MINUTES OF MEETING
Special OPS&FCL TAG meeting
NCC/NCO/SPO implementation issues
16 April 2015
Cologne, Youth Hostel, Room 'Volgograd'

Organised by	Flight Standards Directorate, Air Operations Department, Air Operations Regulations Section (FS.2.2)

List of Participants

Attendees	**Members and appointed experts of OPS TAG and SSCC**	
	EASA:	
	Claudio Trevisan – partially	(CTR)
	Daniela Defossar	(DDE)
	Willy Sigl – partially	(WSI)
	Bas van der Weide	(BVW)
	Adina Szonyi	(ASZ)

AGENDA

Related Links/Documents:
Presentations and Q&A table were sent to the participants. Agenda and minutes will be published on the EASA website.

Minutes of Meeting (MoM) Distribution:
OPS & FCL TAG members, experts and observers

MoM prepared by	Adina Szonyi	30.07.2015
MoM reviewed by	Daniela Defossar	03.08.2015

1. Welcome and introduction
Presented by: DDE

The meeting started at 9:30 a.m. DDE welcomed the participants.

2. Adoption of the agenda
Presented by: DDE

Agenda was adopted as presented.

3. Transition to Part-NCC
Presented by: UK CAA TAG member; all

The UK TAG member presented the NCC implementation issues of the UK-CAA.

The participants expressed their concerns and raised questions as follows:

- There is no clear estimation of how many NCC operators operate in Europe (that should submit a declaration according to ORO.DEC.100) and who they are.
- The implementation dates for the different amendments of Regulation (EU) 965/2012 (NCC/NCO; SPO; sailplanes/balloons) are not aligned. This makes the adjustment of the national rules more difficult as they would have to go in as many steps as the implementation dates. One MS proposed to have a single date of implementation for NCC, NCO and balloons. The current implementation date for NCC/NCO (August 2016) should be delayed.
- What should a NAA do when it knows of the existence of a certain declaring operator that has not submitted any Declaration to the NAA? What is the legal mandate of a declaration?
- There is no rule for the oversight process for the declaring operators (NCC, SPO).
- The installed equipment (e.g. MEL issues) requires a proportionate approach in the rules.
- It is difficult for the NAA to promote new requirements that involve payment by NCC operators.

As a solution for identifying the aircraft, one MS suggested to the UK TAG member to seek information made available by Eurocontrol. UK also considered contacting and collecting information from insurance brokers and lawyers involved in aircraft purchasing for airlines. These entities could also help disseminating the information on the declaration.

The Commission added that moving the deadline for the implementation of the afore-mentioned rules would not solve the problem. However, there is a discussion in the upcoming EASA Committee.

The participants discussed the possibility to use a combination of incentives for declaring operators (free access to any information on the rules provided by the NAA to operators who register) and penalties (fines for the NCC operators that do not register). EASA added that the Basic Regulation obliges the authorities to have an enforcement system in place, which would allow, for example, applying fines to non-compliant operators.

- **Equipment and MEL**

EASA will delete the word 'approval' in the subtitle of AMC1 NCO.GEN.155 'Minimum equipment list. Content and approval of the MEL'.

EASA explained that all NCC operators must require prior approval of their MEL. An ATO that operates according to the NCC rules has to apply the MEL (Basic Regulation); however, ATOs are not required to apply Part-ORO. This gap needs to be covered with an amendment to Part-ORA.

4. Determination of the 'principal place of business'
Presented by: All

EASA clarified that this was the responsibility of the operator.

Answering one question of a MS, EASA explained that in case of an operator having 3 companies in 3 different countries, using the same aircraft, it is important to determine who is exercising operational control. If it is the 3 different companies, then 3 declarations would have to be submitted.

If the operator does not submit a declaration in the country where it has its principal place of business, it would be considered non-compliant.

One MS explained that an obligation of registration of an aircraft in a certain country would help identifying the operator's principal place of business. As taxes are paid for the registered aircraft, this could be a useful tool for tracing the NCC operators.

5. Oversight responsibilities of a Member State for declared operators
Presented by: DDE; All

DDE delivered a presentation on this topic.

Issues raised by MSs:

- NCC rules should be applicable also to third country (TC) registered aircraft. It is difficult to know who is responsible for the TC registered aircraft performing NCC operations in Europe and where they operate. A MS should not perform oversight to TC aircraft, since this is the responsibility of the State of Registry (as regulated by ICAO, in Annex 6 Part II).
- EASA replied that NCC rules are applicable to TC aircraft if operated by an operator established or residing in the EU. EASA also explained that for TC aircraft operated by a TC operator, in the absence of EU rules, MS may continue to regulate at national level. The present TCO rule applies to CAT only.
- Which is the CA liable in case of an accident occurred in a MS, involving a TC registered aircraft of an operator that submitted its declaration in a MS – the State of Registry or the State of the Operator?

  EASA replied that according to the ICAO rules, when an aircraft operates elsewhere, the State of Registry and the State of the Operator must share responsibilities. AMC1 ARO.GEN.300 (a)(2) 'Oversight – Operational approvals issued by non-EU State of Registry' provides further explanations.
- There is a challenge when the aircraft is non-EU registered and the SPA has to be issued by a MS.

  EASA replied that regarding SPA approvals the State of Operator and Registry have to cooperate. In addition, SPA.GEN.100(b) specifies that SPA doesn't apply if the PBN, MNPS, RVSM approvals are issued by the State of Registry. SPA oversight would be different to operations under NCC only. As SPA activities are considered operations involving a higher risk, the MS would have to decide if it applies a higher level of oversight and handles the oversight for NCC in a similar way as CAT. The CA may also consider that NCC operators need a more systematic oversight of their SPA activities than CAT operators as some might not have the operational experience if compared to CAT.

EASA provided also the following explanations:

- The oversight of NCC operators is part of ARO.GEN.305. Specific AMCs have been developed, taking into account the discussions in the EASA Committee. The CA does not have to perform an inspection to all declaring organisations in the first 12 months after their submitting of declarations. AMC1 ARO.GEN.305 (d), paragraph (e) states that the CA only has to list the operators in the oversight programme no later than 12 months after the date of the first declaration received. CA needs not to inspect all NCC operators yearly, but visit each operator once in 4 years (48 months). There are degrees of flexibility: the CA need not to inspect the entire activity, but only parts of it.

EASA answered also the questions sent in advance by one MS. The table with Q&A will be circulated within OPS&FCL TAG and experts after the meeting.

One MS proposed to create another form attached to the declaration, which would carry a history of the operator's activity in each country. This second form should be carried on board; it would thus enable an easy

tracking of the previous operations in other countries. However, as another MS pointed out, a CA cannot exercise its authority when the operator performs in an area beyond the remits of that CA.

Another MS suggested that a common database of declarations would help in keeping track of all the oversight activities performed to an operator.

Fractional / multiple ownership

EASA asked the participants to describe the situation in their countries. One MS said that these operators were required to be AOC holders. Another MS said that an operator offering operations on demand operate under its AOC.

EASA added that there were no plans to further regulate fractional ownership.

6. Cost-shared and introductory flights
Presented by: All

- **Cost-shared flights**

EASA asked MSs if there was a common understanding of sharing the costs in their countries. In one MS, it was understood as contribution in a fair way. In another MS, their national rules stated "equal shares". The word "equal" disappeared from the OPS rules.

EASA explained the rationale behind the exemption made for cost-shared flights: the way in which the costs were actually shared did not affect the safety of these flights. They were considered not to pose a significant risk, therefore it had been agreed to put them under an exemption.

- **Introductory flights**

EASA asked the MSs if there were any conditions imposed on introductory flights in their countries (GM1 ARO.OPS.300 'Introductory flights - Additional conditions' could be used to establish their conditions). In one MS, these operators should be CAMO compliant and have an airworthiness contract. In another MS, introductory flights were performed by ATOs and not as a main business.

Replying to a question, EASA responded that when operations were done in a different State than the State of the Operator, the operational conditions of the State of Operator would apply (refer to ARO.OPS.300).

7. Cooperation with other Member States to perform oversight
Presented by: All

One MS raised a potential problem: if a NCC or a SPO operator fails to comply with the requirements of the applicable regulation during an inspection, what prevents it from submitting its Declaration to a CA in a different MS?

EASA replied that there was no formalised system in place to prevent such things. MSs could only rely on cooperation between their NAAs.

8. Mastering the transition to the new rules
Presented by: All

Replying to a MS's question whether or how the GA roadmap would influence the new rules, EASA summarised the on-going rulemaking task on balloons (the creation of a separate Regulation made of all the balloon related rules). Other issues stemming from the GA roadmap affect the rules on oxygen for NCO; new GM to clarify crew member/passenger, in particular related to the provision that abnormal and emergency conditions cannot be simulated when carrying passengers on board; some amendments to the dangerous goods requirements. There will be a new date of implementation for the future Regulation on balloons. MSs should wait with preparing the implementation of the new rules on balloons until the publication of the future regulation [current RMT.0674 'Revision of European operational rules for balloons']. MSs should rather

focus on the NCO rules applicable to aeroplanes and helicopters and the NCC applicable to jet aircraft.

The Commission mentioned the potential future changes to the definition of complex motor-powered aircraft (CMPA). Proposals had been made in the EASA Committee either to remove the definition from the Basic Regulation, or to adopt the ICAO definition, or to keep it unchanged and tailor the rule accordingly. This will be further reviewed during the amendment of the BR.

MSs had different and sometimes contradicting proposals on delaying the implementation of the new rules or establishing a common date of implementation.

Finally, it was agreed to wait for a conclusion from the discussions in the EASA Committee, in particular as regards postponement of implementation dates, before establishing a clear way forward.

9. SPO activities
Presented by: All

- **TCO and SPO**

One MS stated that requirements for commercial SPO activities with European aircraft versus commercial SPO with US registered aircraft were uneven, as SPO operations were not regulated by TCO.

One MS suggested finding a solution that should apply to all MS.

The Commission said that it would be impossible to cover all situations. If no rule exists, then NAAs have to develop a national regulation for that. Not all EU countries had this problem and it depended on the NAA's risk assessment.

EASA stressed that not the registration of the aircraft but the principal place of business of the operator is the determining factor whether an operator falls under SPO. It was highlighted that the current TCO rules apply only to CAT operations; they do not cover SPO. There are also no ICAO standards for commercial SPO. FAA, for instance, has an agreement with Transport Canada and the Mexican CAA on this type of operations; any aerial work operation from an operator from any other country is forbidden.

EASA suggested that MSs could have agreements with the neighbouring TC for aerial work. At the time of drafting the TCO rules, SPO activities had not been considered a political priority. NAAs should therefore apply their own procedures for these cases.

EASA answered some questions (on Subpart .IDE) sent by a MS prior to the meeting.

- **Declaration**

Following an earlier suggestion by one MS, EASA asked the MS for their opinion on a centralised database for the declarations. MSs should provide a certain structure for this database, feed it and keep it up-to-date. This would probably require compatibility with the MSs' own databases.

It was concluded that EASA will assess internally the proposal of a centralised database stored by the Agency and the response will be communicated to the MSs at the next TAG meeting (Sept. 2015).

Further suggestions and proposals from MSs:

- EASA to change the declaration form or issue a new related GM to cover the cases when an aircraft is declared to another MS.
- EASA to correct the text in the Declaration: (EU) No 1321/2014 to replace (EC) 2042/2003.
- EASA to add a new entry for the list of registered aircraft.

- **High-risk SPO activities**

EASA asked the MSs if they had developed any definition for high-risk SPO activities.

One MS answered that they were working on a scheme of activities considered to have a high risk vs activities

that are not. They would like to compare it with any other list developed by other MSs – if any. They were interested to learn about the risk criteria for assessing whether an activity would be high-risk SPO.

EASA suggested that MSs should take the lead in starting this task: to standardise this assessment and come forward with a proposal.

Issues raised by MSs:

- There may be different classifications of high risk in neighbouring countries. In this case, an operator would have problems to operate in both countries.
  EC said that NAAs should cooperate to have the same regime applicable for the same type of high-risk SPO operation.
- Often operators from one MS go to another MS to perform parachute dropping operations there.
- Some activities may be considered as CAT operations by some MSs and SPO activities with no high risk by other MSs – different criteria in assessing the high risk.
- A MS might consider one type of SPO activity, which occurs rarely in their country, to have a normal level of risk; consequently, the risk assessment might be wrong. For example, reindeer hunting is considered a very risky operation by the Scandinavian countries, but if it is performed in Poland, where such activity is not so frequent, its risk may be estimated wrongly.
  EASA said that in such cases, the NAAs should cooperate; there is no detailed prescription on cooperation.
- The charges incurred by the NAA for issuing a high-risk authorisation should be higher than the charges for assessing a declaration for regular SPO operators. However, the charges may be different in various countries; operators may find this as impeding to their business.

- **Flying displays**

One MS presented a paper on flying displays.

Another MS mentioned a 100 page document developed by them since 1998, which had to be integrated with the new OPS rules. The link to this document was shared with the participants at their request: www.caa.co.uk/CAP403

EASA added that EGAST created a leaflet using the JAA TGL-5 document. TGL-5 could serve as a basis to develop procedures for flying displays.

10. Conclusions of the meeting and closing
Presented by: DDE; all

The presentations, the minutes of the meeting and the table with Q&A would be circulated in the TAG group (experts included).

EASA will provide an IT platform – a Sinapse group specially created for NCC/NCO/SPO implementation issues where MS can exchange or raise issues with EASA.

On answering EASA's request for feedback on the usefulness of this meeting, one MS suggested that the dates for the future special TAG meetings should be set during the regular TAG meetings.

It was also suggested to hold such meetings every 6 months.

DDE thanked the participants for attending the meeting and contributing to the discussion. The meeting closed at 16:35 on 16 April 2015.

Conclusions/Actions:

1. EASA to assess internally the proposal of hosting a central database for Declarations
2. EASA to change the text in the Declaration form
3. EASA to set up a common e-platform (Sinapse, CIRCA BC or similar) to

	enhance communication among the NAAs on the NCC/NCO/SPO implementation issues, to share documentation and useful information. 4. MSs to coordinate a proposal to standardise the criteria for assessing high-risk SPO activities
Action owners:	1 to 3: EASA 4: MSs (the leading MS was not decided)
Dates:	1. Ready by the next TAG meeting (Sept. 2015) 2. In one of the future RMT 3. Not set – as soon as possible 4. Not set.