

Common criteria to consider the implementation or lifting of an operating ban at Union level

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This delegated Regulation amends Regulation (EC) No 2111/2005 providing for the establishment of a Union list of air carriers which are subject to an operating ban in the territories to which the Treaties apply, as regards the common criteria to be taken into account for the purpose of introducing or lifting an operating ban at Union level.

Background

Regulation (EC) No 2111/2005 provides for the establishment of a Union list of air carriers which are subject to an operating ban in the territories to which the Treaties apply. The establishment of the Union list of air carriers is based on common criteria for imposing an operating ban on an air carrier established at Union level. These common criteria are set out in the Annex to Regulation (EC) No 2111/2005.

An evaluation of Regulation (EC) No 2111/2005 carried out by the Commission identified several areas where the implementation of the Regulation could be improved to take account of scientific and technical developments.

On this basis, the Commission initiated a review process with a view to enhancing the implementation of Regulation (EC) No 2111/2005 by updating the current Annex on the ‘Common criteria for consideration of an operating ban for safety reasons at Community level’.

Background

Article 3(2) of Regulation (EC) No 2111/2005 empowers the Commission to adopt delegated acts in accordance with Article 14a amending the Annex in order to modify the common criteria to take account of scientific and technical developments.

The main objective of this initiative is to **replace the current Annex with a new Annex** incorporating a cross-reference to relevant provisions contained in [Commission Regulation 452/2014](#) (the Third Country Operator Regulation), as well as the incorporation of necessary elements for the assessment of the lifting of an existing operating ban if the common criteria, the non-respect of which led to the identification of the safety deficiencies, are no longer met.

(1) In considering whether an air carrier or all the carriers certified in the same state should be totally or partially banned, it shall be assessed whether the air carrier is meeting the relevant safety standards taking into account the following: 1. Verified evidence of serious safety deficiencies on the part of an air carrier:

- reports showing serious safety deficiencies by the carrier;
- lack of ability and/or willingness of an air carrier to address safety deficiencies;
- lack of ability and/or willingness of the authorities with responsibility for regulatory oversight of an air carrier to address safety deficiencies.

(2) In considering whether the Union list is to be updated to **remove an air carrier from the list** because the safety deficiencies have been remedied and there is no other reason, on the basis of common criteria,

to maintain the air carrier on the Union list, the following elements may be considered as providing evidence thereof:

- verifiable evidence that identified deficiencies have been rectified in a sustainable manner, indicating that the air carrier fully complies with and implements the relevant safety standards;
- recertification of the air carriers conducted by the authorities responsible for regulatory oversight of the air carriers in accordance with the ICAO process, with evidence that all activities have been duly documented;
- verifiable evidence of compliance with and effective implementation of relevant safety standards by the authorities responsible for regulatory oversight of the air carrier;
- verifiable capability of the authorities responsible for regulatory oversight of the air carrier to enforce a sound regulatory system;
- verifiable evidence that effective surveillance is conducted by the authorities responsible for regulatory oversight of the air carrier, which allows for the adequate enforcement and respect of the relevant safety standards;
- information gathered through the third country operator process, whether initial or continuous monitoring performed by the Agency;
- information gathered through the ramp inspections.