

Annex to ED Decision 2023/006/R

‘AMC and GM to Part-TCO— Issue 1, Amendment 1’

The text of the amendment is arranged to show deleted, new or amended, and unchanged text as follows:

- deleted text is ~~struck through~~;
- new or amended text is highlighted in **blue**;
- an ellipsis ‘[...]’ indicates that the rest of the text is unchanged.

The Annex to Decision 2014/023/R of the Executive Director of the Agency of 6 May 2014 is amended as follows:

SECTION I – GENERAL REQUIREMENTS

GM1 TCO.100 Scope

TECHNICAL LANDING

The intended use of an aerodrome located in the territory subject to the provisions of the Treaties as a technical stop (e.g. for the purpose of refueling or crew change) as part of a CAT operation falls within the scope of TCO.100 and requires a TCO authorisation.

ALTERNATE AERODROMES

The selection and use of an aerodrome located in the territory subject to the provisions of the Treaties as an alternate aerodrome for the case of an in-flight diversion does not fall within the scope of TCO.100 and does not require a TCO authorisation.

CODE-SHARE AGREEMENTS

An aircraft used by a third country operator under a so-called code-share agreement with a Member State operator only falls within the scope of TCO.100 and is required to hold a TCO authorisation if the aircraft is used to perform commercial air transport to the territory subject to the provisions of the Treaties.

WET-LEASE AGREEMENTS

A third country operator that leases out aircraft under a wet-lease agreement falls within the scope of TCO.100 and is required to hold a TCO authorisation for aircraft under its air operator certificate (AOC) that are used to fly to the territory subject to the provisions of the Treaties.

Third country operators currently not holding a valid TCO authorisation may wet-lease-in aircraft from other authorised third country operators or from Member State operators for the purpose of flights to the territory subject to the provisions of the Treaties.

DRY-LEASE AGREEMENTS

A third country operator that leases out aircraft under a dry-lease agreement does not fall within the scope of TCO.100 and does not need a TCO authorisation. The requirement to hold a TCO authorisation for aircraft used to fly to the territory subject to the provisions of the Treaties rests with the operator that has dry-leased-in the aircraft and is responsible for the operation and airworthiness under its AOC.

OTHER TYPES OF OPERATION

The following types of operations do not fall within the scope of TCO.100 and do not require a TCO authorisation:

- Operations conducted by third country operators that are excluded from the scope of Regulation (EU) 2018/1139, such as flights referred to in Article 2(3)(a) of that Regulation (e.g. military, customs, police, search and rescue, firefighting),
- General Aviation operations,

- Flights arranged by means of diplomatic clearances,
- Any other type of operations that do not fall under the definition of commercial air transport (e.g. ferry flights to a maintenance basis or delivery flights).

Specialised operations (e.g. hoist, photographic or surveillance operations) do not fall within the scope of TCO.100 and do not require a TCO authorisation but may require an approval from the Member State(s) concerned.

AMC1-TCO.105(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 by the operator. The result of this risk assessment should demonstrate that an equivalent level of safety to that established by the Acceptable Means of Compliance (AMC) adopted by the Agency is accomplished.~~

GM1-TCO.105(a) Means of compliance

DEMONSTRATION OF COMPLIANCE

~~Alternative means of compliance cannot be used to establish compliance with ICAO standards. TCO.105(a) refers to alternatives to the Acceptable Means of Compliance (AMC) adopted by the Agency, which detail how compliance with Regulation (EC) No 216/2008 and Part TCO may be established.~~

GM1-TCO.110 Mitigating measures

NOTIFIED DIFFERENCES TO ICAO STANDARDS

- ~~(a) In case of notified differences to ICAO standards, the Agency will rely on the ICAO EFOD (Electronic Filing of Differences) database.~~
- ~~(b) If the operator can demonstrate that it operates in compliance with the ICAO standard, despite a difference to ICAO standards notified by the State of operator or the State of registry, the operator is not required to propose mitigating measures to establish compliance with Part TCO.~~

SECTION II – AIR OPERATIONS

GM1 TCO.200(a) General requirements

When the State of the operator or the State of registry have notified differences to ICAO standards, the exemptions referred to in Article 76(4) of Regulation (EU) 2018/1139 (the EASA Basic Regulation) may be used to grant an authorisation, provided that the conditions and criteria established therein are met.

AMC1 TCO.200(b) General requirements

DIFFERENCE BETWEEN OPERATIONS SPECIFICATIONS AND TCO AUTHORISATION

Whenever there is a difference between the operations specifications associated with the Air Operator Certificate (AOC) and the specification associated to scope and privileges granted in the TCO authorisation, the more limiting specification one should apply.

GM1 TCO.200(b) General requirements

The scope and the privileges contained in the TCO authorisation include the list of aircraft that can be used under the TCO authorisation as well as any limitation to the TCO authorisation.

SPECIAL AUTHORISATION

The operator may benefit from all approvals granted by its competent authority unless the Agency has imposed a limitation.

Those approvals may include, but are not limited to, the carriage of dangerous goods, low-visibility Low-Visibility Operations (LVO), Reduced Vertical Separation Minima (RVSM), Extended Diversion Time Operations (EDTO), AR navigation specifications for Performance-Based Navigation (e.g. RNP-AR)(PBN), and use of electronic flight bag (EFB) special approach authorisation and Minimum Navigation Performance Specifications (MNPS).

GM1 TCO.200(c) General requirements

CERTIFICATE OF AIRWORTHINESS

Certificate of Airworthiness of the Aircraft (CofA) means a Certificate of Airworthiness (CofA) issued in accordance with ICAO Annex 8.

AMC1 TCO.200(e) General requirements

REPORTING OF ACCIDENTS

The third country operator should report to the Agency all accidents involving aircraft used under its AOC, including aircraft that are not intended to be flown into, within or out of the territory subject to the provisions of the Treaty.

[...]

SECTION III – AUTHORISATION OF THIRD COUNTRY OPERATORS

GM1 TCO.300(a) Application for an authorisation

DEMONSTRATION OF INTENTION TO OPERATE

The intention to operate is sufficiently substantiated when an operator can demonstrate a credible intention to conduct commercial operations into, within or out of the territory subject to the provisions of the ~~Treaties~~ ~~Treaty of the European Union~~. The operator may substantiate its intention by submitting its planned schedule for commercial air transport operations where this is possible or, by having aircraft available for intended flights in the case of unscheduled commercial air transport operations, or Europe being a geographical part of the operations specifications, or a statement from senior management that operations to the European Union are planned. However, other means of demonstrating a credible intention may be used.

GM1 TCO.300(b) Application for an authorisation

SUBMISSION OF APPLICATION FOR AN AUTHORISATION

When the third country operator submits an application for an authorisation, the Agency will follow the process established in ART.200 to ART.210. The first step of the process is for EASA to evaluate the eligibility of the operator and verify the completeness of the information received. The operator should be aware that, in accordance with ART.200(b), the application is only considered to be submitted, and the timeframe for EASA's assessment will only start, once the complete set of information required under TCO.300(c) has been received.

Once the application is considered submitted, EASA will register the operator in its dedicated TCO web-application and will request the operator to fill in an electronic questionnaire. EASA will complete its assessment within the timeframes stipulated in ART.200(b).

~~The application is considered to be submitted when the complete set of information required under TCO.300(c) has been received.~~

GM1 TCO.300(d) Application for an authorisation

TRANSLATION OF DOCUMENTS

The Agency may request a courtesy translation of certain (parts of) documents that are written in a language other than English.

Operators should preferably submit documents in a format that is electronically searchable and translatable by use of online tools.

[...]

GM1 TCO.300(e)(2) Application for an authorisation

DOCUMENTS FOR AIRCRAFT NOT REGISTERED IN THE STATE OF THE OPERATOR

Any agreement on the transfer of certain functions and duties between the State of registry and the State of operator that ~~reliefs~~ **relieves** the State of registry of responsibility in respect of the functions and duties transferred, should be made available upon request.

AMC1 TCO.305 One-off notification flights

DOCUMENTS TO BE PROVIDED WHEN NOTIFYING EASA OF THE INTENTION TO PERFORM FLIGHTS IN ACCORDANCE WITH TCO.305

The application for a one-off notification flight should include:

- (a) a valid AOC and the associated operations specifications;
- (b) a valid CofA for the aircraft intended to be operated;
- (c) information about the character and purpose of the operation; and
- (d) information about planned destinations.

GM1 TCO.315 Changes

CHANGES REQUIRING PRIOR APPROVAL

Typical examples of changes that require a prior approval by the Agency pursuant to TCO.315(b) are:

- (a) the addition of a new type of aircraft (defined as an aircraft with different ICAO type designator) to the TCO authorisation, unless agreed otherwise under ART.210(c);
- (b) the operator's principal place of business, when the operator relocates to a different State; and
- (c) 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.

CHANGES NOT REQUIRING PRIOR APPROVAL

Typical examples of changes that do not require a prior approval, but which have to be notified to the Agency pursuant to TCO.315(c) are:

- (a) temporary or permanent cessation of operations;
- (b) the name of the operator;
- (c) the operator's principal place of business within the same State;
- (d) the number of the AOC or that of the equivalent document;
- (e) enforcement measures imposed by a civil aviation authority, including limitations and suspension; and
- (f) the operator's scope of activities, e.g. extensions of privileges granted or restrictions imposed in the operations specifications to the AOC.

~~Typical examples of changes that require a prior approval and affect the TCO authorisation or associated specification are listed below:~~

- ~~(a) — temporary or permanent cessation of operations;~~
- ~~(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) — new type of aircraft — different ICAO type designator — included in the fleet;~~
- ~~(g) — 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.~~

AMC1 TCO.320 Continued validity

RE-SUBMITTANCE OF APPLICATION

~~If an operator has not carried out a flight into within or out of the territory subject to the provisions of the Treaty within the last 24 months, the operator should resubmit an application for a TCO authorisation prior to recommencing operations to Europe.~~

[...]