be managed to ensure the required level of safety. Hazard identification and the associated risk assessment would have to be completed by the operator as a core function of its SMS. Therefore, the proposed AMC and GM should focus on what the risk assessment should cover, in order to ensure common understanding and harmonised implementation. It was concluded that the content of the AMC/GM would have to be discussed on another occasion. It was agreed that cabin safety experts should be involved, because this topic was related not only to FTL, but primarily to the rule on the minimum required numbers of cabin crew specified in Subpart CC of Part-ORO.

The following possible options were discussed:

1. A new RMT. This option would have the disadvantage that a new RMT would not match the applicability date of FTL.
2. As part of the update of the OPS rules with the on-going RMT.0516/0517. This option would have the disadvantage that it would be too difficult to add more input before the NPA publication planned for September 2015. However, MSs could send comments to this NPA, stressing that the issue of the minimum cabin crew to be on duty during cruise in case of in-flight rest had been omitted and should be addressed urgently. With these comments, EASA would be in position to address it during the comments review phase, e.g. using a focused consultation. To advance the issue, EASA could already set up a task-force comprising MS' experts and EASA to prepare draft material; this material should be based on the proposal presented by the Swedish TAG member and EASA's consideration of the IRs with which the intended AMC/GM should be associated. The resulting draft could then be submitted to industry for consultation and could be discussed e.g. during a special joint TAG/SSCC meeting.
3. Another option could be a fast track procedure. This option was discarded as it had shown to be inefficient for potentially controversial issues.

EC-DG Move stated that flexibility was necessary and that solutions should be performance-based.

Finally, it was agreed that the task-force (UK, Italy, SE, Ireland, NL and possibly LBA volunteered) should work by WebEx meetings, email correspondence and only with group meetings if necessary, respecting the following deadlines:

- Deadline for MS to nominate experts to the task-force: end of May;
- First draft to be concluded by September 2015;
- MSs to send comments until end October (4 weeks);
- Final draft proposal to be finalised in November;
- Focused consultation with the industry to take place in December;
- Publication in Q1 2016, thus before and in time for the FTL implementation.

7. Personnel on board the aircraft

Presented by: DCO



In the previous FRM Special TAG meeting, one MS had asked if FTL should apply to an operator's personnel having non-safety related tasks on board (Ref. Council Directive 2000/79/EC of 27 November 2000 concerning the European Agreement on the Organisation of Working Time of Mobile Workers in Civil Aviation). During the last meeting, MSs had been asked to provide examples of other crew members, not having safety-related duties on board.

At this meeting, EASA explained that legally the rule does apply to *all* crew members, not just to flight, cabin and technical crew (please see the definition of 'crew member' in Annex I ('Definitions') of Regulation (EU) No 965/2012). However, the intent had been to produce a rule applicable only to *safety relevant crew members*. EASA therefore agreed to further clarify the scope of ORO.FTL.

Several options were discussed:

- NAAs could require operators to perform a risk assessment to determine which crew members not performing safety relevant tasks on board should be covered by FTL.
- EASA could introduce additional GM (to ORO.FTL.100 'Scope') explaining the applicability and scope of the FTL rules and what was meant by "crew members" in the context of FTL. In this context, it was explained that the related social Directive on working time for mobile workers in civil aviation was complementary, meaning that there would be no contradiction. It was highlighted that some MSs had general rules on working time that were more restrictive than FTL and that the principle that FTL rules are without prejudice to more protective national social legislation must be applied in any case.

EASA asked the MSs for suggestions to use other regulatory tools (e.g. amendment of ORO.FTL.100).

8. Questions raised by MS

Presented by: DCO

ARO.OPS.230

One MS asked which rules should apply when an AOC holder had operating bases in different MS of different 'types' (early type or late type).

EASA answered that the crew members of all AOC holders operating in a certain MS would have to adapt their life style to the type of disruptive schedule adopted by the **State of Oversight**.

Another MS asked which 'type' should apply if a group of AOC holders wanted to swap crews between states of different 'types'.

EASA explained that a combination of the more restrictive 'windows' from both 'types' should be applied. The reason is that crew members cannot adapt their cultural chrono-type every time they changed from one AOC to another in the same group. This principle was supported by all MS present.

ORO.FTL.200, Split duty

One MS asked if the following situation was considered as an "unforeseen circumstance": a technical problem of which crew members are not informed before reporting.

EASA explained that operators should have rules on delayed reporting. However, for this case, unforeseen circumstances would have to be addressed by commander's discretion.

Calendar Year

One MS asked what should be understood by a "calendar year".

EASA answered that a calendar year should be understood to start on 01 January. The phrase "period of a year" could be understood as a period of 365 days, whereas a "calendar year" is understood by everyone as starting on the 1st of January. It was suggested that DG MOVE should clarify this issue in writing.

DG MOVE stated that they could amend the Working Paper on the transition periods of Reg. (EU) 965/2012, including a clarification of the meaning of 'calendar year' or EASA could produce GM explaining



that 'calendar year' in ORO.FTL.210(b)(2) was referring to the year starting on the 1st of January.

Impact of non-CAT flights on FTL

- providing training in an ATO
- mixed operations (CAT/NCC/NCO)
- FTL for ATO

CAT.GEN.MPA.100(b)(5)

The Agency explained the potential issue arising from pilots professionally engaged by a CAT operator performing flights outside the AOC. In this context, different options were possible:

1. a non-commercial flight performed outside the AOC as a leisure activity (e.g. flying NCO as a hobby);
2. a non-commercial flight performed outside the AOC giving training in an ATO;
3. a non-commercial flight performed outside the AOC giving training outside an ATO as a leisure activity in a flying club.

It was acknowledged that it was difficult to draw a line between 2. and 3. when the flying club was an ATO. The Agency invited MSs to describe their current practices. The information provided should be taken into account to find a common way forward. EASA explained that there was no intention to regulate crew members' leisure activities, however, that there was a requirement to count professional flying for the purpose of cumulative flight and duty limits. EASA also clarified that the dead link in the ATO rules pointing to the FTL rules for ATO in Part-ORO would be removed in one of the future RMT (other than FCL.013 RMT). There was general agreement that the CAT operator would have to be informed of any professional flying activity outside the AOC performed by a pilot under the provisions of CAT.GEN.MPA.100 'Crew responsibilities'. This also applied to ATOs. A proposal in this respect should be prepared for next meeting's discussions.

The Agency confirmed that ORO.FTL.115 "Crew member responsibilities" link to CAT.GEN.MPA.100 was intentional for any operation other than CAT.

One MS asked what a "non-punitive" process for the use of commander's discretion meant and how crew members should be protected when they wanted to report something.

EASA explained that operator procedures supporting the commander in the decision-making process of exercising discretion and the extent of it should clearly reflect what an individual had to expect when taking a decision. EASA elaborated that the description and supporting documentation of such a process should e.g. describe some sort of firewall between the technical assessment of commander's discretion decisions and disciplinary procedures related to the commander's labour contract.

9. Meaning of "by derogation" in Art. 2 Reg. 83/2014

Presented by: DCO

One MS asked if derogation was necessary when an operator wished to continue with the same in-flight rest provisions as they had been before 17 February 2017. MSs gave a brief description of their individual cases.

EASA replied that operators planning to modify their aircraft in order to provide facilities for in-flight rest could apply for an exemption (Article 14(4)) for a limited duration. The duration should be described in the application. An opt-out would not be necessary in that case.

10. Information on FRM WS planned for November 2015

Presented by: DCO



Topics to be presented and discussed at the workshop:

- The use of SMS applied to the hazard of fatigue (Demonstration of compliance with ORO.FTL.110)
- Customisation flight time specification schemes
- How to assess reporting systems
- Acclimatisation
- What is expected from an operator when building a safety case to support an IFTSS

As the participants in the last FRM workshop appreciated very much the joint presentations from operators and NAAs, EASA invited MSs to propose other subjects and deliver presentations in the future FRM workshop on 4 November 2015.

11. AOB - Inspector qualification

Presented by: DCO

EASA clarified that RMT.0516 will introduce AMC/GM describing inspector qualifications for inspectors approving and overseeing fatigue management. MSs were invited to send comments to the NPA (scheduled for publication in September 2015).

12. Conclusions of the meeting and closing

Presented by: DCO

DCO thanked the participants for their valuable contribution to the discussions and requested feedback related to the sufficiency of the Special TAG meetings.

The meeting closed at 15:30.

