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THE EUROPEAN UNION**

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NOTE

From:	COREPER
To:	Council
No. Cion prop.:	6364/1/04 REV 1 AVIATION 43 CODEC 218
No. Prev. doc.:	9948/04 AVIATION 133 CODEC 784
Subject:	Amended proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EEC) n° 3922/91 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation (EU-OPS) - Political agreement

Introduction

1. The above proposal for a Regulation aims notably at transposing the non-binding JAR-OPS¹ established by the Joint Aviation Authorities into binding EU (Community) law. Therefore, the proposed Regulation is often referred to as the Regulation on 'EU-OPS'.
2. The original proposal for a Regulation², which was presented in March 2000, has been on hold for a considerable period since spring 2002, because of the linkage established by several delegations to the proposed cabin-crew Directive³, which in its turn was opposed by a blocking minority of delegations.

¹ Joint Aviation Requirements – Operational Standards.

² Doc. 7589/00 AVIATION 13.

³ Inter-institutional file 1997/0212 COD.

3. After the first reading of the European Parliament in January 2001 ⁴, and in the light of the discussions in the instances of the Council, the Commission presented in February 2002 an amended proposal ⁵.
4. The European Parliament, considering that this amended proposal substantially differed from the initial proposal of the Commission, decided to give a second opinion in first reading. In this context, and following the proposal of rapporteur Brian Simpson, it submitted in September 2002 one but substantive amendment related to ‘flight time limitation’ (subpart ‘Q’) ⁶.
5. After the submission of this amendment, the Parliament and the Commission repeatedly asked the Council to resume its work on this file. This was however complicated by the fact that delegations were divided on the way to proceed, in particular in relation to the cabin crew issue.
6. In November 2003, the Italian Presidency achieved to ‘unlock’ this issue by submitting a compromise text that integrated certain provisions of the proposed cabin crew Directive – which was subsequently abandoned – into the draft Regulation on EU-OPS (subpart ‘O’).
7. Taking account of this compromise text, the Commission presented in February 2004 a revised amended proposal for the Regulation on EU-OPS ⁷.

Work under Irish Presidency

8. The Irish Presidency started working on this proposal after the March Transport Council. In doing so, the Presidency concentrated its work on the most difficult parts of the 177 paged proposal, those being the Articles, subpart ‘O’ (cabin crew) and subpart ‘Q’ (flight time limitation).

⁴ Doc. 5184/01 CODEC 16 AVIATION 1.

⁵ Doc. 6090/02 AVIATION 19 CODEC 163.

⁶ Doc. 11645/02 CODEC 1014 AVIATION 135.

⁷ Doc. 6364/1/04 REV 1 AVIATION 43 CODEC 218.

9. As regards the rest of the proposal (comprising subparts A to N as well as subparts P, R and S), it was agreed that work thereon would be continued after the Commission would have reviewed the relevant texts in the light of the latest JAR-OPS (version 6). Therefore, the text that is currently on the table, and on which the Council is invited to reach political agreement, concerns only the Articles, subpart ‘O’ (cabin crew) and subpart ‘Q’ (flight time limitation).
10. In the course of several meetings, the text was intensively discussed, thus enabling to make substantial progress towards a text that could be acceptable to all parties. The text as it results from the meeting of COREPER on Thursday 3 June 2004 is set forth in the Annex; to be noted that all delegations maintain a general scrutiny reserve on this text, and that DK also has a Parliamentary reserve and FR also a linguistic reserve.
11. There is a large amount of consensus for this text, although – as expressed in the footnotes – some Member States still would like to see some changes being made, sometimes by returning to former texts⁸. However, as it emerged at COREPER, making such changes would mean that the Commission or other delegations would remain unsatisfied; the Presidency holds therefore the view that the current text is a well balanced compromise that should eventually be acceptable to all delegations.

⁸ To be noted further that DE and FR expressed at COREPER that they would prefer the Council not to take a decision at this stage but to examine the text in the framework of an ‘orientation debate’.

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Council Regulation 3922/91 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission ⁹,

Having regard to the opinion of the European Economic and Social Committee ¹⁰,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ¹¹,

Whereas:

- (1) Regulation (EEC) No 3922/91 ¹² provides for common safety standards listed in Annex II to that Regulation with respect to the design, manufacturing, operation and maintenance of aircraft, as well as persons and organisations involved in those tasks. Those harmonised safety standards apply to all aircraft operated by Community operators whether registered in a Member State or in a third country.

⁹ OJ C 311 E, 31.10.2000, p. 13.

¹⁰ OJ C 14, 16.1.01, p. 33.

¹¹ OJ C

¹² OJ L 373, 31.12.1991, p. 4, as last amended by Commission Regulation (EC) No 2871/2000 (OJ L 333, 29.12.2000, p. 47).

- (2) Article 4(1) of that Regulation requires the adoption of common technical requirements and administrative procedures on the basis of Article 80(2) of the Treaty for the fields not listed in Annex II to the Regulation.
- (3) Article 9 of Regulation (EEC) No 2407/92 of 23 July 1992 on licensing of air carriers¹³ provides that the granting and validity at any time of an operating licence is to be dependent upon the possession of a valid Air Operator Certificate specifying the activities covered by the operating licence and complying with the criteria established in the relevant Council Regulation. It is now appropriate to establish such criteria.
- (4) The Joint Aviation Authorities (JAA) have adopted a set of harmonised rules for commercial air transportation by aeroplane, called JAR-OPS 1. JAR-OPS 1 (Amendment 2 of 1 July 2000) provides for the level of safety required for this type of operation and therefore constitutes a good basis for Community law, covering the operation of aeroplanes. Changes had to be made to this text in order to bring it into conformity with Community legislation and policies, account being taken of its numerous implications in the economic and social field. The revised text differs from JAR-OPS 1 and cannot therefore be introduced into Community law by a simple reference to its title in Annex II to Regulation (EEC) No 3922/91. A new Annex III containing the necessary requirements should therefore be added to that Regulation.
- (5) Air operators should be given sufficient flexibility to address unforeseen urgent operational circumstances, or operational needs of a limited duration, or to demonstrate that they can achieve an equivalent level of safety by means other than the application of the common rules in Annex III. Member States should therefore be empowered to grant exemptions or introduce variations to the common technical requirements and administrative procedures. Such exemptions and variations could, in certain cases, undermine the common safety requirements or create distortions in the market, and their scope should therefore be strictly limited and their granting subject to the appropriate Community control. In that respect, the Commission should be empowered to take safeguard measures.

¹³ OJ L 240, 24.8.1992, p. 1.

- (6) The provisions of Regulation (EEC) No 3922/91 concerning the committee procedure should be adapted to take account of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ¹⁴.
- (7) The provisions of Regulation (EEC) No 3922/91 relating to the scope of application and references to its Annex II should be adapted to take account of Regulation (EC) n° 1592/2002 of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency ¹⁵ as well as its implementation rules established by Commission Regulation (EC) No 1702/2003 of 24 September 2003 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations ¹⁶ and Commission Regulation (EC) No 2042/2003 of 20 November 2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks ¹⁷.
- (8) The present regulation, in particular Subpart Q of Annex III, takes into account the limits and minimum standards already established in Council Directive 2000/79/EC of 27 November 2000 concerning the European Agreement on the Organisation of Working Time of Mobile Workers in Civil Aviation ¹⁸. The limits set out in this Directive should always be respected for mobile workers in civil aviation. In no way can the provisions of Subpart Q of Annex III and other provisions approved according to the present Regulation be broader and thereby provide less protection to these workers.
- (9) Without prejudice to Articles 3(1), 6 and 7, Member States should be able to continue to apply national provisions on flight and duty time limitations and rest schemes (FTL) for crew members, provided that the limits established by those national provisions are below the maximum limits and above the minimum limits laid down in Subpart Q.

¹⁴ OJ L 184, 17.7.1999, p. 23.

¹⁵ OJ L 240, 7.9.2002, p. 1.

¹⁶ OJ L 243, 27.9.2003, p. 7.

¹⁷ OJ L 315, 28.11.2003, p. 1.

¹⁸ OJ L 302, 1.12.2000, p. 57–60.

- (10) Without prejudice to Article 8(4), Member States should be able to continue to apply national provisions on flight and duty time limitations and rest schemes (FTL) for crew members on areas which are presently not covered by Subpart Q, e.g. the maximum daily flight duty period for single pilot operations and emergency medical operations, provisions regarding the reduction of flight duty periods or the augmentation of rest periods when crossing multiple time zones.
- (11) This Regulation should not affect the application of provisions on inspections as laid down in the 1944 Chicago Convention on International Civil Aviation and in Directive (EC) 2004/36/EC of the European Parliament and of the Council on safety of third-country aircraft using Community airports ¹⁹.
- (12) **Arrangements for greater cooperation over the use of Gibraltar airport were agreed in London on 2 December 1987 by the Kingdom of Spain and the United Kingdom in a joint declaration by the Ministers of Foreign Affairs of the two countries. Such arrangements have yet to enter into operation.**
- (13) Regulation (EEC) No 3922/91 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 3922/91 is amended as follows:

- (1) Article 1(1) is replaced by the following:

“1. This Regulation shall apply to the harmonisation of technical requirements and administrative procedures in the field of civil aviation safety, related to the operation and maintenance of aircraft, and persons and organisations involved in such operations.”

¹⁹ OJ L 143, 30.04.2004, p. 76.

(2) The following paragraphs are inserted in Article 1:

“3. The application of this Regulation to the airport of Gibraltar is understood to be without prejudice to the respective legal positions of the Kingdom of Spain and the United Kingdom with regard to the dispute over sovereignty over the territory in which the airport is situated.

4. Application of this Regulation to Gibraltar airport shall be suspended until the arrangements included in the Joint Declaration made by the Foreign Ministers of the Kingdom of Spain and the United Kingdom on 2 December 1987 enter into operation. The Governments of Spain and the United Kingdom will inform the Council of such date of entry into operation.”

(3) The following definition is inserted in Article 2:

“(i) ‘The Authority’ in Annex III means the competent authority which has granted the air operator's certificate (AOC).”

(4) Article 3 is replaced by the following:

“Article 3

1. Without prejudice to Article 11, the common technical requirements and administrative procedures applicable in the Community with regard to commercial transportation by aeroplane shall be those specified in Annex III.

2. As for provisions of Annex III Subpart M, they shall apply until 28 September 2005. From this date, references made to this Subpart or any of its provisions shall refer to Part-M of Commission Regulation (EC) n° 2042/2003 or its relevant provisions.”

(5) Article 4(1) is replaced by the following:

“1. With regard to the fields not covered by Annex III, common technical requirements and administrative procedures shall be adopted on the basis of Article 80(2) of the Treaty. The Commission shall, where appropriate and as soon as possible, submit suitable proposals in these fields.”

(6) Article 6 is replaced by the following:

“Article 6

Aircraft operated under an authorisation granted by a Member State in compliance with the common technical requirements and administrative procedures may be operated under the same conditions in the other Member States, without further technical requirements or evaluation by those other Member States.”

(7) Article 7 is replaced by the following:

“Article 7

Member States shall recognise the certification granted pursuant to this Regulation by another Member State or by a body acting on its behalf, to bodies or persons placed under its jurisdiction and under its authority, who are concerned with the maintenance of products and the operation of aircraft.”

(8) Article 8 is replaced by the following:

“Article 8²⁰

1. The provisions in Articles 3 to 7 shall not prevent a Member State from reacting immediately to a safety problem which involves a product, person or organisation subject to the provisions of this Regulation.

If the safety problem results from an inadequate level of safety provided by the common technical requirements and administrative procedures, or shortcomings in the common technical requirements and administrative procedures, the Member State shall immediately inform the Commission and the other Member States of the measures taken and the reasons therefore.

²⁰ DK and DE have a scrutiny reserve on these provisions, DE explaining that the provisions seem not only to provide flexibility, but might also create uncertainty.

The Commission shall decide, in accordance with the procedure referred to in Article 12(2), whether an inadequate level of safety or a shortcoming in the common technical requirements and administrative procedures justifies the continuing application of the measures adopted pursuant to paragraph 1 of this Article. In such case, it shall also take the necessary steps to amend the common technical requirements and administrative procedures concerned in accordance with Article 4 or Article 11. If the Member State's measures are found not to be justified, the Member State shall revoke the measures in question.

2. Member States may grant exemptions from the technical requirements and administrative procedures specified by this Regulation in the case of unforeseen urgent operational circumstances or operational needs of a limited duration.

The Commission and the other Member States shall be informed of the exemptions granted as soon as these are of a repetitive nature, or if they have been granted for a period of time greater than two months.

When the Commission and the other Member States are informed of exemptions granted by a Member State in accordance with paragraph 3 of this Article, the Commission shall examine whether the exemptions comply with the safety objectives of this Regulation or any other rule of Community law.

If it finds that the exemptions granted do not comply with the safety objectives of this Regulation or any other rule of Community law the Commission shall decide on safeguard measures in accordance with the procedure referred to in Article 12a.

In such a case the Member State shall revoke the exemption.

3. In cases where a safety level equivalent to that attained by the application of the common technical requirements and administrative procedures included in Annex III to this Regulation can be achieved by other means, Member States may, without discrimination on grounds of nationality of the applicants and having regard to the need not to distort competition, grant approval derogating from these provisions.

In such cases the Member State concerned shall notify the Commission of its intention to grant such approval, the reasons therefor and the conditions foreseen to ensure an equivalent level of safety is achieved.

The Commission shall, within a period of 3 months following the notification by a Member State, initiate the procedure referred to in Article 12(2) in order to decide whether the approval proposed can be granted.

In such a case the Commission shall notify its decision to all Member States which shall all be entitled to apply that measure. The relevant provisions of Annex III may also be amended to reflect such a measure.

The provisions of Articles 6 and 7 shall apply to the measure in question.

4. Member States may adopt or maintain provisions relating to OPS 1.1110 point 1.3.1, OPS 1.1115 point 1.1 and to OPS 1.1125 points 1.4 and 2.1 of Subpart Q in Annex III to this Regulation.

The Member State shall immediately inform the Commission of the additional provisions it intends to introduce or maintain and the reasons therefore.

The Commission shall decide, in accordance with the procedure referred to in Article 12(2), whether the additional provisions comply with the safety objectives of this Regulation and other rules of Community law, and if the additional provisions may continue to be applied.

In such a case the Commission shall notify its decision to all Member States which shall all be entitled to apply that measure. The relevant provisions of Annex III may also be amended to reflect such a measure.

The provisions of Articles 6 and 7 shall apply to the measure in question.”

(9) The following Article 8a is inserted:

“Article 8a

1. Within a period of three years following the entry into force of the present regulation, the European Aviation Safety Agency will proceed to a scientific and medical evaluation of the provisions of Annex III, Subpart Q.
2. Without prejudice to Article 7 of Regulation 1592/2002/EC, the European Aviation Safety Agency shall assist the Commission in the preparation of proposals for the modification of the applicable technical provisions of Annex III, Subpart Q.”

(10) Article 11(1) is replaced by the following:

- “1. The Commission, following the procedure referred to in Article 12(2), shall make the amendments necessitated by scientific and technical progress to the common technical requirements and administrative procedures listed in Annex III.”

(11) In Article 12, paragraphs 2 and 3 are replaced by the following:

- “2. Where reference is made to this paragraph, the regulatory procedure laid down in Article 5 of Council Decision 1999/468/EC* shall apply, in compliance with Articles 7 and 8 thereof.
3. The period provided for in Article 5(6) of Decision 1999/468/EC shall be three months.

* OJ L 184, 17.7.1999, p. 23.”

(12) The following Article 12a is inserted:

“Article 12a

Where reference is made to this Article, the safeguard procedure laid down in Article 6 of Decision 1999/468/EC shall apply.

Before adopting its decision, the Commission shall consult the committee established by Article 12(1).

The period provided for in Article 6(b) of Decision 1999/468/EC shall be three months.

When a Commission decision is referred to the Council by a Member State, the Council, acting by a qualified majority, may take a different decision within a period of three months.”

(13) The text in the Annex to this Regulation is added as Annex III.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Without prejudice to the provisions of Article 11 of Regulation (EEC) No 3922/91 as amended by this Regulation, Annex III shall apply with effect from **18** months after entry into force of this Regulation ²¹.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

²¹ FR requested a three year implementation period as regards domestic routes, and underlined in this context the specific function of such routes for the internal organisation in France (*aménagement du territoire*); FR also referred to Article 16 of Council Regulation 2407/92. According to FR, current practices on domestic routes – which often amount to only one morning flight and one evening flight to and from Paris – are not compatible with the requirements as set forth in subpart ‘Q’. In order to allow practices on such routes to be adapted to the new standards, a longer implementation period would be needed. The Presidency observed, on the other hand, that it would still take considerable time – probably at least 1 ½ year – before the whole Regulation could be adopted and published in the Official Journal (notably because of translation requirements and because of the application of the co-decision procedure) and that the 18 months period would only start to run 20 days after such publication. In total, this would leave sufficient time to France to reorganise its practices on domestic routes. Further, it was noted that this Member State, like other Member States, could, if still necessary, apply for an exemption under Article 8(4).

ANNEX III ²²

Common technical requirements and administrative procedures applicable to commercial transportation by aircraft

OPS 1: Commercial Air Transportation (Aeroplanes)

Contents (General layout)

SUBPART A	- Applicability
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SUBPART M	- Aeroplane Maintenance
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SUBPART P	- Manuals, Logs and Records
SUBPART Q	- Flight and duty time limitations and rest requirements
SUBPART R	- Transport of Dangerous Goods by Air
SUBPART S	- Security

²² DE stated that it has a reservation on several points in the text of subparts A to N and/or subparts P, R and S, such as in OPS 1.085(f), OPS 1.165, OPS 1.245(a), OPS 1.320(b)(2), OPS 1.680, OPS 1.730(a)(3). DK has a suggestion in relation to OPS 1.165 (see doc. 9790/04) and UK has a suggestion in relation to OPS 1.125 (see doc. 9732/04).

CION promised that it would take account of the comments and suggestions of delegations relating to these other subparts when reviewing the text thereof in the light of JAR OPS 6, and presented a draft statement in this respect (see Annex 1 to this note).

SUBPART O ²³

CABIN CREW

OPS 1.988

Applicability

- (a) For the purpose of this Regulation, ‘cabin crew member’ ²⁴ means any crew member, other than a member of the flight crew, assigned by the operator or the commander to duties in the passenger compartment of an aeroplane, with the exception of
- medical staff;
 - security staff;
 - child minders;
 - escorts;
 - technical staff;
 - entertainers;
 - interpreters.

(b) An operator shall ensure that all cabin crew members comply with the requirements of this subpart and any other safety requirements applicable to cabin crew.

OPS 1.989

Identification

No operator shall make a person identifiable as member of the cabin crew on board of any of his aircraft unless the requirements set out in this subpart and in any other safety requirements applicable to cabin crew, have been fulfilled.

²³ AT contested that this subpart and subpart Q on flight time limitation go beyond a mere (procedural) transposition of the relevant texts of JAR OPS; IT noted that this is understandable, since subpart ‘O’ contains text from the former cabin crew Directive, whereas subpart ‘Q’ is based on new text suggested by Parliament.

²⁴ This definition was agreed at the Transport Council on 16 October 2001, see docs. 12659/01, 12896/01 and 13385/01 (the wording was slightly modified in order to enhance readability).
The DE and FR delegations would however prefer to put the definition as used within the context of ICAO. FR observed in this context that the list of ‘excepted persons’ that should not be considered as ‘cabin crew’ could soon be outdated. IT replied in this respect that the list could easily be updated under application of Article 11 involving the Regulatory Committee.

Number and composition of Cabin Crew

(a) An operator shall not operate an aeroplane with a maximum approved passenger seating configuration of more than 19, when carrying one or more passengers, unless at least one cabin crew member is included in the crew for the purpose of performing duties, specified in the Operations Manual, in the interests of the safety of passengers.

(b) When complying with subparagraph (a) above, an operator shall ensure that the minimum number of cabin crew is the greater of:

(1) One cabin crew member for every 50, or fraction of 50, passenger seats installed on the same deck of the aeroplane; or

(2) The number of cabin crew who actively participated in the aeroplane cabin during the relevant emergency evacuation demonstration, or who were assumed to have taken part in the relevant analysis, except that, if the maximum approved passenger seating configuration is less than the number evacuated during the demonstration by at least 50 seats, the number of cabin crew may be reduced by 1 for every whole multiple of 50 seats by which the maximum approved passenger seating configuration falls below the certificated maximum capacity.

(c) The Authority may under exceptional circumstances require an operator to include in the crew additional cabin crew members.

(d) In unforeseen circumstances the required minimum number of cabin crew may be reduced provided that:

(1) The number of passengers has been reduced in accordance with procedures specified in the Operations Manual; and

(2) A report is submitted to the Authority after completion of the flight.

(e) An operator shall ensure that when engaging the services of cabin crew members who are self-employed and/or working on a freelance or part-time basis, the requirements of subpart O are complied with. In this respect, particular attention must be paid to the total number of aircraft types or variants that a cabin crew member may fly for the purposes of commercial air transportation, which must not exceed the requirements prescribed in OPS 1.1030, including when his services are engaged by another operator.

OPS 1.995

Minimum requirements

An operator shall ensure that each cabin crew member:

(a) is at least 18 years of age.

(b) has passed a medical examination or assessment at regular intervals so as to check the medical fitness to discharge his/her duties.²⁵

(c) has successfully completed initial training in accordance with OPS 1.1005 and holds an attestation of initial safety training²⁶.

²⁵ IT, supported by DK, FR, GR and SE, suggested the following text: ‘has passed a medical examination or assessment so as to check he/she, meeting requirements equivalent to those established in ICAO Annex 1 for private pilots, is mentally and physically fit to discharge his/her duties.’ FI underlined that it could not accept such reference to private pilot requirements.

AT would like to delete this point altogether, since it would be unnecessary in the present context.

BE, CZ, DE, IE, HU, NL, SK, FI and UK prefer to leave the text as it stands. CION took the same point of view, underlining that the current text leaves Member States the possibility to organise the medical examination on assessment along their own preferences.

²⁶ ES and IT are not satisfied with the replacement of the words ‘attestation of professional competence’ by ‘attestation of initial safety training’. CION, FR and GR are not happy either, but could accept the current wording in the framework of an overall compromise. NL and UK explicitly support the current wording.

(d) has completed the appropriate conversion or differences training covering at least the subjects listed in OPS 1.1010.

(e) shall undergo recurrent training in line with the provisions of OPS 1.1015.

(f) is competent to perform his duties in accordance with procedures specified in the Operations Manual.

OPS 1.998

Identification of cabin crew

An operator shall ensure that all cabin crew members wear the operator's uniform and are clearly identifiable to the passengers.

OPS 1.1000

Senior cabin crew members

(a) An operator shall nominate a senior cabin crew member whenever more than one cabin crew member is assigned.

(b) The senior cabin crew member shall have responsibility to the commander for the conduct and coordination of cabin safety and emergency procedure(s) specified in the Operations Manual.

(c) Where required by OPS 1.990 to carry more than one cabin crew member, an operator shall not appoint a person to the post of senior cabin crew member unless that person has at least one year's experience as an operating cabin crew member and has completed an appropriate course covering the following as a minimum:

(1) Pre-flight briefing:

(i) operating as a crew,

(ii) allocation of cabin crew stations and responsibilities,

(iii) consideration of the particular flight, including aeroplane type, equipment, area and type of operation, and categories of passengers with particular attention to disabled, infants and stretcher cases, and

- (2) Co-operation within the crew:
 - (i) discipline, responsibilities and chain of command,
 - (ii) importance of co-ordination and communication,
 - (iii) pilot incapacitation, and
- (3) Review of operator's requirements and legal requirements:
 - (i) passenger safety briefing, safety cards,
 - (ii) securing of galleys,
 - (iii) stowage of cabin baggage,
 - (iv) electronic equipment,
 - (v) procedures when fuelling with passengers on board,
 - (vi) turbulence,
 - (vii) documentation, and
- (4) Human factors and Crew Resource Management, and
- (5) Accident and incident reporting, and
- (6) Flight and duty time limitations and rest requirements.

(d) An operator shall establish procedures to select the next most suitably qualified cabin crew member to operate as senior cabin crew member in the event of the nominated senior cabin crew member becoming unable to operate. Such procedures must be acceptable to the Authority and take account of a cabin crew member's operational experience.

OPS 1.1002

Single cabin crew member operations

- (a) An operator shall ensure that each new entrant cabin crew member who does not have previous comparable experience completes the following, before operating as a single cabin crew member:
- (1) Training in addition to that required by appendix 1 to OPS 1.1010, which shall include particular emphasis on the following to reflect single cabin crew member operations:

- (i) Responsibility to the commander for the conduct of cabin safety and emergency procedures specified in the Operations Manual;
 - (ii) Importance of co-ordination and communication with the flight crew, management of unruly or disruptive passengers;
 - (iii) Review of operator's requirements and legal requirements;
 - (iv) Documentation;
 - (v) Accident and incident reporting;
 - (vi) Flight and duty time limitations, and
- (2) Familiarisation flying of at least 20 hours and 15 sectors.
- (b) An operator shall ensure, before a cabin crew member is assigned to operate as a single cabin crew member, that this cabin crew member is competent to perform his/her duties in accordance with the procedures specified in the Operations Manual.

OPS 1.1005

Initial Safety Training

(See Appendix 1 to OPS 1.1005)

(a) An operator shall ensure that each cabin crew member has, before undertaking conversion training, successfully completed initial safety training covering at least the subjects listed in Appendix 1 to OPS 1.1005.

(b) Training courses shall, at the discretion of the Authority, and subject to its approval, be provided:

either

1) by the ²⁷ operator

- directly, or

- indirectly through a training organisation acting on behalf of the operator;

or

²⁷ FR, supported by DK, would like to insert – here and in paragraphs (d) and (e) – ‘approved’ before operator, in order to indicate that the operator must be qualified to provide training to its cabin crew. CION, supported by CZ, DE, NL, PL, SK, FI and UK, observed that this would not be necessary, because of the reference to the ‘approval of the Authority’ in the ‘chapeau’ of this paragraph, and since, as AOC holders, operators are already subject to a comprehensive set of rules; indicating ‘approved’ before ‘operator’ could create confusion.

2) by an approved training organisation.

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(c) The programme and structure of the initial training courses shall be in accordance with the applicable requirements and shall be subject to prior approval of the Authority.

(d) At the discretion of the Authority, the Authority, the operator or the approved training organisation providing the training course, shall deliver an attestation of initial safety training to a cabin crew member after successful completion of an initial training programme.

(e) Where the Authority authorises an operator or an approved training organisation to deliver the attestation of initial safety training to a cabin crew member, such attestation shall clearly state a reference to the approval of the Authority.

OPS 1.1010

Conversion and differences training

(See Appendix 1 to OPS 1.1010)

(a) An operator shall ensure that each cabin crew member has completed appropriate conversion and differences training, in accordance with the applicable rules and at least the subjects listed in Appendix 1 to OPS 1.1010. The training course shall be specified in the Operations Manual. The programme and structure of the training course shall be subject to prior approval by the Authority.

²⁸ DE and AT have a reservation, since they feel that operators should in all cases have the responsibility for the training of their cabin crew and that therefore it should not be possible for approved training organisations to provide training independent from operators. Other delegations, however, pointed out that the words 'at the discretion of the Authority' in the 'chapeau' give Member States the freedom to apply their own preferences in this respect.

(1) *Conversion training*: A conversion course must be completed before being:

(i) First assigned by the operator to operate as a cabin crew member; or

(ii) Assigned to operate another aeroplane type; and

(2) *Differences training*: Differences training must be completed before operating:

(i) On a variant of an aeroplane type currently operated; or

(ii) With different safety equipment, safety equipment location, or normal and emergency safety procedures on currently operated aeroplane types or variants.

(b) An operator shall determine the content of the conversion and differences training taking account of the cabin crew member's previous training as recorded in the cabin crew member's training records required by OPS 1.1035.

(c) Without prejudice to OPS 1.995 (c), related elements of both initial training (EU OPS 1.1005) and conversion and differences training (EU OPS 1.1010) may be combined.

(d) An operator shall ensure that:

(1) Conversion training is conducted in a structured and realistic manner, in accordance with Appendix 1 to OPS 1.1010;

(2) Differences training is conducted in a structured manner; and

(3) Conversion training, and if necessary differences training, includes the use of all safety equipment and all normal and emergency procedures applicable to the type or variant of aeroplane and involves training and practice on either a representative training device or on the actual aeroplane.

OPS 1.1012

Familiarisation flights

An operator shall ensure that, following completion of conversion training, each cabin crew member completes familiarisation prior to operating as one of the minimum number of cabin crew required by OPS 1.990.

OPS 1.1015

Recurrent training

(See Appendix 1 to OPS 1.1015)

(a) An operator shall ensure that each cabin crew member undergoes recurrent training, covering the actions assigned to each crew member in normal and emergency procedures and drills relevant to the type(s) and/or variant(s) of aeroplane on which they operate in accordance with Appendix 1 to OPS 1.1015.

(b) An operator shall ensure that the recurrent training programme approved by the Authority includes theoretical and practical instruction, together with individual practice, as prescribed in Appendix 1 to OPS 1.1015.

(c) The period of validity of recurrent training and the associated checking required by OPS 1.1025 shall be 12 calendar months in addition to the remainder of the month of issue. If issued within the final 3 calendar months of validity of a previous check, the period of validity shall extend from the date of issue until 12 calendar months from the expiry date of that previous check.

OPS 1.1020

Refresher Training

(See Appendix 1 to OPS 1.1020)

(a) An operator shall ensure that each cabin crew member who has been absent from all flying duties for more than 6 months and still remains within the period of the previous check required by OPS 1.1025(b)(3) completes refresher training specified in the Operations Manual as prescribed in Appendix 1 to OPS 1.1020.

(b) An operator shall ensure that when a cabin crew member has not been absent from all flying duties, but has not, during the preceding 6 months, undertaken duties on a type of aeroplane as a cabin crew member required by OPS 1.990 (b), before undertaking such duties on that type, the cabin crew member either:

- (1) Completes refresher training on the type; or
- (2) Operates two re-familiarisation sectors during commercial operations on the type.

OPS 1.1025

Checking

(a) An operator shall ensure that during or following completion of the training required by OPS 1.1005, 1.1010 and 1.1015, each cabin crew member undergoes a check covering the training received in order to verify his proficiency in carrying out normal and emergency safety duties. The operator shall ensure that the personnel performing these checks shall be suitably qualified.

(b) An operator shall ensure that each cabin crew member undergoes checks as follows:

- (1) *Initial training.* The items listed in Appendix 1 to OPS 1.1005;
- (2) *Conversion and differences training.* The items listed in Appendix 1 to OPS 1.1010;
- (3) *Recurrent training.* The items listed in Appendix 1 to OPS 1.1015 as appropriate; and
- (4) *Refresher training.* The items listed in Appendix 1 to OPS 1.020.

**Operation on more than one type or
variant**

(a) An operator shall ensure that each cabin crew member does not operate on more than three aeroplane types except that, with the approval of the Authority, the cabin crew member may operate on four aeroplane types, provided that safety equipment and emergency procedures for at least two of the types are similar.

(b) For the purposes of sub-paragraph (a) above, variants of an aeroplane type are considered to be different types if they are not similar in all the following aspects:

- (1) Emergency exit operation;
- (2) Location and type of safety equipment; and
- (3) Emergency procedures.

Training records

An operator shall:

- (1) Maintain records of all training and checking required by OPS 1.1005, 1.1010, 1.1015, 1.1020 and 1.1025; and
- (2) Keep a copy of the attestation of initial safety training; and
- (3) Keep the training records and records of medical examinations or assessments up to date, showing in the case of the training records the dates and contents of the conversion, differences and recurrent training received; and
- (4) Make the records of all initial, conversion and recurrent training and checking available, on request, to the cabin crew member concerned.

Initial Safety Training

The subjects that must be covered as a minimum by a course of initial safety training referred to in OPS 1.1005 are:

(a) Fire and smoke training:

1. emphasis on the responsibility of cabin crew to deal promptly with emergencies involving fire and smoke and, in particular, emphasis on the importance of identifying the actual source of the fire;
2. the importance of informing the flight crew immediately, as well as the specific actions necessary for coordination and assistance, when fire or smoke is discovered;
3. the necessity for frequent checking of potential fire-risk areas including toilets, and the associated smoke detectors;
4. the classification of fires and the appropriate type of extinguishing agents and procedures for particular fire situations, the techniques of application of extinguishing agents, the consequences of misapplication, and of use in a confined space; and
5. the general procedures of ground-based emergency services at aerodromes.

(b) Water survival training.

The actual donning and use of personal flotation equipment in water. Before first operating on an aeroplane fitted with life-rafts or other similar equipment, training must be given on the use of this equipment, as well as actual practice in water.

(c) Survival training.

Survival training shall be appropriate to the areas of operation (e.g. polar, desert, jungle or sea).

(d) Medical aspects and first aid:

1. instruction on first aid and the use of first-aid kits;
2. first-aid associated with survival training and appropriate hygiene; and
3. the physiological effects of flying and with particular emphasis on hypoxia.

(e) Passenger handling:

1. advice on the recognition and management of passengers who are, or become, intoxicated with alcohol or are under the influence of drugs or are aggressive;

2. methods used to motivate passengers and the crowd control necessary to expedite an aeroplane evacuation;
3. regulations covering the safe stowage of cabin baggage (including cabin service items) and the risk of it becoming a hazard to occupants of the cabin or otherwise obstruction or damaging emergency equipment or aeroplane exits;
4. the importance of correct seat allocation with reference to aeroplane mass and balance. Particular emphasis shall also be given on the seating of disabled passengers, and the necessity of seating able-bodied passengers adjacent to unsupervised exits;
5. duties to be undertaken in the event of encountering turbulence, including securing the cabin;
6. precautions to be taken when live animals are carried in the cabin;
7. dangerous goods training, including provisions under Subpart R;
8. security procedures, including provisions under Subpart S.

(f) Communication.

During training, emphasis shall be placed on the importance of effective communication between cabin crew and flight crew including technique, common language and terminology.

(g) Discipline and responsibilities:

1. the importance of cabin crew performing their duties in accordance with the Operations Manual;
2. continuing competence and fitness to operate as a cabin crew member with special regard to flight and duty time limitations and rest requirements;
3. an awareness of the aviation regulations relating to cabin crew and the role of the Civil Aviation Authority;
4. general knowledge of relevant aviation terminology, theory of flight, passenger distribution, meteorology and areas of operation;
5. pre-flight briefing of the cabin crew and the provision of necessary safety information with regards to their specific duties;

6. the importance of ensuring that relevant documents and manuals are kept up-to-date with amendments provided by the operator;

7. the importance of identifying when cabin crew members have the authority and responsibility to initiate an evacuation and other emergency procedures; and

8. the importance of safety duties and responsibilities and the need to respond promptly and effectively to emergency situations.

(h) Crew resource management.

Appendix 1 to OPS 1.1010

Conversion and differences training

(a) General:

An operator shall ensure that:

1. conversion and differences training is conducted by suitably qualified personnel; and

2. during conversion and differences training, training is given on the location, removal and use of all safety and survival equipment carried on the aeroplane, as well as all normal and emergency procedures related to the aeroplane type, variant and configuration to be operated.

(b) Fire and smoke training:

An operator shall ensure that either:

1. Each cabin crew member is given realistic and practical training in the use of all fire-fighting equipment including protective clothing representative of that carried in the aeroplane. This training must include:

(i) extinguishing a fire characteristic of an aeroplane interior fire except that, in the case of Halon extinguishers, an alternative extinguishing agent may be used; and

(ii) the donning and use of protective breathing equipment in an enclosed, simulated smoke-filled environment; or

2. Each cabin crew member fulfils the recurrent training requirements of Appendix 1 to OPS 1.1015 subparagraph (c)(3).

(c) Operations of doors and exits:

An operator shall ensure that:

1. Each cabin crew member operates and actually opens all normal and emergency exits for passenger evacuation in an aeroplane or representative training device; and
2. the operation of all other exits, such as flight deck windows is demonstrated.

(d) Evacuation slide training:

An operator shall ensure that:

1. Each cabin crew member descends an evacuation slide from a height representative of the aeroplane's main deck sill height;

2. the slide is fitted to an aeroplane or a representative training device; and

3. a further descent is made when the cabin crew member qualifies on an aeroplane type in which the main deck exit sill height differs significantly from any aeroplane type previously operated.

(e) Evacuation procedures and other emergency situations:

An operator shall ensure that:

1. emergency evacuation training includes the recognition of planned or unplanned evacuations on land or water. This training must include recognition of when exits are unusable or when evacuation equipment is unserviceable; and
2. each cabin crew member is trained to deal with the following:

(i) an in-flight fire, with particular emphasis on identifying the actual source of the fire;

- (ii) severe air turbulence;
- (iii) sudden decompression, including the donning of portable oxygen equipment by each cabin crew member; and
- (iv) other in-flight emergencies.

(f) Crowd control.

An operator shall ensure that training is provided on the practical aspects of crowd control in various emergency situations, as applicable to the aeroplane type.

(g) Pilot incapacitation.

An operator shall ensure that, unless the minimum flight crew is more than two, each cabin crew member is trained to assist if a pilot becomes incapacitated. This training shall include a demonstration of:

1. the pilot's seat mechanism;
2. fastening and unfastening the pilot's seat harness;
3. use of the pilot's oxygen equipment; and
4. use of pilot's checklists.

(h) Safety equipment.

An operator shall ensure that each cabin crew member is given realistic training on, and demonstration of, the location and use of safety equipment including the following:

1. slides, and where non-self-supporting slides are carried, the use of any associated ropes;
2. life-rafts and slide-raft, including the equipment attached to, and/or carried in, the raft;
3. lifejackets, infant lifejackets and flotation cots;
4. dropout oxygen system;
5. first-aid oxygen;
6. fire extinguishers;
7. fire axe or crow-bar;
8. emergency lights including torches;
9. communication equipment, including megaphones;

10. survival packs, including their contents;
11. pyrotechnics (actual or representative devices);
12. first-aid kits, their contents and emergency medical equipment; and
13. other cabin safety equipment or systems where applicable.

(i) Passenger briefing/safety demonstrations.

An operator shall ensure that training is given in the preparation of passengers for normal and emergency situations in accordance with OPS 1.285.

Appendix 1 to OPS 1.1015

Recurrent training

- (a) An operator shall ensure that recurrent training is conducted by suitably qualified persons.
- (b) An operator shall ensure that every 12 calendar months the programme of practical training includes the following:

1. emergency procedures including pilot incapacitation;
2. evacuation procedures including crowd control techniques;
3. touch-drills by each cabin crew member for opening normal and emergency exits for passenger evacuation;
4. the location and handling of emergency equipment, including oxygen systems, and the donning by each cabin crew member of lifejackets, portable oxygen and protective breathing equipment (PBE);
5. first aid and the contents of the first-aid kits;
6. stowage of articles in the cabin;
7. dangerous goods procedures as prescribed in Subpart R;
8. security procedures;
9. incident and accident review; and
10. crew resource management.

(c) An operator shall ensure that, every three years, recurrent training also includes:

1. the operation and actual opening of all normal and emergency exits for passenger evacuation in an aircraft or representative training device;
2. demonstration of the operation of all other exits;
3. realistic and practical training in the use of all fire-fighting equipment, including protective clothing, representative of that carried in the aircraft.

This training must include:

- (i) extinguishing a fire characteristic of an aeroplane interior fire except that, in the case of Halon extinguishers, an alternative extinguishing agent may be used; and
- (ii) the donning and use of protective breathing equipment by each cabin crew member in an enclosed, simulated smoke-filled environment.

4. use of pyrotechnics (actual or representative devices); and

5. demonstration of the use of the life-raft, or slide-raft, where fitted.

(d) An operator shall ensure that all appropriate requirements of Annex III, OPS 1 are included in the training of cabin crew members.

Appendix 1 to OPS 1.1020

Refresher training

An operator shall ensure that refresher training is conducted by suitable qualified persons and, for each cabin crew member, includes at least the following:

- (1) Emergency procedures including pilot incapacitation;
- (2) Evacuation procedures including crowd control techniques;

(3) The operation and actual opening of all normal and emergency exits for passenger evacuation in an aeroplane or representative training device;

(4) Demonstration of the operation of all other exits including flight deck windows; and

(5) The location and handling of emergency equipment, including oxygen systems, and the donning of lifejackets, portable oxygen and protective breathing equipment.

SUBPART Q
FLIGHT AND DUTY TIME
LIMITATIONS AND REST
REQUIREMENTS²⁹

OPS 1.1090

Objective and scope

1. An operator shall establish a flight and duty time limitations and rest scheme (FTL) for crew members.

2. An operator shall ensure that for all its flights:

2.1 The flight and duty time limitations and rest scheme is in accordance with both:

- a) the provisions of this Subpart; and
- b) any additional provisions that are applied by the Authority in accordance with the provisions of this Subpart for the purpose of maintaining safety.

2.2 Flights are planned to be completed within the allowable flight duty period taking into account the time necessary for pre-flight duties, the flight and turn-around times.

2.3 Duty rosters will be prepared and published sufficiently in advance to provide the opportunity for crew members to plan adequate rest.

3. Operators responsibilities

3.1 An operator shall nominate a home base for each crew member.

3.2 Operators shall be expected to appreciate the relationship between the frequencies and pattern of flight duty periods and rest periods and give due consideration to the cumulative effects of undertaking long duty hours interspersed with minimum rest.

²⁹ On a general note, FR stated that it could accept the text of this subpart as such, and urged delegations to avoid making modifications. AT observed that the Regulation should only provide a general framework aimed at enhancing safety, and that detailed provisions should be left to negotiations between employers (operators) and trade unions.

3.3 Operators shall allocate duty patterns which avoid such undesirable practices as alternating day/night duties or the positioning of crew members so that a serious disruption of established sleep/work pattern occurs.

3.4 Operators shall plan local days free of duty and notify crew members in advance.

3.5 Operators shall ensure that rest periods provide sufficient time to enable crew to overcome the effects of the previous duties and to be well rested by the start of the following flight duty period.

3.6 Operators shall ensure flight duty periods are planned to enable crew members to remain sufficiently free from fatigue so they can operate to a satisfactory level of efficiency and safety under all circumstances.

4. Crew Member's responsibilities

4.1 A crew member shall not operate an aeroplane if he/she knows that he/she is suffering from or is likely to suffer from fatigue or feels unfit, to the extent that the flight may be endangered.

4.2 Crew members should make optimum use of the opportunities and facilities for rest provided, and plan and use their rest periods properly.

5. Responsibilities of Civil Aviation Authorities

5.1 [deleted]

5.2 Variations

5.2.1 Subject to the provisions of Article 8, the Authority may grant variations to the requirements in this Subpart in accordance with applicable laws and procedures within the Member States concerned and in consultation with interested parties.

5.2.2 Each operator will have to demonstrate to the Authority, using operational experience and taking into account other relevant factors such as current scientific knowledge, that its request for a variation produces an equivalent level of safety.

Such variations will be accompanied with suitable mitigation measures where appropriate.

Definitions

1.1 Augmented flight crew

A flight crew which comprises more than the minimum number required for the operation of the aeroplane and in which each flight crew member can leave his/her post and be replaced by another appropriately qualified flight crew member.

1.2 Block Time

The time between an aeroplane first moving from its parking place for the purpose of taking off until it comes to rest on the designated parking position and all engines are stopped.

1.3 Break

A period free of all duties, which counts as duty, being less than a rest period.

1.4 Duty

Any task, including standby³⁰, that a crew member is required to carry out associated with the business of an AOC holder.

1.5 Duty period

A period which starts when a crew member is required by an operator to commence a duty and ends when the crew member is free from all duties.

³⁰ DE, FR, AT and SK have a reserve on the words ‘including standby’, which were inserted to clarify the contents of ‘duty’. According to these delegations, the new wording is incorrect, since some forms of standby – for instance at home, while sleeping – should not be considered as ‘duty’ and should therefore not be taken into account when calculating the ‘duty period’. FR also found that the change is contrary to the Working Time Directive (2000/79/EC, OJ L302/57 of 1.12.2000), and underlined that this apparently small change might have considerable financial consequences that haven’t yet been sufficiently examined.

The Presidency, supported by CION and by several delegations, considers that all forms of ‘standby’ are comprised within the definition of ‘duty’, but that the Authorities of the Member States should have the possibility to count some forms of standby (for example at home, while sleeping undisturbed) at a very low or even 0-rate for the purposes of cumulative duty hours. See the new text for OPS 1.1125, point 2.1.6.

1.6 Flight Duty Period

A Flight Duty Period (FDP) is any time during which a person operates in an aircraft as a member of its crew. The FDP starts when the crew member is required by an operator to report for a flight or a series of flights; it finishes at the end of the last flight on which he/she is an operating crew member.

1.7 Home base

The location nominated by the operator to the crew member from where the crew member normally starts and ends a duty period or a series of duty periods and where, under normal conditions, the operator is not responsible for the accommodation of the crew member concerned.

1.8 Local Day

A 24 hour period commencing at 00:00 local time.

1.9 Local Night

A period of 8 hours falling between 22:00 hours and 08:00 hours local time.

1.10 A Single Day Free of Duty

A single day free of duty shall include two local nights. A rest period may be included as part of the day off.

1.11 Operating crew member

A crew member who carries out his/her duties in an aircraft during a flight or during any part of a flight.

1.12 Positioning

The transferring of a non-operating crew member from place to place, at the behest of the operator, excluding travelling time. Travelling time is defined as:

- time from home to a designated reporting place and vice versa;
- time for local transfer from a place of rest to the commencement of duty and vice versa.

1.13 Rest Period

An uninterrupted and defined period of time during which a crew member is free from all duties [~~and standby~~³¹].

1.14 Standby

A defined period of time during which a crew member is required by the operator to be available to receive an assignment for a flight, positioning or other duty without an intervening rest period.

1.15 Window of Circadian Low (WOCL)

The Window of Circadian Low (WOCL) is the period between 02:00 hours and 05:59 hours. Within a band of three time zones the WOCL refers to home base time. Beyond these three time zones the WOCL refers to home base time for the first 48 hours after departure from home base time zone, and to local time thereafter.

³¹ Since 'standby' is now comprised within the definition of 'duty' (see point 1.4), the words 'and standby' have been deleted in this point 1.13. DE and FR oppose this change and have a reservation (also on point 1.14, 'standby'), since they consider that 'standby' should be distinguished from 'duty', see their comments in the footnote under point 1.4 above.

OPS 1.1100

Flight and duty limitations

1.1 Cumulative Duty Hours ³²

An operator shall ensure that the total duty periods to which a crew member is assigned do not exceed:

- a) 190 duty hours in any 28 consecutive days,
- b) 60 duty hours in any 7 consecutive days.

³² DE and GR would also like to provide that operators shall ensure that the total duty periods to which a crew member is assigned do not exceed 2000 duty hours in any 12 month period.

In line with modifications in the rest of the text, the other delegations felt that it is not necessary to adopt a provision of that kind, since a similar provision is already contained in the Working Time Directive (see clause 8 under 2).

1.2 Limit on total block times

An operator shall ensure that the ³³ total block times of the flights on which an individual crew member is assigned as an operating crew member does not exceed 900 block hours in a calendar year spread as evenly as practicable throughout the year.

OPS 1.1105

Maximum daily flight duty period (FDP)

1.1 This OPS does not apply to single pilot operations and to emergency medical service operations.

1.2 An operator shall specify reporting times that realistically reflect the time for safety related ground duties as approved by the Authority.

1.3 The maximum basic daily FDP is 13 hours.

1.4 These 13 hours will be reduced by 30 minutes for each sector from the third sector onwards with a maximum total reduction of two hours. ³⁴

1.5 When the FDP starts in the WOCL, the maximum stated in point 1.3 and point 1.4 will be reduced by 100% of its encroachment up to a maximum of two hours ³⁵. When the FDP ends in or fully encompasses the WOCL, the maximum FDP stated in point 1.3 and point 1.4 will be reduced by 50% of its encroachment.

³³ IE has a reservation of the deletion of the words ‘total duty time assigned to a crew member does not exceed 2000 hours and that’. IE recognises that a similar provision is contained in the Working Time Directive, but would nevertheless like it to be inserted here as well in order to make the Regulation complete in itself.

³⁴ UK, supported by DK, suggested the following alternative text:
‘These 13 hours will be reduced by 30 minutes for each sector from the *second* sector onwards with a maximum reduction of three hours.’

CION stated that such more stringent provision could be presented for examination under Article 8.3, and that it would therefore not be necessary to change the current text.

³⁵ DE suggested the following text:
‘When the FDP starts **or ends** in the WOCL, the maximum stated in point 1.3 and point 1.4 will be reduced by 50% of its encroachment.’

2. Extensions:

2.1 The maximum daily FDP can be extended by up to one hour.

2.2 Extensions are not allowed for a basic FDP of 6 sectors or more.

2.3 Where an FDP encroaches on the WOCL by up to two hours extensions are limited to up to four sectors.

2.4 Where an FDP encroaches on the WOCL by more than two hours extensions are limited to up to two sectors.

2.5 The maximum number of extensions is two in any 7 consecutive days.³⁶

2.6 Where an FDP is planned to use an extension pre and post flight minimum rest is increased by two hours or post flight rest only is increased by four hours. Where the extensions are used for consecutive FDPs the pre and post rest between the two operations shall run consecutively.³⁷

2.7 When an FDP with extension starts in the period 22:00 to 04:59 hours the operator will limit the FDP to 11.45 hours^{38, 39}

³⁶ In order to facilitate the operation of charter flights from the Nordic countries to the Canary Islands, SE, supported by PT, suggested adding at the end: 'Where the maximum number of sectors is six between two periods of weekly rest and the minimum rest is increased to 30 hours between the FDP's, the maximum number of extensions is three'. ES could support this suggestion if 'six' sectors would be modified into '12', in order to allow 'island hopping' at the Canaries. CION, supported by FR, IT and UK, felt that such addition would be redundant in the light of Article 8.3; it was also observed that it would be bad lawmaking to transform an exemption into a general rule.

³⁷ DE suggested the following text, which however no other delegation could support: 'Where an FDP is planned to use an extension, pre and post flight minimum rest is increased by twice the extension time period or post flight rest only is increased by 4 times the extension time period.'

³⁸ DE suggested putting 'will limit the block time to 10.45 hours'. FR and several other delegations could not accept this suggestion since it would negatively affect the working time.

³⁹ NL, supported by AT, suggested deleting this point, since it could produce a heavy penalising effect. FI could accept deletion. Alternatively, NL suggested shortening 4.59 hours to 3.59 hours; this suggestion is supported by BE and SK. However, CZ, DK, DE and FR could not accept either of these suggestions.

3. Cabin Crew

3.1 For cabin crew being assigned to a flight or series of flights, the FDP of the cabin crew may be extended by the difference in reporting time between cabin crew and flight crew, but never beyond the applicable extended daily FDP.

4. Operational Robustness

4.1 Planned schedules must allow for flights to be completed within the maximum permitted flight duty period. To assist in achieving this operators will take action to change a schedule or crewing arrangements where the actual operation exceeds the maximum FDP on more than 33% of the flights in that schedule during a quarterly period.

5. Positioning

5.1 All the time spent on positioning is counted as duty.

5.2 Positioning after reporting but prior to operating shall be included as part of the FDP but shall not count as a sector.

5.3 A positioning sector immediately following operating sector will be taken into account for the calculation of minimum rest as defined in OPS 1.1110 points 1.1 and 1.2 below.

6. Extended FDP (Split Duty)

6.1 The Authority may grant approval to an operation based on an extended FDP including a break, subject to the provisions of Article 8.

6.2 Each operator will have to demonstrate to the Authority, using operational experience and taking into account other relevant factors, such as current scientific knowledge, that its request for an extended FDP produces an equivalent level of safety.

Rest

1. Minimum rest

1.1 The minimum rest which must be provided before undertaking a flight duty period starting at home base shall be at least as long as the preceding ~~flight~~⁴⁰ duty period or 12 hours whichever is the greater;

1.2 The minimum rest which must be provided before undertaking a flight duty period starting away from home base shall be at least as long as the preceding ~~flight~~ duty period or 10 hours whichever is the greater; when on minimum rest away from home base, the operator must allow for an 8 hour sleep opportunity taking due account of travelling and other physiological needs;

1.3.1 Notwithstanding 1.2 and subject to the provisions of Article 8, the Authority may grant reduced rest arrangements.

1.3.2 Each operator will have to demonstrate to the Authority, using operational experience and taking into account other relevant factors, such as current scientific knowledge, that its request for reduced rest arrangements produces an equivalent level of safety.

2. Rest periods

2.1. An operator shall ensure that the minimum rest provided as outlined above is increased periodically to a weekly rest period, being a 36 hour period including two local nights, such that there shall never be more than **168** hours between the end of one weekly rest period and the start of the next.

2.2. [Deleted]

⁴⁰ Following a suggestion by UK, supported by CION, DK, IE and SE, the word ‘flight’ was deleted; ES, FR, IT and PT would like to reinstate the word, FR explaining that it opposes the modification made because of the issue of ‘standby’.

**Extension of flight duty period due to
in-flight rest**

1. Subject to the provisions of Article 8 and providing each operator demonstrates to the Authority, using operational experience and taking into account other relevant factors such as current scientific knowledge, that its request produces an equivalent level of safety:

1.1 Flight Crew Augmentation

an operator will agree with the Authority the requirements in connection with the augmentation of a basic flight crew for the purpose of extending the flight duty period beyond the limits in OPS 1.1105 above;

1.2. Cabin crew

an operator will agree with the Authority the requirements in connection with the minimum in-flight rest by cabin crew member(s) when the FDP goes beyond the limitations in OPS 1.1105 above;

**Unforeseen circumstances in
actual flight operations -
commander's discretion**

1. Taking into account the need for careful control of these instances implied underneath, during the actual flight operation, which starts at the reporting time, the limits on flight duty, duty and rest periods prescribed in this Subpart may be modified in the event of unforeseen circumstances. Any such modifications must be acceptable to the commander after consultation with all other crew members and must, in all circumstances, comply with the following:

1.1 The allowable FDP referred to in OPS 1.1105 point 1.3 above may not be increased by more than two hours unless the flight crew has been augmented, in which case the allowable flight duty period may be increased by not more than 3 hours;

1.1.2 If on the final sector within a FDP unforeseen circumstances occur after take off that will result in the permitted increase being exceeded, the flight may continue to the planned destination or alternate;

1.1.3 In the event of such circumstances, the rest period following the FDP may be reduced but never below the minimum rest defined in OPS 1.1110 point 1.2 of this Subpart;

1.2 The Commander shall, in case of special circumstances, which could lead to severe fatigue, and after consultation with the crew members affected, reduce the actual flight duty time and/or increase the rest time in order to eliminate any detrimental effect on flight safety;

1.3 An operator shall ensure that:

1.3.1 The Commander submits a report to the operator whenever a FDP is increased by his/her discretion or when a rest period is reduced in actual operation and

1.3.2 Where the increase of a FDP or reduction of a rest period exceeds one hour, a copy of the report, to which the operator must add his comments, is sent to the Authority no later than 28 days after the event.

OPS 1.1125

Standby⁴¹

1. Airport Standby

1.1 A crew member is on airport standby from reporting at the normal report point until the end of the notified standby period.

1.2 Airport standby duty will count in full for the purposes of cumulative duty hours.

1.3 Where the airport standby does not lead to assignment on a flight duty, it shall be followed at least by a minimum rest period.

1.4 Subject to the provisions of Article 8, the relationship between airport standby and any assigned flight duty resulting from the airport standby shall be defined by the Authority.

1.5 While on airport standby the operator will provide to the crew member a quiet and comfortable place not open to the public.

⁴¹ FR has a reserve on this OPS.

2. Other forms of standby (including standby at hotel)

2.1 Subject to the provisions of Article 8, all other forms of standby shall be regulated by the Authority, taking into account the following:

2.1.1 All activity shall be rostered and/or notified in advance.

2.1.2 The start and end time of the standby shall be defined and notified in advance.

2.1.3 The maximum length of any standby at a place other than a specified reporting point shall be determined.

2.1.4 Taking into account facilities available for the crew member to rest and other relevant factors, the relationship between the standby and any assigned flight duty resulting from the standby shall be defined.

2.1.5 The need to rest for a crew member who received an assignment to a flight duty when he was on standby is a common responsibility between crew member and operator.

2.1.6 The counting of standby duty times for the purposes of cumulative duty hours shall be defined⁴².⁴³

OPS 1.1130

Nutrition

1. A meal opportunity must occur in order to avoid any detriment to a crew member's performance, especially when the FDP exceeds 6 hours.

⁴² DE would like to insert: 'by the Member States'. The Presidency however feels that this would be redundant, since it is already indicated in the chapeau (point 2.1) that this issue should be regulated by the Authority.

⁴³ The new text is a Presidency suggestion in order to solve problems of DE and FR in relation to the definitions of 'duty' and 'rest period' in OPS 1.1095. This text gives each Authority the power to decide how the various forms of standby should be counted for the purposes of cumulative duty hours. CION confirmed that under this new text, Authorities may decide that some forms of standby (for example standby at home, when one is reachable by phone but sleeps undisturbed) do not count at all for the purposes of cumulative duty hours.

**Flight duty, duty and rest period
records**

1. An operator shall ensure that crew member's records include:

- a) block times;
- b) start, duration and end of each duty or flight duty periods;
- c) rest periods and days free of all duties;

and are maintained to ensure compliance with the requirements of this Subpart; copies of these records will be made available to the crew member upon request.

2. If the records held by the operator under paragraph 1 do not cover all of his/her flight duty, duty and rest periods, the crew member concerned shall maintain an individual record of his/her

- a) block times;
- b) start, duration and end of each duty or flight duty periods; and
- c) rest periods and days free of all duties.

3. A crew member shall present his/her records on request to any operator who employs his/her services before he/she commences a flight duty period.

4. Records shall be preserved for at least 15 calendar months from the date of the last relevant entry or longer if required in accordance with national laws.

5. Additionally, operators shall separately retain all aircraft commander's discretion reports of extended flying duty periods, extended flying hours and reduced periods of at least six months after the event.
