
Issue/rationale

The task is based on the results of the Evaluation of the Third-Country Operator (TCO) Regulation (EVT.008) finalised in 2020. The evaluation recommends an update of the TCO Regulation to foster the risk-based approach in the processing and assessment of the compliance of third-country operators and hence improve the efficiency of EASA as the authority being responsible for the implementation of the TCO Regulation. The task will deal with cleaning, clarifying and removing inconsistencies and improve the coherence with the EU Air Safety List.

Domain: CAT & NCC operations
Affected rules: Commission Regulation (EU) No 452/2014 (TCO Regulation)
Affected stakeholders: Third-country operators
Driver: Efficiency and Proportionality
Impact assessment: No
Rulemaking group: No
Rulemaking Procedure: Accelerated

EASA special rulemaking procedure milestones

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1. Why we need to change the rules — issue/rationale

In 2020, EASA performed an internal evaluation (EVT.008) of the TCO Regulation\(^1\) and the related soft law, based on the experienced gained and lessons learned by EASA with its implementation.

The objective of the analysis was to assess the efficiency and effectiveness of the TCO Regulation and related AMC & GM (hereinafter referred to as ‘TCO rules’) as well as of the related EASA internal procedures, and to suggest improvements to foster a risk-based approach and hence gain regulatory efficiencies. The evaluation took into account the results of the ex post evaluation\(^2\) of Regulation (EC) No 2111/2005\(^3\) (the Safety List Regulation).

EVT.008 proposed several improvements to the TCO rules, grouped in the five main topics mentioned below.

*Efficiency*

Several of the recommendations had the objective to increase efficiency, in terms of reducing time or resources needed. Some of the topics covered are the process to be applied to the authorisation of operators whose activities have a limited exposure for the public (e.g. business aviation); the clarification of the initial evaluation time frame; tools for dealing with non-responsive operators and the simplification of the revocation process following a suspension.

*Enforcement*

Some of the recommendations grouped under this category concern the process for dealing with systemic findings; widening the portfolio of enforcement measures; achieving more flexibility in the timelines and methodology for lifting suspensions and the introduction of a ‘cool-down period’ following negative decisions.

*Flexibility*

The evaluation recommended the introduction of more flexibility in the TCO rules to deal with extraordinary circumstances (e.g. COVID-19), for example, through the use of exemptions.

*Articulation with the Safety List Regulation*

Several of the recommendations coming from the evaluation dealt with the articulation between the TCO rules and the Safety List Regulation. EASA will be working in close coordination with the European Commission to address these topics, focusing on avoiding duplication of efforts and optimising synergies between the two processes.

*Clarification / Guidance*

Finally, some of the recommendations focused on the need to provide further guidance or clarification on existing provisions (e.g. one-off notification flights and Safety Directives) as well as on addressing some taxonomy issues, outdated references and on reviewing some definitions.

**Related safety issues**

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As stated above, the purpose of this task is to foster a risk-based approach and hence gain regulatory efficiencies. The TCO rules mainly address administrative aspects; the technical standards are laid down in International Civil Aviation Organization (ICAO) Standards and Recommended Practices (SARPs) or other EU regulations.

Accordingly, no relevant safety risks linked to the implementation of the TCO Regulation have been identified, as well as no related safety recommendations (SRs).

No exemptions issued in accordance with Article 76 ‘Agency measures’ of Regulation (EU) 2018/1139⁴ are pertinent to the scope of this RMT.

There are no Alternative means of compliance (AltMoC) having an impact on the development of this RMT.

**ICAO and third-country references relevant to the content of this RMT**

ICAO SARPs — in particular those in ICAO Annexes 1 (Personnel licensing), 2 (Rules of the Air), 6 (Operation of Aircraft, Part I (International Commercial Air Transport – Aeroplanes) or Part III (International Operations-Helicopters), as applicable, 8 (Airworthiness of Aircraft), 18 (Dangerous Goods), and 19 (Safety Management) — are referred to in the TCO Rules, and are therefore relevant for this RMT.

There are no current or intended differences between the content of the RMT and ICAO SARPS.

2. **What we want to achieve — objective**

The overall objectives of the EASA system are defined in Article 1 of Regulation (EU) 2018/1139. Third-country aircraft operators are covered by Section VIII and Article 82 of the same Regulation. This project will contribute to the achievement of the overall objectives by addressing the issues outlined in Chapter 1.

The specific objectives of this proposal are:

— to foster a risk-based approach in the processing and assessment of the compliance of third-country operators, thereby improving the efficiency of EASA as the competent authority for the implementation of the Regulation;

— to improve the articulation between the TCO rules and the Safety List Regulation.

3. **How we want to achieve it**

During the development of the draft rules, EASA will propose to amend the TCO rules to address the topics of efficiency, enforcement, flexibility, articulation with the Safety List Regulation and provide clarification/guidance, as described in Chapter 1.

As explained above, this task intends to address the improvements to the TCO rules that were proposed by EVT.008. These proposed improvements were assessed as non-controversial, and are not expected to have any negative impact, regarding safety, economic or social terms, both for the EASA and for industry. Therefore, the development of an impact assessment is not foreseen at this point.

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This will be reassessed if during the development of the task there is any indication that any of the elements may require further consideration.

EASA shall work in close coordination with the European Commission.

4. **What are the deliverables**

   — Opinion with a draft delegated act proposing the amendment of the TCO Regulation
   — Decision with the related AMC and GM

5. **How we consult**

EASA will perform a focused consultation of the draft amended rules. This focused consultation will take the form of technical meetings / workshops with Member States TCO focal points and with the European Commission.

6. **Dependencies**

This task will address the interface between TCO rules and the Safety List Regulation, as described in Chapter 1.

7. **Reference documents**

7.1. **Affected regulations**


7.2. **Affected decisions**

EASA Management Board Decision 01-2014, adopting the Third Country authorisation procedures.


7.3. **Reference documents**


