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JOINT ICAO-ESAF/EAC-CASSOA AERODROME CERTIFICATION TRAINING WORKSHOP

COMPLIANCE & ENFORCEMENT

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Outline

1. Definitions
2. State Obligations
3. Compliance Obligations
4. Assessment of Compliance
5. Exemptions and Exceptions
6. Enforcement

Reference Material

- Reference Material

- Annex 14, Volume I Aerodrome Design and Operations, *Eighth Edition, July 2018*
- Annex 14, Volume II. Heliports, *Fifth Edition, July 2020*
- ICAO Doc. 9734 – Safety Oversight Manual Part A – The Establishment and Management of a State Safety Oversight System, *Third Edition, 2017*
- ICAO Doc. 9774 – Manual on Certification of Aerodromes, *First Edition, 2001*
- ICAO Doc. 9981 – Procedures For Air Navigation Services – Aerodromes, *Third Edition, 2020*

1.1 Definitions

- **Compliance** is the act of complying with a command, desire, wish, order, or rule. It can also mean adhering to requirements, standards, or regulations.
 - **Regulatory compliance:** The steps an organization takes to comply with relevant external laws, regulations, and guidelines.
- **Enforcement** is the act of compelling observance of or compliance with a law, rule, or obligation.
 - **Enforcement** is the proper execution of the process of ensuring compliance with laws, regulations, rules, standards, and social norms

1.1 Definitions (cont.)

- **Inspection.** An examination of specific activities, products or services of an aviation licence, certificate, approval or authorization holder (or applicant) performed by civil aviation inspectors to confirm compliance with requirements for the licence, certificate, approval or authorization already issued (or being issued) by the State.
- **Inspector.** A qualified person authorized by the State to carry out oversight activities for civil aviation.
- **Technical inspection.** Visual and/or instrumental verification of compliance with technical specifications related to aerodrome infrastructure and operations.

2.1 State Obligations

- The Chicago Convention requires States to provide, in their territories, the necessary ANS and aerodromes to facilitate international air navigation.
- States are required to adopt and apply appropriate standard systems of communications procedures, codes, markings, signals, lighting and other operational practices and rules, as well as to ensure the publication of appropriate aeronautical charts.

2.1 State Obligations (-cont.)

- SARPs adopted from time to time and related to the provision of services to the aviation industry are defined in:
 - Annex 2 — Rules of the Air
 - Annex 3 — Meteorological Service for International Air Navigation
 - Annex 4 — Aeronautical Charts
 - Annex 10 — Aeronautical Telecommunications
 - Annex 11 — Air Traffic Services
 - Annex 12 — Search and Rescue
 - **Annex 14 — Aerodromes**
 - Annex 15 — Aeronautical Information Services
 - **Annex 19 — Safety Management**

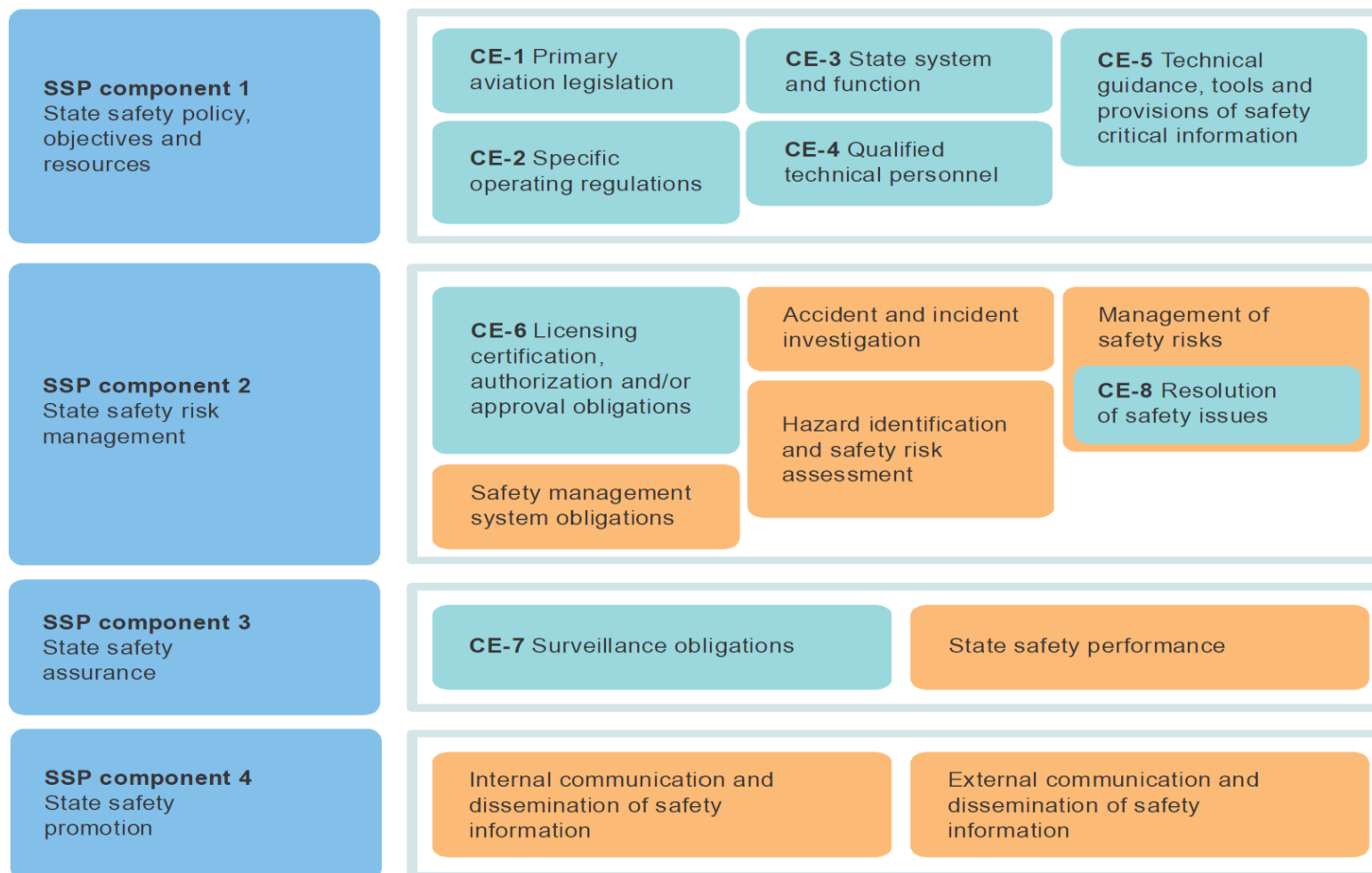
2.1 State Obligations (-cont.)

- To ensure effective execution of State Oversight obligations, ICAO has provided a framework for the establishment and management of a State Safety Oversight system
- Additionally, the components of the State Safety Programme incorporate these eight critical elements in the SSP framework



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2.2 Eight Critical Elements



3.1 Compliance Obligations

- It is the responsibility of aerodrome operators to comply with the requirements of the aerodrome certification regulations
- Aviation safety at aerodromes depends primarily on voluntary adherence to these requirements by the aerodrome operators
- Promoting compliance with the regulations through education, training and counselling is therefore of primary importance
- When efforts for voluntary compliance fail should formal enforcement action be taken
- Enforcement would attract sanction which may be:
 - Administrative; or
 - Legal
- The severity of the violation of the regulations and its impact on aviation safety determine the choice of enforcement action

4.1 Assessment of Compliance

- Compliance of the aerodrome is assessed through:
 - technical inspections of the infrastructure of the aerodrome and its equipment, as related to the requirements associated with the intended operations;
 - review of the aerodrome manual and supporting documentation and acceptance of its relevant safety parts; and
 - on-site verification of the aerodrome operator's procedures, its organization and its SMS based upon the contents of the aerodrome manual.
- Continued oversight
 - Once the State has completed a thorough review of the compliance of an aerodrome with the applicable certification requirements, continued oversight should be established by the State in order to ensure that compliance with regard to certification conditions and ongoing additional requirements is maintained.

3.1 Assessment of Compliance (-cont.)

- **Points to be covered**

- When an aerodrome operator applies for initial certification, the State shall assess the compliance of that aerodrome with the applicable certification requirements
 - If the aerodrome is found to be compliant, a certificate is issued.
- Compliance of the aerodrome infrastructure should comply with the applicable regulations for the operations the aerodrome is intended to serve.
- Operational procedures and their day-to-day application, when applicable.

5.1 Exemptions and Exceptions

- Compliance with the State's regulatory requirements is obligatory. However, on some occasions, there might be instances where full compliance is not feasible.
- Exemptions or exceptions may be granted by the State – must be supported by:
 - appropriate, robust and documented safety risk assessments; or
 - aeronautical studies and imposition of limitations, conditions; or
 - mitigation measures, as appropriate.
- Exemptions and exceptions should not be used to overcome an unpopular requirement or to suggest that compliance with a requirement is optional.
- Exemption and exception mechanisms needs to be the exception, not the norm.

5.1 Exemptions and Exceptions (-cont.)

- Exception or exemption should only be granted on the basis of a robust rationale.

exceptions or exemptions that are not supported by safety risk assessments or aeronautical studies and by thorough reviews by the competent authority is not acceptable.

- A safety risk assessment or aeronautical study developed by the service provider to demonstrate an equivalent level of safety or an alternative acceptable means of compliance
- Review and acceptance of such an assessment or study should be performed by the CAA

5.1 Exemptions and Exceptions (-cont.)

- The granting of exceptions and exemptions should be documented and the outcome should be published as appropriate:
 - On the CAA website;
 - In the AIP; and/or
 - In safety assurance documents
- The publication should include references to relevant limitations, conditions or mitigation measures, as appropriate.

5.1 Exemptions and Exceptions (-cont.)

- Service provider to regularly review any exceptions or exemptions with a view to removing the need for such exceptions or exemptions, where possible, as well as check the validity and robustness of any mitigating measures in place.
- The regulator also needs to assess, before granting an exception or exemption, whether the exception or exemption would lead to differences from SARPs and, if so, ensure that the State notifies ICAO of the differences.

6.1 Enforcement

- Effective and timely actions taken by the industry should result in the effective resolution of safety issues.
- In the absence of a resolution, the CAA should take the appropriate enforcement measures, such as:
 - Imposition of limitations,
 - Suspension or revocation of certificates/licences/approvals, or
 - Imposition of financial penalties.
- CAA should be empowered by the State's primary legislation to take these enforcement measures, which should be commensurate with the safety risks caused by non-compliances or violations.

6.1 Enforcement (-cont.)

- Based on the State's legislation and procedures, the CAA should establish and implement clear, comprehensive and detailed enforcement policies and procedures for use by its staff.
- Such policies and procedures should enable an effective, proportional, gradual and consistent approach to enforcement within the CAA.
- Where the licence/rating/certificate/approval holder does not correct the deficiency within the established deadlines, the CAA should take appropriate and progressive enforcement measures to ensure prompt correction of deficiencies.

6.2 Administrative Action

- Administrative action in the form of a warning letter or correction letter may be considered appropriate when legal action is deemed unnecessary.
- Administrative enforcement action is intended to bring the violation to the attention of the operator, to document corrective action and to require future compliance.
- Such actions are warranted when:
 - the violation does not result in a significant unsafe condition,
 - is not caused by incompetence or lack of required qualifications on the part of the aerodrome operator,
 - is not deliberately caused,
 - the attitude of the operator is constructive and positive towards compliance with the regulations and
 - there is no history of such a violation by the operator.

6.3 Formal Legal Enforcement Action

- Formal legal enforcement action may be warranted to prevent future violations of the regulations.
- Such action may include:
 - the issuance of cease-and-desist orders
 - injunctions
 - the imposition of sanctions (including monetary) after the act to deter violations.
 - revocation, suspension or amendment of the certificate.
- Legal enforcement actions are pursuant to appropriate statutory provisions in the civil aviation legislation of a State.

6.4 Determination of Action

- In determining the appropriate type and measure of sanction to be applied, the factors to be considered may include:
 - the nature of the violation, whether it was deliberate or inadvertently caused;
 - the potential or actual hazard to aviation safety created by the violation;
 - the aerodrome operator's level of responsibility;
 - records of previous violations;
 - the operator's attitude toward the violation, including whether the operator voluntarily disclosed the violation and whether action was taken to correct it;

6.4 Determination of Action (-cont.)

- the impact of the proposed sanction on the violator and its value as a deterrent to other operators in similar situations.
- Certificate-related legal sanctions can have a significant impact on air services and may also have other repercussions.
- Since the public interest and aviation safety are the principal objectives of aerodrome certification regulations, recourse to the imposition of sanctions may be warranted only after all other means of resolving safety violations have failed to ensure compliance.

6.4 Determination of Action (-cont.)

- Suspension of an aerodrome certificate may be considered if:
 - the aerodrome operator's safety management system is found to be inadequate;
 - it is in the interest of operational safety;
 - all other means for timely correction of the unsafe condition or ensuring safe aircraft operations have not yielded the required results;
 - the technical proficiency or qualifications of the aerodrome operator to perform the duties to meet the critical safety requirements in accordance with the regulations are found inadequate;
 - the operator resists or is unwilling to take action to correct or mitigate the condition affecting aviation safety; or
 - the operator wilfully fails to perform an already agreed upon corrective action and suspension of the certificate is the last resort to avoid unsafe operations in the aerodrome movement area.

6.4 Determination of Action (-cont.)

- Revocation of an aerodrome certificate may be warranted if the aerodrome operator:
 - is incapable or unwilling to carry out corrective action or has committed/repeated serious violations;
 - has demonstrated a lack of responsibility, such as deliberate and flagrant acts of non-compliance or falsification of records jeopardizing aviation safety; or
 - has made it convincingly clear that the continued operation of the aerodrome will be detrimental to the public interest.

Scenario

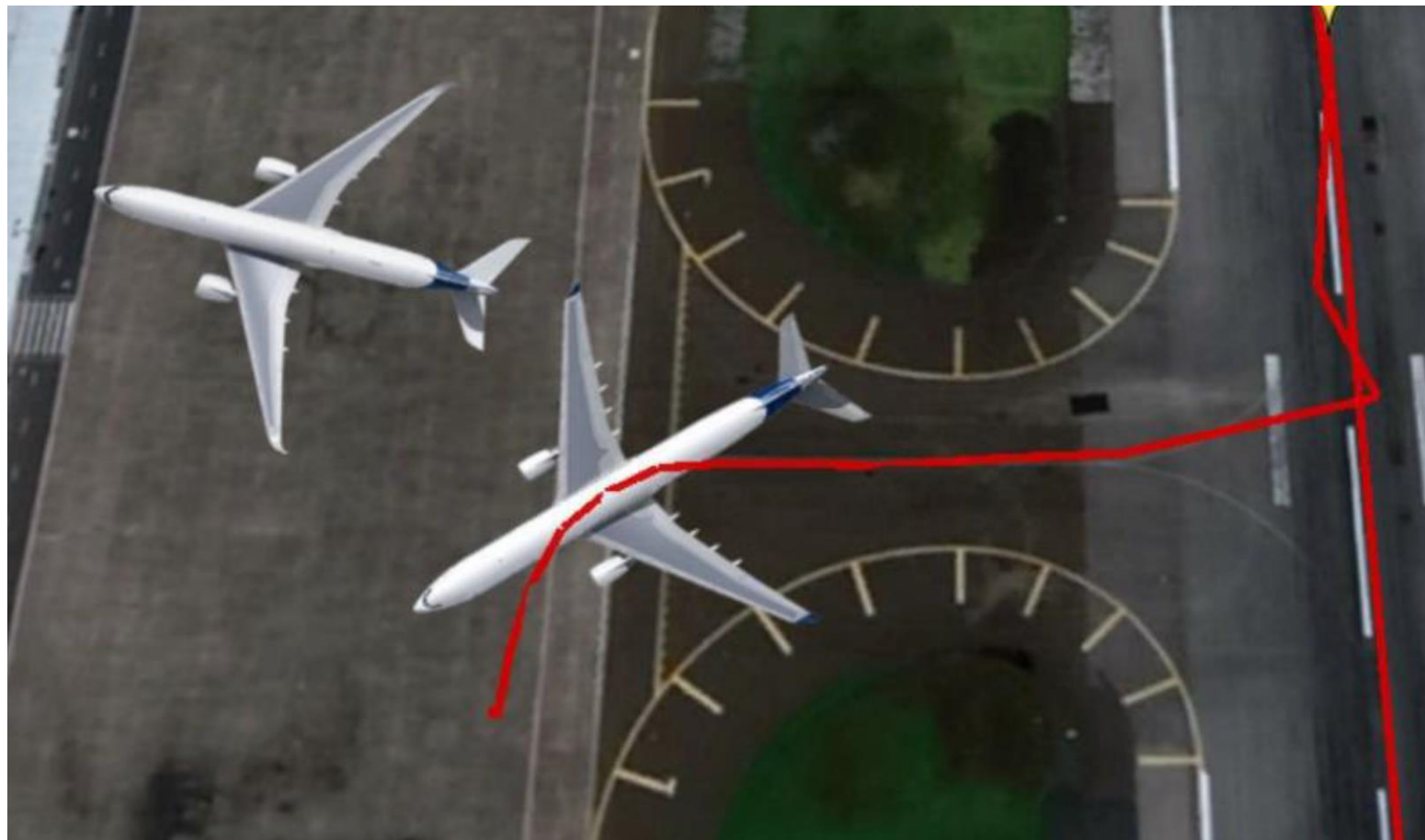
- An Airbus A330 (9M-XXC) landed at Velana International Airport from Kuala Lumpur and was instructed by the control tower to back track and vacate the runway via Taxiway C. From taxiway C the aircraft was guided by a marshaller and a wing walker.
- An Airbus A350 (A7-ALL) was parked on the apron immediately to the right of the A330 entering taxiway C and was preparing to depart to Doha.
- The right hand winglet of Air Asia A330 sustained a 3-inch-long dent while the Left Hand horizontal stabilizer of Qatar Airways A350 was bent and torn at approximately 18 inches from the tip.

Source: <https://aviation-safety.net/wikibase/212990>

Scenario



Scenario



Analysis

- Probable causes:
 - Congested condition of the apron and Marshalling;
 - Weak regulations and enforcement;
- Safety Recommendations Airport Operator:
 - Ensure all regulatory requirements are met in full;
 - Ensure the required number of Marshallers and Wing Walkers are engaged at all times.
 - Consider the limited and confined parking space available for large wide-body aircraft and the prevailing demand and capacity imbalance when allocating aircraft operating slots at Valena International Airport.
 - Review and revise the existing SOPs to reflect and match with the current practices relating to aircraft parking management at Valena International Airport.
 - Run a recurrent training program for all marshallers and wing-walkers after the SOP has been reviewed and revised.

THE END