NOTICE OF PROPOSED AMENDMENT (NPA) NO 2011-05

DRAFT OPINION OF THE EUROPEAN AVIATION SAFETY AGENCY for a Commission Regulation establishing the Implementing Rules on Third Country Operators for Commercial Air Transport (CAT)

and

DRAFT DECISION OF THE EXECUTIVE DIRECTOR OF THE EUROPEAN AVIATION SAFETY AGENCY on Acceptable Means of Compliance and Guidance Material related to the Implementing Rules on Third Country Operators for Commercial Air Transport (CAT)

and

DRAFT OPINION OF THE EUROPEAN AVIATION SAFETY AGENCY for a Commission Regulation establishing the Implementing Rules on the Agency for the authorisation of third country operators

'Third Country Operators'

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A. EXPLANATORY NOTE

I. General

1. The purpose of this Notice of Proposed Amendment (NPA) is to develop the measures the Agency considers the most appropriate for implementing the provisions of the Basic Regulation[1] related to third country aircraft; such measures include a proposal for a Commission Regulation as well as the related Acceptable Means of Compliance (AMC) and Guidance Material (GM)[2]. The scope of this rulemaking activity is outlined in the Terms of Reference (ToR) OPS.004 and is described in more detail below.

2. The European Aviation Safety Agency ('the Agency') is directly involved in the rule-shaping process. It assists the Commission in its executive tasks by preparing draft regulations, and amendments thereof, to implement the Basic Regulation, which are issued as 'Opinions' [Article 19(1) of the Basic Regulation]. It also adopts Certification Specifications and AMC, as well as the related GM, to be used in the certification process (Article 19(2) of the Basic Regulation).

3. When developing rules, the Agency is bound to follow a structured process as required by Article 52(1) of the Basic Regulation. This process has been adopted by the Agency's Management Board and is referred to as 'The Rulemaking Procedure'[3].

4. This rulemaking activity is included in the Agency's Rulemaking Programme for 2009 as rulemaking task OPS.004.

II. Consultation

5. To achieve optimal consultation, the Agency is publishing the draft Opinion and draft Decision of the Executive Director on its internet site. Comments should be provided within 3 months in accordance with Article 6(4) of the Rulemaking Procedure. Comments on this proposal should be submitted by one of the following methods:

CRT: Send your comments using the Comment Response Tool (CRT) available at **http://hub.easa.europa.eu/crt/**.

E-mail: **Only** in case the use of CRT is prevented by technical problems, these should be reported to the CRT webmaster and comments sent by email to NPA@easa.europa.eu.

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1 Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC (OJ L 79, 19.3.2008, p.1).

2 As it is not possible to specify everything in law the legislator has created an obligation on the Agency to issue Certification Specifications to be used in the certification process. Such interpretative material includes Acceptable Means of Compliance (AMC), which contain a technical interpretation of airworthiness codes or rules adopted by the European Commission to implement the Basic Regulation. AMC issued by the Agency is not of a legislative nature and therefore cannot create obligations on the regulated persons. As however the legislator wanted such material to provide for legal certainty and to contribute to uniform implementation, it must commit the competent authorities so that regulated persons complying with it must be recognised as complying with the law. A more detailed explanation can be found using the following link: http://easa.europa.eu/rulemaking/faq/acceptable-means-of-compliance-AMC.php.

3 Management Board Decision concerning the procedure to be applied by the Agency for the issuing of opinions, certification specifications and guidance material ("Rulemaking Procedure"), EASA MB 08-2007, 13.6.2007.

Correspondence: If you do not have access to internet or e-mail, you can send your comments by mail to:

Process Support

Rulemaking Directorate

EASA

Postfach 10 12 53

D-50452 Cologne

Germany

Comments should be received by the Agency before **1 July 2011**. If received after this deadline, they may not be taken into account.

III. Comment response document

6. All comments received in time will be responded to and incorporated in a Comment Response Document (CRD). The CRD will be available on the Agency's website and in the Comment Response Tool (CRT).

IV. Content of the draft Opinions and Decisions

Background

7. On 15 December 2004 the Agency issued an Opinion[4] on the extension of the scope of Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, to the regulation of pilot licensing, air operations and third country aircraft.

8. In November 2005, the Commission adopted its proposal for the amendment of Regulation (EC) No 1592/2002[5], which was accompanied by a Communication[6] in which it explained the main objectives of its proposal:

   - To establish in the form of Essential Requirements, high level safety objectives to be achieved by regulating the operation of most aircraft[7] flying in the airspace covered by the Treaty, including aircraft registered in third countries.

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4 Opinion No 3/2004 of the European Aviation Safety Agency of 15 December 2004f or amending Regulation (EC) No 1592/2002 of the European Parliament and of the Council on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, to extend its scope to the regulation of pilot licensing, air operations and third country aircraft. (http://www.easa.europa.eu/agency-measures/opinions.php#2004).

5 Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1592/2002 of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency (presented by the Commission), COM(2005)579 final, 16 November 2005.

(http://ec.europa.eu/prelex/detail_dossier_real.cfm?CL=en&DosId=193564).

6 Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, "Extending the tasks of the European Aviation Safety Agency – An Agenda for 2010", COM(2005)578 final, 15 November 2005.

(http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2005:0578:FIN:EN:PDF).

7 There are few exceptions as detailed in Article 4 and Annex II of the Basic Regulation.

- To require all commercial third country operators to be subject to authorisation on the basis of common rules.
- Where third country operators conduct non-commercial operations with complex motor-powered aircraft (CMPA), the operators concerned should declare that they comply with the applicable requirements.
- To give executive powers to the Commission to adopt the necessary Implementing Rules.
- To give powers to the Agency to issue Certification Specifications and Acceptable Means of Compliance as appropriate to implement the Essential Requirements and to execute itself certification tasks when this is more efficient than certification at national level.

9. In February 2008 the legislative process to extend the scope of Regulation (EC) No 1592/2002 concluded with the adoption of the Basic Regulation, which entered into force on 8 April 2008. According to its Article 70, the provisions related to flight crew licensing, air operations and third country aircraft shall become applicable on the dates specified in their respective Implementing Rules, but in any case not later than 8 April 2012.

10. During the legislative process, the Commission proposal was subject to amendments by the European Parliament and the Council and therefore the final text of the Basic Regulation differs, in some aspects, from that proposal. The main aspects in the Basic Regulation on third country aircraft are the following:

- Aircraft referred to in Article 4(1)(d) [8], as well as their crew and their operations:
  - shall comply with applicable ICAO standards;
  - to the extent that there are no such standards, these aircraft and their operations shall comply with the requirements laid down in the Essential Requirements set out in Annexes I, III, IV and, if applicable Annex Vb, provided these requirements are not in conflict with the rights of third countries under international conventions (Article 9(1) of the Basic Regulation).
- Third country operators[9] engaged in commercial operations[10] shall be subject to an authorisation process in which they demonstrate their capability and means of discharging the responsibilities associated with their privileges. The privileges granted to an operator and the scope of operations shall be specified in the authorisation. Authorisations are issued by the Agency (Articles 9(2) and 23(1)(b) of the Basic Regulation).

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8 "Aircraft, including any installed product, part and appliance, which are:

(...)

(d) registered in a third country, or registered in a Member State which has delegated their regulatory safety oversight to a third country, and used by a third country operator into, within or out of the Community shall comply with this regulation".

9 An operator is any legal or natural person, operating or proposing to operate one or more aircraft or one or more aerodromes. (Article 3(h) of the Basic Regulation).

10 Article 3(i) of the Basic Regulation defines commercial operations as "any operation of an aircraft, in return for remuneration or other valuable consideration, which is available to the public or, when not made available to the public, which is performed under a contract between an operator and a customer, where the latter has no control over the operator."

- Third country operators engaged in non-commercial operations with complex motor-powered aircraft (CMPA[11]) may be required to declare their capability and means of discharging the responsibilities associated with the operation of that aircraft (Article 9(3) of the Basic Regulation).
- Third country operators intending to operate an aircraft not holding a standard ICAO certificate of airworthiness (CofA) will be subject to an authorisation process conducted by the Agency.
- Crew not holding a standard ICAO licence will be subject to an authorisation process that will be carried out by the competent authority of the Member State in which the operation is intended to take place.
- The European Commission is empowered to adopt Implementing Rules to further specify the above subjects. Such rules shall:
  - make use, as appropriate, of ICAO recommended practices and guidance documents;
  - not exceed what is imposed on EU operators and the aircraft they use;
  - make use, where appropriate, of the measures applicable to EU operators and the aircraft they use;
  - take care that the process by which authorisations are obtained is simple, proportionate, cost-effective and efficient in all cases, allowing for requirements and compliance demonstrations proportionate to the complexity of operations and the risk involved. The process shall in particular take account of:
    1. results of the ICAO Universal Safety Oversight Audit Programme;
    2. information from ramp inspections and the Safety Assessment of Foreign Aircraft (SAFA) Programme records; and
    3. other recognised information on safety aspects with regard to the operator concerned.

11. The Terms of Reference (ToR) for OPS.004 defined the objective of the task as the development of common requirements for the implementation of the extended Basic Regulation, including Implementing Rules, AMC and GM for:

- commercial and non-commercial operations by third country operators;
- third country registered aircraft not holding a standard ICAO CofA; and
- crew operating third country-registered aircraft while not holding a standard ICAO licence.

Although the Agency acknowledges the importance of ensuring that operators engaged in non-commercial operations with CMPA and aircraft or crew not holding a standard ICAO CofA or licence take place in a controlled environment, the Agency as well as the Commission believes that a phased-in approach would be appropriate at this stage, thus separating commercial air transport from non-commercial operations,. Third country operators conducting commercial air transport will generate the vast majority of the

[11] A complex motor-powered aircraft is “an aeroplane: -with a maximum certificated take-off mass exceeding 5 700 kg, or - certificated for a maximum passenger seating configuration of more than nineteen, or - certificated for operation with a minimum crew of at least two pilots, or - equipped with (a) turbojet engine(s) or more than one turboprop engine, or (ii) a helicopter certificated: -for a maximum take-off mass exceeding 3 175 kg, or - for a maximum passenger seating configuration of more than nine, or - for operation with a minimum crew of at least two pilots, or (iii) a tilt rotor aircraft” (Article 3(j) of the Basic Regulation).

traffic into the EU and therefore it is paramount to firstly ensure the protection of passengers and cargo carried by these operators. This approach will allow the Agency to dedicate its resources to the initial authorisation and oversight of third country operators performing commercial air transport. Therefore, the Agency, in coordination with the Commission, has decided to prioritise the development of rules related to commercial air transport. Non-commercial operations with CMPA and aircraft and crew not holding a standard ICAO CofA or licence will be addressed in a separate rulemaking task.

12. It is on this basis that the Agency developed its rulemaking task OPS.004. When doing so, it took a particular care to maintain contact with the ICAO Task Force on the improvement of the air operator certificate (AOC) to ensure that the interoperability objectives contained in ICAO Standards and Recommended Practices (SARPs) are taken into consideration so as to avoid disrupting the system they underpin[12]. The attached draft rules have therefore been devised to ease, as far as possible, issuing authorisations for commercial operators. However, the draft rules do not prejudge possible agreements concluded by the EU to further ease such issuance when confidence can be established, and regularly verified, in the regulatory system of a foreign authority. The Commission have repeatedly stated that it will do its utmost to conclude or extend as many of such agreements as possible to reduce the burden on EU and non-EU operators.

Rule numbering

13. In Part-Third country operators (Part-TCO), a consistent numbering system has been applied that starts with the assignment of the three-letter code "TCO" to indicate the Part. This code is followed by a three-letter code to indicate the Subpart.

Part-TCO

Subpart I	-	General requirements (TCO.GEN.101)
Subpart II	-	Air Operations (TCO.OPS.100)
Subpart III	-	Authorisation of third country operators (TCO.AUT.300)

Also, a consistent paragraph numbering system has been applied: every section starts with a new block of numbers by hundreds and a three-letter code to indicate the subpart. Paragraphs within each subpart and section are numbered consecutively by increments of 5, e.g. TCO.OPS.200, TCO.OPS.205.

14. Subpart Authority Requirements.TCO (Subpart AR.TCO) contains the requirements for the Agency specific to third country operators and contains two sections: Section 1 deals with general requirements and Section 2 with the authorisation and oversight of third country operators[13].

15. The sequence of AMC and GM follows that of the Implementing Rules. For each AMC or GM, subheadings have been assigned to clarify the content of the applicable material. There are no AMC or GM developed for Subpart AR.TCO since the detailed procedures to be followed by the Agency for the authorisation of third country operators will be established by the Agency's Management Board (see para. 47 below).

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12 http://www.icao.int/Hyperdocs/display.cfm?V=2&name=AN-WP%2F8230&Lang=E.

13 The structure for the future implementing rules for air operations, flight crew licensing and third country operators will be revised. Therefore Subpart AR.TCO will be upgraded to Part.AR.TCO and the relevant provisions of sections I-III of Part Authority Requirements will be transferred to Part AR.TCO.

General

16. Firstly, it must be understood that both the Basic Regulation and the ICAO Annex 6 provide for the oversight of third country operators and the issue of an approval attesting compliance with the applicable ICAO standards. Annex 6 Part I and Part III, Section II, respectively paragraph 4.2.2.2 and 2.2.2.2 requires that States shall establish a programme with procedures for the surveillance of operations in their territory by a foreign operator and for taking appropriate action when necessary to preserve safety. Guidance on the surveillance of such operators can found in the Manual of Procedures for Operations Inspection, Certification and Continued Surveillance (Doc 8335).

    Part VI of Doc 8335 covers State's responsibilities for commercial air transport operations by foreign operators. Doc 8335 explicitly states that in order to exercise its authority and to satisfy its obligations under the Convention on International Civil Aviation[14] (Chicago Convention) with respect to the safety of operations within its territory, a State should develop procedures for the safety oversight of foreign operators and for the authorisation of such operators to operate within its territory in a manner consistent with the State's national regulatory requirements. As a minimum, an administrative review of the operator's relevant documentation should be performed, and should be supplemented by safety-related information, if available, through ICAO or through safety programmes by States (such as ramp checks). The State may consider audits performed by other States, by internationally recognised audit organisations or by its civil aviation authority (CAA). An approval should be granted in the absence of any significant negative findings or major deficiencies.

17. Contrary to the new Regulation on air operations for EU operators, which is based to a large extent on existing material, Part-TCO is entirely new. During drafting, due regard was given to the Chicago Convention and its Annexes, in particular to ICAO Annex 6 and related guidance material (Doc 8335) and Regulation (EC) No 2111/2005 of the European Parliament and of the Council of 14 December 2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier, and repealing Article 9 of Directive 2004/36/EC (Regulation (EC) No 2111/2005). The Agency also took account of the Code of Federal Regulations Title 14 Aeronautics and Space Part 129: Foreign Air Carriers and Foreign Operators of U.S.-Registered Aircraft engaged in Common Carriage (Part 129).

18. Authorisations for commercial operators will be issued by the Agency on the basis of Article 23 of the Basic Regulation. Such an authorisation will then be valid in all Member States according to Article 11 of the Basic Regulation. The rules themselves will not specify in detail the procedures to be applied when authorising or overseeing an operator as these will be specified in procedures to be adopted by the Agency's Management Board. (see para 47). Although such procedures can only be finalised when there is more clarity on the final requirements, the Agency has started to prepare them. Paragraph 29 below gives a detailed insight in the authorisation process of third country operators foreseen by the Agency when the rules contained in Part-TCO become applicable.

19. The Basic Regulation requires third country operators flying into, within or out of the territory subject to the provisions of the Treaty, to comply with the applicable ICAO standards, in particular the following Annexes to the Chicago Convention:

    - Annex 1 - Personnel Licensing
    - Annex 2 - Rules of the Air
    - Annex 6 - Operation of Aircraft

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[14] Convention on International Civil Aviation, Dec. 7, 1944, 61 Stat. 1180, 15 U.N.T.S. 295

- Annex 8 - Airworthiness of Aircraft
- Annex 18 - The Safe Transport of Dangerous Goods by Air

20. These international standards define the minimum level of environmental protection and safety necessary for the protection of other aircraft, as well as third parties and property on the ground. Accordingly the following demonstrating compliance with these standards shall be recognised by Contracting States to the Chicago Convention for the flight of aircraft of other States into or over their territories: CofAs, certificates of competency, licences and, where applicable, documentation attesting noise certification. The Basic Regulation acknowledges that the EU recognises those certificates and licences, consistent with the ICAO obligations of its Member States.

21. As mentioned above (para.10), third country operators must comply with the Essential Requirements laid down in Annexes I, III, IV and if applicable Annex Vb of the Basic Regulation where there are no corresponding ICAO standards, provided these essential requirements are not in conflict with the rights of third countries under international conventions. In order to determine the existence or non-existence of ICAO standards in the areas covered by the Essential Requirements, the Agency examined in particular ICAO Annex 6 Part I and Part III, Section II and the Essential Requirements contained in Annex IV[15]. The results of this gap analysis revealed that certain areas of air operations were not covered by ICAO standards. This is the case for in-flight fuel management, pre-flight inspections, and flight crew compartment security for helicopters. As a consequence, third country operators must comply with certain applicable EU rules in addition to the applicable ICAO standards. The comparison table with the Essential Requirements and ICAO standards reflecting the gap analysis is included in Appendices II and III.

22. By using ramp inspection, the Agency and Member States competent authorities will be responsible for verifying compliance with the above-mentioned requirements (ICAO standards and additional EU rules). However, taking into account the mutual recognition obligations contained in the Chicago Convention, the Agency's role is not to substitute itself with the competent authorities of the concerned States of registry or States of operator. It shall only verify that the operators, their crew and the aircraft they use hold duly issued certificates and/or documents attesting compliance with these standards. In case of doubt about the compliance of these certificates with the ICAO standards, the Agency, with the help of Member States shall ensure that evidence is collected and liaise with the concerned authorities and the operator in order to resolve any possible non-compliance.

23. To fulfil its oversight responsibilities, the Agency shall issue authorisations to third country operators engaged in commercial air transport operations. These authorisations ensure a common understanding between the third country operator and the Agency on what they are authorised to do in the territory subject to the provisions of the Treaty. They do not affect, or interfere, with the responsibilities of the State of the operator that issued an AOC to the third country operator. The State of the operator continues to maintain primary responsibility for certifying the operator and the on-going oversight of its operations in accordance with ICAO Annex 6. Therefore, the validity of the authorisation will be, amongst others, subject to the validity of the State of operator air operator's certificate and the privileges of the operator shall not exceed the privileges granted by the State of the operator. However, in case the operator or its competent authority cannot provide evidence of compliance with the applicable standards, the

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15 ICAO Annex 1 and 8 are not examined against the essential requirements for the possible non-existence of standards in areas subject to the essential requirements because of the mutual recognition obligation of certificates of airworthiness and licenses (article 33 of the Chicago Convention). This notion is also reflected in air service agreements celebrated between the EU and third countries.

Agency may decide to reject the application or limit, suspend or ultimately revoke existing authorisations.

Relevant sources of information

ICAO-USOAP

24. Today multi-layered and multilateral systems exist to enforce the Chicago Convention and its Annexes. ICAO established in 1999 the Universal Safety Oversight Audit Programme (USOAP), which is binding on contracting States[16]. A resolution of the ICAO General Assembly, foresees that the results themselves are made available to the contracting States through a secure section of the ICAO website. Since 23 March 2008, audited States that did not agree to full transparency of the USOAP audits are listed on the ICAO's website. The audit identifies the status of States' capability for oversight by assessing the effective implementation of the critical elements of an oversight system and the status of States' implementation of safety-relevant ICAO SARPs, associated procedures, guidance material and safety-related practices. In response to findings raised, audited States are required to provide corrective action plans aimed at achieving greater compliance with SARPs. USOAP involves a 21-month calendar broken down into three phases: 12 months of pre-audit activities such as the signing of the Memorandum of Understanding and the State's completion of a questionnaire and compliance checklist; an onsite audit leading to a draft oversight audit report; and finally a 9-month post-audit period during which states provide their corrective action plans and the final audit report is published following a period of notice and comments[17].

ICAO USOAP reports are a key element used by the Air Safety Committee to assess the capability of an ICAO contracting State to fulfil its certification and surveillance obligations. In the framework of a working group set up by the Air Safety Committee, experts of Member States analyse selected reports. The Commission has recently tasked the Agency to coordinate this group. For the future authorisation of third country operators ICAO-USOAP results and the ICAO-CMA (continuous monitoring approach) data will be one of the most important sources of safety related information and will significantly influence the categorisation of TCO applicants/authorised operators and their assessment (see para.29).

SAFA Programme

25. In 1996, the European Civil Aviation Conference (ECAC) instituted the Safety Assessment of Foreign Aircraft Programme (SAFA). Directive 2004/36/EC of the European Parliament and of the Council of 21 April 2004 on the safety of third-country aircraft using Community airports[18] ('SAFA Directive') creates a legal obligation upon EU Member States to perform ramp inspections on third country aircraft landing at their airports. At the moment the EU SAFA Programme is managed by the European Commission, assisted by the Agency which is responsible for the operational management of the EU SAFA Programme. In each SAFA participating State, aircraft (third-country for EU states or foreign for non-EU / ECAC States) may be subject to a ramp inspection. This ramp inspection is chiefly concerned with the aircraft documents and manuals, flight crew licences, the apparent condition of the aircraft and the presence and condition of mandatory cabin safety equipment. The references for these inspections are contained in

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16 Safety Oversight Audit Manual, ICAO Doc.9735 (2nd Ed.2006).

17 ICAO, Universal Oversight Audit Programme, Audit Process, available at http://www2.icao.int/en/ssa/soa/usoap/Pages/AuditProcess.aspxhttp://www2.icao.int/en/usoap/.

18 OJ L 143, 30.4.2004, p.76.

the ICAO standards and particularly in Annexes 1, 6 and 8. In the case of significant non-compliance, the operator and the appropriate aviation authority (State of operator or registry) are contacted in order to arrive at the corrective measures to be taken. These corrective measures could apply to other aircraft where the non-compliance is generic. All data from the reports as well as supplementary information are shared and centralised in a computerised database set up and managed by the Agency. Since Regulation (EC) No 2111/2005 came into effect, SAFA inspections have become more important, being one of the means used by the EU in deciding on whether to include operators in the EU safety list[19].

As will be the case for ICAO-USOAP, SAFA inspection results are important input when allocating a risk category to an operator and when deciding on the assessment methodology to be used for the initial authorisation and continuous oversight.

Regulation (EC) No 2111/2005

26. After a series of accidents in 2004-2005 the European legislator adopted Regulation (EC) No 2111/2005 in order to establish and maintain a list of operators (EU safety list) that are subject to an operating ban within the EU. Inclusion in this list indicates that the operator itself is considered unable to conduct safe operations or that the State of operator cannot guarantee a sufficient level of on-going oversight. It is obvious that the co-existence of Regulation (EC) No 2111/2005 and the proposed rules in Part-TCO should not result in contradictory measures for third country operators. Although the scope of both Regulations differs, coordination shall be organised between the measures taken on the basis of both Regulations; the draft Part-TCO focuses on third country operators applying for an authorisation, while Regulation (EC) No 2111/2005 gives the European Commission the mandate to ban operators not even operating into, within or out of the EU. The proposed rules of Part-TCO eliminate the risk of contradictory measures by including provisions explicitly preventing third country operators from operating into the territory of one of the Member States when they are included in Annex A to the EU safety list or operate aircraft that are included in Annex B to that list. Furthermore, for both the initial authorisation and continuous oversight, the Agency will conduct investigations or on-site visits when the operator is subject to an immediate operating ban imposed by one of the Member in respect of its own territory[20]. Investigations or on-site visits will also be conducted if the Commission and Member States have started a joint consultation with the authority of the State of the operator on the basis of Article 3 of Commission Regulation (EC) No 473/2006[21]. In addition, the issue and continuous validity of an authorisation will depend on investigations and consultations with the State of the operator in the context of Regulation (EC) No 2111/2005. Ultimately, the Agency will suspend an authorisation when the operator becomes subject to an operating ban and

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19 The Basic Regulation establishes a comprehensive framework for the cooperative oversight of all aircraft using EU aerodromes, including third country aircraft. The Basic Regulation therefore envisages that the SAFA Directive will be repealed as soon as its Implementing Rules enter into effect. As a consequence, the measures adopted in accordance with Article 8(2) of that Directive (Commission Regulation (EC) No 351/2008 of 16 April 2008, Commission Regulation (EC) No 768/2006 of 19 May 2006 and Directive 2008/49/EC of 16 April 2008) will lose their legal basis and will therefore be transposed to the Implementing Rules of the Basic Regulation (*CRD 2009-02D – AR.GEN.Section IV*).

20 Article 6 of Regulation (EC) No 2111/2005.

21 Commission Regulation (EC) No 473/2006 of 22 March 2006 laying down implementing rules for the Community list of air carriers which are subject to an operating ban within the Community referred to in Chapter II of Regulation (EC) No 2111/2005 of the European Parliament and of the Council (OJ L 84, 23.3.2006, p. 8).

may limit or suspend the authorisation for the duration of a joint consultation[22] or in case of an immediate operating ban imposed by a Member State.

The data derived from the above mentioned sources will be complemented with other available relevant information such as the FAA IASA rating and other credible sources.

International Aviation Safety Assessment Program (IASA)

27. The FAA established the IASA Program in 1992. This programme helps determining whether a third country civil aviation authority has sufficient oversight capabilities over their operators to ensure safe operations in accordance with ICAO standards. The scope of IASA is however limited to countries whose airlines have operating rights into, within or out of the US or have requested such rights. The FAA has two categories for the status of countries at the time of the assessment; Category 1 where the civil aviation authority certifies and oversees air carriers in accordance with ICAO standards, Category 2 where the civil aviation authority does not. Operators from Category 2 countries currently flying to the USA cannot expand those operations and are subject to increased surveillance, e.g. ramp inspections and new applicants from those countries will not be eligible for traffic rights in the US[23].

The International Operational Safety Audit (IOSA)

28. Also bodies from the private sector, such as the International Air Transport Association (IATA)[24] have initiated audit programmes aimed at operators.

IATA established IOSA in 2003 to create a comprehensive, standardized and consistent audit scheme that can be applied worldwide, irrespective of specific regional or national legislative frameworks. IOSA uses a globally accepted set of standards and recommended practices (ISARPs) which include all ICAO SARPs plus industry best practices. IOSA is led by IATA in collaboration with industry experts seconded by IATA member airlines.

Because of their standardised conduct, IOSA Audit Reports (IARs) are consistent and comparable sources of information regarding an air operator's conformity with all applicable ISARPs.

The authorisation process

29. The third country authorisation process will consist of the following phases:

- Application phase
- Evaluation phase
- Authorisation phase
- Monitoring phase

Application phase

The operator shall register with the Agency and submit an application form. The Agency will then perform an eligibility check on the applicant. Those eligible for authorisation are

22 Article 3 of Commission Regulation (EC) No 473/2006.

23 US operators can no longer sell code-share tickets on flights operated by operators of Category 2 countries, but it is still possible for such operators to sell tickets on flights operated by US operators.

24 http://www.iata.org/about/.

all third country operators who are not listed in Annex A of the EU Safety list and are able to demonstrate their intention to perform flights into, within or out of the EU.

An Agency case handler will be allocated to each applicant, who will be responsible for steering the authorisation process and coordination with the applicant. The applicant will be granted access to a secured web-based software solution which allows the applicant to submit all necessary information online. The application process will contain an interactive online questionnaire.

All applicants will be requested to complete basic operator data, including:

- general operator information, contact details;
- type of operation, AOC and Operations Specifications;
- fleet data;
- other basic safety information.

Eligible operators will then be grouped into three different categories that correspond to the Agency's level of confidence into the State of Operator and the operator itself. The category provides guidance on the assessment methodology to be applied:

Assessment Category	**Level of confidence into applicant**	**Expected Distribution**	**Assessment methodology**
Category A	High	Standard case approx. 60%	Simple desktop review of basic operator data (fast track)
Category B	Medium	approx. -30%	Detailed assessment including sampling of ICAO compliance and consultation with the operator (video/phone conference, and / or interview in Cologne)
Category C	Low	approx. 10%	Detailed assessment including sampling of ICAO compliance and on-site visit

The Agency will assign the categories based on the following proven evaluation criteria with a strong emphasis on the ICAO USOAP performance of the state of the operator.

State of the Operator:

- ICAO USOAP reports (lack of implementation);
- ICAO SSC (Significant Safety Concern);
- EU SAFA results (aggregated on State of the Operator level[25]);

[25] The Agency will continuously monitor results of ramp inspections on third country operators e.g. with the view to see if there is a trend of non-compliances of operators from a particular state and if this trend can be traced back to the oversight capabilities of that state.

- consultations pursuant Article 3 of Regulation (EC) No 473/2006;
- measures imposed by a Member State in accordance with Article 6 of Regulation (EC) No 2111/2005;
- accident data (aggregated on State of the Operator level);
- FAA IASA State category.

Operator:

- Accident history;
- EU SAFA ratio (if available);
- Size, nature and complexity of the operation;
- Adherence to industry standards

In addition, apart from the confidence into certificates issued by the State of the operator as determined in the model explained above, the following shall be applied: where there is evidence that an applicant has an accident record justifying reasons for concern, there are worrying SAFA results and/or is listed in Annex B of the Safety list (Regulation 2111/2005) that applicant will not qualify for category A (simple desktop review) but shall be categorised as B or C as appropriate.

Evaluation phase

For operators in category A, the process will consist of a straight-forward desktop file review.

Operators who have been grouped into categories B and C are required to provide additional information online including at least:

- compliance statements with a set of selected ICAO SARPS, including references to the applicant's operations manual;
- additional information that will enable the Agency to prepare for the assessment in the areas airworthiness, operations and safety management;
- a statement of the competent authority of the applicant confirming that all information is true and correct.

The authorisation process will start after receipt of all required documentation and information. For this purpose, the Agency will have in place a dedicated software solution, as mentioned above, and the necessary working procedures that allow for an efficient handling of incoming applications.

The assessment of operators in category B will consist of a so-called consultation phase (telephone or video conferencing or interviews conducted at the Agency's premises in Cologne). Where the consultations reveal serious doubts about the capability of the operator to comply with ICAO standards, the Agency may decide to re-categorise an applicant into category C and perform an on-site assessment.

Generally, operators in category C have to undergo an on-site assessment at the operational home base of the applicant.

The assessment to be performed for operators in categories B and C shall be proportionate to the scope and complexity of operations and tailored to the individual applicant. When carrying out an assessment, the Agency would focus on those areas where safety concerns related to the operator have been identified. The assessment of the operator may also address operator-related activities in which USOAP audits have revealed weaknesses in the oversight performed by the operator's competent authority.

This is, in order to satisfy the Agency that the applicant complies with ICAO standards despite existing oversight deficiencies.

For the conduct of TCO on-site assessment visits, the Agency intends to complement its teams with qualified experts coming from qualified entities (including MS NAAs). TCO inspection teams will always be led by an EASA TCO Team Leader and work to EASA TCO working procedures. Qualified Entities and team members will be selected following appropriate procurement and qualification procedures established by the Agency.

Authorisation phase

After the assessment (category B and C) or a desktop file review (category A), a dedicated Authorisation Panel within the Agency will formally decide on each TCO application. The Authorisation Panel will have its own terms and working procedures and may essentially take the following decisions:

1. *Authorise*
   - issue a TCO authorisation and specifications;
   - issue a TCO authorisation and specifications with certain technical limitations (e.g. certain types of aircraft only, IFR only, no or limited approval to conduct all-weather operations).
2. *Put the* application *on hold and request further clarification*
   - require and agree on a corrective action plan for identified non-compliances before issuing a TCO authorisation; and/or
   - require verifiable evidence of permanently implemented corrective action for serious findings before issuing a TCO authorisation.
3. *No* Authorisation
   - reject the application and deny TCO authorisation.

Decisions taken by the TCO Authorisation Panel will be recorded and archived in the TCO software application. TCO Authorisations and specifications will be established, submitted, published and archived pursuant to a working procedure established by the Agency.

Monitoring phase

After issuance and for the entire duration of a TCO Authorisation, the holder of a TCO Authorisation will be subject to the Agency's TCO Oversight Programme, which consists of the following three elements:

Risk assessment

As defined in Part-TCO, authorised operators accept responsibility to maintain relevant data current at all times and notify changes affecting the scope or terms of the authorisation. This will be facilitated through the Agency's web-based TCO software application.

The Agency will employ a performance-based risk assessment methodology, which will monitor the safety performance of the entire population of authorised operators.

For this purpose, the Agency continuously observes analyses and feeds data in to a risk assessment model. A pre-defined set of safety-relevant parameters will be measured in the following three categories.

1. State of the operator data; and
2. operator data, including worrying SAFA results, accidents; and

3. corrective action follow-up / whistleblower.

The continuous risk assessment, in which SAFA is an important parameter, will allow the Agency to identify potential adverse safety trends at an early stage.

Ad-hoc investigation

In cases where it is observed that the safety status of an authorised operator deteriorates, an ad-hoc investigation will be performed. Such investigation may include questionnaires, interviews, visits or a combination thereof. Based on the results of the investigation, the Agency will conclude whether an operator is in compliance with specific provisions of Part-TCO, its TCO Authorisation or associated specifications.

Where there is evidence that an authorised operator no longer performs in accordance with Part-TCO, the Agency may take enforcement measures such as to limit, suspend or revoke an authorisation, or request the European Commission to impose a fine (Art. 25 of the Basic Regulation).This shall also apply in case of measures by Member States under Article 6 of Regulation (EC) No 2111/2005).

Periodic re-assessment

Irrespective of and in addition to the continuous risk assessment and a potential ad-hoc investigation as described above, each authorised third-country operator will be periodically re-assessed by the Agency at intervals not exceeding 24 months.

Notified Differences - Article 38 of the Chicago Convention

30. ICAO contracting States are <u>not</u> bound by or obliged to accept a lower standard of another State's aircraft or operator in their territory even if the latter notified the difference in accordance with Article 38 of the Chicago Convention.

The purpose of Article 38 is to protect the sovereignty of a Contracting State by granting the right to deviate from an international standard. It cannot become binding against the will of ICAO Contracting States.

When a Contracting State finds it impracticable to comply with an international standard it is entitled to notify a difference to ICAO accordingly (Article 38 of the Chicago Convention)[26].

The legal effect of such a notified difference is that in its own territory such State is not bound by a – probably higher – international standard. The international standard becomes "non-law" within its territory.

However, this right has its boundaries within the sovereign territory of other Contracting States. It is not "exportable" into other Contracting States. More precisely, there is no legal obligation for other Contracting States to accept within their territory an activity, organisation or object which has been certified/approved by a Contracting State according to such lower standards – e.g. on the basis of a difference pursuant to Article 38 of the Chicago Convention[27].

In conclusion, a notification to ICAO of a difference in accordance with Article 38 has no effect within the territory of another Contracting State.

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[26] Cheng, B., 1962, *The Law of International Air Transport*, London, Stevens & Sons Ltd, p. 64.

[27] Note that the legal situation for the receiving State is the same if the "lower standard" results from the fact that the national regulations *as such* do not comply with minimum standards <u>or</u> if the regulations as such do comply with minimum standards but the relevant certificate/approval was issued to a level below those standards (by means of exemption/derogation); the receiving State is not legally obliged under the Chicago Convention to accept the certificate/approval in any of these situations.

Therefore, the draft proposal includes a provision on how to the Agency should address notified differences when receiving an initial application from a third country operator. The Agency shall analyse and identify the standards for which the State of the operator applying for an authorisation or, if applicable the State of Registry has notified a difference. If the Agency considers that the standard concerned would have a significant negative impact on safety within the EU if not fully complied with (e.g. standards for an enhanced ground proximity warning system (EGPWS) and airborne collision avoidance system II (ACAS II)), the Agency may oblige the operator to meet that standard, despite any difference notified to ICAO by the State concerned. Also, the Agency may decide that compliance with a standard could be achieved by mitigating measures established by the State of the operator or the State of registry ensuring an equivalent level of safety to that achieved by the standard concerned.

For the purpose of establishing a list with standards, as mentioned above, and to ensure a smooth authorisation process without any disruptions, the Agency shall as soon as practical start with the assessment of standards for which differences have been notified. The current mechanism used by ICAO for notifying contracting states of differences notified to ICAO is not fully adequate. Therefore, ICAO is presently implementing an electronic filling of differences (EFOD) system, which by March 2012 shall become the primary means for states to file the differences. This new tool will provide an updated and comprehensive status of existing differences and will be the basis for a systematic analysis of differences. Upon finalisation of the assessment, the Agency shall establish a list of standards to be fully met, despite any difference notified to ICAO and make it available to all affected operators.

Bilateral agreements

31. As mentioned in paragraph 12, the rules proposed in this NPA do not prejudice possible agreements by the EU in order to extend EU safety standards or reduce administrative burden for EU and third country operators. The EU deploys an external aviation policy based on bilateral arrangements with key partners. These arrangements can take the form of so-called Comprehensive Agreements, where parallel to a process of opening-up of the market, the EU and the third country engage in a process of regulatory convergence. This regulatory convergence process can lead, in specific cases, to the sharing of standards in various fields, including safety, thus providing a suitable framework for increased cooperation between the EU (and the Agency) and the third country in question. Furthermore, cooperation on safety matters can be developed, even in the absence of a comprehensive agreement, through bilateral agreements on civil aviation safety establishing a comprehensive system of regulatory cooperation in the field of air operations. This would be based on continuous communication and mutual confidence. Current bilateral agreements at a national level do not cover such a system for air operations. The EU has entered into comprehensive aviation agreements with ambitious objectives on safety matters with countries in the neighbourhood area, such as the Western Balkans, Morocco, Georgia and Jordan. Other Comprehensive Agreements, like the ones with the US or Canada, provide a framework for reinforced regulatory dialogue on safety matters. Although not in force, three bilateral air safety agreements covering airworthiness and maintenance have been negotiated and signed between the EU and the US, Canada and Brazil respectively.[28]. These bilateral agreements include provisions which enable the possibility to extend the agreement into areas such as air operations, flight crew licensing and the approval of flight simulation training devices (FSTDs) without the need to secure a new mandate from the Council of the EU. This

[28] Agreement between the United States of America and the European Community on Cooperation in the Regulation of Civil Aviation Safety; Agreement on Civil Aviation Safety between the European Community and Canada; Agreement between the European Union and the Government of the Federative Republic of Brazil on Civil Aviation Safety.

means that the European Commission, assisted by the Agency and in cooperation with the Member States, can start negotiations to extend the scope of the agreement to the above mentioned areas, which could ultimately result in the mutual recognition of EU and third country air operator certification.

Fees

32. It is evident that there are administrative and operational costs involved for the authorisation of third country operators. These costs would be funded by fees. It is understood that some States levy costs for the authorisation of TCOs and others do not. Levying of fees related to the issuance by the Agency of an authorisation is not, as such, incompatible with the Chicago Convention (e.g. Article 15). The Chicago Convention does not prevent contracting States from levying charges under their right to make operations into, transit over, or departure from their territories subject to prior approval, provided that such charges are not levied solely in respect of such entry into, transit over, or departure. This condition would be fully met in the case of fees/charges levied by the Agency with respect to third country operators. Such fees/charges would not be connected with any concept of prior approval for, entry or departure but only with the mandated initial and continuous safety assessment as a precondition for the entry and departure, which would be applied indiscriminately. The only purpose of the charges levied on third country operators would be to recover costs incurred by the Agency in verifying compliance with the applicable requirements contained in Part-TCO.

Provisions of Part-TCO

Subpart I General requirements

33. Subpart I defines the scope of Part-TCO. This Subpart furthermore contains a paragraph on definitions (*TCO.GEN.110*), eligibility criteria (*TCO.GEN.115*), the process for using alternative means of compliance (*TCO.GEN.120*), access to aircraft and operator facilities (*TCO.GEN.125*), findings and the requirement for the operator to define a corrective action plan after the Agency has raised such findings (*TCO.GEN.130*).

Subpart II Air Operations

34. Section 1 describes the operator's responsibilities and the general requirements to be met by third country operators (*TCO.OPS.100*).

As explained above, the Basic Regulation envisages that when there are no corresponding ICAO standards, a third country operator must comply with the Essential Requirements of the Basic Regulation. As mentioned in paragraph 21, the gap analysis (Appendices II and III) revealed that the following areas are covered by the Essential Requirements but not by ICAO standards: in-flight fuel management, pre-flight inspections[29], and flight crew compartment security for helicopters. This means that third country operators must in addition to the ICAO standards comply with EU safety rules in these fields. These requirements are defined in Section II "*Operational Procedures*", respectively Section IV "*Security*" of Subpart II.

- ICAO Annex 6 leaves in some areas discretionary powers to contracting States to prescribe additional specific requirements for operators operating in their territory (e.g. *Annex 6* Part *I: 6.4.1(e), 6.6*; *6.9.1 (k) and 7.1.1 (c) and Annex 6 Part III, Section II:3.1.4, 3.4.1, 4.4.2(f), 4.4.3(l), 4.5.1(c), 4.6, 4.13, 5.2.1(b))*. To be able

[29] IOSA registered operators must already adhere to in-flight fuel management and pre-flight standards (IOSA Standards Manual Ed3 – FLT 3.11.7, respectively FLT 3.8.6).

to identify if the present rules in EU-OPS[30] and future European rules currently developed by the Agency for commercial air transport operations (Part-CAT) contain additional requirements to the ones established by ICAO and to examine if third country operators should also adhere to these requirements for reason of safety, an assessment has been carried out. The outcome of this assessment revealed that EU-OPS and Part-CAT contains provisions imposed on EU operators in addition to applicable ICAO standards in the areas mentioned above. However, the Agency does not consider it necessary to impose requirements to third country operators in addition to the ICAO standards.

As mentioned above, the aforementioned gap analysis revealed that ICAO Annex 6 Part III Section II does not address flight crew compartment security. Consequently, Section IV defines that operators must ensure that, if installed, the flight crew compartment door on a helicopter shall be capable of being locked from within the flight crew compartment.

Section V on manuals, logs and records contains the requirement for operators to carry, in addition to the documents defined by ICAO, the authorisation issued by the Agency on board the aircraft (TCO.OPS.500).

TCO.OPS.505 includes the requirement for the pilot-in-command to produce the required documents when requested to do so by the Agency or the competent authority of a Member State where the aircraft is landed.

Subpart III Authorisation of third country commercial operators

35. This Subpart contains the administrative requirements to be fulfilled by an operator to obtain an authorisation (*TCO.AUT.100*). Furthermore, this Subpart explicitly states that Part-TCO will not prejudge agreements concluded by the EU or Member States to further ease the issuance of authorisations when confidence can be established, and regularly verified, in the regulatory system of the State of the operator. The appropriate impact assessment is part of the overall RIA.

36. TCO.AUT.110 “Changes” defines the type of changes requiring prior authorisation and the action to be taken by the operator when applying for the authorisation of such change. Furthermore, this provision obliges the operator to notify the Agency on all changes as agreed with the Agency for which prior approval is not necessary.

37. TCO.AUT.115 “Continuous validity” defines the conditions for continuous validity of the authorisation. The authorisation for operators is issued for an unlimited duration as is the case for AOCs for EU operators. The Agency considers that the continued validity of authorisations for operators goes together with continuing oversight by the Agency. Continuing oversight includes audits and inspections at intervals that shall be determined based on past oversight results and taking into account key risk elements (a risk based approach). As the authorisation is of unlimited validity, the audit and inspection programme for any operator shall be based on the performance or results of previous oversight activities. Moreover, the requirements are defined so as to ensure that the Agency may take action on the authorisation at any time if so required in case of findings that seriously hazard safety. The validity will also depend on the operator not being subject to an operating ban in the EU and the operator having conducted operations into the EU within any preceding 24 calendar months.

30 Commission Regulation (EC) No 859/2008 of 20 August 2008 amending Council Regulation (EEC) No 3922/91 as regards common technical requirements and administrative procedures applicable to commercial transportation by aeroplane (OJ L 254, 20.9.2008, p. 1).

Authority Requirements (Part-AR.TCO and Part-AR-GEN)

38. Part-TCO-AR was not sent out together with the NPA on Authority Requirements because it was felt necessary to present it together with the provisions of the proposed Part-TCO, in order to ensure consistency. Therefore, it is part of the present NPA. Subpart-AR.TCO mainly includes the legal obligations on the Agency stemming from Regulation (EC) No 2111/2005. It sets out how the Agency will process authorisations for operators intending to conduct or conducting commercial air transport operations into, within or out of the EU and how it will handle differences notified to ICAO by the State of the operator or the State of Registry (see para 30) In addition to Subpart-AR.TCO, the Agency, like Member States' competent authorities, will also be subject to Part Authority Requirements Sections I-IV[31].

39. These sections establish common administrative requirements to be followed by the Agency and Member States for implementing and enforcing the Basic Regulation and its Implementing Rules regarding air operations, personnel requirements and ramp inspections of operators under the regulatory oversight of another State. The proposed rules are based on ICAO SARPs, relevant Joint Implementation Procedures (JIPs) in place under the Joint Aviation Authorities, as well as on existing Section B requirements in Regulation (EC) No 2042/2003 and Regulation (EC) No 1702/2003.

40. Given that Part-AR builds to a large extent upon existing rule material and that it proposes requirements that are fully aligned with the relevant SARPs for States' safety oversight systems, the majority of the competent authorities and Agency's tasks defined in AR.GEN are not fundamentally different from those that competent authorities perform today. The Agency took due account of the need to justify any new tasks beyond those already in place, and such justification derives either from the Basic Regulation directly (implementation of those Articles pertaining to the first extension of the Basic Regulation, achievement of the objectives in terms of safety, standardisation and harmonisation) or from the implementation of ICAO standards regarding State Safety Programmes (SSPs).

Part-AR Section I-III

41. Section I contains general requirements applicable to competent authorities and the Agency, to facilitate cooperation and exchange of information between authorities and the Agency, as well as between the authorities themselves. These provisions are mainly based on the high level requirements provided for in the Basic Regulation (in particular Articles 5.5; 7.6; 8.5; 10; 15; 22.1 and 24). Section I also includes obligations related to oversight documentation that complement the relevant provisions on oversight capabilities on ICAO Critical Element CE-5.

42. Section I further requires competent authorities to provide safety significant information to the Agency (AR.GEN.125(b) and includes requirements for the processing of alternative means of compliance[32], aimed at ensuring uniform processing of such alternatives by competent authorities and the Agency and providing for full transparency.

43. The Implementing Rules in Section II require competent authorities and the Agency to establish and maintain a management system in order to comply with their obligations and to discharge their responsibilities as embedded in Part-AR. The main elements of such management system are:

- documented policies and procedures, sufficient and adequately qualified personnel, including the need to plan the availability of personnel;
- the nomination of management personnel for the different areas of activity;

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31 See *supra* note 13.

32 See *supra* note 2.

- adequate facilities and accommodation;
- a function to monitor compliance of the management system, including nomination of a person or group of persons responsible for the compliance monitoring function;
- the need to ensure that tasks performed by contractors (qualified entities) conform to the applicable requirements;
- a system to identify changes that affect the management system and to take action to ensure it remains effective; and
- a system of record-keeping to ensure traceability of activities performed.

The set of common requirements for competent authority management systems as defined in this section directly relates to the ICAO critical elements of safety oversight systems CE-4 "Technical personnel qualification and training" and CE-5 "Technical guidance, tools and the provision of safety critical information". They support the implementation of State safety plans and shall contribute to creating an effective oversight system.

44. Section III of Part-AR Subpart GEN provides the necessary elements to the competent authority and the Agency on how to interact with regulated organisations. It describes general oversight principles, the elements of the oversight programme and details the specific actions, roles and responsibilities of competent authorities and the Agency for certification, continuing oversight and enforcement processes.

45. The relevant provisions are based on JAA Joint Implementing Procedures (JIPs) to JAR-OPS and JAR-FCL, as well as on existing section B requirements in Regulations (EC) No 1702/2003 and 2042/2003. Articles 9 and 23 of the Basic Regulation are relevant for third country operators. The vast majority of the Implementing Rules proposed in this Section are based on existing requirements, and taking into account the obligations of Member States under ICAO to implement State safety programmes.

46. A more detailed explanation of the proposed requirements of these Sections and Section IV[33] can be found in NPA 2008-22a and NPA 2009-02d and the corresponding CRDs[34].

47. Part-TCO.AR does not contain detailed procedural provisions for the authorisation of third country operators nor AMC. The AMC to the provisions in Part-AR primarily serve as a means to ensure harmonisation amongst Member State's competent authorities when certifying and overseeing certified organisations or persons. The Basic Regulation specifies that procedures for taking individual decisions (e.g. type certificates, third country organisation approvals and authorisation of third country operators) shall be established by the Agency's Management Board (Article 53 of the Basic Regulation). These procedures will be binding for the Agency. It is foreseen that the Agency will present a draft proposal for such procedures to the Management Board in the last quarter of 2011. In order to provide guidance and legal certainty for the operators concerned these procedures, once adopted by the Management Board, will be published on the Agency's website.

Transitional measures

48. Transitional measures for the entry into force of the new requirements shall be included in the Cover Regulation. These transitional measures take into account the preparation time needed by operators and the Agency to implement the new requirements. However, such provisions can only be concluded when more is known about the exact content of

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33 See *supra* note 19.

34 http://easa.europa.eu/rulemaking/r-archives.php.

the final requirements and of their impact. The transition measures will be presented in the CRD and included in the Agency's final Opinion. Nevertheless, to prepare for them and obtain feedback from stakeholders, the Agency would like to share the following ideas.

Because the Agency expects to initially issue around 850 authorisations, the Cover Regulation of Part-TCO should provide for a systematic phase-in process. This transition should specifically allow those third country operators already engaged in commercial air transport operations into, within or out of the EU once Part-TCO becomes applicable, to continue their operations until the Agency is able to examine their applications and issue the necessary authorisations. Such a process has to take into account a realistic planning of the workforce needed to handle these applications.

The Agency therefore proposes to structure the transition period in the following way:

08.04.2012	
Date of Part-TCO becomes applicable	Part-TCO becomes applicable – start of the registration period for transition rights. 1. Member States shall no longer perform technical assessments of TCO operators[35] and applications for a technical permission issued after Part-TCO becomes applicable must be forwarded to the Agency. 2. Operators that have been permitted by a Member State to operate into, within or out of their territory during the period two years prior to the date Part-TCO becomes applicable shall be considered to have been approved in accordance with Part-TCO. In this case, limitations or restrictions imposed by individual Member States continue to apply until issuance of the authorisation by the Agency. Operators intending to continue to operate into the EU after Part-TCO becomes applicable must meet the following conditions: • register themselves using a form made available on the EASA website; • fill in a basic questionnaire online; • submit a written statement to the Agency declaring that: o the operations will be performed in accordance with Part-TCO and the approval or equivalent document issued by the Member State; o it holds a valid AOC issued by the State of the operator; o it will operate with aircraft and crew holding a valid standard ICAO CofA or licence; and o the Agency will be informed of any changes affecting the information provided in the statement. Only when these conditions are fulfilled the operator will be able to exercise transition rights and will receive a letter of acknowledgement. The operator will become subject to continuous monitoring performed

[35] Member States are and will remain responsible for granting commercial entry permissions to third country operators.

	by the Agency. 3. For new applicants, the Agency will start the authorisation process after receipt of the application, meaning that the intended operation may only start once the TCO authorisation has been granted. These operators will also become subject to continuous monitoring. Applicants are considered new in case the operator: • has not flown into, within or out of the EU in the 24 months preceding the date of applicability of Part-TCO; or • intends to change the terms of its approval or equivalent document issued by a Member State, if any.
Four months after Part-TCO becomes applicable[36]	At this date operators eligible for transition rights must have been registered, submitted the questionnaire and sent a statement. All operators that have not met these conditions after this date will be considered as a new applicant and can only continue operations into, within or out of the EU once they have obtained an authorisation from the Agency.

End of registration period until -31.12.2012	The Agency will continue to issue TCO authorisations to new applicants. At the same time the risk database will be populated with the information obtained from the operator questionnaires that have been received from both the new applicants and the operators covered by the transition period. At the end of this process a sequence will be established in which the applications of operators with transition rights will be processed Given the limited resources available during this phase, the Agency will need to prioritize its oversight activities. However, the Agency will react upon serious safety concerns for any of those operators. The Member States' competent authorities will perform ramp inspections on third country operators in accordance with AR.GEN.Section IV[37]. For this purpose the Agency will provide the competent authorities with a list of registered operators and newly authorised operators.
01.01.2013-31.12.2014	All transition operators will undergo their technical assessments, and TCO authorisations will be issued.
31.12.2014	All commercial air transport operators are authorised and will be subject to continuous monitoring.

V. Regulatory Impact Assessment

49. According to the formal Rulemaking Procedure of the Agency[38], a full Regulatory Impact Assessment (RIA) has to be introduced as a part of any proposed new rule. However, the development of a RIA for this task has presented particular difficulties. Firstly, when developing the NPA, it was apparent that a general RIA for the task would present limited

[36] Applications submitted after the applicability date of Part-TCO will be considered as new applications.

[37] See *supra* note 19.

[38] See *supra* note 3.

value: the choice on whether or not to regulate third country air operations had already been made by the Legislator. On the other hand, the proposals in this NPA are still subject to change, taking into account the comments received during the public consultation. Therefore, it was decided that the Agency would only develop RIAs covering the following critical issues:

- The level of assessment of a commercial operator to verify compliance with the applicable requirements (same authorisation procedure for all operators or different authorisation procedures depending on the performance of the operator and the State of the Operator).

For the full Regulatory Impact Assessment, please go to Appendix 1.

B. DRAFT OPINION PART THIRD COUNTRY OPERATORS (PART-TCO)

ANNEX 1 TO IMPLEMENTING REGULATION
PART THIRD COUNTRY OPERATORS (PART-TCO)

Subpart 1 – General requirements

TCO.GEN.101 Scope

This Part establishes the requirements to be followed by a third country operator conducting commercial air transport operations into, within, or out of the territory subject to the provisions of the Treaty.

TCO.GEN.110 Definitions

For the purpose of this Part:

- "commercial air transport (CAT) operation" means any aircraft operation to transport passengers, cargo or mail for remuneration or other valuable consideration;
- "principal place of business" means the organisation site from which the majority of the organisation's management personnel directs, controls or coordinates its operational activities, ensuring that the organisation complies with the requirements of this Regulation;
- "third country operator" means any natural person residing in a third country or a legal person whose principal place of business, if any, is in a third country.

TCO.GEN.115 Eligibility

(a) A third country operator shall be eligible for an authorisation under this part if:

(1) it is not subject to an operating ban pursuant to Regulation (EC) No 2111/2005;

(2) it can demonstrate the intention to operate into the EU with aircraft under its responsibility.

TCO.GEN.120 Means of compliance

(a) Alternative means of compliance to those adopted by the Agency may be used by a third country operator to establish compliance with Regulation (EC) No 216/2008 and its Implementing Rules.

(b) When an operator subject to an authorisation wishes to use an alternative means of compliance to that adopted by the Agency to establish compliance with Regulation (EC) No 216/2008 and its Implementing Rules, it shall, prior to implementing it, provide the Agency with a full description of the alternative means of compliance. The description shall include any revisions to manuals or procedures that may be relevant, as well as an assessment demonstrating that the Implementing Rules are met.

The third country operator may implement these alternative means of compliance subject to notification by the Agency, as prescribed in AR.GEN.120(c).

TCO.GEN.125 Access

(a) The third country operator shall ensure that any person authorised by the Agency or the Member State in which territory one of its aircraft is landed, will be permitted to board such an aircraft, at any time, with or without prior notice to:

(1) inspect the documents and manuals to be carried on board and to perform inspections to ensure compliance with this Part; or

(2) carry out a ramp inspection as referred to in Section IV of Subpart AR.GEN.

(b) The third country operator shall ensure that the Agency is granted access to any of its facilities or documents related to its activities, including any subcontracted activities, to determine compliance with this Part.

TCO.GEN.130 Findings

After receipt of a notification of findings raised by the Agency, the third country operator shall:

(a) define and agree with the Agency the corrective action to be taken, including short-term remedial action; and

(b) demonstrate remedial and corrective action implementation within a period agreed with the Agency as defined in AR.GEN.350(d).

Subpart II Air operations

SECTION I GENERAL

TCO.OPS.100 General Requirements

(a) The third country operator shall comply with:

(1) the applicable rules of the State of registry of the aircraft and if relevant the State of the operator that give effect to the applicable standards contained in the Annexes to the Convention on International Civil Aviation, in particular 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) and 18 (Dangerous Goods);

(2) the ICAO standards identified in accordance with AR.TCO.200(a)(2) or the mitigating measures accepted by the Agency in accordance with AR.TCO.200(b);

(3) the relevant requirements of this Part; and

(4) the applicable EU rules of the air.

(b) The third country operator shall ensure that the aircraft operated into, within or out of the EU is operated in accordance with;

(1) its air operator certificate (AOC) and associated operations specifications, if applicable; and

(2) the authorisation issued in accordance with this Part and the scope and privileges defined in the specifications attached to it.

(c) The third country operator shall ensure that the aircraft operated into, within or out of the EU have a certificate of airworthiness (CofA) issued or validated by:

(1) the State of registry; or

(2) the State of the operator, provided that the State of the operator and the State of registry have entered into an agreement under Article 83*bis* of the Convention on International Civil Aviation that covers the aircraft.

(d) The third country operator shall upon request provide the Agency with any information relevant for verifying compliance with this part.

SECTION II OPERATIONAL PROCEDURES

TCO.OPS.200 In-flight fuel management

(a) The operator shall establish a procedure to ensure that in-flight fuel checks and fuel management are carried out.

(b) The pilot-in-command shall ensure that the amount of usable fuel remaining in flight is not less than the fuel required to proceed to an aerodrome/operating site where a safe landing can be made, with final reserve fuel remaining.

(c) The pilot-in-command shall declare an emergency when the actual usable fuel on board is less than final reserve fuel.

TCO.OPS.205 Pre-flight inspections

The third country operator shall be responsible for the satisfactory accomplishment of the pre-flight inspection. This inspection must be carried out by the pilot in command, the co-pilot or another qualified person.

TCO.OPS.210 Use of air traffic services

(a) The third country operator shall ensure that:

(1) air traffic services (ATS) appropriate to the airspace and the applicable rules of the air are used for all flights whenever available;

(2) in-flight operational instructions involving a change to the flight plan, when practicable, are coordinated with the appropriate ATS unit before transmission to an aircraft.

(b) Notwithstanding (a), the use of ATS is not required unless mandated by air space requirements for:

(1) visual flight rules (VFR) day operations of other-than-complex motor-powered aeroplanes;

(2) helicopters with a maximum certificated take-off mass (MCTOM) of 3 175 kg or less operated by day and over routes navigated by reference to visual landmarks; or

(3) local helicopter operations, provided that search and rescue service arrangements can be maintained.

SECTION III - EQUIPMENT

TCO.OPS.300 Navigation, communication and surveillance equipment

A third country operator shall equip its aircraft with and operate such navigation, communication and surveillance equipment that is required in EU airspace.

SECTION IV - SECURITY

TCO.OPS.400- Flight crew compartment security- helicopters

If installed, the flight crew compartment door on a helicopter operated for the purpose of carrying passengers shall be capable of being locked from within the flight crew compartment in order to prevent unauthorised access.

SECTION V –Manuals, Logs and Records

TCO.OPS.500 Documents, manuals and records to be carried

(a) The third country operator shall ensure that:

(1) all documents that are required to be carried on board are valid, current and up to date;

(2) the authorisation and associated specifications issued by the Agency are carried on each flight, as originals or copies.

TCO.OPS.505 Production of documentation, manuals and records

Within a reasonable time of being requested to do so by a person authorised by the Agency or the competent authority of a Member State where the aircraft is landed, the pilot-in-command shall produce to that person the documentation, manuals and records to be carried on board.

Subpart III - Authorisation of third country operators

TCO.AUT.100 Application for an authorisation-operator

(a) Prior to commencing commercial air operations the operator shall apply for and obtain an authorisation issued by the Agency.

(b) An application for an authorisation or an amendment thereof shall be made in a form and manner established by the Agency.

(c) Without prejudice to applicable bilateral agreements, the applicant shall provide the Agency with any information needed to verify that the intended operation will be conducted in accordance with the applicable requirements. Such information shall include, at least:

(1) the official name, business name, address, and mailing address of the applicant;

(2) a copy of the operator's AOC and related operations specifications, or equivalent document, issued by the State of the operator that attests the capability of the holder to conduct the intended operations;

(3) if requested by the Agency, any other additional relevant flight documentation, manuals and specific approvals issued or approved by the State of the operator or State of registry as the case may be;

(4) a description of the organisation, proposed start date of operation, type and geographic areas of operation;

(5) a written statement that every flight will be conducted in accordance with the provisions of the operator's Operations Manual;

(6) a written statement that compliance with the mitigating measures accepted by the Agency in accordance with AR.TCO.200(b) will be ensured.

(7) a written statement that any mandatory safety information issued by the State of the operator or the State of registry, including applicable airworthiness directives have been complied with.

(d) For those aircraft not registered in the State of the operator and intended to be operated in the EU, the Agency may request:

(1) details of the lease agreement for each aircraft so operated; and

(2) if applicable, a statement that the State of the operator and the State of registry have entered into an agreement pursuant to Article 83bis of the Convention on International Civil Aviation that covers the aircraft.

TCO.AUT.105 Specifications and privileges of an authorisation holder

The privileges of the operator shall be listed in the specifications to the authorisation and not exceed the privileges granted by the State of the operator.

TCO.AUT.110 Changes

(a) Any change affecting the terms of an authorisation issued under Subpart AR.TCO.205 shall require prior authorisation by the Agency.

(b) The operator shall provide the Agency with the information referred to in TCO.AUT.300, restricted to the extent of the change.

During such a change the operator shall operate under the conditions prescribed by the Agency, as applicable.

(c) All changes not requiring prior authorisation as agreed in accordance with AR.TCO.205(d) shall be notified to the Agency.

(d) Without prejudice to any additional enforcement measures, failure to comply with the requirements in (a) shall result in suspension, limitation or revocation of the authorisation.

TCO.AUT.115 Continuous validity

(a) The authorisation shall remain valid subject to:

(1) the operator remaining in compliance with the relevant requirements of this Part. The provisions related to the handling of findings as specified under TCO.GEN.130 shall also be taken into account;

(2) the validity of the AOC or equivalent document issued by the State of the operator and the related operations specifications, if applicable;

(3) the Agency being granted access to the operator as specified in TCO.GEN.125;

(4) the operator not being subject to an operating ban pursuant to Regulation (EC) No 2111/2005;

(5) the authorisation not being surrendered, suspended or revoked; and

(6) the operator having carried out operations into, within or out of the EU under the authorisation within any preceding 24 calendar months.

(b) Upon surrender or revocation, the authorisation shall be returned to the Agency.

C. Draft Decision AMC and GM for Part Third Country Operators requirements (PART-TCO)

Subpart I – General Requirements

GM1-TCO.GEN.115(a)(2) Eligibility

The operator may substantiate its intention to operate into the EU by submitting its planned schedule for commercial air transport operations or, in the case of unscheduled commercial air transport operations, by submitting its planned operation and/or a copy of its application(s) for entry permission sent to the Member State(s) into which the third country operator intends to operate.

AMC1-TCO.GEN.120(a) Means of compliance

DEMONSTRATION OF COMPLIANCE

In order to demonstrate that the Implementing Rules are met, a risk assessment should be completed and documented. The result of this risk assessment should demonstrate that an equivalent level of safety to that established by the Acceptable Means of Compliance adopted by the Agency is accomplished.

GM1-TCO.GEN130 Findings

GENERAL

Remedial action is the action to eliminate the effects of non-conformity. Corrective action is the action to eliminate the root cause of non-conformity in order to prevent its recurrence.

Determining the root cause is crucial for defining effective corrective actions.

Subpart II Air Operations

Section I

GM1-TCO.OPS.100(b)(2) General requirements

Special authorisations are those including, but not limited to, the carriage of dangerous goods, low visibility operations (LVO), reduced vertical separation minima (RVSM), extended range operations with two-engined aeroplanes (ETOPS), navigation specifications for performance-based navigation operations (PBN), special approach authorisation, minimum navigation performance specifications (MNPS).

Section II

GM1-TCO.OPS.205 Pre-flight inspections

Pre-flight inspections need not be carried out by an approved maintenance organisation or by certified maintenance staff.

Section V – Manuals, Logs and Records

AMC1-TCO.OPS.500 Documents, manuals and records to be carried

GENERAL

The documents, manuals and information may be available in a form other than on printed paper. Accessibility, usability and reliability should be assured.

Subpart III – Authorisation of third country operators

AMC1-TCO.AUT.100 Application for an authorisation

APPLICATION TIME FRAMES

The application for the initial authorisation should be submitted at least 90 days before the intended start date of operation.

AMC1-TCO.AUT.110 Changes

APPLICATION TIME FRAMES

(a) The application to amend an authorisation should be submitted at least 30 days before the date of intended change.

(b) Unforeseen changes should be notified at the earliest opportunity, in order to enable the Agency to determine continued compliance with this Part and to amend, if necessary, the authorisation and related specifications.

GM1-TCO.AUT.110 Changes

GENERAL

Typical examples of changes that may affect the authorisation or operation specifications are listed below:

(a) temporary or permanent cessation of operations or revocation of the air operator certificate(AOC);

(b) the name of the operator;

(c) the operator's principal place of business;

(d) the operator's scope of activities, e.g. extensions of privileges granted or restrictions imposed in the operations specifications to the AOC;

(e) enforcement measures imposed by a civil aviation authority, including limitations and suspension;

(f) the operator's documentation as required by this Part;

(g) new type of aircraft - different ICAO type designator - included in the fleet; or

(h) any takeover, merger, consolidation or other structural change to the operator's organisation that could result in a change to the conditions and approvals as defined in the AOC or equivalent document.

D. Draft Opinion Part Authority Requirements (PART-AR)

ANNEX 1 TO IMPLEMENTING REGULATION
PART AUTHORITY REQUIREMENTS (PART-AR)

SUBPART AR.TCO – THIRD COUNTRY OPERATORS

Section I – General

AR.TCO.100 Scope

This Subpart establishes administrative requirements to be followed by the Agency, specifically regarding:

(a) the issuance, maintenance, change, limitation, suspension or revocation of authorisations of third country operators conducting commercial air transport operations; and

(b) the oversight of these operators.

AR.TCO.105 Exchange of information

The Agency shall:

(a) regularly make available to the Member States an updated list containing the authorisations it has issued, limited, changed, suspended or revoked; and

(b) inform the Commission when it:

(1) rejects an application for an authorisation; or

(2) suspends, limits or revokes an authorisation.

Section II – Authorisation

AR.TCO.200 Initial evaluation procedure

(a) Upon receiving an application for an authorisation, the Agency shall:

(1) verify the operator's compliance with the applicable requirements;

(2) identify the ICAO standards to be complied with by the third country operator despite the difference notified to ICAO by the State of the operator or State of registry.

(b) Except for the standards referred to in (a)(2), the Agency may accept mitigating measures established by the State of the operator or the State of registry ensuring an equivalent level of safety to that achieved by the standard to which differences have been notified to ICAO by the State of the operator or the State of registry

(c) The verification shall be based on:

(1) documentation provided by the operator;

(2) relevant information on the safety performance of the operator, e.g. ramp inspections conducted and recent serious incidents or accidents, as applicable; and

(3) relevant information on the oversight capabilities of the State of the operator or State of registry, as applicable.

(d) The Agency shall conduct further investigations or an audit of the third country operator :

(1) where a review of the operator's documentation does not satisfy the Agency that compliance with the applicable requirements is ensured;

(2) when one or more aircraft of the operator are subject to an operating ban pursuant to Regulation (EC) No 2111/2005;

(3) when other operators of the State of the operator are subject to an operating ban pursuant to Regulation (EC) No 2111/2005;

(4) when the operator is subject to a measure pursuant to Article 6 of Regulation (EC) No 2111/2005;

(5) when the Commission and Member States have started joint consultation with the authority of the State of the operator pursuant to Article 3 of Regulation (EC) No 473/2006;

(6) when the State of the operator has imposed limitation on the operator's air operator certificate (AOC);

(7) when non-compliance known from ramp inspections indicate systemic deficiencies on operational procedures and practices of the operator;

(8) where evidence of significant deficiencies in the oversight capabilities of the State of the operator or State of registry exists from audits carried out under international conventions or State safety assessment programmes;

(9) where the Agency is aware of the existence of significant findings on the operator from recognised industry programmes; or

(10) in case of known recent serious incidents or accidents involving any of the operator's aircraft.

AR.TCO.205 Issue of an authorisation

(a) The Agency shall issue the authorisation, including the associated specifications when it is satisfied that:

(1) the operator holds a valid AOC or equivalent document and associated operation specifications issued by the State of the operator, if applicable;

(2) the AOC allows the operator to conduct operations into the EU;

(3) the aircraft used are properly and adequately equipped to conduct the operations described in the operational specifications;

(4) the operator has demonstrated compliance with the applicable requirements;

(5) the operator is not subject to an operating ban pursuant Regulation (EC) No 2111/2005.

(b) The authorisation shall be issued for an unlimited duration. The privileges and the scope of the activities that the operator is authorised to conduct shall be specified in the specifications attached to the authorisation.

(c) The Agency shall limit the authorisation to aircraft not being subject to an operating ban pursuant to Regulation (EC) No 2111/2005.

(d) The Agency shall agree with the operator the scope of changes not requiring prior authorisation.

AR.TCO.210 Continuous oversight

(a) Oversight of the third country operator shall follow the provisions laid down in AR.GEN.300.

(b) In addition to (a) the verification of compliance with the applicable requirements shall also be based on:

(1) on-going investigations pursuant to Regulation (EC) No 2111/2005 or joint consultations with the overseeing authority of the state of the operator pursuant to Regulation (EC) No 473/2006.

(2) previous investigations or audits, if carried out; and

(3) audits performed under international conventions, State safety assessment programmes or recognised industry programmes.

AR.TCO.215 Oversight programme

(a) The development of the oversight programme shall follow the provisions laid down in AR.GEN.305.

(b) In addition to (a), the Agency shall conduct oversight activities at intervals which shall be established by, taking into account previous results of oversight activities and shall in any case not exceed 24 months.

AR.TCO.220 Changes

(a) Upon receiving an application to change an authorisation, the Agency shall apply the relevant procedure in AR.TCO.200, restricted to the extent of the change.

(b) The Agency shall prescribe the conditions under which the operator may operate within the scope of its authorisation during the change, unless the Agency determines that the authorisation needs to be suspended.

AR.TCO.225 Limitation, suspension and revocation of authorisations

(a) The Agency shall limit, suspend or revoke, as applicable, an authorisation in accordance with AR.GEN.350 in, but not limited to, the following circumstances:

(1) obtaining the authorisation by falsification of submitted documentary evidence;

(2) the operator no longer complies with the applicable requirements of Part-TCO; or

(3) evidence of malpractice or fraudulent use of the authorisation.

(b) The Agency shall suspend the authorisation when the operator is subject to an operating ban pursuant to Regulation (EC) No 2111/2005.

(c) The Agency may limit or suspend the authorisation for the duration of a joint consultation with the authority of the State of the operator pursuant to Article 3 of Regulation (EC) No 473/2006 or when the operator is subject to a measure pursuant to Article 6(1)(2) of Regulation (EC) No 2111/2005.

(d) If, during the investigation following an accident or serious incident in which the third country operator was involved there is evidence that systemic deficiencies on the side of the operator may be a causal factor for the accident or serious incident, the Agency may suspend or limit the authorisation pending the results of the investigation.

Appendix 1 - Regulatory Impact Assessment

Table of contents

Executive summary

The purpose of this Regulatory Impact Assessment (RIA) is to evaluate, from a European perspective, the potential consequences of the conditions that third country operators (TCOs) need to comply with in order to operate into, within or out of the European Union (EU).

This RIA assesses the impact of the proposed rules for TCO conducting commercial air transport (CAT) operations.

The two options identified were assessed for their impact in terms of safety, environment, economy, social impact, proportionality and regulatory harmonisation.

Based on the assessment, the Agency recommends that:

A TCO conducting CAT operations may operate within the EU if authorised following a risk-based authorisation process.

1. Introduction and scope

1.1 Introduction

There are no uniform and harmonised rules with regard to TCOs engaged in operations in the territory of the Member States. Some Member States have established an approval scheme for third country operators by requiring these operators to fill in a detailed questionnaire on its operations, crew training and maintenance of the aircraft while some Member States are satisfied with copies of the relevant certificates and statements on the carriage of certain equipment.

This lack of harmonisation means that TCOs operating in more than one Member State have to submit multiple applications for technical authorisations to the Competent Authority of the Member States concerned. On their turn, Member States apply their national rules with regard to third country operations, which differ from Member State to Member State. The result of this repetitive administrative exercise is a fragmented authorisation and oversight system. This is detrimental to the objective of uniform rules to ensure effective protection of public safety, on the ground and on board of these aircrafts and the functioning of the internal market.

When establishing the Agency through Regulation (EC) No 1592/2002[39], the legislator already envisaged that appropriate Essential Requirements should have been developed to cover, inter alia, operations of third-country aircraft. Therefore, the European Commission adopted a legislative proposal[40] in November 2005 to extend the tasks of the Agency to this domain.

The proposal, after a decision by the Council and Parliament of the European Union, led to Regulation (EC) No 216/2008[41] ("**the Basic Regulation**"), which indeed established Essential Requirements for the operations of third-country aircraft and substantive requirements in Article 9 of the Basic Regulation.

The legislator delegated to the European Commission the power to adopt measures supplementing the basic legislative provisions, in accordance with the regulatory procedure with scrutiny and based an Opinion by the Agency. The Agency shall hence analyse and assess different options for TCO regulation and develop these Opinion(s) to be submitted to the European Commission. This analysis is the purpose of the presented Regulatory Impact Assessment (RIA).

1.2 Scope of the present Regulatory Impact Assessment

The aim of a Regulatory Impact Assessment (RIA) is to determine the best option to achieve the objective of a rulemaking activity (e.g. more effective safety regulation for TCOs) while minimising potential negative impacts. It consists of a series of five logical steps that structure the analysis: issue identification, objective definition, option development, impact analysis and option comparison. By providing transparent and evidence-based analysis of the advantages and disadvantages of the rule options against the defined objectives, decision-makers and

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39 Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency (EASA); (*OJ L 240, 7.9.2002, p 01–21*).

40 Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1592/2002 of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency (COM(2005)579 final of 15 November 2005).

41 Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency (EASA) and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC; (*OJL79, 19.3.2008, pages 01–49*).

stakeholders have a solid reference framework for discussion and informed evidence-based decisions.

The impact of these rules on all categories of affected organisations or individuals should be quantified wherever feasible. It is important to note that the positive and negative impacts of the 1st extension of the scope of the Basic Regulation to e.g. third country air operations do not need to be established again at the level of this NPA and RIA since this was already under due consideration when this requirement was proposed in the Opinion on the 1st extension. However, what still needs to be compared are the likely impacts deriving from the different methods and approaches proposed in the options identified below.

2. Issue analysis

This chapter gives an overview of the issues that need to be addressed and taken into account when proposing common European rules for TCOs. The first subsection 2.1 looks at the currently applicable European legislation, which sets the framework in which the TCO rules have to be developed. The following section 2.2 describes the applicable ICAO standards, which need to be considered. Section 2.3 describes FAA rules, which serve to provide an international reference.

Section 2.5 looks at the oversight mechanisms in place which can be used by the Agency to develop the decision regarding TCO authorisation.

The final section gives an overview of the scale of the issue and an indication of the current level of safety based on a basic risk assessment.

2.1 European legislation applicable to Third Country Operations

The Basic Regulation

The Basic Regulation states that operations of aircraft registered in a third country or registered in a Member State which has delegated their regulatory oversight to a third country, and used by a TCO into, within or out of the territory of the EU as well as their crew shall comply with the applicable ICAO Standards[42]. To the extend that there are no such standards, these aircraft and their operations shall comply with the requirements laid down in Annexes I, III, IV and if applicable Vb to the Basic Regulation, provided that these requirements are not in conflict with the rights of third countries under international conventions[43].

Operators engaged in commercial operations shall be subject to an authorisation process in which they demonstrate their capability and means of discharging the responsibilities associated with their privileges. The privileges granted to an operator and the scope of operations will be specified in the authorisation. Authorisations will be issued by the Agency[44].

All decisions taken by the Agency concerning TCOs have to be in line with the measures taken pursuant to Regulation (EC) No 2111/2005.

This RIA assesses the options available to implement the above provisions for TCOs, in particular the authorisation process.

The legislator clearly indicated that the process by which authorisations are obtained must be simple, proportionate, cost-effective, and efficient in all cases, allowing for requirements and compliance demonstrations proportionate to the complexity of operations and risk involved[45].

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42 Article 4(1)(d) of the Basic Regulation.

43 Article 9(1) of the Basic Regulation.

44 Article 23(1)(b) of the Basic Regulation.

45 Article 9.5(d) of the Basic Regulation.

Therefore, one of the assessment criteria applied will be “equality and proportionality” (see Table 1) to compare the different options for the authorisation process of commercial operators.

The authorisation process should also take account of:

- Results of the ICAO Universal Safety Oversight Audit Programme;
- Information from ramp inspections and the Safety Assessment of Foreign Aircraft Programme records; and
- Other recognised information on safety aspects with regard to the operator concerned.

In paragraph 2.5 a more detailed explanation will be provided with regard these other sources of safety information that might be relevant when verifying compliance with the applicable requirements.

Regulation on the list of banned carriers

The process by which an air carrier is included in the EU Safety list of banned carriers is laid down in Regulation (EC) **No 2111/2005**[46]. This regulation allows the European Commission to prevent unsafe airlines operating into the EU. The EU Safety list is a means in the EU system to improve safety standards and identify airlines operating below essential safety levels. It applies to all carriers irrespective of their nationality – EU and non-EU conducting CAT operations. Non-commercial operations, such as private and ferry flights for maintenance purposes fall outside the scope of this regulation. EU operators are assessed against EU safety rules and non-EU operators are assessed against the safety standards of the Chicago Convention and its annexes. The list may be updated whenever the European Commission deems it necessary, or upon request of an EU Member State.

2.2 Relevant ICAO standards: ICAO Document 8335

Annex 6 — Operation of Aircraft, Part I — International Commercial Air Transport — Aeroplanes, paragraph 4.2.2.2 and Part III — International Operations — Helicopters, Section II, International Commercial Air Transport, paragraph 2.2.2.2 require that States shall establish a programme with procedures for the surveillance of operations in their territory by a foreign operator and for taking appropriate action when necessary to preserve safety.

The fifth edition of Document 8335 has been prepared with the objective of providing States and operators with detailed guidance concerning the establishment and maintenance of safe, regular and efficient international CAT operations in accordance with the Chicago Convention and Annex 6, Part I and Part III. It provides detailed guidance on safety oversight and introduces in Part VI relevant aspects of the surveillance by States of foreign operators.

Part VI demands that a State should develop procedures for the safety oversight of foreign operators and for the authorisation of such operators to operate within its territory in a manner consistent with the State’s national regulatory requirements. An administrative review of the relevant documentation of the operator should be performed at a minimum, and should be supplemented by safety-related information, if available, from ICAO or from safety programmes by States (such as ramp checks). The State may consider audits performed by other States, by internationally recognised audit organisations or by its civil aviation authority (CAA). An approval should be granted in the absence of any significant negative findings or major deficiencies.

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[46] Regulation (EC) No 2111/2005 of the European Parliament and the Council of 14 December 2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier, and repealing Article 9 of Directive 2004/36/EC.

In order to maintain an approval, foreign operators should be subject to appropriate surveillance by States. This should include regular ramp checks and documentation reviews. In case any significant negative finding/major deficiency is encountered during this process, States should take appropriate measures, including consultations with the CAA of the State of the Operator and, if acceptable to the concerned State, an audit of the foreign operator[47].

2.3 Bilateral Agreements

The EU deploys an external aviation policy based on bilateral arrangements with key partners. These arrangements can take the form of so-called Comprehensive Agreements, where parallel to a process of opening-up of the market, the EU and the third country engage in a process of regulatory convergence. This regulatory convergence process can lead, in specific cases, to the sharing of standards in various fields, including safety, thus providing a suitable framework for increased cooperation between the EU (and the Agency) and the third country in question. Furthermore, cooperation on safety matters can be developed, even in the absence of a comprehensive agreement, through a bilateral agreement on the regulation of civil aviation safety establishing a comprehensive system of regulatory cooperation in the field of air operations. This would be based on continuous communication and mutual confidence. Current existing bilateral agreements at national level do not cover such a system for air operations. The EU has entered into comprehensive aviation agreements with ambitious objectives on safety matters with countries in the neighbourhood area, such as the Western Balkans, Morocco, Georgia and Jordan. Other Comprehensive Agreements, like the ones with the US or Canada, provide a framework for reinforced regulatory dialogue on safety matters. Although not yet in force, three bilateral air safety agreements covering airworthiness and maintenance have been negotiated and signed between the EU and the United States, Canada and Brazil respectively. These bilateral agreements include provisions which enable the possibility to extend the agreement into areas such as air operations, flight crew licensing and the approval of flight simulation training devices (FSTDs) without the need to secure a new mandate from the Council of the EU. This means that the European Commission, assisted by the Agency and in cooperation with the Member States, can start negotiations to extend the scope of the agreement to the above mentioned areas, which could ultimately result in the mutual recognition of EU and third country air operator certification.

2.4 Rules of non EU countries on foreign operators

Due to the need for harmonisation the Agency examined also other relevant regulations, in particular the Code of Federal Regulations (CFR) Title 14, Aeronautics and Space Part 129 of the Federal Aviation Administration of the United States (Part 129)[48], the Canadian[49] and Australian[50] rules on foreign air operations. The Agency will continue to coordinate with the aviation authorities of third countries on ways to improve the authorisation process, as appropriate.

2.5 Existing oversight and monitoring systems

Universal Safety Oversight Audit Programme (USOAP)

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47 Doc 8335 Manual of Procedure for Operations Inspection, Certification and Continued Surveillance, Fifth Edition -2010.

48 Code of Federal Regulations Title 14, Aeronautics and Space Part 129 – Operations: Foreign Air Carriers and Foreign Operators of U.S.-Registered Aircraft engaged in Common Carriage.

49 http://www.tc.gc.ca/eng/civilaviation/regserv/cars/part7-subpart1-2148.htm.

50 http://www.casa.gov.au/manuals/regulate/aocm/011r0401.pdf.

The objective of the ICAO USOAP is to promote global aviation safety by auditing Contracting States on a regular basis. The results of the USOAP must help determine States' capability for safety oversight by assessing the effective implementation of the critical elements of a safety oversight system and the status of States' implementation of safety-relevant ICAO Standards and Recommended Practices (SARPs), associated procedures, guidance material and safety related practices. The scope of the ICAO USOAP includes the safety-related provisions contained in all safety-related Annexes, Procedures for Air Navigation Services (PANS), guidance material and related procedures and practices. ICAO safety oversight audits are conducted in a systematic, consistent and objective manner.

ICAO USOAP reports are a key element used by the Air Safety Committee to assess the capability of an ICAO contracting State to fulfil its certification and surveillance obligations. In the framework of a working group set up by the Air Safety Committee, experts of Member States carry analyse selected reports. The Commission has recently tasked the European Aviation Safety Agency to coordinate this group. For the future authorisation of third country operators ICAO-USOAP results and the ICAO-CMA (continuous monitoring approach) data will be one of the most important sources of safety related information and will significantly influence the categorisation of TCO applicants/authorised operators and their assessment.

SAFA Programme/Ramp Inspections

Directive 2004/36/EC of the European Parliament and of the Council on the safety of third-country aircraft using Community airports ('SAFA Directive') creates a legal obligation upon EU Member States to perform ramp inspections on third country aircraft landing at their airports. At the moment the EU SAFA Programme falls upon the European Commission assisted by the Agency, which is responsible for the operational management of the EU SAFA programme. In each SAFA Participating State, aircraft (third-country for EU states or foreign for non-EU ECAC states) can be subject to a ramp inspection, chiefly concerned with the aircraft documents and manuals, flight crew licenses, the apparent condition of the aircraft and the presence and condition of mandatory cabin safety equipment. The references for these inspections are contained in the ICAO Standards and particularly in Annexes 1 (Personnel Licensing), 6 (Operations of Aircraft) and 8 (Airworthiness of Aircraft). In the case of significant irregularities, the operator and the appropriate aviation authority (State of Operator or Registry) are contacted in order to arrive at the corrective measures to be taken. Not only with regard to the aircraft inspected but also with regard to other aircraft, which could be concerned in the case of a non-compliance which is of a generic nature. All data from the reports as well as supplementary information are shared and centralised in a computerised database set up and managed by the Agency. Additionally, since the coming into effect of Regulation (EC) No 2111/2005 establishing a list of carriers, which are banned from flying into EU territory (the EU Safety list), SAFA inspections have acquired an increased importance as one of the criteria considered by the EC in taking its decisions on the inclusion of operators in the EU Safety list[51]. By applying the ICAO standards, in particular the ones contained in Annex 6, the SAFA program in fact enforces the implementation of ICAO standards.

SAFA inspection results will be analysed regularly by the Agency's SAFA section with the support of Member States experts (already existing IDEA group). This evaluation will continuously generate advice and recommendations to the TCO section and will activate ad-hoc investigations as applicable.

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[51] The Basic Regulation establishes a comprehensive framework for the cooperative oversight of all aircraft using EU aerodromes, including third country aircraft. The Basic Regulation therefore envisages that the SAFA Directive will be repealed as soon as its Implementing Rules enter into effect. As a consequence, the measures adopted in accordance with Article 8(2) of that Directive (Commission Regulation (EC) No 351/2008 of 16 April 2008, Commission Regulation (EC) No 768/2006 of 19 May 2006) and Directive 2008/49/EC of 16 April 2008), will lose their legal basis and will therefore be transposed to the Implementing Rules of Regulation 216/2008 (CRD 2009-02D – AR.GEN.Section IV.

As will be the case for ICAO-USOAP, SAFA inspection results are important input when allocating a risk category to an operator and when deciding on the assessment methodology to be used for initial authorisation and continuous oversight.

The data derived from the above mentioned sources will be complemented with the other available relevant information such as the FAA IASA rating and other credible sources of information.

U.S. International Aviation Safety Assessment programme (IASA)

The FAA established the IASA program to ensure that all foreign air carriers that operate to or from the United States are properly licensed and the competent Civil Aviation Authority has an adequate infrastructure for international aviation safety oversight as defined by ICAO standards. The FAA's IASA program focuses on a country's ability, not the individual air carrier, to adhere to international standards and recommended practices for aircraft operations and maintenance. These audits are limited to civil aviation authorities of countries with existing air carrier service to the U.S., or authorities of foreign air carriers wanting to start services to the U.S. The FAA has established two categories for the status of countries at the time of the assessment: Category 1 where the civil aviation authority certifies and oversees air carriers in accordance with ICAO standards, Category 2 where the civil aviation authority does not (Category 2). Operators from Category 2 countries currently flying to the U.S cannot expand those operations and are subject to increased surveillance, e.g. ramp inspections and new applicants from, those countries will not be eligible for traffic rights in the US[52].

Internationally recognised information on safety aspects with regard to operators

The Agency may be able to obtain information on an operator through access to reports of audits of the operator in question, conducted by independent internationally recognised aviation audit organisations (IRAO) and/or by other air operators, such as code-sharing partners. An audit of the standards maintained by an operator from a third country, performed by an IRAO, using one of the internationally recognised evaluation systems, may be acceptable as an additional source for the authorisation process. For example, an operator listed on the IATA Operational Safety Audit (IOSA) registry has satisfactorily undergone an IOSA audit in the last 24 months, a result that may be taken into account. As mentioned above, such non-regulatory audits should be used to complement other information such as results from the ICAO USOAP or SAFA inspection results as described above to evaluate the operator.

2.6 Affected third country operators and risk assessment

Data provided by Eurocontrol for 2009/2010 identify approximately 750 individual commercial third country operators which have performed flights into, within or out of the EU. The Eurocontrol data contain a large number of flights listed by Eurocontrol as "unknown operator". Comparison of the Eurocontrol data with SAFA data leads to the conclusion that at least 50 of these unidentified operators must be considered as TCOs. The French DGAC currently lists approximately 50 additional operators being authorised by France to perform flights into French overseas territories. Therefore, the Agency foresees around 850 TCOs applying for an authorisation once the implementing rules enter into effect.

When looking at the overall safety record of TCO conducting CAT operations based on data obtained from the ICAO Accident/Incident Data Reporting (ADREP) system covering the period 2001-2010, the accident rate per one million flights is higher for third country registered

[52] US operators can no longer sell code-share tickets on flights operated by operators of Category 2 countries, but it is still possible for such operators to sell tickets on flights operated by US operators.

aircraft as compared to EU country registered aircraft[53]. As regards aircraft with an MTOW above 2 250 kg in CAT with passengers, the rate is 3 accidents per million flights for EU country registered aircraft compared to 5.9 accidents per million flights for third country registered aircraft in CAT. A similar situation can be observed for CAT Cargo operations: 9.9 accidents per million flights for EU countries and 12.3 for third countries.

Overall the records indicate that the current schemes for TCO's applied by Member States provide an adequate level of safety.

When developing the common EU rules for TCOs, the level of safety needs to be maintained and further strengthened.

[53] State of registration had to be used as a proxy for the country of the operator as ADREP only contains the state of registry.

3. Objective

The objective of this rulemaking activity is to develop an opinion for a Commission Implementing Regulation and related AMC/GM to regulate CAT operations of TCOs in order to ensure a high level of safety.

This should, in particular, be achieved by taking into account the ICAO standards as well as Regulation (EC) No 2111/2005 as described above.

4. Identification of options

The issue analysis above showed that the Agency has to consider a wide range of aspects when proposing implementing rules applicable to TCOs.

This analysis focuses on TCOs conducting CAT operations. They need to be authorised before they can enter European airspace. Therefore, the options of how to conduct the authorisation process need to be assessed.

Two options were identified for the following impact assessment. Note that there is no "option 0", which is usually the reference option or "do nothing option" in Regulatory Impact Assessments. As in this case the rules are created for the first time at European level, there is no such reference option. For this reason, the comparison of options in chapter 6 will be relative to each other, not relative to a reference situation. Table 1 gives an overview of the options.

Table 1: Options for the TCO authorisation process

	Option 1 ***Uniform authorisation process***	***Option 2*** ***Risk-based authorisation process***
Overall description	Same authorisation procedure for all operators	Risk-based approach. Different authorisation procedures depending on the performance of the State of the operator and the operator itself

In option 2 eligible operators will be grouped into three different categories that correspond to the Agency's level of confidence into the State of operator and the operator. The category provides guidance on the assessment methodology to be applied and determines the fee that corresponds to the assessment methodology and associated Agency costs.

Table 2: Assessment categories applied in option 2

Assessment Category	***Level of confidence into applicant***	***Expected Distribution***	***Assessment methodology***
Category A	High	Standard case approx. 60%	Simple desktop review of basic operator data (fast track)
Category B	Medium	approx. 30%	Detailed assessment including sampling of ICAO compliance and consultation with the operator (video/telephone conference, and / or interview in Cologne)
Category C	Low	approx. 10%	Detailed assessment including sampling of ICAO compliance and on-site visit

The Agency will assign the categories based on the following proven evaluation criteria with a strong emphasis on the ICAO USOAP performance of the state of the operator[54]. *State of the Operator*:

- ICAO USOAP reports (lack of implementation);
- ICAO SSC (Significant Safety Concern);
- EU SAFA results (aggregated on State of the Operator level[55]);
- consultations pursuant to Article 3 of Regulation (EC) No 473/2006;
- measures imposed by a Member State in accordance with Article 6 of Regulation (EC) No 2111/2005;
- accident data (aggregated on State of the Operator level);
- FAA IASA State category.

Operator

- Accident history;
- EU SAFA ratio (if available);
- Size, nature and complexity of the operation;
- Adherence to industry standards

In addition, apart from the confidence into certificates issued by the State of the Operator as determined in the model explained above, the following shall be applied: where there is evidence that an applicant has an accident record justifying reasons for concern, and/or is part of the SAFA priority list, and/or is listed in Annex B of the Safety list (Regulation (EC) No 2111/2005), that applicant will not qualify for category A (simple desktop review) but shall be categorised as B or C as appropriate.

The expected distribution of operators across the three categories as shown in table 2 is based on a preliminary application of the above process.

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54 The evaluation criteria are defined in AR.TCO 200 (d).

55 The Agency will continuously monitor results of ramp inspections on third country operators e.g. with the view to see if there is a trend of non-compliances of operators from a particular state and if this trend can be traced back to the oversight capabilities of that state.

5. Applied methodology: Multi-criteria analysis

The term multi-criteria analysis (MCA)[56] covers a wide range of techniques that share the aim of combining a range of positive and negative impacts into a single framework to allow easier comparison of scenarios. Essentially, it applies cost benefit thinking to cases where there is a need to present impacts that are a mixture of qualitative, quantitative and monetary data, and where there are varying degrees of certainty.

Key steps of a MCA generally include:

1. establishing criteria to be used to compare the options (these criteria must be measurable, at least in qualitative terms);
2. assigning weights to each criterion to reflect its relative importance in the decision;
3. scoring how well each option meets the criteria; the scoring needs to be relative to the baseline scenario;
4. ranking the options by combining their respective weights and scores;
5. perform sensitivity analysis on the scoring so as to test the robustness of the ranking.

The objective for this rulemaking activity has been outlined in paragraph 3. The options have been described above and will be analysed in the following chapter for each of the assessment areas. The criteria used to compare the options were derived from the Basic Regulation and the guidelines for Regulatory Impact Assessment developed by the European Commission[57]. The principal objective of the Agency is to “Establish and maintain a high uniform level of safety” [Art. 2 (1)]. As additional objectives the Basic Regulation identifies environmental, economic, proportionality and harmonisation aspects, which are reflected in Table 3below.

This table also shows the weights that were assigned to the individual groups of criteria. Based on the above considerations and the mandate of the Agency, safety received highest weight of 3.

[56] The description of the MCA is taken from the EC Impact Assessment Guidelines: http://ec.europa.eu/governance/impact/commission_guidelines/commission_guidelines_en.htm.

[57] http://ec.europa.eu/governance/impact/commission_guidelines/commission_guidelines_en.htm.

Table 3: Assessment criteria for the Multi-Criteria Analysis (MCA)

Assessment areas	Weights	Assessment criteria
Safety	**3**	**Establish and maintain a high uniform level of safety**
Environment	2	Avoid negative effects on the environment (noise and emissions)
Social	1	Avoid negative effects on employment in aviation Avoid other negative social effects (e.g. on working conditions, job quality, qualifications, health)
Economic	1	Ensure cost-effectiveness Avoid competitive disadvantages ("level playing field")
Proportionality	1	Ensure proportionate rules for Small and Medium sized Enterprises (SMEs)/General aviation
Regulatory harmonisation and co-ordination	1	Ensure compatibility with European law Avoid implementation problems Ensure compliance with ICAO standards where required and appropriate from a European perspective Achieve the maximum appropriate degree of harmonisation with the Third Country equivalent rules for commercial aviation

Environmental impacts are attributed with a weight of 2 as the Agency has certain specific responsibilities in this area related to noise and emissions. For the same reason impacts on the other assessment areas are attributed with a weight of 1 since these areas are to be dully considered when developing the implementing rules. For this Impact Assessment, however, no environmental and social effects are expected. Each option developed below will be assessed based on the above criteria. Scores are used to show the degree to which each of the options achieves the assessment criteria. The scoring is performed on a scale between -5 and +5. Table 4 gives an overview of the scores and their interpretation.

Table 4: Scores for the Multi-criteria analysis

Score	Descriptions	Example for scoring options
+5	Highly positive impact	Highly positive safety, social or environmental protection impact. Savings of more than 5% of annual turnover for any single firm; Total annual savings of more than 100 million euros
+3	Medium positive impact	Medium positive social, safety or environmental protection impact. Savings of 1% - 5% of annual turnover for any single firm; Total annual savings of 10-100 million euros
+1	Low positive impact	Low positive safety, social or environmental protection impact. Savings of less than 1% of annual turnover for any single firm; Total annual savings of less than 10 million euros
0	No impact	

-1	Low negative impact	Low negative safety, social or environmental protection impact. Costs of less than 1% of annual turnover for any single firm; Total annual costs of less than 10 million euros
-3	Medium negative impact	Medium negative safety, social or environmental protection impact. Costs of 1% - 5% of annual turnover for any single firm; Total annual costs of 10-100 million euros
-5	Highly negative impact	Highly negative safety, social or environmental protection impact. Costs of more than 5% of annual turnover for any single firm; Total annual costs of more than 100 million euros

6. Analysis of impacts

6.1 Basic assumptions

As mentioned in paragraph 2.6, the Agency foresees around 850 TCO's applying for an authorisation during the transition phase of two years after the rules are adopted. Thus, the Agency expects 425 applications per year during the transition phase.

- The transition phase will be 2 years
- One surveillance/operation specification change event needs to be processed every year for each authorisation holder
- Qualified entities will support on-site visits with 75 hours[58]

For the risk-based authorisation process, a number of additional assumptions had to be taken in order to estimate the economic impact.

In the **initial phase** for the first two years (2013-14) after the new rule is adopted the following assumptions were applied:

Table 5: New applications expected during the initial phase per year[59]

Applications expected annually	**100%**	**425**
Category A - low risk	60%	**255**
Category B - medium risk	30%	**128**
Category C - high critical risk	10%	**42.5**

In the **continuation phase** from year 3 (2015) after the adoption of new rule there will be three distinct workflows as defined by the rule.

Firstly, new applications will continue to come in, albeit at a low annual rate. The Agency assumes a rate of 43 per year. For these cases the same assumptions as in the initial phase will be applied for the further analysis.

Secondly, there will be surveillance events, for example initiated by whistle blowers where the Agency has to investigate a specific technical issue. Operators may also apply for a change in their operation specifications, e.g. due to the introduction of a new type into their fleet.

Thirdly, there will be a re-assessment of every authorisation at least every 24 months, where the initial information is updated and the risk categorisation may be adjusted.

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58 This assumption is based on two inspectors for one week on site inspection.

59 See Table 2, page 44 for an explanation of the percentages.

For these three workflows, the following assumptions were applied as far as the number of expected cases is concerned:

Table 6: New applications, continuation assessment and surveillance cases expected in the continuation phase

New Applications expected annually	**100%**	**43**
Category A - low risk	60%	**26**
Category B - medium risk	30%	**13**
Category C - high risk (critical)	10%	**4**

No. of cases for surveillance events/ops spec change		**867**
Category A - low risk	60%	**520**
Category B - medium risk	30%	**260**
Category C - high risk (critical)	10%	**87**

No. of cases for annual continuation assessment		**425**
Category A - low risk	60%	**255**
Category B - medium risk	30%	**128**
Category C - high risk (critical)	10%	**43**

As mentioned above, the analysis does not consider an "option 0 – no regulatory action" as the legislator already committed to the introduction of an authorisation process at European level. However, it is important to note that in the absence of the EASA system, TCOs would still be required to be authorised in line with the ICAO standards. As mentioned in section 2.2, ICAO Annex 6 obliges contracting states to establish a programme for the surveillance of operations in their territory by foreign operators. If the European legislator would have kept the responsibilities for the initial authorisation and oversight of TCOs at a national level, EU Member States would be required to establish its own national oversight scheme. Consequently, TCOs would need to apply for and obtain an authorisation from each EU Member State they intend to operate into. Harmonisation of rules could not be fully ensured and could differ from Member State to Member State. This lack of harmonisation would impose additional administrative burden on TCOs operating in more than one Member State, as they could be subject to different rules with regard to safety as well as different administrative procedures.

Obviously, this will not be the case once Part-TCO becomes applicable. TCOs operating into, within or out of the EU must comply with one set of rules, submit one application to one authority (the Agency) and once the authorisation is obtained, this authorisation will be valid in all Member States. The impacts in terms of administrative burden will therefore be overall positive compared to the situation where operators are subject to different national approval schemes of Member States.

6.2 Safety impact

Option 1 proposes the same comprehensive authorisation procedure for all operators. In this option the Agency will authorise TCO's only following an on-desk review and an investigation

or audit, including on-site inspections. This type of assessment would be applied to all operators, regardless their safety performance (compliance with audits, etc.).

The collection of safety-related information would be based on USOAP results, findings under the SAFA programme, if available, inspections and audits carried out by the Agency and complemented with audit results from the IASA programme and IRAOs. In all cases, an on-desk review and an in-depth assessment would be performed in order to verify whether the TCO meets the required safety level as established in ICAO standards and additional EU safety requirements in the absence of such standards. The authorisation procedure proposed in this option would ensure a sufficient appraisal of the operator's safety performance and will give weight to other relevant safety aspects concerning the operator, e.g. the oversight capabilities of the State of the operator, audit results from IRAO's, previous ramp inspections or other key risks elements e.g the complexity and frequency of operations. This option is expected to maintain and further improve the level of safety as described in section 2.6, with ICAO compliance as the benchmark for the acceptable level of safety. Therefore, it is expected to have a low positive impact on safety (score +1).

The methodology defined in **Option 2** contains all elements of a risk-based approach as established in Part Authority Requirements[60]. Two dimensions: (1) the operator, and (2) the state of the operator serve as a basis for a risk assessment model developed by the Agency. The outcome of this assessment will allocate an assumed risk category to each applicant that helps determine the required resources and the level of scrutiny needed to come to an informed decision. This option considers operator specific inspections and audit results (the SAFA programme and/or an IROA programme, State specific audits primarily performed by the EU, ICAO and the FAA).

When safety related information, if available, in particular from ICAO, the SAFA programme or on accidents or serious incidents and complementary information from safety programs of States or IRAOs do not reveal significant deficiencies on the operator or the State of the operator, TCOs can be considered ICAO compliant. In such a case, a desk review will be sufficient.

This option incorporates hazard identification, risk assessment, risk management, performance monitoring and event investigation and analysis on the level of the operator as well as on the level of the competent State of the operator. Moreover, it provides for an authorisation process proportionate to the risks involved and allows the Agency to dedicate its resources to TCOs that - as a result of a risk assessment - are ranked on a lower safety level. This option provides a high safety level based on a performance and risk-based oversight system and is expected to maintain and improve the safety level described in section 2.6 with ICAO compliance as the benchmark for the acceptable level of safety. It thus achieves an equally high level of safety as option 1, at lower costs. Therefore, it is considered to provide a low positive impact on safety (score +1).

6.3 Economic impact

As mentioned earlier, the Basic Regulation requires that CAT operations of TCOs within the EU need to be authorised by the Agency. The economic impact from the transfer of the oversight responsibility for TCOs does not need to be evaluated since this was already under due consideration when the Opinion on the 1nd extension of the Basic Regulation was developed.

However, the possible economic impact resulting from the differences between authorisation procedures (Option 1 and 2) still needs to be assessed. The costs of the rule will on the one hand be generated directly with the operators in the form of working hours required to comply with the rule and acquire the authorisation. On the other hand, the authorisation process will

[60] CRD 2008-22b – AR.GEN.Section 3.

induce administrative costs on Agency side. The legislator has decided that these costs will also have to be borne by the operators. As no decision has been taken yet regarding the fee scheme, this RIA only looks at the working hours required to conduct the TCO-related tasks by the operators and the Agency. This approach also avoids the difficulty to estimate an average hourly labour rate for TCO staff.

The analysis will first look at the costs during the **initial phase** (2012-2013) during which all TCOs will need to apply for an auhorisation by the Agency (Table 7). During the **continuation phase** (from 2014) the system will be operational and include three distinct workflows: New authorisations (Table 8), surveillance and ops spec changes (Table 9) as well as continuation assessments (i.e. review of existing authorisations, Table 10).

Table 7: Overview of annual economic burden in terms of working hours by option for new authorisations in the initial phase

	No. of operators	**Option 1: Uniform authorisation process**		**Option 2: Risk-based authorisation process**	
		Hours per operator	Total hours	Hours per operator	Total hours
Third Country Operator - direct burden	*425*	*215*	*91,375*		
Category A - low risk	255			16	4,080
Category B - medium risk	128			105	13,388
Category C - high risk	43			215	9,138
Total operator workload			*91,375*		*26,605*
Agency administrative workload	*425*	*240*	*102,000*		
Category A - low risk	255			8	2,040
Category B - medium risk	128			41	5,228
Category C - high risk	43			240	10,200
Overheads			4,800		4,800
Total administrative workload			*106,800*		*22,268*

Table 8: Overview of annual economic burden in terms of working hours by option for new authorisations in the continuation phase

	No. of operators	Option 1: Uniform authorisation process		Option 2: Risk-based authorisation process	
		Hours per operator	Total hours	Hours per operator	Total hours
Third Country Operator - direct burden	*43*	*215*	*9,245*		
Category A - low risk	*25.8*			16	413
Category B - medium risk	*12.9*			105	1,355
Category C - high risk	*4.3*			215	925
Total operator workload			9,245		*2,692*
Agency administrative workload	*43*	*240*	*10,320*		
Category A - low risk	*25.8*			8	206
Category B - medium risk	*12.9*			41	529
Category C - high risk	*4.3*			240	1,032
Total administrative workload			10,320		*1,767*

Table 9: Overview of annual economic burden in terms of working hours by option for surveillance events and ops spec changes in the continuation phase

	No. of operators	Option 1: Uniform authorisation process		Option 2: Risk-based authorisation process	
		Hours per operator	Total hours	Hours per operator	Total hours
Third Country Operator - direct burden	*867*	*32*	*27,744*		
Category A - low risk	*520*			12	6,242
Category B - medium risk	*260*			20	5,202
Category C - high risk (no site visit)	*78*			30	2,331
Category C - high risk (site visit)	*9*			165	1,485
Total operator workload			27,744		*15,260*
Agency administrative workload	*867*				
Category A - low risk	*520*	16	8,323	9	4,682
Category B - medium risk	*260*	16	4,162	16	4,162
Category C - high risk	*78*	16	1,243	16	1,243
Category C - high risk (site visit)	*9*	229	2,061	229	2,061
Total administrative workload			*15,789*		*12,148*

Table 10: Overview of annual economic burden in terms of working hours by option for continuation assessments in the continuation phase

	No. of operators	Option 1: Uniform authorisation process		Option 2: Risk-based authorisation process	
		Hours per operator	Total hours	Hours per operator	Total hours
Third Country Operator - direct burden	*425*	*165*	*70,125*		
Category A - low risk	*255*			14	3,570
Category B - medium risk	*128*			60	7,650
Category C - high risk	*43*			165	7,013
Total operator workload			70,125		*18,233*
Agency administrative workload	*425*	*229*	*97,325*		
Category A - low risk	*255*			7	1,785
Category B - medium risk	*128*			24	3,060
Category C - high risk	*43*			229	9,733
Total administrative workload			97,325		*14,578*

Option 1 assumes in the **initial phase** that all 425 annual applications are treated the same with maximum scrutiny and on-site visits. It is estimated that on operator side more than 200 working hours would be required for such a full assessment. On Agency side, 240 hours are required per operator[61]. Consequently, roughly 91 000 hours would be required in this case for all TCOs and more than 100 000 hours for the Agency (see Table 7).

Once the system is in place and the two year initial phase is over, the **continuation phase** starts from 2015. This is the "cruise phase" of the system where three distinct workflows are performed in order to sustain the safety targets: issuing new authorisations, operation specifications changes as well as continuation assessments (every two years for every authorisation issued by the Agency).

During this phase it is expected that *new authorisations* are coming in at a rate of 43 per year. Using the same assumptions for the number of hours required as in the initial phase, option 1 would require approximately 9 000 working hours for all operators and 10 000 hours for the Agency.

As regards *surveillance events and operation specifications changes* it is assumed conservatively that there will be approximately one case per authorised operator a year. 10% of the high risk category cases are expected to require an on-site visit (i.e. approximately 9 out of 87). The total number of hours required for this activity in option 1 is 28 000 on the operator side and 16 000 on Agency side (see Table 9).

As regards *continuation assessment* it is assumed that all authorised TCOs will need to be reassessed at least every 24 months in the continuation phase, i.e. 425 operators per year. All operators will be subjected to the maximum scrutiny (including on-site visits) resulting in a workload of 229 hours on Agency side per operator.

For all affected 425 TCOs additional workload in the order of 100.000 hrs for the Agency and

[61] This includes 75 working hours provided by qualified entities. For a full break down of how these hours were obtained, please see Annex, chapter 0, Table 11 and Table 12.

70.000 hours for the operators is estimated (see Table 10 for details).

Depending on the assumptions regarding hourly rates this option could amount to total annual rule cost of between 16 and 20 million Euros in the initial and continuation phases, which is defined as a medium economic impact (score -3).

Option 2 applies a differentiated approach for high, medium and low-risk cases. Low risk cases are essentially directly issued with an authorisation based on the documentation provided by the TCO, USOAP results, SAFA inspections and accident and incident data. For medium and high risk cases, the workflow and the requirements are increasingly more elaborated.

In the **initial phase** the first authorisations are issued to the TCO applicant. The high risk (critical) cases are assumed to require an on-site visit which further increases the costs (See chapter 8 Annex for details on the workflow and work steps).

As regards direct costs to the TCOs, Table 7 above shows how the economic burden escalates depending on which risk-group the operator is allocated to. For low risk cases, which are expected to be 60% of operators conducting the majority of flights, it is estimated that 16 working hours will be sufficient on operator side. However, for medium and high risk (critical) cases there is a significant burden estimated in the order of 100 and 200 hours respectively. On Agency side there is a similar escalation from 8,41 to 240 hours that are required for the three different risk categories respectively. For the high risk cases, an on-site visit is expected which naturally requires a significant number of hours for preparation, implementation and follow-up.

Overall, option 2 is expected to result in about 27 000 hours on operator side and 22 000 hours on Agency side[62] in the initial phase.

As discussed under option 1, once the system is in place and the two year initial phase is over, the **continuation phase** starts from 2015. Three distinct workflows are performed during this phase in order to sustain the safety targets: issuing new authorisations, handling surveillance events and ops spec changes as well as continuation assessments. The latter are performed every two years for every authorisation issued by the Agency.

During this phase it is expected that *new authorisations* are coming in at a rate of 43 per year. Using the same assumptions for the number of hours required for the three cases as in the initial phase, option 2 would require approximately 2 700 working hours for all operators affected and 1 800 hours for the Agency (see Table 8 for more details).

As regards *surveillance events and ops spec changes,* it is assumed conservatively that there will be approximately one case per authorised operator a year in each risk category. 10% of the high risk category cases are expected to require an on-site visit (i.e. approximately 9 out of 87). The total number of hours required for this activity in option 2 is therefore 15 000 on the operator side and 12 000 on Agency side (see Table 9 above for details).

As regards *continuation assessments*, it is assumed that all the authorised TCOs will need to be reassessed at least every two years in the continuation phase, i.e. 425 per year. As for new authorisations, operators will be subjected to different levels of scrutiny depending on their risk category. This approach results in a workload of between 7 and 229 hours on Agency side per operator. For all affected 425 TCOs the workload is expected to be in the order of 15 000 hrs for the Agency and 18 000 hours for the operators (see Table 10above for details).

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62 The Agency total hours include overhead hours for administrative tasks not directly related to the technical activity, which are required to sustain the TCO unit.

Overall, this option is particularly cost-effective for TCOs in the low risk category A as they generate a workload of only 7-8 hours on Agency side. This is achieved by taking into account the available safety information and the thus authorisations can be issued with minimal scrutiny.

Depending on the assumptions for the hourly rate for TCOs, option 2 would translate in total rule costs between 4 and 5 million euros for all TCOs in the initial phase, including 3.1 million on Agency side for the initial authorisations only[63]. For the continuation phase, the total costs would be higher (between 5 and 7 million euros in total and 4.3 on Agency side[64]) due to the additional tasks related to surveillance events, ops spec changes and continuation assessment. Overall, this is considered a low negative economic impact (score -1).

6.4 Proportionality issues

In **option 1** relevant and proven checks deriving from sources as mentioned in paragraph 1.5 do not influence the assessment methodology. Therefore, this option is considered disproportionate and not in line with the risk-based approach as introduced in Part Authority Requirements[65]. This option has, therefore, a medium negative impact and scores -3.

As mentioned above, two dimensions (the operator and the State of the operator) will serve as a basis for a risk assessment model to be developed by the Agency in **option 2**. The outcome of this assessment will allocate an assumed risk category to each applicant that helps determine the required resources and the level of scrutiny needed to come to an informed decision. Therefore, this option is considered more proportionate than option 1 and fully in line with the risk-based approach as introduced in Part Authority Requirements. This approach will enhance the authorisation process and bring it to a higher level.

However, as the economic analysis has shown there is an escalation in the costs for higher risk category carriers. This system may represent an additional high barrier of entry for small carriers falling in a higher risk category.

Option 2 will have a low positive impact in this area is therefore scored +1.

6.5 Regulatory harmonisation and co-ordination

As mentioned in paragraph 2, ICAO Part VI of ICAO Document 8335 with regard to State's responsibilities for CAT operations by foreign operators has been dully taken into account. Also, the current FAA rules on third country operators performing air transportation are contained in Part 129 have been considered. While both legislative frameworks differ and the rules on TCOs address unique and special requirements associated with the airspace, the Agency has taken account of Part 129. The FAA has taken up the revision of Part 129. The revisions made to Part 129 are not formally adopted yet and might be still subject to change. The Agency will continue to coordinate with the FAA on ways to improve the authorisation process, as appropriate.

Contrary to the current approval methodology under Part 129 and ICAO Document 8335, **option 1** imposes an on desk and on-site inspections before issuing an authorisation. Therefore, option 1 is not fully harmonised with the current procedures under Part 129 or the guidance established in Part VI of ICAO Document 8335.

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63 This is a simplified cost model, because even during the initial phase there may be surveillance activities or ops spec changes required. The costs for these activities are estimated in detail under the continuation phase paragraph.

64 Including overheads as identified in Table 7.

65 CRD 2008-22b – AR.GEN.Section 3.

The impact is therefore score with a medium negative impact on regulatory harmonisation and co-ordination (-3).

On the other hand, the authorisation process under Part 129 is quite similar to the authorisation process defined in **option 2**. Under Part 129 the FAA will on receipt of an application, check through its International Field Offices (IFOs) whether previous ramp inspections revealed any non-compliance and if the TCO was subject to any enforcement measures in the past. Also, the grading of the State of operator under the IASA program will be taken fully into account. This means that the FAA will not only assess the operator, but in addition verifies whether the State of the operator certifies and oversees its operators in accordance with ICAO standards (Category 1 or 2). This option is in principle harmonised with the current practise in the context of Part 129.

The authorisation procedure proposed in option 2 based on audit results from USOAP, Regulation 2111/2005, the SAFA programme and to some extend IRAO and IASA would ensure compliance with ICAO standards.

Overall, option 2 is therefore considered to have medium positive impact on regulatory harmonisation and co-ordination (+3).

7. Conclusions and summary of preferred options

Objectives / Criteria	Weights	Scores (unweighted)			Scores (weighted)		
		Option 0	Option 1	Option 2	Option 0	Option 1	Option 2
Safety	**3**		1	1		3	3
Environment	**2**						
Social	**1**						
Economic	**1**		-3	-1		-3	-1
Proportionality	**1**		-3	1		-3	1
Regulatory co-ordination and harmonization	**1**		-3	3		-3	3
Total					***0***	***-6***	***6***

In conclusion, the Agency recommends **Option 2** i.e. a risk-based authorisation system. This option ensures that an acceptable level of safety is sustained based on ICAO requirements. The option is cost-effective because it applies a proportionate and risk-based process with 3 risk categories and a proportionate assessment methodology. Finally, the proposed option ensures compliance with ICAO standards.

8. Annex

Table 11: Costs for Third Country Operators in terms of working hours per risk category for initial authorisation

Cost Item	No. of Operators	Description	Working hours
1. Direct costs to the TCO applicant (excluding fees)			
Category A - low risk	**255**		
		Description	
Registration phase		Registration process including administrative and financial procedures	16
Total Category A			**16**
Category B - medium risk	**128**		
Registration phase		Registration process including administrative and financial procedures	5
Application phase		Completion of TCO Questionnaire	30
Evaluation phase		Correspondence and additional information requested	30
Consultation phase		Preparation, logistics and coordination; visit EASA in Cologne	40
Total Category B			**105**
Category C - high risk (critical)	**43**		
Registration phase		Registration process including administrative and financial procedures	5
Application phase		Completion of TCO Questionnaire	30
Evaluation phase		Correspondence and additional information requested	60
Visit phase		Preparation, logistics and coordination; On-site	120
Total Category C			**215**

Table 12: Administrative costs in terms of working hours per risk category for initial authorisation

Cost Item	No. of Operators	Description	Working hours
Category A - low risk	**255**		
Authorisation phase		Processing of application	8
Total Category A			**8**
Category B - medium risk	**128**		
Application phase		Processing and analysis of application	2
Evaluation phase		Correspondence and additional information requested	21
Consultation phase		Preparation, logistics and consultation meetings	15
Authorisation phase		Filing and disemination of TCO Authorisation	3
Total Category B			**41**
Category C - high risk (critical)	**43**		
Application phase		Processing and analysis of application	2
Evaluation phase		Correspondence and additional information requested	25
Visit phase		Preparation, logistics and conducting the visit	135
		Qualified entities seconded experts	75
Authorisation phase		Filing and disemination of TCO Authorisation	3
Total Category C			**240**

Appendix 2 – Comparison table Essential Requirements and ICAO Annex 6 Part I

Legend:

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No Difference – This category applies when the essential requirement does not differ in character from the corresponding ICAO standards.

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More exacting or exceeds - This category applies when the essential requirement is more exacting than the corresponding ICAO standards or by imposing an obligation within the scope of the Annex which is not covered by an ICAO Standard.

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Different in character or other means of compliance - This category applies when the essential requirement is different in character from the corresponding ICAO standards or when the essential requirement differs in principle, type or system from the corresponding ICAO Standard, without necessarily imposing an additional obligation.

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Less protective or partially implemented / not implemented - This category applies when the essential requirement is less protective than the corresponding ICAO standards; or when essential requirement has been promulgated to address the corresponding ICAO standard, in whole or in part.

*****

Not applicable – This category applies when the corresponding ICAO standard is out of scope of the essential requirement.

ER	Text ER	Standard	Text Standard	=	>	~	<	*	TCO	Remark
1.a.	A flight must not be performed if the crew members and, as appropriate, all other operations personnel involved in its preparation and execution are not familiar with applicable laws, regulations and procedures, pertinent to the performance of their duties, prescribed for the areas to be traversed, the aerodromes planned to be used and the air navigation facilities relating thereto.	3.1.1 3.1.2	An operator shall ensure that all employees when abroad know that they must comply with the laws, regulations and procedures of those States in which operations are conducted. An operator shall ensure that all pilots are familiar with the laws, regulations and procedures, pertinent to the performance of their duties, prescribed for the areas to be traversed, the aerodromes to be used and the air navigation facilities relating thereto. The operator shall ensure that other members of the flight crew are familiar with such of these laws, regulations and procedures as are pertinent to the performance of their respective duties in the operation of the aeroplane.	X						
1.b.	A flight must be performed in such a way that the operating procedures specified in the Flight Manual or, where required the Operations Manual, for the preparation and execution of the flight are followed. To facilitate this, a	4.2.6	The checklists provided in accordance with 6.1.4 shall be used by flight crews prior to, during and after all phases of operations, and in emergency, to ensure compliance with the operating procedures contained in the aircraft operating manual and the aeroplane flight manual or other documents associated	X						

ER	Text ER	Standard	Text Standard	=	>	~	<	*	TCO	Remark
	checklist system must be available for use, as applicable, by crew members in all phases of operation of the aircraft under normal, abnormal and emergency conditions and situations. Procedures must be established for any reasonably foreseeable emergency situation.		with the certificate of airworthiness and otherwise in the operations manual, are followed. The design and utilization of checklists shall observe Human Factors principles. 6.1.4 The operator shall provide operations staff and flight crew with an aircraft operating manual, for each aircraft type operated, containing the normal, abnormal and emergency procedures relating to the operation of the aircraft. The manual shall include details of the aircraft systems and of the checklists to be used. The design of the manual shall observe Human Factors principles.							
1.c.	Before every flight, the roles and duties of each crew member must be defined. The pilot in command must be responsible for the operation and safety of the aircraft and for the safety of all crew members, passengers and cargo on board.	4.5.1	The pilot-in-command shall be responsible for the safety of all crew members, passengers and cargo on board when the doors are closed. The pilot-in-command shall also be responsible for the operation and safety of the aeroplane from the moment the aeroplane is ready to move for the purpose of taking off until the moment it finally comes to rest at the end of the flight and the engine(s) used as primary propulsion units are shut down.	X						

ER	Text ER	Standard	Text Standard	=	>	~	<	*	TCO	Remark
1.d.	Articles or substances, which are capable of posing a significant risk to health, safety, property or the environment, such as dangerous goods, weapons and ammunition, must not be carried on any aircraft, unless specific safety procedures and instructions are applied to mitigate the related risks.	3.4	Dangerous goods Note 1.— Provisions for carriage of dangerous goods are contained in Annex 18. Note 2.— Article 35 of the Convention refers to certain classes of cargo restrictions.	X						
1.e.	All necessary data, documents, records and information to record the respect of the conditions specified in point 5.c must be retained for each flight and kept available for a minimum period of time compatible with the type of operation.	4.2.10 4.3.2	An operator shall maintain fuel and oil records to enable the State of the Operator to ascertain that, for each flight, the requirements of 4.3.6 have been complied with. 4.2.10.2 Fuel and oil records shall be retained by the operator for a period of three months. Completed flight preparation	X						Less prescriptive but same intent[66]

[66] The standards in Annex 6 are generally more detailed then the essential requirements in Annex IV since the essential requirements define high level safety objectives and constitute the basis for detailed implementing rules. These implementing rules will reflect in a more detailed manner the obligations of regulated persons.

ER	Text ER	Standard	Text Standard	=	>	~	<	*	TCO	Remark
			forms shall be kept by an operator for a period of three months.							
		4.3.3.1	An operational flight plan shall be completed for every intended flight. The operational flight plan shall be approved and signed by the pilot-in-command and, where applicable, signed by the flight operations officer/flight dispatcher, and a copy shall be filed with the operator or a designated agent, or, if these procedures are not possible, it shall be left with the aerodrome authority or on record in a suitable place at the point of departure.							
2.a	A flight must not be commenced unless it has been ascertained by every reasonable means available that all the following conditions are complied with:	-	-	-	-	-	-	-	-	-
2.a.1.	Adequate facilities directly required for the flight and for the safe operation of the aircraft, including communication facilities and navigation aids, are available for the	4.1.1	An operator shall ensure that a flight will not be commenced unless it has been ascertained by every reasonable means available that the ground and/or water facilities available and directly required on such flight, for the safe operation	X						Ground and water facilities are not explicitely mentioned.

ER	Text ER	Standard	Text Standard	=	>	~	<	*	TCO	Remark
	execution of the flight, taking into account available Aeronautical Information Services documentation.		of the aeroplane and the protection of the passengers, are adequate for the type of operation under which the flight is to be conducted and are adequately operated for this purpose.							
2.a.2.	The crew must be familiar with and passengers informed of the location and use of relevant emergency equipment. Sufficient related information regarding emergency procedures and use of cabin safety equipment must be made available to crew and passengers using specified information.	4.2.12.1	An operator shall ensure that passengers are made familiar with the location and use of: a) seat belts; b) emergency exits; c) life jackets, if the carriage of life jackets is prescribed; d) oxygen dispensing equipment, if the provision of oxygen for the use of passengers is prescribed; and e) other emergency equipment provided for individual use, including passenger emergency briefing cards.	X						
		4.2.12.2	The operator shall inform the passengers of the location and general manner of use of the principal emergency equipment carried for collective use.							
		4.2.12.3	In an emergency during flight, passengers shall be instructed in such emergency action as may be appropriate to the							

ER	Text ER	Standard	Text Standard	=	>	~	<	*	TCO	Remark
			circumstances.							
2.a.3	The pilot in command must be satisfied that:	4.3.1	A flight shall not be commenced until flight preparation forms have been completed certifying that the pilot-in-command is satisfied that:							
2.a.3(i)	the aircraft is airworthy as specified in point 6;	4.3.1.a)	a) the aeroplane is airworthy;	X						
2.a.3(ii)	if required, the aircraft is duly registered and that appropriate certificates with respect thereto are aboard the aircraft;	Article 29 of the Chicago Convention	Every aircraft of a contracting State, engaged in international navigation, shall carry the following documents in conformity with the conditions prescribed in this Convention: a) Its certificate of registration; b) Its certificate of airworthiness; c) The appropriate licences for each member of the crew; d) Its journey log book; e) If ti is equipped with radio apparatus, the aircraft radio station license; f) If it carries passengers, a list of their names and places of embarkation; g) If it carries cargo, a manifest and detailed declarations of the cargo.	X						Less prescriptive but same intent

ER	Text ER	Standard	Text Standard	=	>	~	<	*	TCO	Remark
2.a.3(iii)	instruments and equipment as specified in point 5 required for the execution of that flight are installed in the aircraft and are operative, unless waived by the applicable Minimum Equipment List (MEL) or equivalent document;	4.3.1.b)	the instruments and equipment prescribed in Chapter 6, for the particular type of operation to be undertaken, are installed and are sufficient for the flight;	X						
2.a.3(iv)	the mass of the aircraft and centre of gravity location are such that the flight can be conducted within limits prescribed in the airworthiness documentation;	4.3.1.d)	the mass of the aeroplane and centre of gravity location are such that the flight can be conducted safely, taking into account the flight conditions expected;	X						
2.a.3(v)	all cabin baggage, hold luggage and cargo is properly loaded and secured; and	4.3.1.e)	any load carried is properly distributed and safely secured;	X						
2.a.3(vi)	the aircraft operating limitations as specified in point 4 will not be exceeded at any time during the flight.	4.3.1.f)	a check has been completed indicating that the operating limitations of Chapter 5 can be complied with for the flight to be undertaken;	X						
2.a.4.	Information regarding meteorological conditions for departure, destination and,	4.3.5.1	A flight to be conducted in accordance with the visual flight rules shall not be commenced unless current	X						

ER	Text ER	Standard	Text Standard	=	>	~	<	*	TCO	Remark
	where applicable, alternate aerodromes, as well as en-route conditions, must be available to the flight crew. Special attention must be given to potentially hazardous atmospheric conditions.		meteorological reports or a combination of current reports and forecasts indicate that the meteorological conditions along the route or that part of the route to be flown under the visual flight rules will, at the appropriate time, be such as to render compliance with these rules possible.							
		4.3.5.2.	A flight to be conducted in accordance with instrument flight rules shall not be commenced unless information is available which indicates that conditions at the aerodrome of intended landing or, where a destination alternate is required, at least one destination alternate aerodrome will, at the estimated time of arrival, be at or above the aerodrome operating minima.							
2.a.5.	In case of flight into known or expected icing conditions, the aircraft must be certified, equipped and/or treated to operate safely in	4.3.5.3	A flight to be operated in known or expected icing conditions shall not be commenced unless the aeroplane is certificated and equipped to cope with such conditions.	X						

ER	Text ER	Standard	Text Standard	=	>	~	<	*	TCO	Remark
	such conditions.	4.3.5.4	A flight to be planned or expected to operate in suspected or known ground icing conditions shall not take off unless the aeroplane has been inspected for icing and, if necessary, has been given appropriate de-icing/anti-icing treatment. Accumulation of ice or other naturally occurring contaminants shall be removed so that the aeroplane is kept in an airworthy condition prior to take-off.							
2.a.6.	For a flight based on visual flight rules, meteorological conditions along the route to be flown must be such as to render compliance with these flight rules possible. For a flight based on instrument flight rules a destination and where applicable alternate aerodrome(s) where the aircraft can land must be selected, taking into account in particular the forecasted meteorological conditions, the availability of air navigation services,	4.3.5.1 4.3.5.2	A flight to be conducted in accordance with the visual flight rules shall not be commenced unless current meteorological reports or a combination of current reports and forecasts indicate that the meteorological conditions along the route or that part of the route to be flown under the visual flight rules will, at the appropriate time, be such as to render compliance with these rules possible. A flight to be conducted in accordance with instrument flight rules shall not be commenced unless information is available which indicates that conditions at the aerodrome of intended	X						Less prescriptive but same intent

ER	Text ER	Standard	Text Standard	=	>	~	<	*	TCO	Remark
	the availability of ground facilities and the instrument flight procedures approved by the State in which the destination and/or alternate aerodrome is located.	4.3.4	landing or, where a destination alternate is required, at least one destination alternate aerodrome will, at the estimated time of arrival, be at or above the aerodrome operating minima. Alternate aerodromes 4.3.4.1 Take-off alternate aerodrome 4.3.4.1.1 A take-off alternate aerodrome shall be selected and specified in the operational flight plan if the weather conditions at the aerodrome of departure are at or below the applicable aerodrome operating minima or it would not be possible to return to the aerodrome of departure for other reasons. 4.3.4.1.2 The take-off alternate aerodrome shall be located within the following distance from the aerodrome of departure: a) aeroplanes having two power-units. Not more than a distance equivalent to a flight time of one hour at the single-engine cruise speed; and b) aeroplanes having three or more power-units. Not more than a distance equivalent to a flight time of two hours at							

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			the one-engine inoperative cruise speed. 4.3.4.1.3 For an aerodrome to be selected as a take-off alternate the available information shall indicate that, at the estimated time of use, the conditions will be at or above the aerodrome operating minima for that operation. 4.3.4.2 En-route alternate aerodromes En-route alternate aerodromes, required by 4.7 for extended range operations by aeroplanes with two turbine power-units, shall be selected and specified in the operational and air traffic services (ATS) flight plans. 4.3.4.3 Destination alternate aerodromes For a flight to be conducted in accordance with the instrument flight rules, at least one destination alternate aerodrome shall be selected and specified in the operational and ATS flight plans, unless: a) the duration of the flight and the meteorological conditions prevailing are such that there is reasonable certainty that, at the estimated time of arrival at the aerodrome of intended								

ER	Text ER	Standard	Text Standard	=	>	~	<	*	TCO	Remark
			landing, and for a reasonable period before and after such time, the approach and landing may be made under visual meteorological conditions; or b) the aerodrome of intended landing is isolated and there is no suitable destination alternate aerodrome.							
2.a.7.	The amount of fuel and oil on board must be sufficient to ensure that the intended flight can be completed safely, taking into account the meteorological conditions, any element affecting the performance of the aircraft and any delays that are expected in flight. In addition, a fuel reserve must be carried to provide for contingencies. Procedures for in-flight fuel management must be established when relevant.	4.3.6.1 4.3.6.4	A flight shall not be commenced unless, taking into account both the meteorological conditions and any delays that are expected in flight, the aeroplane carries sufficient fuel and oil to ensure that it can safely complete the flight. In addition, a reserve shall be carried to provide for contingencies. In computing the fuel and oil required in 4.3.6.1 at least the following shall be considered: a) meteorological conditions forecast; b) expected air traffic control routings and traffic delays; c) for IFR flight, one instrument approach at the destination aerodrome, including a missed approach; d) the procedures prescribed in the operations manual for	X						Less prescriptive but same intent

ER	Text ER	Standard	Text Standard	=	>	~	<	*	TCO	Remark
			loss of pressurization, where applicable, or failure of one power-unit while en route; and e) any other conditions that may delay the landing of the aeroplane or increase fuel and/or oil consumption.							
3.a	With regard to flight operations, all the following conditions must be complied with:		-	-	-	-	-	-	-	
3.a.1.	where relevant for the type of aircraft, during take-off and landing, and whenever deemed necessary by the pilot in command in the interest of safety, each crew member must be seated at their crew station and must use the provided restraint systems, taking into account the type of aircraft;	12.3	Each cabin crew member shall be seated with seat belt or, when provided, safety harness fastened during take-off and landing and whenever the pilot-in-command so directs.	X						
3.a.2.	where relevant for the type of aircraft, all flight crew members required to be on flight deck duty must be and remain at their station, with their seatbelts fastened	4.4.4.1 4.4.4.2	Take-off and landing. All flight crew members required to be on flight deck duty shall be at their stations. En route. All flight crew members required to be on	X						

ER	Text ER	Standard	Text Standard	=	>	~	<	*	TCO	Remark
	except en-route for physiological or operational needs;		flight deck duty shall remain at their stations except when their absence is necessary for the performance of duties in connection with the operation of the aeroplane or for physiological needs.							
		4.4.4.3	Seat belts. All flight crew members shall keep their seat belts fastened when at their stations.							
3.a.3.	where relevant for the type of aircraft and the type of operation, before take-off and landing, during taxiing and whenever deemed necessary in the interest of safety, the pilot in command must ensure that each passenger is properly seated and secured;	4.2.12.4	The operator shall ensure that, during take-off and landing and whenever considered necessary by reason of turbulence or any emergency occurring during flight, all passengers on board an aeroplane shall be secured in their seats by means of the seat belts or harnesses provided.	X						
3.a.4.	a flight must be performed in such a way that appropriate separation from other aircraft is maintained and that adequate obstacle clearance is ensured, during all phases of the flight. Such separation must at least be those	4.2.7.2	An operator shall specify the method by which it is intended to determine minimum flight altitudes for operations conducted over routes for which minimum flight altitudes have not been established by the State flown over or the responsible State, and shall include this method in the operations manual. The minimum flight		X					

ER	Text ER	Standard	Text Standard	=	>	~	<	*	TCO	Remark
	required by the applicable rules of the air;		altitudes determined in accordance with the above method shall not be lower than specified in Annex 2.							
3.a.5.	a flight must not be continued unless known conditions continue to be at least equivalent to those in point 2. Furthermore, for a flight based on instrument flight rules, an approach toward an aerodrome must not be continued below certain specified heights or beyond a certain position, if prescribed visibility criteria are not met;	4.2.8 4.4.1	This ER is addressed in several ICAO standards such as for RVSM, PBN, LVO and the ones contained in the Rules of the Air. The State of the Operator shall require that the operator establish aerodrome operating minima for each aerodrome to be used in operations and shall approve the method of determination of such minima. Such minima shall not be lower than any that may be established for such aerodromes by the State in which the aerodrome is located, except when specifically approved by that State. Aerodrome operating minima 4.4.1.1 A flight shall not be continued towards the aerodrome of intended landing, unless the latest available information indicates that at the expected time of arrival, a landing can be effected at that aerodrome or at least one destination alternate aerodrome, in	X						Less prescriptive but same intent

ER	Text ER	Standard	Text Standard	=	>	~	<	*	TCO	Remark
			compliance with the operating minima established in accordance with 4.2.8.1.							
		4.4.1.2	An instrument approach shall not be continued beyond the outer marker fix in case of precision approach, or below 300 m (1 000 ft) above the aerodrome in case of non precision approach, unless the reported visibility or controlling RVR is above the specified minimum.							
		4.4.1.3	If, after passing the outer marker fix in case of precision approach, or after descending below 300 m (1 000 ft) above the aerodrome in case of non-precision approach, the reported visibility or controlling RVR falls below the specified minimum, the approach may be continued to DA/H or MDA/H. In any case, an aeroplane shall not continue its approach-to-land at any aerodrome beyond a point at which the limits of the operating minima specified for that aerodrome would be infringed.							
3.a.6.	in an emergency, the pilot in command must ensure that all passengers are instructed in such	4.2.12.3	In an emergency during flight, passengers shall be instructed in such emergency action as may be appropriate to the circumstances.	X						

ER	Text ER	Standard	Text Standard	=	>	~	<	*	TCO	Remark
	emergency action as may be appropriate to the circumstances;									
3.a.7.	a pilot in command must take all necessary measures so as to minimise the consequences on the flight of disruptive passenger behaviour;									Addressed in Regulation (EC) No 300/2008
3.a.8.	an aircraft must not be taxied on the movement area of an aerodrome, or its rotor must not be turned under power, unless the person at the controls is appropriately competent;	4.2.4.2	An aeroplane shall not be taxied on the movement area of an aerodrome unless the person at the controls: a) has been duly authorized by the operator or a designated agent; b) is fully competent to taxi the aeroplane; c) is qualified to use the radio telephone; and d) has received instruction from a competent person in respect of aerodrome layout, routes, signs, marking, lights, air traffic control (ATC) signals and instructions, phraseology and procedures, and is able to conform to the operational standards	X						Less prescriptive but same intent

ER	Text ER	Standard	Text Standard	=	>	~	<	*	TCO	Remark
			required for safe aeroplane movement at the aerodrome.							
3.a.9.	the applicable in-flight fuel management procedures must be used, when relevant.				X				TCO. OPS.200	No corresponding ICAO standard
4.a.	An aircraft must be operated in accordance with its airworthiness documentation and all related operating procedures and limitations as expressed in its approved flight manual or equivalent documentation, as the case may be. The flight manual or equivalent documentation must be available to the crew and kept up to date for each aircraft.	5.2.3 6.2.3 11.1	An aeroplane shall be operated in compliance with the terms of its certificate of airworthiness and within the approved operating limitations contained in its flight manual. An aeroplane shall carry: (b) the flight manual for the aeroplane, or other documents containing performance data required for the application of Chapter 5 and any other information necessary for the operation of the aeroplane within the terms of its certificate of airworthiness, unless these data are available in the operations manual; and (...) The flight manual shall be updated by implementing changes made mandatory by the State of Registry.	X						

ER	Text ER	Standard	Text Standard	=	>	~	<	*	TCO	Remark
4.b.	The aircraft must be operated in accordance with the applicable environmental documentation.	6.13	All aeroplanes complying with the noise certification Standards in Annex 16, Volume I An aeroplane shall carry a document attesting noise certification. When the document, or a suitable statement attesting noise certification as contained in another document approved by the State of Registry, is issued in a language other than English, it shall include an English translation.	X						Less prescriptive but same intent
4.c	A flight must not be commenced or continued unless the aircraft's scheduled performance, considering all factors which significantly affect its performance level, allows all phases of flight to be executed within the applicable distances/areas and obstacle clearances at the planned operating mass. Performance factors which significantly affect take-off, en-route and approach/landing are, particularly:	5.2.5	A flight shall not be commenced unless the performance information provided in the flight manual indicates that the Standards of 5.2.6 to 5.2.11 can be complied with for the flight to be undertaken.	X						
4.c(i)	operating	5.2.6	In applying the Standards of	X						

ER	Text ER	Standard	Text Standard	=	>	~	<	*	TCO	Remark
	procedures;		this chapter, account shall be taken of all factors that significantly affect the performance of the aeroplane (such as: mass, operating procedures, the pressure-altitude appropriate to the elevation of the aerodrome, temperature, wind, runway gradient and condition of runway, i.e. presence of slush, water and/or ice, for landplanes, water surface condition for seaplanes). Such factors shall be taken into account directly as operational parameters or indirectly by means of allowances or margins, which may be provided in the scheduling of performance data or in the comprehensive and detailed code of performance in accordance with which the aeroplane is being operated.							
4.c(ii)	pressure altitude of the aerodrome;	5.2.6	See 4.c(i)	X						
4.c(iii)	temperature;	5.2.6	See 4.c(i)	X						
4.c(iv)	wind;	5.2.6	See 4.c(i)	X						
4.c(v)	size, slope and condition of the take-off/landing area; and	5.2.6	See 4.c(i)	X						
4.c(vi)	the condition of the airframe, the power plant or the systems, taking into account possible deterioration.	1.5	The performance of the aeroplane is determined in such a manner that under all conditions the approved	X						Less prescriptive but same intent

ER	Text ER	Standard	Text Standard	=	>	~	<	*	TCO	Remark
			limitations for the powerplant are not exceeded.							
		5.2.6	In applying the Standards of this chapter, account shall be taken of all factors that significantly affect the performance of the aeroplane (such as: mass, operating procedures, the pressure-altitude appropriate to the elevation of the aerodrome, temperature, wind, runway gradient and condition of runway, i.e. presence of slush, water and/or ice, for landplanes, water surface condition for seaplanes). Such factors shall be taken into account directly as operational parameters or indirectly by means of allowances or margins, which may be provided in the scheduling of performance data or in the comprehensive and detailed code of performance in accordance with which the aeroplane is being operated.							
		5.2.8	Take-off. The aeroplane shall be able, in the event of a critical engine failing, or for other reasons, at any point in the take-off, either to discontinue the take-off and stop within the accelerate-							

ER	Text ER	Standard	Text Standard	=	>	~	<	*	TCO	Remark
			stop distance available, or to continue the take-off and clear all obstacles along the flight path by an adequate vertical or horizontal distance until the aeroplane is in a position to comply with 5.2.9. When determining the resulting take-off obstacle accountability area, the operating conditions, such as the crosswind component and navigation accuracy, must be taken into account.							
		5.2.9	En route – one engine inoperative. The aeroplane shall be able, in the event of the critical engine becoming inoperative at any point along the route or planned diversions there from, to continue the flight to an aerodrome at which the Standard of 5.2.11 can be met, without flying below the minimum flight altitude at any point.							
		5.2.10	En route — two engines inoperative. In the case of aeroplanes having three or more engines, on any part of a route where the location of en-route alternate aerodromes and the total duration of the flight are such that the probability of a							

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			second engine becoming inoperative must be allowed for if the general level of safety implied by the Standards of this chapter is to be maintained, the aeroplane shall be able, in the event of any two engines becoming inoperative, to continue the flight to an en-route alternate aerodrome and land.							
		6.1.4	The operator shall provide operations staff and flight crew with an aircraft operating manual, for each aircraft type operated, containing the normal, abnormal and emergency procedures relating to the operation of the aircraft. The manual shall include details of the aircraft systems and of the checklists to be used. The design of the manual shall observe Human Factors principles.							
		11.3.1.(d)	A maintenance programme for each aeroplane as required by 8.3 shall contain the following information: when applicable, condition							

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			monitoring and reliability programme descriptions for aircraft systems, components and powerplants.							
4.c.1	Such factors must be taken into account directly as operational parameters or indirectly by means of allowances or margins, which may be provided in the scheduling of performance data, as appropriate to the type of operation.	5.2.6	(…) Such factors shall be taken into account directly as operational parameters or indirectly by means of allowances or margins, which may be provided in the scheduling of performance data or in the comprehensive and detailed code of performance in accordance with which the aeroplane is being operated.	X						
5.a.	An aircraft must be equipped with all navigation, communication and other equipment necessary for the intended flight, taking account of air traffic regulations and rules of the air applicable during any phase of the flight.	6.2.1 7.1.1 7.2.1	An aeroplane shall be equipped with instruments which will enable the flight crew to control the flight path of the aeroplane, carry out any required procedural manoeuvres and observe the operating limitations of the aeroplane in the expected operating conditions. *Addresses communication equipment.* *Addresses navigation equipment.*	X						
5.b.	When relevant, an	6.2.2	An aeroplane shall be	X						Less

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	aircraft must be equipped with all necessary safety, medical, evacuation and survival equipment, taking account of the risks associated to the areas of operation, the routes to be flown, the flight altitude and the duration of the flight.		equipped with: a) accessible and adequate medical supplies appropriate to the number of passengers the aeroplane is authorized to carry; b) portable fire extinguishers of a type which, when discharged, will not cause dangerous contamination of the air within the aeroplane. At least one shall be located in: 1) the pilot's compartment; and 2) each passenger compartment that is separate from the pilot's compartment and that is not readily accessible to the flight crew; c) 1) a seat or berth for each person over an age to be determined by the State of the Operator; 2) a seat belt for each seat and restraining belts for each berth; and 3) a safety harness for each flight crew seat. The safety harness for each pilot seat shall incorporate a device which will automatically restrain the occupant's torso in the event of rapid deceleration; d) means of ensuring that the							prescriptive but same intent

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			following information and instructions are conveyed to passengers: 1) when seat belts are to be fastened; 2) when and how oxygen equipment is to be used if the carriage of oxygen is required; 3) restrictions on smoking; 4) location and use of life jackets or equivalent individual flotation devices where their carriage is required; and 5) location and method of opening emergency exits; and e) spare electrical fuses of appropriate ratings for replacement of those accessible in flight.							
		6.5.1	All seaplanes for all flights shall be equipped with: a) one life jacket, or equivalent individual flotation device, for each person on board, stowed in a position easily accessible from the seat or berth of the person for whose use it is provided; b) equipment for making the sound signals prescribed in the International Regulations for Preventing Collisions at							

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			Sea, where applicable; and c) one sea anchor (drogue).							
		6.5.2	6.5.2.1 Landplanes shall carry the equipment prescribed in 6.5.2.2: a) when flying over water and at a distance of more than 93 km (50 NM) away from the shore, in the case of landplanes operated in accordance with 5.2.9 or 5.2.10; b) when flying en route over water beyond gliding distance from the shore, in the case of all other landplanes; and c) when taking off or landing at an aerodrome where, in the opinion of the State of the Operator, the take-off or approach path is so disposed over water that in the event of a mishap there would be a likelihood of a ditching. 6.5.2.2 The equipment referred to in 6.5.2.1 shall comprise one life jacket or equivalent individual flotation device for each person on board, stowed in a position easily accessible from the seat or berth of the person for whose use it is provided.							

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		6.5.3	6.5.3.1 In addition to the equipment prescribed in 6.5.1 or 6.5.2 whichever is applicable, the following equipment shall be installed in all aeroplanes when used over routes on which the aeroplane may be over water and at more than a distance corresponding to 120 minutes at cruising speed or 740 km (400 NM), whichever is the lesser, away from land suitable for making an emergency landing in the case of aircraft operated in accordance with 5.2.9 or 5.2.10, and 30 minutes or 185 km (100 NM), whichever is the lesser, for all other aeroplanes: a) life-saving rafts in sufficient numbers to carry all persons on board, stowed so as to facilitate their ready use in emergency, provided with such life-saving equipment including means of sustaining life as is appropriate to the flight to be undertaken; and b) equipment for making the pyrotechnical distress signals described in Annex 2. 6.5.3.2 Each life jacket and equivalent individual flotation device, when carried in accordance with 6.5.1 a),							

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			6.5.2.1 and 6.5.2.2, shall be equipped with a means of electric illumination for the purpose of facilitating the location of persons, except where the requirement of 6.5.2.1 c) is met by the provision of individual flotation devices other than life jackets.							
		6.6	Aeroplanes, when operated across land areas which have been designated by the State concerned as areas in which search and rescue would be especially difficult, shall be equipped with such signalling devices and life-saving equipment (including means of sustaining life) as may be appropriate to the area overflown.							
		6.17	6.17.2 Except as provided for in 6.17.3, from 1 July 2008, all aeroplanes authorized to carry more than 19 passengers shall be equipped with at least one automatic ELT or two ELTs of any type. 6.17.3 All aeroplanes authorized to carry more than 19 passengers for which the individual certificate of airworthiness is first issued after 1 July 2008 shall be equipped with at least two							

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			ELTs, one of which shall be automatic. 6.17.4 Except as provided for in 6.17.5, from 1 July 2008, all aeroplanes authorized to carry 19 passengers or less shall be equipped with at least one ELT of any type. 6.17.5 All aeroplanes authorized to carry 19 passengers or less for which the individual certificate of airworthiness is first issued after 1 July 2008 shall be equipped with at least one automatic ELT. 6.17.6 ELT equipment carried to satisfy the requirements of 6.17.1, 6.17.2, 6.17.3, 6.17.4 and 6.17.5 shall operate in accordance with the relevant provisions of Annex 10, Volume III.							
5.c.	All data necessary for the execution of the flight by the crew must be updated and available on board the aircraft taking account of applicable air traffic regulations, rules of the air, flight altitudes and areas of operation.	6.2.3	An aeroplane shall carry: a) the operations manual prescribed in 4.2.3, or those parts of it that pertain to flight operations; b) the flight manual for the aeroplane, or other documents containing performance data required for the application	X						Less prescriptive but same intent

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			of Chapter 5 and any other information necessary for the operation of the aeroplane within the terms of its certificate of airworthiness, unless these data are available in the operations manual; and c) current and suitable charts to cover the route of the proposed flight and any route along which it is reasonable to expect that the flight may be diverted.							
		7.4.1	An operator shall not employ electronic navigation data products that have been processed for application in the air and on the ground unless the State of the Operator has approved the operator's procedures for ensuring that the process applied and the products delivered have met acceptable standards of integrity and that the products are compatible with the intended function of the equipment that will use them. The State of the Operator shall ensure that the operator continues to monitor both process and products.							
6.a	The aircraft must not	8.1.1	Operators shall ensure that,							

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	be operated unless:		in accordance with procedures acceptable to the State of Registry:							
6.a(i)	the aircraft is in an airworthy condition;	8.1.1 a)	a) each aeroplane they operate is maintained in an airworthy condition;	X						
6.a(ii)	the operational and emergency equipment necessary for the intended flight is serviceable;	8.1.1 b)	b) the operational and emergency equipment necessary for an intended flight is serviceable;	X						
6.a(iii)	the airworthiness document of the aircraft is valid; and	8.1.1 c)	c) the Certificate of Airworthiness of each aeroplane they operate remains valid.	X						
6.a(iv)	the maintenance of the aircraft is performed in accordance with its maintenance programme.	8.1.5	The operator shall ensure that the maintenance of its aeroplanes is performed in accordance with the maintenance programme.	X						
6.b.	Before each flight or consistent series of consecutive flights, the aircraft must be inspected, through a pre-flight check, to determine whether it is fit for the intended flight.	4.3.1.	A flight shall not be commenced until flight preparation forms have been completed certifying that the pilot-in command is satisfied that: a) the aeroplane is airworthy; b) the instruments and equipment prescribed in Chapter 6, for the particular type of operation to be undertaken, are installed and are sufficient for the flight;		X				TCO.OPS.205	No corresponding ICAO standard

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			c) a maintenance release as prescribed in 8.8 has been issued in respect of the aeroplane; d) the mass of the aeroplane and centre of gravity location are such that the flight can be conducted safely, taking into account the flight conditions expected; e) any load carried is properly distributed and safely secured; f) a check has been completed indicating that the operating limitations of Chapter 5 can be complied with for the flight to be undertaken; and g) the Standards of 4.3.3 relating to operational flight planning have been complied with.							
		4.2.6	The checklists provided in accordance with 6.1.4 shall be used by flight crews prior to, during and after all phases of operations, and in emergency, to ensure compliance with the operating procedures contained in the aircraft							

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			operating manual and the aeroplane flight manual or other documents associated with the certificate of airworthiness and otherwise in the operations manual, are followed. The design and utilization of checklists shall observe Human Factors principles.							
6.c.	The maintenance programme must contain in particular, maintenance tasks and intervals, especially those that have been specified as mandatory in the instructions for continuing airworthiness.	11.3.1 11.3.2	A maintenance programme for each aeroplane as required by 8.3 shall contain the following information: a) maintenance tasks and the intervals at which these are to be performed, taking into account the anticipated utilization of the aeroplane; b) when applicable, a continuing structural integrity programme; c) procedures for changing or deviating from a) and b) above; and d) when applicable, condition monitoring and reliability programme descriptions for aircraft systems, components and powerplants. Maintenance tasks and intervals that have been specified as mandatory in approval of the type design shall be identified as such.	X						

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6.d.	The aircraft must not be operated unless it is released to service by qualified persons or organisations, after maintenance. The signed release to service must contain in particular, the basic details of the maintenance carried out.	4.3.1.c) 8.1.2 8.7.6.3 8.8.2	a maintenance release as prescribed in 8.7 has been issued in respect of the aeroplane; An operator shall not operate an aeroplane unless it is maintained and released to service by an organization approved in accordance with 8.7, or under an equivalent system, either of which shall be acceptable to the State of Registry. (...) The person signing a maintenance release shall be qualified in accordance with Annex 1. A maintenance release shall contain a certification including: a) basic details of the maintenance carried out including detailed reference of the approved data used; b) the date such maintenance was completed; c) when applicable, the identity of the approved maintenance organization; and	X						

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			d) the identity of the person or persons signing the release.							
6.e.	All records demonstrating the airworthiness of the aircraft must be kept until the information contained has been superseded by new information equivalent in scope and detail but not less than 24 months in the case of detailed maintenance records. When the aircraft is leased, all records demonstrating the airworthiness of the aircraft must be kept at least for the length of the lease.	8.4	Maintenance records 8.4.1 An operator shall ensure that the following records are kept for the periods mentioned in 8.4.2: a) the total time in service (hours, calendar time and cycles, as appropriate) of the aeroplane and all life limited components; b) the current status of compliance with all mandatory continuing airworthiness information; c) appropriate details of modifications and repairs; d) the time in service (hours, calendar time and cycles, as appropriate) since the last overhaul of the aeroplane or its components subject to a mandatory overhaul life; e) the current status of the aeroplane's compliance with the maintenance programme; and f) the detailed maintenance records to show that all requirements for the signing of a maintenance release have been met. 8.4.2 The records in 8.4.1 a) to e) shall be kept for a	X						Less prescriptive but same intent

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			minimum period of 90 days after the unit to which they refer has been permanently withdrawn from service, and the records in 8.4.1 f) for a minimum period of one year after the signing of the maintenance release. 8.4.3 In the event of a temporary change of operator, the records shall be made available to the new operator. In the event of any permanent change of operator, the records shall be transferred to the new operator.							
6.f.	All modifications and repairs must comply with the essential requirements for airworthiness. The substantiating data supporting compliance with the airworthiness requirements must be retained.	8.6	All modifications and repairs shall comply with airworthiness requirements acceptable to the State of Registry. Procedures shall be established to ensure that the substantiating data supporting compliance with the airworthiness requirements are retained.	X						
7.a	The number and composition of the crew must be determined taking into account:									
7.a(i)	the certification limitations of the aircraft, including if applicable, the relevant emergency	9.1.1	The number and composition of the flight crew shall not be less than that specified in the operations manual. The flight crews shall include flight crew	X						Less prescriptive but the same intent

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	evacuation demonstration;		members in addition to the minimum numbers specified in the flight manual or other documents associated with the certificate of airworthiness, when necessitated by considerations related to the type of aeroplane used, the type of operation involved and the duration of flight between points where flight crews are changed.							
		12.1	An operator shall establish, to the satisfaction of the State of the Operator, the minimum number of cabin crew required for each type of aeroplane, based on seating capacity or the number of passengers carried, in order to effect a safe and expeditious evacuation of the aeroplane, and the necessary functions to be performed in an emergency or a situation requiring emergency evacuation. The operator shall assign these functions for each type of aeroplane.							
7.a(ii)	the aircraft configuration; and	9.1.1 12.1	See 7.a(i)	X						
7.a(iii)	the type and duration of operations.	9.1.1 12.1	See 7.a(i)	X						
7.b	Cabin crew members									

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	must:									
7.b(i)	be trained and checked on a regular basis to attain and maintain an adequate level of competency in order to perform their assigned safety duties; and	12.4	An operator shall establish and maintain a training programme, approved by the State of the Operator, to be completed by all persons before being assigned as a cabin crew member. Cabin crew shall complete a recurrent training programme annually. These training programmes shall ensure that each person is: a) competent to execute those safety duties and functions which the cabin crew member is assigned to perform in the event of an emergency or in a situation requiring emergency evacuation; b) drilled and capable in the use of emergency and lifesaving equipment required to be carried, such as life jackets, life rafts, evacuation slides, emergency exits, portable fire extinguishers, oxygen equipment and first aid kits; c) when serving on aeroplanes operated above 3 000 m (10 000 ft), knowledgeable as regards the effect of lack of oxygen and, in the case of pressurized aeroplanes, as regards physiological phenomena accompanying a loss of	X						Less prescriptive but same intent

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			pressurization; d) aware of other crew members' assignments and functions in the event of an emergency so far as is necessary for the fulfilment of the cabin crew member's own duties; e) aware of the types of dangerous goods which may, and may not, be carried in a passenger cabin and has completed the dangerous goods training programme required by Annex 18; and f) knowledgeable about human performance as related to passenger cabin safety duties including flight crew-cabin crew coordination.							
7.b(ii)	be periodically assessed for medical fitness to safely exercise their assigned safety duties. Compliance must be shown by appropriate assessment based on aero-medical best practice.				X					The ICAO standards do not fully address the medical assessment of cabin crew members. However, the Basic Regulation explicitly calls for a proportionate authorisation process in all cases. Imposing

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										this ER to cabin crew members would contradict this objective and therefore the Agency considers adherence of the third country operator to the ICAO standards for cabin crew members will be sufficient.
7.c.	The pilot in command must have the authority to give all commands and take any appropriate actions for the purpose of securing the operation and the safety of the aircraft and of persons and/or property carried therein.	4.5.1	The pilot-in-command shall be responsible for the safety of all crew members, passengers and cargo on board when the doors are closed. The pilot-in-command shall also be responsible for the operation and safety of the aeroplane from the moment the aeroplane is ready to move for the purpose of taking off until the moment it finally comes to rest at the end of the flight and the engine(s) used as primary propulsion units are shut down.			X				
7.d.	In an emergency situation, which	3.1.6.	If an emergency situation which endangers the safety	X						Less prescriptive

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	endangers the operation or the safety of the aircraft and/or persons on board, the pilot in command must take any action he/she considers necessary in the interest of safety. When such action involves a violation of local regulations or procedures, the pilot in command must be responsible for notifying the appropriate local authority without delay.		of the aeroplane or persons necessitates the taking of action which involves a violation of local regulations or procedures, the pilot-in-command shall notify the appropriate local authority without delay. If required by the State in which the incident occurs, the pilot-in-command shall submit a report on any such violation to the appropriate authority of such State; in that event, the pilot-in-command shall also submit a copy of it to the State of the Operator. Such reports shall be submitted as soon as possible and normally within ten days.							but same intent
7.e.	Emergency abnormal situations must not be simulated when passengers or cargo are being carried.	4.2.5	An operator shall ensure that when passengers or cargo are being carried, no emergency or abnormal situations shall be simulated.	X						
7.f.	No crew member must allow their task achievement/decision making to deteriorate to the extent that flight safety is endangered because of the effects of fatigue, taking into account, inter alia, fatigue accumulation, sleep deprivation, number of sectors flown, night duties or time zone changes. Rest	9.6	For the purpose of managing fatigue, the State of the Operator shall establish regulations specifying the limitations applicable to the flight time, flight duty periods, duty periods and rest periods for flight crew members. These regulations shall be based upon scientific principles and knowledge, where available, with the aim of ensuring that flight crew members are performing at an adequate level of alertness.			X				ER puts the responsibility on the crew member and ICAO puts the obligation on the State of the Operator.

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	periods must provide sufficient time to enable crew members to overcome the effects of the previous duties and to be well rested by the start of the following flight duty period.	12.5	For the purpose of managing fatigue, the State of the Operator shall establish regulations specifying the limitations applicable to flight time, flight duty periods, duty periods and rest periods for cabin crew members. These regulations shall be based upon scientific principles and knowledge, where available, with the aim of ensuring that cabin crew members are performing at an adequate level of alertness.							
7.g.	A crew member must not perform allocated duties on board an aircraft when under the influence of psychoactive substances or alcohol or when unfit due to injury, fatigue, medication, sickness or other similar causes.	3.5	Use of psychoactive substances Note.— Provisions concerning the use of psychoactive substances are contained in Annex 1, 1.2.7 and Annex 2, 2.5.	X						
8.a	The operation for commercial purposes and the operation of complex motor-powered aircraft must not be undertaken unless									

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	the following conditions are met:									
8.a.1.	the operator must have directly or indirectly through contracts the means necessary for the scale and scope of the operations. These means comprise but are not limited to the following: aircraft, facilities, management structure, personnel, equipment, documentation of tasks, responsibilities and procedures, access to relevant data and record keeping;	4.2.1.3	The issue of an air operator certificate by the State of the Operator shall be dependent upon the operator demonstrating an adequate organization, method of control and supervision of flight operations, training programme as well as ground handling and maintenance arrangements consistent with the nature and extent of the operations specified.			X				
8.a.2.	the operator must use only suitably qualified and trained personnel and implement and maintain training and checking programmes for the crew members and other relevant personnel;	4.2.1.3	The issue of an air operator certificate by the State of the Operator shall be dependent upon the operator demonstrating an adequate organization, method of control and supervision of flight operations, training programme as well as ground handling and maintenance arrangements consistent with the nature and extent of the operations specified.			X				
8.a.3.	the operator must establish a MEL or equivalent document, taking account of the	6.1.3	The operator shall include in the operations manual a minimum equipment list (MEL), approved by the State	X						

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	following:		of the Operator which will enable the pilot-in-command to determine whether a flight may be commenced or continued from any intermediate stop should any instrument, equipment or systems become inoperative. Where the State of the Operator is not the State of Registry, the State of the Operator shall ensure that the MEL does not affect the aeroplane's compliance with the airworthiness requirements applicable in the State of Registry.							
8.a.3(i)	the document must provide for the operation of the aircraft, under specified conditions, with particular instruments, items of equipment or functions inoperative at the commencement of the flight;	Attachment G		X						
8.a.3(ii)	the document must be prepared for each individual aircraft, taking account of the operator's relevant operational and maintenance conditions; and	Attachment G		X						
8.a.3(iii)	the MEL must be based on the Master Minimum Equipment	6.1.3 Attachm	The operator shall include in the operations manual a minimum equipment list	X						

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	List (MMEL), if available, and must not be less restrictive than the MMEL;	ent G	(MEL), approved by the State of the Operator which will enable the pilot-in-command to determine whether a flight may be commenced or continued from any intermediate stop should any instrument, equipment or systems become inoperative. Where the State of the Operator is not the State of Registry, the State of the Operator shall ensure that the MEL does not affect the aeroplane's compliance with the airworthiness requirements applicable in the State of Registry.							
		Def	***Minimum equipment list (MEL).*** A list which provides for the operation of aircraft, subject to specified conditions, with particular equipment inoperative, prepared by an operator in conformity with, or more restrictive than, the MMEL established for the aircraft type.							
8.a.4.	the operator must implement and maintain a management system to ensure compliance with these essential requirements for operations and aim for continuous	3.3.3	States shall require, as part of their safety programme, that an operator implement a safety management system acceptable to the State of the Operator that, as a minimum: a) identifies safety hazards;	X						

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	improvement of this system; and		b) ensures the implementation of remedial action necessary to maintain agreed safety performance; c) provides for continuous monitoring and regular assessment of the safety performance; and d) aims at a continuous improvement of the overall performance of the safety management system.							
8.a.5.	the operator must establish and maintain an accident prevention and safety programme, including an occurrence reporting programme, which must be used by the management system in order to contribute to the aim of continuous improvement of the safety of operations.	3.3.3 4.5.4	States shall require, as part of their safety programme, that an operator implement a safety management system acceptable to the State of the Operator that, as a minimum: a) identifies safety hazards; b) ensures the implementation of remedial action necessary to maintain agreed safety performance; c) provides for continuous monitoring and regular assessment of the safety performance; and d) aims at a continuous improvement of the overall performance of the safety management system. The pilot-in-command shall be responsible for reporting all known or suspected	X						

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			defects in the aeroplane, to the operator, at the termination of the flight.							
8.b.	The operation for commercial purposes and the operation of complex motor-powered aircraft must only be undertaken in accordance with an operator's operations manual. Such manual must contain all necessary instructions, information and procedures for all aircraft operated and for operations personnel to perform their duties. Limitations applicable to flight time, flight duty periods and rest periods for crew members must be specified. The operations manual and its revisions must be compliant with the approved flight manual and be amended as necessary.	4.2.3.1	An operator shall provide, for the use and guidance of operations personnel concerned, an operations manual in accordance with Appendix 2. The operations manual shall be amended or revised as is necessary to ensure that the information contained therein is kept up to date. All such amendments or revisions shall be issued to all personnel that are required to use this manual.	X						
		4.2.4.1	An operator shall ensure that all operations personnel are properly instructed in their particular duties and responsibilities and the relationship of such duties to the operation as a whole.							
		6.1.4	The operator shall provide operations staff and flight crew with an aircraft operating manual, for each aircraft type operated, containing the normal, abnormal and emergency procedures relating to the operation of the aircraft. The manual shall include details of the aircraft systems and of the checklists							

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			to be used. The design of the manual shall observe Human Factors principles.							
		9.6	For the purpose of managing fatigue, the State of the Operator shall establish regulations specifying the limitations applicable to the flight time, flight duty periods, duty periods and rest periods for flight crew members. These regulations shall be based upon scientific principles and knowledge, where available, with the aim of ensuring that flight crew members are performing at an adequate level of alertness.							
		12.5	For the purpose of managing fatigue, the State of the Operator shall establish regulations specifying the limitations applicable to flight time, flight duty periods, duty periods and rest periods for cabin crew members. These regulations shall be based upon scientific principles and knowledge, where available, with the aim of ensuring that cabin crew members are performing at an adequate level of alertness.							
		4.2.11.2	Fatigue management. An							

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			operator shall establish flight time and duty period limitations and a rest scheme that enable it to manage the fatigue of all its flight and cabin crew members. This scheme shall comply with the regulations established by the State of the Operator, or approved by that State, and shall be included in the operations manual.							
8.c.	The operator must establish procedures, as appropriate, so as to minimise the consequences to safe flight operations of disruptive passenger behaviour.									Addressed in Regulation (EC) No 300/2008
8.d.	The operator must develop and maintain security programmes adapted to the aircraft and the type of operation including particularly:									Addressed in Regulation (EC) No 300/2008
8.d(i)	security of the flight crew compartment;	13.2	Security of the flight crew compartment 13.2.1 In all aeroplanes which are equipped with a flight crew compartment door, this door shall be capable of being locked, and means shall be provided by which cabin crew can discreetly notify the flight crew in the event of suspicious activity or security	X						Less prescriptive but same intent

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			breaches in the cabin. 13.2.2 From 1 November 2003, all passenger-carrying aeroplanes of a maximum certificated take-off mass in excess of 45 500 kg or with a passenger seating capacity greater than 60 shall be equipped with an approved flight crew compartment door that is designed to resist penetration by small arms fire and grenade shrapnel, and to resist forcible intrusions by unauthorized persons. This door shall be capable of being locked and unlocked from either pilot's station. 13.2.3 In all aeroplanes which are equipped with a flight crew compartment door in accordance with 13.2.2: a) this door shall be closed and locked from the time all external doors are closed following embarkation until any such door is opened for disembarkation, except when necessary to permit access and egress by authorized persons; and b) means shall be provided for monitoring from either pilot's station the entire door area outside the flight crew compartment to identify persons requesting entry and to detect suspicious behaviour or potential threat.							

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8.d(ii)	aircraft search procedure checklist;	13.3	An operator shall ensure that there is on board a checklist of the procedures to be followed in searching for a bomb in case of suspected sabotage and for inspecting aeroplanes for concealed weapons, explosives or other dangerous devices when a well-founded suspicion exists that the aeroplane may be the object of an act of unlawful interference. The checklist shall be supported by guidance on the appropriate course of action to be taken should a bomb or suspicious object be found and information on the least-risk bomb location specific to the aeroplane.	X						Less prescriptive but same intent
8.d(iii)	training programmes;	13.4	13.4.1 An operator shall establish and maintain an approved security training programme which ensures crew members act in the most appropriate manner to minimize the consequences of acts of unlawful interference. As a minimum, this programme shall include the following elements: a) determination of the seriousness of any occurrence; b) crew communication and coordination; c) appropriate self-defense responses;	X						Less prescriptive but same intent

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			d) use of non-lethal protective devices assigned to crew members whose use is authorized by the State of the Operator; e) understanding of behaviour of terrorists so as to facilitate the ability of crew members to cope with hijacker behaviour and passenger responses; f) live situational training exercises regarding various threat conditions; g) flight deck procedures to protect the aeroplane; and h) aeroplane search procedures and guidance on least-risk bomb locations where practicable. 13.4.2 An operator shall also establish and maintain a training programme to acquaint appropriate employees with preventive measures and techniques in relation to passengers, baggage, cargo, mail, equipment, stores and supplies intended for carriage on an aeroplane so that they contribute to the prevention of acts of sabotage or other forms of unlawful interference.							
8.d(iv)	protection of electronic and computer systems to									Addressed in Regulation (EC) No

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	prevent intentional system interference and corruption; and									300/2008
8.d(v)	reporting acts of unlawful interference.	13.5	Following an act of unlawful interference, the pilot-in-command shall submit, without delay, a report of such an act to the designated local authority.	X						
8.d	When security measures may adversely affect the safety of operations, the risks must be assessed and appropriate procedures developed to mitigate safety risks, this may necessitate the use of specialist equipment.	3.3.3	States shall require, as part of their State safety programme, that an operator implement a safety management system acceptable to the State of the Operator that, as a minimum: a) identifies safety hazards; b) ensures the implementation of remedial action necessary to maintain agreed safety performance; c) provides for continuous monitoring and regular assessment of the safety performance; and d) aims at a continuous improvement of the overall performance of the safety management system.	X						
8.e.	The operator must designate one pilot amongst the flight crew as the pilot in command.	4.2.11.1	Pilot-in-command. For each flight, the operator shall designate one pilot to act as pilot-in-command.	X						
8.f.	The prevention of	9.6	For the purpose of managing	X						

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	fatigue must be managed through a rostering system. For a flight, or series of flights, such a rostering system needs to address flight time, flight-duty periods, duty and adapted rest periods. Limitations established within the rostering system must take into account all relevant factors contributing to fatigue such as, in particular, number of sectors flown, time-zone crossing, sleep deprivation, disruption of circadian cycles, night hours, positioning, cumulative duty time for given periods of time, sharing of allocated tasks between crew members, and also the provision of augmented crews.	12.5	fatigue, the State of the Operator shall establish regulations specifying the limitations applicable to the flight time, flight duty periods, duty periods and rest periods for flight crew members. These regulations shall be based upon scientific principles and knowledge, where available, with the aim of ensuring that flight crew members are performing at an adequate level of alertness. For the purpose of managing fatigue, the State of the Operator shall establish regulations specifying the limitations applicable to flight time, flight duty periods, duty periods and rest periods for cabin crew members. These regulations shall be based upon scientific principles and knowledge, where available, with the aim of ensuring that cabin crew members are performing at an adequate level of alertness.							
8.g.	The tasks specified in point 6.a and those described in points 6.d and 6.e must be controlled by an organisation responsible for the	8.1.2	An operator shall not operate an aeroplane unless it is maintained and released to service by an organization approved in accordance with 8.7, or under an equivalent system, either of which shall	X						Less prescriptive but same intent

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	continuing airworthiness management that must meet, in addition to those requirements of Annex I point 3.a, the following conditions:	8.7	be acceptable to the State of Registry. Approved maintenance organization 8.7.1 Issue of approval 8.7.1.1 The issue of a maintenance organization approval by a State shall be dependent upon the applicant demonstrating compliance with the requirements of 8.7 for such organizations. 8.7.1.2 The approval document shall contain at least the following: a) organization's name and location; b) date of issue and period of validity; c) terms of approval. 8.7.1.3 The continued validity of the approval shall depend upon the organization remaining in compliance with the requirements of 8.7 for an approved maintenance organization.							
8.g(i)	the organisation must be qualified for the maintenance of products, parts and appliances under its responsibility or have established a contract with such a	8.1.2	An operator shall not operate an aeroplane unless it is maintained and released to service by an organization approved in accordance with 8.7, or under an equivalent system, either of which shall	X						Less prescriptive but same intent

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	qualified organisation for these products, parts and appliances; and		be acceptable to the State of Registry.							
8.g(ii)	the organisation must establish an organisation manual providing, for use and guidance of personnel concerned, a description of all continuing airworthiness procedures of the organisation including when applicable a description of administrative arrangements between the organisation and the approved maintenance organisation.	8.7.2	Maintenance organization's procedures manual 8.7.2.1 The maintenance organization shall provide for the use and guidance of maintenance personnel concerned a procedures manual which may be issued in separate parts containing the following information: a) a general description of the scope of work authorized under the organization's terms of approval; b) a description of the organization's procedures and quality or inspection system in accordance with 8.7.4; c) a general description of the organization's facilities; d) names and duties of the person or persons required by 8.7.6.1; e) a description of the procedures used to establish the competence of maintenance personnel as required by 8.7.6.3; f) a description of the method used for the completion and retention of the maintenance records required by 8.7.7;	X						Less prescriptive but same intent

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			g) a description of the procedures for preparing the maintenance release and the circumstances under which the release is to be signed; h) the personnel authorized to sign the maintenance release and the scope of their authorization; i) a description, when applicable, of the additional procedures for complying with an operator's maintenance procedures and requirements; j) a description of the procedures for complying with the service information reporting requirements of Annex 8, Part II, 4.2.3 f) and 4.2.4; and k) a description of the procedure for receiving, assessing, amending and distributing within the maintenance organization all necessary airworthiness data from the type certificate holder or type design organization. 8.7.2.2 The maintenance organization shall ensure that the procedures manual is amended as necessary to keep the information contained therein up to date. 8.7.2.3 Copies of all amendments to the							

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			procedures manual shall be furnished promptly to all organizations or persons to whom the manual has been issued.							

Appendix 3 - Comparison table Essential Requirements and ICAO Annex 6 Part III, section II

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1.a.	A flight must not be performed if the crew members and, as appropriate, all other operations personnel involved in its preparation and execution are not familiar with applicable laws, regulations and procedures, pertinent to the performance of their duties, prescribed for the areas to be traversed, the aerodromes planned to be used and the air navigation facilities relating thereto.	1.1.1	Operators shall ensure that their employees when abroad know that they must comply with the laws, regulations and procedures of the States in which their helicopters are operated.	X						
		1.1.2	Operators shall ensure that all pilots are familiar with the laws, regulations and procedures, pertinent to the performance of their duties, prescribed for the areas to be traversed, the heliports to be used and the air navigation facilities relating thereto. The operator shall ensure that other members of the flight crew are familiar with such of these regulations and procedures as are pertinent to the performance of their respective duties in the operation of the helicopter.							
1.b.	A flight must be performed in such a way that the operating procedures specified in the Flight Manual or, where required the	2.2.6	The checklists provided in accordance with 4.1.4 shall be used by flight crews prior to, during and after all phases of operations, and in emergency, to ensure	X						

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	Operations Manual, for the preparation and execution of the flight are followed. To facilitate this, a checklist system must be available for use, as applicable, by crew members of the aircraft under normal, abnormal and emergency conditions and situations. Procedures must be established for any reasonably foreseeable emergency situation.		compliance with the operating procedures contained in the aircraft operating manual, the flight manual or other documents associated with the certificate of airworthiness and otherwise in the operations manual. The design and utilization of checklists shall observe Human Factors principles.							
		2.5.2	The pilot-in-command shall ensure that the checklists specified in 2.2.6 are complied with in detail.							
		3.2.3	A helicopter shall be operated in compliance with the terms of its certificate of airworthiness and within the approved operating limitations contained in its flight manual.							
		4.1.4	The operator shall make available to operations staff and crew members an aircraft operating manual, for each aircraft type operated, containing the normal, abnormal and emergency procedures relating to the operation of							

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			the aircraft. The manual shall include details of the aircraft systems and of the checklists to be used. The design of the manual shall observe Human Factors principles. The manual shall be easily accessible to the flight crew during all flight operations.							
1.c.	Before every flight, the roles and duties of each crew member must be defined. The pilot in command must be responsible for the operation and safety of the aircraft and for the safety of all crew members, passengers and cargo on board.	2.2.4.1 2.5.1	An operator shall ensure that all operations personnel are properly instructed in their particular duties and responsibilities and the relationship of such duties to the operation as a whole. The pilot-in-command shall be responsible for the operation and safety of the helicopter and for the safety of all crew members, passengers and cargo on board, from the moment the engine(s) are started until the helicopter finally comes to rest at the end of the flight, with the engine(s) shut down and the rotor blades stopped.	X						
1.d.	Articles or substances, which are capable of posing a significant risk to	1.4	Note 1.— Provisions for carriage of dangerous goods are contained in Annex 18.	X						

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	health, safety, property or the environment, such as dangerous goods, weapons and ammunition, must not be carried on any aircraft, unless specific safety procedures and instructions are applied to mitigate the related risks.		Note 2.— Article 35 of the Convention refers to certain classes of cargo restrictions.							
1.e.	All necessary data, documents, records and information to record the respect of the conditions specified in point 5.c must be retained for each flight and kept available for a minimum period of time compatible with the type of operation.	2.2.9.2 2.3.2	Fuel and oil records shall be retained by the operator for a period of three months. Completed flight preparation forms shall be kept by an operator for a period of three months.	X						
2.a	A flight must not be commenced unless it has been ascertained by every reasonable means available that all the following conditions are complied with:		-	-	-	-	-	-	-	
2.a.1.	Adequate facilities directly required for the flight and for the safe operation of the aircraft, including communication facilities and navigation aids, are available for the execution of the flight, taking into account	2.1.1	The pilot-in-command shall not commence a flight unless it has been ascertained by every reasonable means available that the ground and/or water facilities available and directly required for such flight and for the safe	X						ER doesn't explicitly mention ground and water facilities.

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	available Aeronautical Information Services documentation.		operation of the helicopter are adequate including communication facilities and navigation aids.							
		7.4.2.2	An operator shall ensure that a flight will not be commenced unless it has been ascertained by every reasonable means available that the ground and/or water facilities available and directly required on such flight, for the safe operation of the helicopter and the protection of the passengers, are adequate for the type of operation under which the flight is to be conducted and are adequately operated for this purpose.							
			a) Each such pilot shall demonstrate to the operator an adequate knowledge of:							
			a) the operation to be flown. This shall include knowledge of:							
			1) the terrain and minimum safe altitudes;							
			2) the seasonal meteorological conditions;							
			3) the meteorological, communication and air							

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			traffic facilities, services and procedures; 4) the search and rescue procedures; and 5) the navigation facilities and procedures associated with the route or area in which the flight is to take place; and (…)							
2.a.2.	The crew must be familiar with and passengers informed of the location and use of relevant emergency equipment. Sufficient related information regarding emergency procedures and use of cabin safety equipment must be made available to crew and passengers using specified information.	2.2.11.1	An operator shall ensure that passengers are made familiar with the location and use of: a) seat belts or harnesses; b) emergency exits; c) life jackets, if the carriage of life jackets is prescribed; d) oxygen dispensing equipment, if the provision of oxygen for the use of passengers is prescribed; and e) other emergency equipment provided for individual use, including passenger emergency briefing cards.	X						
		2.2.11.2	The operator shall ensure that the passengers are informed of the location and general manner of use of the principal emergency equipment carried for							

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			collective use.							
		2.2.11.3	In an emergency during flight, passengers shall be instructed in such emergency action as may be appropriate to the circumstances.							
		2.2.11.4	The operator shall ensure that, during take-off and landing and whenever considered necessary by reason of turbulence or any emergency occurring during flight, all passengers on board a helicopter shall be secured in their seats by means of the seat belts or harnesses provided.							
2.a.3	The pilot in command must be satisfied that:	2.3.1	A flight, or series of flights, shall not be commenced until flight preparation forms have been completed certifying that the pilot-in-command is satisfied that:							
2.a.3(i)	the aircraft is airworthy as specified in point 6;	2.3.1	a) the helicopter is airworthy;	X						
2.a.3(ii)	if required, the aircraft is duly registered and that appropriate certificates with respect thereto are		duly registered and that appropriate certificates with respect thereto are aboard the helicopter;	X						

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	aboard the aircraft;									
2.a.3(iii)	instruments and equipment as specified in point 5 required for the execution of that flight are installed in the aircraft and are operative, unless waived by the applicable Minimum Equipment List (MEL) or equivalent document;	2.3.1	b) the instruments and equipment prescribed in Chapter 4, for the particular type of operation to be undertaken, are installed and are sufficient for the flight;	X						
2.a.3(iv)	the mass of the aircraft and centre of gravity location are such that the flight can be conducted within limits prescribed in the airworthiness documentation;	2.3.1	d) the mass of the helicopter and centre of gravity location are such that the flight can be conducted safely, taking into account the flight conditions expected;	X						
2.a.3(v)	all cabin baggage, hold luggage and cargo is properly loaded and secured; and	2.3.1	e) any load carried is properly distributed and safely secured;	X						
2.a.3(vi)	the aircraft operating limitations as specified in point 4 will not be exceeded at any time during the flight.	2.3.1	f) a check has been completed indicating that the operating limitations of Chapter 3 can be complied with for the flight to be undertaken;	X						
2.a.4.	Information regarding meteorological conditions for departure, destination and, where applicable, alternate aerodromes, as	2.3.5.1	A flight to be conducted in accordance with VFR shall not be commenced unless current meteorological reports or	X						

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	well as en-route conditions, must be available to the flight crew. Special attention must be given to potentially hazardous atmospheric conditions.		a combination of current reports and forecasts indicate that the meteorological conditions along the route or that part of the route to be flown or in the intended area of operations under VFR will, at the appropriate time, be such as to render compliance with these rules possible.							
		2.3.5.2	A flight to be conducted in accordance with IFR shall not be commenced unless the information is available which indicates that conditions at the heliport of intended landing or, when an alternate is required, at least one alternate heliport will, at the estimated time of arrival, be at or above the heliport operating minima.							
2.a.5.	In case of flight into known or expected icing conditions, the aircraft must be certified, equipped and/or treated to operate safely in such conditions.	2.3.5.3	A flight to be operated in known or expected icing conditions shall not be commenced unless the helicopter is certificated and equipped to cope with such conditions.	X						

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		2.3.5.4	A flight to be planned or expected to operate in suspected or known ground icing conditions shall not be commenced unless the helicopter has been inspected for icing and, if necessary, has been given appropriate de-icing/anti-icing treatment. Accumulation of ice or other naturally occurring contaminants shall be removed so that the helicopter is kept in an airworthy condition prior to take-off.							
2.a.6.	For a flight based on visual flight rules, meteorological conditions along the route to be flown must be such as to render compliance with these flight rules possible. For a flight based on instrument flight rules a destination and where applicable alternate aerodrome(s) where the aircraft can land must be selected, taking into account in particular the forecasted meteorological conditions, the availability of air navigation services, the availability of ground facilities and the	2.3.4.1.1	A take-off alternate heliport shall be selected and specified in the operational flight plan if the weather conditions at the heliport of departure are at or below the applicable heliport operating minima.	X						Less prescriptive but same intent
		2.3.4.1.2	For a heliport to be selected as a take-off alternate, the available information shall indicate that, at the estimated time of use, the conditions will be at or above the heliport operating minima for that operation.							

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	instrument flight procedures approved by the State in which the destination and/or alternate aerodrome is located.	2.3.4.2.1	For a flight to be conducted in accordance with IFR, at least one destination alternate shall be specified in the operational flight plan and the flight plan, unless: a) the duration of the flight and the meteorological conditions prevailing are such that there is reasonable certainty that, at the estimated time of arrival at the heliport of intended landing, and for a reasonable period before and after such time, the approach and landing may be made under visual meteorological conditions as prescribed by the State of the Operator; or b) the heliport of intended landing is isolated and no suitable alternate is available. A point of no return (PNR) shall be determined.							
		2.3.4.2.2	For a heliport to be selected as a destination alternate, the available information shall indicate that, at the estimated time of use, the conditions will be at or above the heliport operating minima for that operation.							

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		2.3.4.3	Suitable offshore alternates shall be specified subject to the following: a) the offshore alternates shall be used only after a PNR. Prior to a PNR, onshore alternates shall be used; b) mechanical reliability of critical control systems and critical components shall be considered and taken into account when determining the suitability of the alternates; c) one engine inoperative performance capability shall be attainable prior to arrival at the alternate; d) to the extent possible, deck availability shall be guaranteed; and e) weather information must be reliable and accurate.							
		2.3.5.1	A flight to be conducted in accordance with VFR shall not be commenced unless current meteorological reports or a combination of current reports and forecasts indicate that the meteorological conditions along the route or that part							

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			of the route to be flown or in the intended area of operations under VFR will, at the appropriate time, be such as to render compliance with these rules possible.							
		2.3.5.2	A flight to be conducted in accordance with IFR shall not be commenced unless the information is available which indicates that conditions at the heliport of intended landing or, when an alternate is required, at least one alternate heliport will, at the estimated time of arrival, be at or above the heliport operating minima. When an alternate is required. A flight to be conducted in accordance with IFR shall not be commenced unless the available information indicates that conditions, at the heliport of intended landing and at least one alternate heliport will, at the estimated time of arrival, be at or above the heliport operating minima.							
2.a.7.	The amount of fuel and oil on board must be sufficient to ensure that the intended flight can be	2.3.6.1	All helicopters. A flight shall not be commenced unless, taking into account both the meteorological conditions	X						Less prescriptive but same intent

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	completed safely, taking into account the meteorological conditions, any element affecting the performance of the aircraft and any delays that are expected in flight. In addition, a fuel reserve must be carried to provide for contingencies. Procedures for in-flight fuel management must be established when relevant.		and any delays that are expected in flight, the helicopter carries sufficient fuel and oil to ensure that it can safely complete the flight. In addition, a reserve shall be carried to provide for contingencies.							
		2.3.6.2	VFR operations. The fuel and oil carried in order to comply with 2.8.1 shall, in the case of VFR operations, be at least the amount sufficient to allow the helicopter: a) to fly to the heliport to which the flight is planned; b) to fly thereafter for a period of 20 minutes at best-range speed; and c) to have an additional amount of fuel, sufficient to provide for the increased consumption on the occurrence of any of the potential contingencies specified by the operator to the satisfaction of the State of the Operator.							
		2.3.6.3	IFR operations. The fuel and oil carried in order to comply with 2.3.6.1 shall, in the case of IFR operations, be at least the amount sufficient to allow the helicopter:							

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		2.3.6.3.1	When an alternate is not required, in terms of 2.3.4.2.1 a), to fly to the heliport to which the flight is planned, and thereafter: a) to fly 30 minutes at holding speed at 450 m (1 500 ft) above the destination heliport under standard temperature conditions and approach and land; and b) to have an additional amount of fuel, sufficient to provide for the increased consumption on the occurrence of any of the potential contingencies specified by the operator to the satisfaction of the State of the Operator.							
		2.3.6.3.2	When an alternate is required, to fly to and execute an approach, and a missed approach, at the heliport to which the flight is planned, and thereafter: a) to fly to the alternate specified in the flight plan; and then b) to fly for 30 minutes at holding speed at 450 m (1 500 ft) above the alternate							

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			under standard temperature conditions, and approach and land; and c) to have an additional amount of fuel, sufficient to provide for the increased consumption on the occurrence of any of the potential contingencies specified by the operator to the satisfaction of the State of the Operator.							
		2.3.6.3.3	When no suitable alternate is available, in terms of 2.3.4.2.1 (e.g. the destination is isolated), sufficient fuel shall be carried to enable the helicopter to fly to the destination to which the flight is planned and thereafter for a period that will, based on geographic and environmental considerations, enable a safe landing to be made.							
		2.3.6.4	In computing the fuel and oil required in 2.3.6.1, at least the following shall be considered: a) meteorological conditions forecast; b) expected air traffic control routings and traffic							

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			delays; c) for IFR flight, one instrument approach at the destination heliport, including a missed approach; d) the procedures prescribed in the operations manual for loss of pressurization, where applicable, or failure of one power-unit while en route; and e) any other conditions that may delay the landing of the helicopter or increase fuel and/or oil consumption.							
3.a	With regard to flight operations, all the following conditions must be complied with:		-	-	-	-	-	-		
3.a.1.	where relevant for the type of aircraft, during take-off and landing, and whenever deemed necessary by the pilot in command in the interest of safety, each crew member must be seated at their crew station and must use the provided restraint systems, taking into account the type of aircraft;	2.4.4.1 2.4.4.3 2.4.4.4	Take-off and landing. All flight crew members required to be on flight deck duty shall be at their stations. Seat belts. All flight crew members shall keep their seat belt fastened when at their stations. Safety harness. Any flight crew member occupying a	X						

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			pilot's seat shall keep the safety harness fastened during the take-off and landing phases; all other flight crew members shall keep their safety harness fastened during the take-off and landing phases unless the shoulder straps interfere with the performance of their duties, in which case the shoulder straps may be unfastened but the seat belt must remain fastened.							
3.a.2.	where relevant for the type of aircraft, all flight crew members required to be on flight deck duty must be and remain at their station, with their seatbelts fastened except en-route for physiological or operational needs;	2.4.4.2	En route. All flight crew members required to be on flight deck duty shall remain at their stations except when their absence is necessary for the performance of duties in connection with the operation of the helicopter or for physiological needs.	X						
3.a.3.	where relevant for the type of aircraft and the type of operation, before take-off and landing, during taxiing and whenever deemed necessary in the interest of safety, the pilot in command must ensure that each passenger is properly seated and secured;	2.2.11.4	The operator shall ensure that, during take-off and landing and whenever considered necessary by reason of turbulence or any emergency occurring during flight, all passengers on board a helicopter shall be secured in their seats by means of the seat belts or harnesses provided.	X						
3.a.4.	a flight must be performed in such a way	2.2.8.2	The State of the Operator shall require that in			X				

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	that appropriate separation from other aircraft is maintained and that adequate obstacle clearance is ensured, during all phases of the flight. Such separation must at least be those required by the applicable rules of the air;		establishing the heliport operating minima which will apply to any particular operation, full account shall be taken of: f) the obstacles in the approach and missed approach areas and the obstacle clearance altitude/height for the instrument approach procedures;							
3.a.5.	a flight must not be continued unless known conditions continue to be at least equivalent to those in point 2. Furthermore, for a flight based on instrument flight rules, an approach toward an aerodrome must not be continued below certain specified heights or beyond a certain position, if prescribed visibility criteria are not met;	2.2.8	This ER is addressed in several ICAO standards such as for RVSM, PBN, LVO and the ones contained in the Rules of the Air. The State of the Operator shall require that the operator establish heliport operating minima for each heliport to be used in operations and shall approve the method of determination of such minima. Such minima shall not be lower than any that may be established for such heliports by the State in which the heliport is located, except when specifically approved	X						Less prescriptive but same intent

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			by that State.							
		2.4.1.1	A flight shall not be continued towards the heliport of intended landing, unless the latest available information indicates that at the expected time of arrival, a landing can be effected at that heliport, or at least one alternate heliport, in compliance with the operating minima established in accordance with 2.2.8.1.							
		2.4.1.2	An instrument approach shall not be continued beyond the outer marker fix in case of precision approach, or below 300 m (1 000 ft) above the heliport in case of non-precision approach, unless the reported visibility or controlling RVR is above the specified minimum.							
		2.4.1.3	If, after passing the outer marker fix in case of precision approach, or after descending below 300 m (1 000 ft) above the heliport in case of non-precision							

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			approach, the reported visibility or controlling RVR falls below the specified minimum, the approach may be continued to DA/H or MDA/H. In any case, a helicopter shall not continue its approach-to-land at any heliport beyond a point at which the limits of the operating minima specified for that heliport would be infringed.							
3.a.6.	in an emergency, the pilot in command must ensure that all passengers are instructed in such emergency action as may be appropriate to the circumstances;	2.2.11.3	In an emergency during flight, passengers shall be instructed in such emergency action as may be appropriate to the circumstances.	X						
3.a.7.	a pilot in command must take all necessary measures so as to minimise the consequences on the flight of disruptive passenger behaviour;							X		Addressed in Regulation (EC) No 300/2008
3.a.8.	an aircraft must not be taxied on the movement area of an aerodrome, or its rotor must not be turned under power, unless the person at the controls is appropriately competent;	2.2.4.2	A helicopter rotor shall not be turned under power, for the purpose of flight, without a qualified pilot at the controls. The operator shall provide appropriately specific training and procedures to be followed for all personnel, other than	X						Less prescriptive but same intent

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			qualified pilots, who are likely to carry out the turning of a rotor under power for purposes other than flight.							
3.a.9.	the applicable in-flight fuel management procedures must be used, when relevant.	2.3.6.4	In computing the fuel and oil required in 2.3.6.1, at least the following shall be considered: (…) e) any other conditions that may delay the landing of the helicopter or increase fuel and/or oil consumption. *Note.— Nothing in 2.3.6 precludes amendment of a flight plan in flight in order to replan the flight to another heliport,* *provided that the requirements of 2.3.6 can be complied with from the point where the flight has been replanned.*		X				TCO.OPS.200	No corresponding ICAO standard
4.a.	An aircraft must be operated in accordance with its airworthiness documentation and all related operating procedures and limitations as expressed in its approved flight manual or equivalent documentation, as the	3.2.3	A helicopter shall be operated in compliance with the terms of its certificate of airworthiness and within the approved operating limitations contained in its flight manual.	X						

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	case may be. The flight manual or equivalent documentation must be available to the crew and kept up to date for each aircraft.									
4.b.	The aircraft must be operated in accordance with the applicable environmental documentation.	3.2.7	d) In no case shall the mass at the start of take-off, or at the expected time of landing at the destination and at any alternate, exceed the relevant maximum mass at which compliance has been demonstrated with the applicable noise certification Standards in Annex 16, Volume I, unless otherwise authorized in exceptional circumstances for a certain operating site where there is no noise disturbance problem, by the competent authority of the State in which the operating site is situated.	X						Less prescriptive but same intent
		4.11	All helicopters required to comply with the noise certification Standards of Annex 16, Volume I, shall carry a document attesting noise certification. When the document, or a suitable statement attesting noise certification as contained in another document approved by the State of Registry, is issued in a language other							

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			than English, it shall include an English translation. Note 1.— The attestation may be contained in any document, carried on board, approved by the State of Registry in accordance with the relevant provisions of Annex 16, Volume I. Note 2.— The various noise certification Standards of Annex 16, Volume I, which are applicable to helicopters are determined according to the date of application for a type certificate, or the date of acceptance of an application under an equivalent prescribed procedure by the certificating authority. Some helicopters are not required to comply with any noise certification Standard. For details see Annex 16, Volume I, Part II, Chapters 8 and 11.							
4.c	A flight must not be commenced or continued unless the aircraft's scheduled performance, considering all factors which significantly affect its performance level, allows all phases of flight to be executed within the applicable distances/areas and	3.2.6	In applying the Standards of this chapter, account shall be taken of all factors that significantly affect the performance of the helicopter (such as: mass, operating procedures, the pressure-altitude appropriate to the elevation of the operating site, temperature, wind and	X						

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	obstacle clearances at the planned operating mass. Performance factors which significantly affect take-off, en-route and approach/landing are, particularly:		condition of the surface). Such factors shall be taken into account directly as operational parameters or indirectly by means of allowances or margins, which may be provided in the scheduling of performance data or in the code of performance in accordance with which the helicopter is being operated.							
4.c(i)	operating procedures;	3.2.6	See 4.c	X						
4.c(ii)	pressure altitude of the aerodrome;	3.2.6	See 4.c	X						
4.c(iii)	temperature;	3.2.6	See 4.c	X						
4.c(iv)	wind;	3.2.6	See 4.c	X						
4.c(v)	size, slope and condition of the take-off/landing area; and	3.2.6	See 4.c	X						
4.c(vi)	the condition of the airframe, the power plant or the systems, taking into account possible deterioration.	3.1.2	In conditions where the safe continuation of flight is not ensured in the event of a critical engine failure, helicopter operations shall be conducted in a manner that gives appropriate consideration for achieving a safe forced landing.	X						Less prescriptive but same intent
		3.2.6	In applying the Standards of this chapter, account shall be taken of all factors that significantly affect the							

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			performance of the helicopter (such as: mass, operating procedures, the pressure-altitude appropriate to the elevation of the operating site, temperature, wind and condition of the surface). Such factors shall be taken into account directly as operational parameters or indirectly by means of allowances or margins, which may be provided in the scheduling of performance data or in the code of performance in accordance with which the helicopter is being operated.							
		3.2.7.2.1	Operations in performance Class 1. The helicopter shall be able, in the event of the failure of the critical engine being recognized at or before the take-off decision point, to discontinue the take-off and stop within the rejected takeoff area available or, in the event of the failure of the critical engine being recognized at or after the take-off decision point, to continue the take-off, clearing all obstacles along the flight path by an adequate margin until the helicopter is in a position to							

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			comply with 3.2.7.3.1.							
		3.2.7.2.2	Operations in performance Class 2. The helicopter shall be able, in the event of the failure of the critical engine at any time after reaching DPATO, to continue the take-off, clearing all obstacles along the flight path by an adequate margin until the helicopter is in a position to comply with 3.2.7.3.1. Before the DPATO, failure of the critical engine may cause the helicopter to force-land; therefore the conditions stated in 3.1.2 shall apply.							
		3.2.7.3.1	Operations in performance Classes 1 and 2. The helicopter shall be able, in the event of the failure of the critical engine at any point in the en-route phase, to continue the flight to a site at which the conditions of 3.2.7.4.1 for operations in performance Class 1, or the conditions of 3.2.7.4.2 for operations in performance Class 2 can be met, without flying below the appropriate minimum flight altitude at any point.							

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		3.2.7.3.2	Operations in performance Class 3. The helicopter shall be able, with all engines operating, to continue along its intended route or planned diversions without flying at any point below the appropriate minimum flight altitude. At any point of the flight path, failure of an engine will cause the helicopter to force-land; therefore the conditions stated in 3.1.2 shall apply.							
		4.1.4	The operator shall make available to operations staff and crew members an aircraft operating manual, for each aircraft type operated, containing the normal, abnormal and emergency procedures relating to the operation of the aircraft. The manual shall include details of the aircraft systems and of the checklists to be used. The design of the manual shall observe Human Factors principles. The manual shall be easily accessible to the flight crew during all flight operations.							

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4.c.1	Such factors must be taken into account directly as operational parameters or indirectly by means of allowances or margins, which may be provided in the scheduling of performance data, as appropriate to the type of operation.	3.2.6	See 4.c	X						
5.a.	An aircraft must be equipped with all navigation, communication and other equipment necessary for the intended flight, taking account of air traffic regulations and rules of the air applicable during any phase of the flight.	Chapters 4 and 5		X						
5.b.	When relevant, an aircraft must be equipped with all necessary safety, medical, evacuation and survival equipment, taking account of the risks associated to the areas of operation, the routes to be flown, the flight altitude and the duration of the flight.	4.2.1	All helicopters when operating in accordance with VFR by day shall be equipped with: a) a magnetic compass; b) an accurate timepiece indicating the time in hours, minutes and seconds; c) a sensitive pressure altimeter; d) an airspeed indicator; and	X						Less prescriptive but same intent

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			e) such additional instruments or equipment as may be prescribed by the appropriate authority.							
		4.2.2	All helicopters when operating in accordance with VFR at night shall be equipped with: a) the equipment specified in 4.2.1; b) an attitude indicator (artificial horizon) for each required pilot; c) a slip indicator; d) a heading indicator (directional gyroscope); e) a rate of climb and descent indicator; f) such additional instruments or equipment as may be prescribed by the appropriate authority; and the following lights: g) the lights required by Annex 2 for aircraft in flight or operating on the movement area of a heliport; Note.— The general characteristics of the lights are specified in Annex 8. Detailed specification for							

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			lights meeting the requirements of Annex 2 for aircraft in flight or operating on the movement area of a heliport are contained in the Airworthiness Manual (Doc 9760). h) a landing light; i) illumination for all flight instruments and equipment that are essential for the safe operation of the helicopter; j) lights in all passenger compartments; and k) a flashlight for each crew member station.							
5.c.	All data necessary for the execution of the flight by the crew must be updated and available on board the aircraft taking account of applicable air traffic regulations, rules of the air, flight altitudes and areas of operation.	4.2.3	A helicopter shall carry: a) the operations manual prescribed in 2.2.2, or those parts of it that pertain to flight operations; b) the helicopter flight manual for the helicopter, or other documents containing performance data required for the application of Chapter 3 and any other information necessary for the operation of the helicopter within the terms of its certificate of airworthiness, unless these data are available in the operations manual; and	X						Less prescriptive but same intent

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			c) current and suitable charts to cover the route of the proposed flight and any route along which it is reasonable to expect that the flight may be diverted.							
6.a	The aircraft must not be operated unless:	6.1.1	Operators shall ensure that, in accordance with procedures acceptable to the State of Registry							
6.a(i)	the aircraft is in an airworthy condition;	a)	each helicopter they operate is maintained in an airworthy condition;	X						
6.a(ii)	the operational and emergency equipment necessary for the intended flight is serviceable;	b)	b) the operational and emergency equipment necessary for the intended flight is serviceable; and	X						
6.a(iii)	the airworthiness document of the aircraft is valid; and	c)	the certificate of airworthiness of the helicopter they operate remains valid.	X						

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6.a(iv)	the maintenance of the aircraft is performed in accordance with its maintenance programme.	6.1.5	The operator shall ensure that the maintenance of the helicopter is performed in accordance with a maintenance programme acceptable to the State of Registry.	X						
6.b.	Before each flight or consistent series of consecutive flights, the aircraft must be inspected, through a pre-flight check, to determine whether it is fit for the intended flight.	2.3.1	A flight, or series of flights, shall not be commenced until flight preparation forms have been completed certifying that the pilot-in-command is satisfied that: a) the helicopter is airworthy; b) the instruments and equipment prescribed in Chapter 4, for the particular type of operation to be undertaken, are installed and are sufficient for the flight; c) a maintenance release as prescribed in 6.7 has been issued in respect of the helicopter; d) the mass of the helicopter and centre of gravity location are such that the flight can be		X				TCO.OPS.205	No corresponding ICAO standard

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			conducted safely, taking into account the flight conditions expected; e) any load carried is properly distributed and safely secured; f) a check has been completed indicating that the operating limitations of Chapter 3 can be complied with for the flight to be undertaken; and g) the Standards of 2.3.3 relating to operational flight planning have been complied with. *Note.— Series of flights are consecutive flights that*: *a) begin and end within a period of 24 hours; and* *b) are all conducted by the same pilot-in-command.* 2.3.2 Completed flight preparation forms shall be kept by an operator for a period of three months.							
6.c.	The maintenance programme must contain in particular, maintenance tasks and intervals, especially those that have been specified as mandatory in the instructions for continuing	9.3.1	A maintenance programme for each helicopter as required by 6.3 shall contain the following information: a) maintenance tasks and the intervals at which these are to be performed, taking	X						

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	airworthiness.		into account the anticipated utilization of the helicopter; b) when applicable, a continuing structural integrity programme; c) procedures for changing or deviating from a) and b) above; and d) when applicable, condition monitoring and reliability programme descriptions for helicopter systems, components, power transmissions, rotors and powerplants.							
		9.3.2	Maintenance tasks and intervals that have been specified as mandatory in approval of the type design shall be identified as such.							
6.d.	The aircraft must not be operated unless it is released to service by qualified persons or organisations, after maintenance. The signed release to service must contain in particular, the basic details of the maintenance carried out.	6.1.2	An operator shall not operate a helicopter unless it is maintained and released to service by an organization approved in accordance with Annex 6, Part I, 8.7, or under an equivalent system, either of which shall be acceptable to the State of Registry.	X						
		6.7.1	A maintenance release shall be completed and signed to certify that the maintenance							

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			work has been completed satisfactorily and in accordance with approved data and the procedures described in the maintenance organization's procedures manual.							
		6.7.2	A maintenance release shall contain a certification including: a) basic details of the maintenance carried out including detailed reference of the approved data used; b) date such maintenance was completed; c) when applicable, the identity of the approved maintenance organization; and d) the identity of the person or persons signing the release.							
6.e.	All records demonstrating the airworthiness of the aircraft must be kept until the information contained has been superseded by new information equivalent in scope and detail but not less than 24 months in the case of detailed maintenance records. When the aircraft is leased, all records	6.8.1	An operator shall ensure that the following records are kept: a) in respect of the entire helicopter: the total time in service; b) in respect of the major components of the helicopter: 1) the total time in service;	X						Less prescriptive but same intent

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	demonstrating the airworthiness of the aircraft must be kept at least for the length of the lease.		2) the date of the last overhaul; 3) the date of the last inspection; c) in respect of those instruments and equipment, the serviceability and operating life of which are determined by their time in service: 1) such records of the time in service as are necessary to determine their serviceability or to compute their operating life; 2) the date of the last inspection.							
		6.8.2	These records shall be kept for a period of 90 days after the end of the operating life of the unit to which they refer.							
6.f.	All modifications and repairs must comply with the essential requirements for airworthiness. The substantiating data supporting compliance with the airworthiness requirements must be retained.	6.6	All modifications and repairs shall comply with airworthiness requirements acceptable to the State of Registry. Procedures shall be established to ensure that the substantiating data supporting compliance with the airworthiness requirements are retained.	X						

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7.a	The number and composition of the crew must be determined taking into account:	7.1.1	The number and composition of the flight crew shall not be less than that specified in the operations manual. The flight crews shall include flight crew members in addition to the minimum numbers specified in the flight manual or other documents associated with the certificate of airworthiness, when necessitated by considerations related to the type of helicopter used, the type of operation involved and the duration of flight between points where flight crews are changed.	X						Less prescriptive but same intent
7.a(i)	the certification limitations of the aircraft, including if applicable, the relevant emergency evacuation demonstration;		See 7.a	X						
7.a(ii)	the aircraft configuration; and		See 7.a	X						
7.a(iii)	the type and duration of operations.		See 7.a	X						
7.b	Cabin crew members must:	10.3	An operator shall establish and maintain a training programme, approved by the State of the Operator, to be completed by all persons	X						Less prescriptive but same intent

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			being assigned as a cabin crew member. Cabin crew shall complete a recurrent training programme annually. These training programmes shall ensure that each person is: a) competent to execute those safety duties and functions that the cabin attendant is assigned to perform in the event of an emergency or in a situation requiring emergency evacuation; b) drilled and capable in the use of emergency and life-saving equipment required to be carried, such as life jackets, life rafts, evacuation slides, emergency exits, portable fire extinguishers, oxygen equipment and first-aid kits; c) when serving on helicopters operated above 3 000 m (10 000 ft), knowledgeable as regards the effect of lack of oxygen and, in the case of pressurized helicopters, as regards physiological phenomena accompanying a loss of pressurization; d) aware of other crew members' assignments and functions in the event of an							

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			emergency so far as is necessary for the fulfilment of the cabin crew member's own duties; e) aware of the types of dangerous goods which may, and may not, be carried in a passenger cabin and has completed the dangerous goods training programme required by Annex 18; and f) knowledgeable about human performance as related to passenger cabin safety duties and including flight crew-cabin crew coordination.							
7.b(i)	be trained and checked on a regular basis to attain and maintain an adequate level of competency in order to perform their assigned safety duties; and		See 7.b	X						
7.b(ii)	be periodically assessed for medical fitness to safely exercise their assigned safety duties. Compliance must be shown by appropriate assessment based on aero-medical best practice.				X					The ICAO standards do not fully address the medical assessment of cabin crew members. However, the Basic Regulation explicitly calls for a proportionate authorisation process in all cases. Imposing this ER to cabin crew members would contradict this objective

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										and therefore the Agency considers adherence of the third country operator to the ICAO standards for cabin crew members will be sufficient.
7.c.	The pilot in command must have the authority to give all commands and take any appropriate actions for the purpose of securing the operation and the safety of the aircraft and of persons and/or property carried therein.	2.5.1	The pilot-in-command shall be responsible for the operation and safety of the helicopter and for the safety of all crew members, passengers and cargo on board, from the moment the engine(s) are started until the helicopter finally comes to rest at the end of the flight, with the engine(s) shut down and the rotor blades stopped.			X				
		2.5.2	The pilot-in-command shall ensure that the checklists specified in 2.2.6 are complied with in detail.							
		2.5.3	The pilot-in-command shall be responsible for notifying the nearest appropriate authority by the quickest available means of any accident involving the helicopter, resulting in serious injury or death of any person or substantial damage to the helicopter or property.							

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		2.5.4	The pilot-in-command shall be responsible for reporting all known or suspected defects in the helicopter, to the operator, at the termination of the flight.							
		2.5.5	The pilot-in-command shall be responsible for the journey log book or the general declaration containing the information listed in 9.4.1.							
		2.3.1	A flight, or series of flights, shall not be commenced until flight preparation forms have been completed certifying that the pilot-in-command is satisfied that: a) the helicopter is airworthy; b) the instruments and equipment prescribed in Chapter 4, for the particular type of operation to be undertaken, are installed and are sufficient for the flight; c) a maintenance release as prescribed in 6.7 has been							

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			issued in respect of the helicopter; d) the mass of the helicopter and centre of gravity location are such that the flight can be conducted safely, taking into account the flight conditions expected; e) any load carried is properly distributed and safely secured; f) a check has been completed indicating that the operating limitations of Chapter 3 can be complied with for the flight to be undertaken; and g) the Standards of 2.3.3 relating to operational flight planning have been complied with.							
7.d.	In an emergency situation, which endangers the operation or the safety of the aircraft and/or persons on board, the pilot in command must take any action he/she considers necessary in the interest of safety. When such action involves a violation of local regulations or procedures, the pilot in command must be	1.1.7	If an emergency situation which endangers the safety of the helicopter or persons necessitates the taking of action which involves a violation of local regulations or procedures, the pilot-in-command shall notify the appropriate local authority without delay. If required by the State in which the incident occurs, the pilot-in-command shall submit a report on any such violation	X						

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	responsible for notifying the appropriate local authority without delay.		to the appropriate authority of such State; in that event, the pilot-in-command shall also submit a copy of it to the State of Registry. Such reports shall be submitted as soon as possible and normally within ten days.							
7.e.	Emergency abnormal situations must not be simulated when passengers or cargo are being carried.	2.2.5	An operator shall ensure that when passengers or cargo are being carried, no emergency or abnormal situations shall be simulated.	X						
7.f.	No crew member must allow their task achievement/decision making to deteriorate to the extent that flight safety is endangered because of the effects of fatigue, taking into account, inter alia, fatigue accumulation, sleep deprivation, number of sectors flown, night duties or time zone changes. Rest periods must provide sufficient time to enable crew members to overcome the effects of the previous duties and to be well rested by the start of the following flight duty period.	2.2.10.2 7.6	Flight time, flight duty periods and rest periods. An operator shall formulate rules to limit flight time and flight duty periods and for the provision of adequate rest periods for all its crew members. These rules shall be in accordance with the regulations established by the State of the Operator, or approved by that State, and included in the operations manual. The State of the Operator shall establish regulations specifying the limitations applicable to the flight time and flight duty periods for flight crew members. These regulations shall also make provision for adequate rest			X				ER puts the responsibility on the crew member and ICAO puts the obligation on the State of the Operator.

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			periods and shall be such as to ensure that fatigue occurring either in a flight or successive flights or accumulated over a period of time due to these and other tasks does not endanger the safety of a flight.							
		10.4	The State of the Operator shall establish regulations specifying the limits applicable to flight time, flight duty periods and rest periods for cabin crew.							
7.g.	A crew member must not perform allocated duties on board an aircraft when under the influence of psychoactive substances or alcohol or when unfit due to injury, fatigue, medication, sickness or other similar causes.	1.5	Note.— Provisions concerning the use of psychoactive substances are contained in Annex 1, 1.2.7 and Annex 2, 2.5.	X						
8.a	The operation for commercial purposes and the operation of complex motor-powered aircraft must not be undertaken unless the following conditions are met:									
8.a.1.	the operator must have directly or indirectly through contracts the	2.2.1.3	The issue of an air operator certificate by the State of the Operator shall be			X				

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	means necessary for the scale and scope of the operations. These means comprise but are not limited to the following: aircraft, facilities, management structure, personnel, equipment, documentation of tasks, responsibilities and procedures, access to relevant data and record keeping;		dependent upon the operator demonstrating an adequate organization, method of control and supervision of flight operations, training programme as well as ground handling and maintenance arrangements consistent with the nature and extent of the operations specified.							
8.a.2.	the operator must use only suitably qualified and trained personnel and implement and maintain training and checking programmes for the crew members and other relevant personnel;	7.3.1	An operator shall establish and maintain a ground and flight training programme, approved by the State of the Operator, which ensures that all flight crew members are adequately trained to perform their assigned duties. The training programme shall: a) include ground and flight training facilities and properly qualified instructors as determined by the State of the Operator; b) consist of ground and flight training for the type(s) of helicopter on which the flight crew member serves; c) include proper flight crew coordination and training for all types of emergency and			X				

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			abnormal situations or procedures caused by engine, transmission, rotor, airframe or systems malfunctions, fire or other abnormalities; d) include training in knowledge and skills related to the visual and instrument flight procedures for the intended area of operation, human performance and threat and error management, the transport of dangerous goods and, where applicable, procedures specific to the environment in which the helicopter is to be operated; e) ensure that all flight crew members know the functions for which they are responsible and the relation of these functions to the functions of other crew members, particularly in regard to abnormal or emergency procedures; f) shall include knowledge and skills related to the operational use of head-up display and/or enhanced vision systems for those helicopters so equipped; and							

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			g) be given on a recurrent basis, as determined by the State of the Operator and shall include an examination to determine competence.							
8.a.3.	the operator must establish a MEL or equivalent document, taking account of the following:	4.1.3	The operator shall include in the operations manual a minimum equipment list (MEL), approved by the State of the Operator which will enable the pilot-in-command to determine whether a flight may be commenced or continued from any intermediate stop should any instrument, equipment or systems become inoperative. Where the State of the Operator is not the State of Registry, the State of the Operator shall ensure that the MEL does not affect the helicopter's compliance with the airworthiness requirements applicable in the State of Registry. Note.— Attachment E contains guidance on the minimum equipment list.	X						
8.a.3(i)	the document must provide for the operation of the aircraft, under specified conditions, with particular instruments, items of equipment or	4.1.3		X						

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	functions inoperative at the commencement of the flight;									
8.a.3(ii)	the document must be prepared for each individual aircraft, taking account of the operator's relevant operational and maintenance conditions; and	Attachment E		X						
8.a.3(iii)	the MEL must be based on the Master Minimum Equipment List (MMEL), if available, and must not be less restrictive than the MMEL;	Def	Included in the ICAO definition	X						
8.a.4.	the operator must implement and maintain a management system to ensure compliance with these essential requirements for operations and aim for continuous improvement of this system; and	1.3.3	States shall require, as part of their State safety programme, that an operator implement a safety management system acceptable to the State of the Operator that, as a minimum: a) identifies safety hazards; b) ensures the implementation of remedial action necessary to maintain agreed safety performance; c) provides for continuous monitoring and regular assessment of the safety performance; and d) aims at a continuous improvement of the overall	X						

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			performance of the safety management system.							
8.a.5.	the operator must establish and maintain an accident prevention and safety programme, including an occurrence reporting programme, which must be used by the management system in order to contribute to the aim of continuous improvement of the safety of operations.	1.3 2.5.3	See ER 8.a.4 The pilot-in-command shall be responsible for notifying the nearest appropriate authority by the quickest available means of any accident involving the helicopter, resulting in serious injury or death of any person or substantial damage to the helicopter or property.	X						
8.b.	The operation for commercial purposes and the operation of complex motor-powered aircraft must only be undertaken in accordance with an operator's operations manual. Such manual must contain all necessary instructions, information and procedures for all aircraft operated and for operations personnel to perform their duties. Limitations applicable to flight time, flight duty periods and rest periods for crew members must be specified. The operations manual and its revisions must be	2.2.3.1 2.2.3.2	An operator shall make available, for the use and guidance of operations personnel concerned, an operations manual constructed using the guidance contained in Attachment H. The operations manual shall be amended or revised as is necessary to ensure that the information contained therein is kept up to date. All such amendments or revisions shall be notified to all personnel that are required to use this manual. The State of the Operator shall establish a requirement for the operator to provide a	X						

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	compliant with the approved flight manual and be amended as necessary.		copy of the operations manual together with all amendments and/or revisions, for review and acceptance and, where required, approval. The operator shall incorporate in the operations manual such mandatory material as the State of the Operator may require.							
8.c.	The operator must establish procedures, as appropriate, so as to minimise the consequences to safe flight operations of disruptive passenger behaviour.							X		Addressed in Regulation (EC) No 300/2008
8.d.	The operator must develop and maintain security programmes adapted to the aircraft and the type of operation including particularly:									
8.d(i)	security of the flight crew compartment;	no			X				TCO.OPS. 400	Not corresponding ICAO standard
8.d(ii)	aircraft search procedure checklist;	11.1	An operator shall ensure that there is on board a checklist of the procedures to be followed in searching for a bomb in case of suspected sabotage. The checklist shall be supported by guidance on the course of action to be taken should a bomb or suspicious object	X						

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			be found.							
8.d (iii)	training programmes;	11.2.1	An operator shall establish and maintain a training programme which enables crew members to act in the most appropriate manner to minimize the consequences of acts of unlawful interference.	X						
		11.2.2	An operator shall also establish and maintain a training programme to acquaint appropriate employees with preventive measures and techniques in relation to passengers, baggage, cargo, mail, equipment, stores and supplies intended for carriage on a helicopter so that they contribute to the prevention of acts of sabotage or other forms of unlawful interference.							
8.d(iv)	protection of electronic and computer systems to prevent intentional system interference and corruption; and	1.3.3								Addressed in Regulation (EC) No 300/2008
8.d(v)	reporting acts of unlawful interference.	11.3	Following an act of unlawful interference the pilot-in-command shall submit, without delay, a report of such an act to the designated local	X						

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			authority.							
8.d	When security measures may adversely affect the safety of operations, the risks must be assessed and appropriate procedures developed to mitigate safety risks, this may necessitate the use of specialist equipment.	1.3.3	States shall require, as part of their State safety programme, that an operator implement a safety management system acceptable to the State of the Operator that, as a minimum: a) identifies safety hazards; b) ensures the implementation of remedial action necessary to maintain agreed safety performance; c) provides for continuous monitoring and regular assessment of the safety performance; and d) aims at a continuous improvement of the overall performance of the safety management system.	X						
8.e.	The operator must designate one pilot amongst the flight crew as the pilot in command.	2.2.10.1	For each flight, the operator shall designate one pilot to act as pilot-in-command.	X						
8.f.	The prevention of fatigue must be managed through a rostering system. For a flight, or series of flights, such a rostering system needs to address flight time, flight-	7.6	The State of the Operator shall establish regulations specifying the limitations applicable to the flight time and flight duty periods for flight crew members. These regulations shall also make	X						

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	duty periods, duty and adapted rest periods. Limitations established within the rostering system must take into account all relevant factors contributing to fatigue such as, in particular, number of sectors flown, time-zone crossing, sleep deprivation, disruption of circadian cycles, night hours, positioning, cumulative duty time for given periods of time, sharing of allocated tasks between crew members, and also the provision of augmented crews.		provision for adequate rest periods and shall be such as to ensure that fatigue occurring either in a flight or successive flights or accumulated over a period of time due to these and other tasks does not endanger the safety of a flight.							
8.g.	The tasks specified in point 6.a and those described in points 6.d and 6.e must be controlled by an organisation responsible for the continuing airworthiness management that must meet, in addition to those requirements of Annex I point 3.a, the following conditions:	6.2.1	The operator shall provide, for the use and guidance of maintenance and operational personnel concerned, a maintenance control manual, acceptable to the State of Registry, in accordance with the requirements of 9.2. The design of the manual shall observe Human Factors principles.	X						
8.g(i)	the organisation must be qualified for the maintenance of products, parts and appliances under its responsibility or	6.1	Operators shall ensure that, in accordance with procedures acceptable to the State of Registry:	X						

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	have established a contract with such a qualified organisation for these products, parts and appliances; and		a) each helicopter they operate is maintained in an airworthy condition; b) the operational and emergency equipment necessary for the intended flight is serviceable; and c) the certificate of airworthiness of the helicopter they operate remains valid. 6.1.2 An operator shall not operate a helicopter unless it is maintained and released to service by an organization approved in accordance with Annex 6, Part I, 8.7, or under an equivalent system, either of which shall be acceptable to the State of Registry. 6.1.3 When the State of Registry accepts an equivalent system, the person signing the maintenance release shall be licensed in accordance with Annex 1. 6.1.4 An operator shall employ a person or group of persons to ensure that all maintenance is carried out in accordance								

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			with the maintenance control manual. 6.1.5 The operator shall ensure that the maintenance of its helicopters is performed in accordance with the maintenance programme approved by the State of Registry.							
8.g(ii)	the organisation must establish an organisation manual providing, for use and guidance of personnel concerned, a description of all continuing airworthiness procedures of the organisation including when applicable a description of administrative arrangements between the organisation and the approved maintenance organisation.	6.2	The operator shall provide, for the use and guidance of maintenance and operational personnel concerned, a maintenance control manual, acceptable to the State of Registry, in accordance with the requirements of 9.2. The design of the manual shall observe Human Factors principles.	X						