



Terms of Reference

for a rulemaking task

Non-ETOPS operations with performance class A aeroplanes with an MOPSC of 19 or less

RMT.0695 — ISSUE 1 — 15.12.2015

Applicability		Process map	
Affected regulations and decisions:	Annex IV to Regulation (EU) No 965/2012 ED Decision 2014/015/R ED Decision 2010/012/R	Concept paper:	No
Affected stakeholders:	Aircraft operators, aircraft manufacturers	Rulemaking group:	No (SLRT)
Driver/origin:	Level playing field Harmonisation	RIA type:	Light
Reference:	ICAO Annex 6 Part I	Technical consultation during NPA drafting:	No
		Publication date of the NPA:	2016/Q1
		Duration of NPA consultation:	3 months
		Review group:	Yes (SLRT)
		Focussed consultation:	No
		Publication date of the Opinion:	2016/Q3
		Publication date of the Decision:	2017/Q3



1. Issue and reasoning for regulatory change

The requirements for performance class A aeroplanes with a maximum operational passenger seating configuration (MOPSC) of 19 or less to conduct extended-range operations with two-engined aeroplanes (ETOPS) were developed by the Joint Aviation Authorities (JAA) in parallel to the US Federal Aviation Administration's (FAA's) Aviation Rulemaking Advisory Committee (ARAC) in the mid-1990s.

The take-off mass threshold and the diversion threshold at which ETOPS approval is required for operators of such aeroplanes are today identified in EASA CAT.OP.MPA.140.

The 45 360 kg applicability threshold was established based on an analysis of product offerings in the mid-1990s, but today several manufacturers are developing intercontinental turbojet aeroplanes for business travel, 'business jets', that have a maximum certified take-off mass (MCTOM) in excess of 45 360 kg. While the operation of these aeroplanes is unchanged from similar aeroplanes at or below the current MCTOM threshold, the additional mass would require these operators to obtain an ETOPS approval for the same routes, when operating in commercial air transport (CAT).

- This threshold of 45 360 kg therefore distorts the level playing field, since it introduces an additional burden on CAT operators of twin-engined aeroplanes with an MCTOM at or above 45 360 kg and an MOPSC of 19 or less, compared to CAT operators of similar aeroplanes but with an MCTOM below 45 360 kg.
- In addition, there is also a harmonisation issue, as there is no such a threshold defined in the FAA's or in the Transport Canada Civil Aviation's (TCCA's) regulatory framework.

Indeed, the FAA accommodates non-ETOPS operations below 180 min with such aircraft and for on-demand operations in 14 CFR Part-135, while no such alleviation exists for other types of CAT operations falling under Part 121. Similarly, the TCCA's requirement for an approval to conduct ETOPS operations with two-engined aeroplanes is only applicable to aeroplanes with a maximum certified passenger capacity of 20 or more.

There is as well no such a threshold defined in Amendment 38 to ICAO Annex 6 Part I, which renamed ETOPS with extended diversion time operations (EDTO)¹. The ICAO provisions only require contracting states to the Chicago Convention to define a threshold time per aircraft type, above which an EDTO approval would be required and guidance to contracting states is provided for the establishment of this threshold time. It is worth noting that this threshold time may be specific to the concerned aircraft type and/or operator.

2. Objectives

The general objectives of the European Union in the field of civil aviation are defined in Article 2 of Regulation (EC) No 216/2008 (the 'Basic Regulation'). This proposal will contribute to these objectives by addressing the issues outlined in Section 1.

The specific objective of this proposal is to update Regulation (EU) No 965/2012 in order to accommodate new business jet aeroplanes operated by European CAT operators in the 180 min non-ETOPS category, in order to:

¹ The transposition of these new EDTO provisions is going to be achieved in the frame of another rulemaking task.



- increase harmonisation with other major aviation countries regulatory material for operation of these aeroplanes and therefore ensure a level playing field between EU operators and third country operators; and
- ensure a level playing field among CAT operators of aeroplanes with an MOPSC below 19 and therefore avoid an undue burden to European CAT operators of business aeroplanes.

3. Activities

The stakeholder-led rulemaking group will review the current CAT requirements for operating business jet aeroplanes in ETOPS operations in the major aviation countries. This will include the review of the work undertaken by the JAA to establish appropriate requirements for business aviation in the context of aeroplanes currently in production or under development. The group will perform a safety analysis of the business jet operations since the ETOPS requirements were established and will review any relevant accidents and incidents. The group will also review EASA's current rules in the context of other regulatory standards, including ICAO's standards, in order to ensure that Europe maintains a harmonised and proportional set of rules for business jet operations.

4. Deliverables

The expected products of this task are:

- Notice of Proposed Amendment (NPA), including a Regulatory Impact Assessment (RIA);
- Comment-Response Document combined with an Opinion containing draft amendment to Regulation (EU) No 965/2012; and
- related Agency Decisions.

The draft amendment to Regulation (EU) No 965/2012 will include an amendment to Annex IV (Part-CAT) to consider current business jets, in production and under development, used in CAT operations in the context of the existing framework for ETOPS. The requirements for ETOPS are identified in CAT.OP.MPA.140 'Maximum distance from an adequate aerodrome for two-engined aeroplanes without an ETOPS approval'. The requirements for non-ETOPS business jet operations are identified in section (a)(2) specifically, but the regulatory change is expected to affect the MCTOM criteria identified in both (a)(1)(ii) and (a)(2)(ii). The draft amendment will include any additional necessary change to Part-CAT to ensure overall consistency and to support the outcome of the review of the MCTOM criteria related to non-ETOPS operations with business jet aeroplanes.

The stakeholder-led rulemaking group will also draft an amendment, as necessary, to ED Decision 2014/015/R on Acceptable Means of Compliance and Guidance Material to Part-CAT and ED Decision 2010/016/R on Acceptable Means of Compliance and Guidance Material for Extended Range Operations with Two-Engined Aeroplanes ETOPS Certification and Operations (AMC 20-6).

The acceptable means of compliance (AMC) and guidance material (GM) for ETOPS operations (AMC 20-6) would be updated to reflect the outcome of the review of the MCTOM criteria for non-ETOPS operations with business jet aeroplanes and to ensure consistency with the AMC to Part-CAT related to non-ETOPS operations with business jet aeroplanes. Additionally, a review of the AMC identified an incorrect reference in the AMC, which would be updated. The update would not modify the substance



of the AMC or GM with respect to ETOPS operations, but amend the MCTOM criteria for non-ETOPS operations.

5. Profile and contribution of the rulemaking group

This task is a stakeholder-led rulemaking task and, therefore, the composition of the stakeholder group was not established in accordance with the EASA work instruction for rulemaking groups.

The members of the stakeholder-led rulemaking task group include representatives from all business jet manufacturers affected by the requirements for ETOPS. The stakeholder-lead rulemaking group also includes participation from several associations, including the General Aviation Manufacturers Association (GAMA), the European Business Aviation Association (EBAA), and the US National Business Aviation Association (NBAA).

6. Annex I: Reference documents

6.1. Affected regulations

- Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 296, 25.10.2012, p. 1), and specifically Annex IV 'Commercial Air transport Operations (Part-CAT)'

6.2. Affected decisions

- Decision 2014/015/R of the Executive Director of the Agency of 24 April 2014 adopting Acceptable Means of Compliance and Guidance Material to Part-CAT of Regulation (EU) No 965/2012 of 5 October 2012 and repealing Decision 2012/018/R of the Executive Director of the Agency of 24 October 2012
- ED Decision 2010/012/R of 16/10/2010 on Acceptable Means of Compliance and Guidance Material for Extended Range Operations with Two-Engined Aeroplanes ETOPS Certification and Operation («AMC 20-6»)

6.3. Reference documents

- International Civil Aviation Organization (ICAO), Annex 6 to the Convention on International Civil Aviation, Part I: International Commercial Air Transport — Aeroplanes, 9th Edition, Amendment 36
- Australian Government, Civil Aviation Authority, Civil Aviation Order (CAO) 82.0, Air Operators' Certificates — applications for certificates and general requirements, dated 21 November 2012 taking into account amendments up to Civil Aviation Order 82.0 Amendment Instrument 2012 (No. 2)
- Canadian Aviation Regulations, Part VII — Commercial Air Services, current to July 22, 2014
 - Subpart 3 — Air Taxi Operations
 - Subpart 4 — Commuter Operations
 - Subpart 5 — Airline Operations
 - Manual TP 6327E issued 06/2007



- U.S. Federal Aviation Administration, Title 14 of the Code of Federal Regulations
 - Part 135 Operating Requirements: Commuter and On-Demand Operations and Rules Governing Persons on board such Aircraft, Subpart I – Airplane Performance Operating Limitations, Sec. 135.364 – Maximum flying time outside the United States, Amendment 135-108
 - Subpart H – Aircraft Requirements, Part 121 Operating Requirements: Domestic, Flag and Supplemental Operations, Sec. 121.161 – Airplane limitations: Type of route, Amendment 121-329

