

Important Information for Third Country Operators (TCO):

EASA position with respect to air operators’ Safety Management Systems (SMS) under Third Country Operator (TCO) Authorisations

Background

Pursuant to the ‘TCO Regulation’^[1] of the European Commission, the European Aviation Safety Agency (EASA) is responsible to issue Third Country Operator (TCO) Authorisations to commercial air operators (as defined in ICAO Annex 6, Parts I and III) certified in a non-EASA State that apply to operate to destinations in European member States, European Free Trade Association members, and their territories in which EU regulations apply. All those third country operators must have a TCO Authorisation by 26 November 2016^[2].

The TCO authorisation process managed by EASA requires operators to comply with applicable ICAO standards and to make certain declarations to EASA. The applicable ICAO standards include those in Annex 19 (Safety Management) to the Chicago Convention.

Annex 19 standards require AOC holders authorised for international commercial air transport to establish an SMS acceptable to the State of the Operator, in accordance with the framework elements contained in Appendix 2 [of Annex 19], and commensurate with the size and complexity of operations^[3]. Comprehensive guidance on the implementation of the framework for an SMS is contained in the Safety Management Manual (SMM) (ICAO Doc 9859), including a phased implementation approach^[4].

It is against this background that EASA, in the ambit of TCO authorisation, requires operators to establish an SMS and declare the maturity of their SMS corresponding to the four implementation phases proposed as per the ICAO SMS framework.

Clarifications

As of 26 November 2016, international standards for SMS become enforceable under the EU’s TCO Regulation and need to be complied with in order to obtain or maintain EASA TCO Authorisation. EASA had repetitively communicated on the above.

Within the auspices of TCO authorisation, the SMS requirement equally applies to operators certified in States that may not have established national requirements for SMS implementation for all or a part of their certified commercial air transport operators.

Operators are required to make a self-declaration of their SMS implementation status in section II of the “Basic Operator Data” form in TCO web-interface. EASA reserves the right to verify the actual status of implementation during the initial TCO authorisation process and as

[1] Commission Regulation (EU) No 452/2014 of 29 April 2014 laying down technical requirements and administrative procedures related to air operations of third country operators pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 79, 19.3.2008, p. 1)

[2] End of the TCO transitional period as established in Article 4 of the aforementioned Regulation.

[3] Chapter 4.1 of Annex 19 to the Chicago Convention

[4] Chapter 5.5 of ICAO Doc 9859

part of the continuous monitoring programme. EASA does not currently accept, as an equivalence or substitution for the verification of operator's compliance with Annex 19 standards, a voluntary participation in, or certification/registration by, third-party industry programmes.

Justifications

Annex 19 to the Chicago Convention is fully applicable, and SMS is a long-standing requirement for air operators certified in the EU.

The TCO Regulation is part of the EU's framework aimed at ensuring a high level of civil aviation safety in the European Union.

On 26 November 2016, the 30-months transitional period intended to achieve full implementation of the TCO authorisation programme will end.

EASA shall issue authorisations when it is satisfied that a third country operator has established compliance with the applicable requirements of Part-TCO, including with Annex 19.

Corresponding to the ICAO framework for SMS implementation, EASA considers that only SMS as of Phase 2 onwards will have established essential safety management processes and are therefore considered when determining compliance with applicable Annex 19 standards.

EASA position

After 26 November 2016, a level 1 finding pursuant to ART.230(b) of the TCO Regulation will be issued by EASA against all third country operators (holders or not of a TCO Authorisation) when their SMS is still at Phase 1 implementation. Those operators will be afforded two (2) weeks to achieve accomplishment of SMS Phase 2 and to inform EASA accordingly; and

Operators that will have achieved SMS Phase 2 within the timeline: see point (2) below; or

Operators that will not have achieved SMS Phase 2 within the timeline: refusal of TCO application or suspension of TCO Authorisation, as applicable.

For third country operators having applied to EASA for a TCO Authorisation before 26 November 2016 and having achieved Phase 2 of SMS implementation by that date, a Level 2 TCO finding pursuant to ART.230(c) of the TCO Regulation will be raised by EASA. Those operators will be afforded four (4) weeks to develop and obtain from EASA formal acceptance of their corrective action plan aimed at achieving SMS Phase 3 by 31 December 2017.

Operators unable to demonstrate achievement of SMS Phase 3 by 31 December 2017 will face suspension of their TCO Authorisation.

For new TCO applicants from 27 November 2016 onwards, an SMS below Phase 2 will lead to a level 1 finding pursuant to ART.230(b). For SMS in Phase 2, a level 2 finding pursuant to ART.230(c) of the TCO Regulation will be raised by EASA.

Sincerely,
EASA Third Country Operators Section

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- [2] End of the TCO transitional period as established in Article 4 of the aforementioned Regulation.
- [3] Chapter 4.1 of Annex 19 to the Chicago Convention
- [4] Chapter 5.5 of ICAO Doc 9859