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EVALUATION

of Regulation (EC) No 2111/2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating carrier

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Glossary

<i>Term or acronym</i>	<i>Meaning or definition</i>
EASA	European Union Aviation Safety Agency
EU	European Union
IATA	International Air Transport Association
ICAO	International Civil Aviation Organisation
SAFA	Safety Assessment of Foreign Aircraft
TCO	Third Country Operator
USOAP	Universal Safety Oversight Audit Programme

1. INTRODUCTION

Purpose and scope of the evaluation

The purpose of the evaluation of the Air Safety List Regulation (Regulation (EC) No 2111/2005¹) is to assess whether its main objectives have been met. The main objective of the Air Safety List Regulation is to ensure a high level of protection for passengers from safety risks, while enabling them to make informed air travel choices. This is because the Air Safety List Regulation ensures that passengers are informed about the actual air carrier that will operate their flight, and that only air carriers that meet the relevant safety requirements operate in the EU airspace. It protects European passengers not only within Union territory, but also when they are travelling by air anywhere in the world.

In 2009 the Commission reported to the European Parliament and to the Council on the application of the Air Safety List Regulation in accordance with its Article 14, and concluded that the Regulation was functioning satisfactorily².

Given that the implementing measures laying down detailed rules for the implementation/functioning of Air Safety List Regulation have been in use since 2006, it was considered necessary to perform a complete evaluation of the rules and to assess if the EU safety objectives are delivered in the best possible way. This exercise was announced in the Aviation Strategy for Europe³

The evaluation will be ascertain whether changes are necessary to improve the application of the Air Safety List Regulation, and to ensure coherence with other safety related regulatory and enforcement instruments.

Since the Regulation targets aviation systems within and outside the Union's airspace, the evaluation encompasses the worldwide aspects of the application of the Regulation. Third countries and their air carriers are affected by the measures taken under the Air Safety List Regulation. It has therefore knock-on effects on international stakeholders such as the International Civil Aviation Organisation (ICAO)⁴ or the International Air

¹ Regulation (EC) No 2111/2005 of the European Parliament and of the Council of 14 December 2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier, and repealing Article 9 of Directive 2004/36/EC, OJ L 344, 27.12.2005, p. 15.

² Report from the Commission to the Council and the European Parliament on the application of Regulation (EC) No 2111/2005 regarding the establishment of a Community list of air carriers subject to an operating ban within the Community and informing air transport passengers of the identity of the operating air carrier, and repealing Article 9 of Directive 2004/36/EC, COM(2009) 710 final.

³ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions An Aviation Strategy for Europe, COM/2015/0598 final.

⁴ The International Civil Aviation Organization (ICAO) is a United Nations specialised agency, established in 1944 to manage the administration and governance of the Convention on International Civil Aviation (the Chicago Convention). It established principles and arrangements for developing international civil

Transport Association (IATA)⁵, and more generally on the overall air transport sector. This international dimension is taken into account in the evaluation, in conjunction with an assessment of the impact that the Regulation is having within the EU. Therefore, the geographical scope of the evaluation covers all 28 EU Member States as well as a number of third countries (namely Benin, Kazakhstan, Madagascar, Mozambique, Namibia, Pakistan, and Zambia), which have been directly or indirectly involved or affected by measures taken under the Air Safety List Regulation during the period considered for this evaluation, namely 2006-2017.

As regards the elements of the Air Safety List Regulation that relate to the information to passengers on the operating carrier, the evaluation will be limited to the scope as defined in Chapter III (Articles 10 to 13) of the Regulation⁶.

2. BACKGROUND TO THE INTERVENTION

Baseline and points of comparison

The underlying reason leading to the adoption of the Air Safety List Regulation was that the expected continuous rapid growth of air traffic could lead to the increase of the number of accidents and victims if nothing was done to ensure that carriers operating in the Union's airspace were in compliance with the relevant safety standards. It was considered that by creating valid safeguards including a common ban and information to the public the overall safety would improve. European passengers were booking flights all over the world, without always receiving information on the air carrier that was actually operating the flight. At times there were last-minute changes of the operating air carrier and as a consequence passengers were not able to collect information about the safety standards of the air operator that would transport them. In addition, there was no comprehensive information on the safety of third country air carriers available, and if it was known that a certain air carrier was unsafe, there were no common actions against such a carrier at EU level.

A number of safety measures had already been taken or conceived, following accidents involving European citizens which had occurred since the mid-1990s. In particular, the

aviation in a safe and orderly manner and enabled international air transport services to be established on the basis of equality of opportunity and sound economic management. ICAO works with the 192 Contracting States to the Convention and with industry groups to reach consensus on international civil aviation Standards and Recommended Practices (SARPs) and policies in support of a safe, efficient, secure, economically sustainable and environmentally responsible civil aviation sector. These SARPs and policies are used by ICAO Member States to ensure that their local civil aviation operations and regulations conform to global norms

⁵ The International Air Transport Association (IATA) is a trade association of the world's airlines. Consisting of around 290 airlines representing 117 countries. It is headquartered in Montreal, Quebec, Canada with Executive Offices in Geneva, Switzerland.

⁶ As regards information to passengers, the relevant provision of the Regulation are applicable where the flight is part of a contract of carriage and that carriage started in the Union, and (a) the flight departs from an airport on territory of a Member State to which the Treaty applies; or (b) the flight departs from an airport in a third country and arrives at an airport on territory of a Member State to which the Treaty applies; or (c) the flight departs from an airport in a third country and arrives at another such airport..

Birgenair accident⁷ led to a strengthening of the SAFA ramp inspection programme, the development of which had started in 1994 as a European instrument to support the ICAO's Safety Oversight Programme, and which was adopted in June 1996 as a European Civil Aviation Conference (ECAC) initiative.

Following the Flash Airlines accident in January 2004, which resulted in the death of all occupants including 134 European citizens⁸, the Commission presented in February 2005 a Proposal for a Regulation making it compulsory to inform passengers about the identity of the operating carrier. The Proposal also provided for the publication of a list of air carriers which are subject to operating restrictions or banned for safety reasons in one or more Member States, so each Member State would have continued to decide about its own airline ban on the basis of national criteria.

However, a few weeks after the Commission presented its proposal, national bans proved their limited effectiveness when a third country operator was banned to land in some Member States, but not in others. Rather than cancelling its flights, this operator rescheduled them from the nearest airports of the States where it was still allowed to fly, resulting in the passengers being bussed to those airports. In addition, EU carriers from the banning countries suffered retaliatory measures. This case demonstrated that individual national bans could easily be circumvented by third country operators, and that a ban at EU level would have been more effective, and that European air carriers would be less vulnerable to retaliatory action by the third countries concerned.

In addition, a string of major commercial aviation accidents involving commercial airliners that resulted in the deaths of a significant number of European citizens occurred in 2005⁹, including six around the month of August¹⁰. These fatal accidents highlighted the need for more effective measures. Their media coverage moved the public and put pressure on decision-makers to do more on aviation safety. Analysis of the accidents revealed that causal factors were not only the failure to comply with basic safety standards by the air carriers themselves, but was also the result of inadequate safety oversight by the responsible aviation authorities. This eventually triggered the conception

⁷ The Turkish air carrier Birgenair was operating a Boeing 757-200 (Birgenair flight 301) which crashed shortly after take-off from Puerto Plata airport (Dominican Republic) on 6 February 1996, resulting in the death of the 189 occupants of the aircraft (including 176 European passengers).

⁸ The Egyptian air carrier Flash Airlines was operating a Boeing 737-300 (Flash Airlines flight 604) which crashed shortly after take-off from Sharm El Sheikh airport (Egypt) to Paris de Gaulle, with a stopover in Cairo, on 3 January 2004, resulting in the death of the 148 occupants of the aircraft (including 132 European passengers).

⁹ A number of accidents in 2005 have involved operators from Kyrgyzstan, Indonesia, Democratic Republic of Congo, Equatorial Guinea, and Congo – countries that were eventually subjected to measures under the auspices of the EU Air Safety list.

¹⁰ Air France Airbus A340 in Toronto with no fatalities, 2 August 2005; Tuninter ATR-72 near Palermo with 16 fatalities, 6 August 2005; Helios Airways Boeing 737 near Athens with 121 fatalities, 14 August 2005; West Caribbean Airways MD-82 in Venezuela with 160 fatalities, 16 August 2005; TANS Boeing 737 in Peru with 40 fatalities, 23 August 2005; Mandala Airlines Boeing 737 in Medan with 149 fatalities, 5 September 2005.

of a European Union Air Safety List, when the original Commission proposal on the identity of the operating carrier eventually became the proposal of an EU common ban.

Description of the intervention and its objectives

These safety concerns described in the previous section led to demands for a harmonised approach at EU level to prevent unsafe airlines from operating into, from and within the EU, by imposing a common operational ban on unsafe airlines. Furthermore, it was determined that the travelling public should be informed of the air carriers that are subject to an EU operating ban, in order to make citizens aware of the safety risks associated with such air carriers also when they travel outside of the EU. As a consequence, during the co-decision procedure, the Commission's original proposal (which was limited to the information to passengers about the operating carrier) was strengthened with the possibility to establish, according to a set of common criteria¹¹, a Community list of unsafe air carriers that would be banned from the entire EU airspace. The Commission received the responsibility to investigate and, if necessary, to take measures against air carriers operating either inside or outside of the EU airspace. This aimed at achieving a better, more effective and harmonised protection of EU passengers from safety risks when travelling by air, and enabled consumers to make informed choices while booking flights. These measures were further aimed at improving aviation safety, not only in the Union's airspace, but worldwide as well.

In order to deny access to the EU airspace to unsafe air carriers, a process was envisaged whereby, following in-depth investigations conducted by the Commission, air carriers are assessed against common criteria to determine whether they are unsafe and thus should be included in the EU Air Safety List. The criteria should be based primarily on the compliance with internationally recognised safety standards, but also on factors such as the ability and the willingness of an air carrier or the authorities responsible for its safety oversight to address safety deficiencies. Information from Member States and the European Union Aviation Safety Agency (EASA) should feed into this assessment. As part of this process, air carriers should be given the right of defence, through hearings or appearances by air carriers before the EU Air Safety Committee, which is composed of representatives of the EU Member States, plus Iceland, Norway, Switzerland and EASA as permanent observers. In order to update the list, once serious safety deficiencies are identified, the Commission must submit its proposal to the Air Safety Committee, which meets twice a year. Following a proposal from the Commission based on its investigation and on the technical meetings and hearings conducted with the involved carriers and countries, the Air Safety Committee delivers an opinion which, if positive, is later adopted by the Commission in the form of a Commission Implementing Regulation. Should the Committee deliver a negative opinion, the Commission can submit the same proposal to an appeal committee, or amend the proposal and re-submit it to the Air Safety Committee – however, this has never happened so far: in 12 years of functioning of the Air Safety List Regulation, the Committee has always unanimously approved the

¹¹ Verified evidence of serious safety deficiencies on the part of an air carrier, lack of ability or willingness of an air carrier to address safety deficiencies, and lack of ability or willingness of the authorities responsible for the oversight of an air carrier to address safety deficiencies.

Commission proposal. The relevant legislative procedure involves the European Parliament, which has a right of scrutiny. The Regulation can be adopted only once the period of scrutiny has ended, and translations in all EU official languages are available. As a consequence, the minimum timeframe for ordinary action is six weeks. In order to enable passengers to make informed choices, provisions were included whereby the air carriage contractor should inform passengers of the identity of the air carrier(s) that actually will operate their booked flight(s) – and ensure that passengers are informed of any change thereof. This can happen at the time of reservation (the operating carrier should be mentioned on the reservation page) or as soon as the identity is established if not known at the time of reservation.

In addition to a reference to the passengers rights which are established through other EU rules (Regulation (EC) No 261/2004¹²), the Regulation also provides for the right to reimbursement or re-routing in case an air carrier has been included into the Air Safety List and, as a consequence, the flight is cancelled or the passenger has chosen not to travel with the banned carrier (in case the flight is operated outside of the EU).

Regulation (EC) No 2111/2005 entered into force on 16 January 2006, whereas the articles regarding information to passengers on the operating air carrier became applicable on 16 July 2006, and provisions regarding penalties for infringement of the rules on 16 January 2017. These rules are an integral part of the European Aviation Safety system.

The Air Safety List Regulation provides that air carriers that do not meet relevant safety requirements are banned from entering EU airspace and landing at EU airports. The first EU Air Safety List listing those air carriers was first established in March 2006¹³, in line with article 3(4) of the Air Safety List Regulation. It consisted essentially of carriers which were at that time subject to national bans in one or more Member States. Subsequently, there have been 32 updates of the Safety List, with the inclusion or removal of carriers following in-depth investigations conducted by the Commission. The Air Safety List has functioned many times as a deterrent – a highly dissuasive measure – as shown by the large number of cases investigated until now, and of which only a limited fraction has led to a ban.

Rules and procedures for establishing and updating the Air Safety List are set out in Regulation (EC) No 2111/2005, and are further detailed in Commission Regulation (EC) No 473/2006¹⁴. In practice, the Commission opens an investigation on the basis of the available information pointing to safety deficiencies on the part of an air carrier – sources of information are the reports from the ICAO Universal Safety Oversight Audit

¹² Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91, OJ L 46, 17.2.2004, p. 1.

¹³ Commission Regulation (EC) No 474/2006 of 22 March 2006, OJ L84. 23.03.2006, p. 14.

¹⁴ Commission Regulation (EC) No 473/2006 of 22 March 2006, OJ L84. 23.03.2006, p. 8

Programme (USOAP), SAFA ramp inspection reports, information on operating bans imposed by third countries, substantiated accident-related information. Before any measure is taken, joint consultations with the responsible authorities should take place, and the air carrier should be informed with the essential facts which form the basis of the Commission proposal to ban, so that its right of defence can be exercised. In fact, each carrier concerned, as well as its competent oversight authority, should be notified of the intention of the Commission to propose its inclusion in the list, together with the facts and findings leading to this proposal. The carrier is then afforded a minimum of 10 working days to submit written comments, and is given the opportunity to be heard by the Air Safety Committee before a decision is taken. The Air Safety Committee then expresses its opinion on the proposal from the Commission: when the opinion delivered is positive, the Commission should follow it and adopt a Commission Implementing Regulation.

The publication of the Air Safety List provides passengers with information on the safety risks of air carriers banned from the EU airspace – the reasoning for the banning is spelled out in the relevant recitals.

The air carriage contractor (i.e. a ticket seller, an airline, a tour operator, etc.) is required to inform the passenger of the identity of the operating air carrier at the time of the booking. If the operating air carrier is changed after the reservation, the passenger shall be informed of the change (in practice, this happens via e-mail, and the name of the actual operating carrier is indicated on the boarding pass).

As regards passenger rights, Regulation 261/2004 establishes the right of reimbursement or re-routing when a flight is cancelled: such provisions of course apply also in the event that a flight is cancelled because the operating air carrier is put on the Air Safety List. In cases where the flight is not cancelled since it takes place outside the Union, and as a consequence Regulation (EC) No 261/2004 does not apply, the air carriage contractor must offer the passenger the right to reimbursement and re-routing.

Description of the intervention logic

The evaluation of the Air Safety List Regulation is based on the intervention logic explained in the EU's Better Regulation Guidelines¹⁵. Annex 3 presents the visual representation of the logical pathways of how the intervention was intended to work.

The intervention was introduced because of two main issues: the existence of unsafe third country air carriers flying to the EU, and the fact that consumers were not adequately informed of the operating air carrier. In order to address these issues, the intervention set a number of objectives (denying access to unsafe airlines, increasing safety standards of third country airlines, informing passengers of the operating air carrier). These objectives were meant to be achieved through the measures established in the Air Safety List Regulation. The 'needs/ problems' identified (e.g. the need to improve air safety) have

¹⁵ European Commission: Better Regulation Toolbox, tool #47 Evaluation criteria and questions1: https://ec.europa.eu/info/better-regulation-toolbox_en.

triggered the ‘objectives’ setting of the regulation (e.g. denial of access to the EU to unsafe air carriers).

After setting up the regulation’s ‘objectives’, the ‘inputs’ are realised (steps taken for EU action), allowing these ‘objectives’ to be satisfied. Those ‘inputs’ will then provoke the ‘outputs’, namely the direct outcome of the Air Safety List Regulation (e.g. passengers are protected from safety risks).

The EU intervention represents the link through which ‘inputs’ are transformed into concrete and measurable ‘results’ that have a direct ‘impact’ on the everyday life of EU citizens.

The evaluation considers five questions, as defined by the European Commission in the Better Regulation ‘Toolbox’ 47, and the logical links among the various elements of the intervention, namely:

- Relevance –how relevant is the EU intervention?
- Effectiveness – how effective has the EU intervention been?
- Efficiency – how efficient has the EU intervention been?
- Coherence – how coherent is the EU intervention internally and with other (EU) actions?
- EU added value – what is the EU added value of the intervention?

3. IMPLEMENTATION / STATE OF PLAY

Description of the current situation

The EU has created a comprehensive system for ensuring the safety of air carriers in the EU airspace and protecting and informing passengers on air carriers' safety. Among the many existing tools and rules, the civil aviation authorities of the EU Member States and the EU itself have three main tools for assessing the safety of non-European air carriers.

The first tool is the verification of safety of aircraft landing in airports of the Member States through ramp inspections conducted by the National Aviation Authorities under the EU RAMP inspection programme (SAFA), established by Commission Regulation (EU) No 965/2012¹⁶, and the exchange and analysis of the resulting information. The territorial scope of the SAFA programme goes well beyond the European continent thanks to working arrangements between EASA and non-EU States. Indeed, this programme is now uniformly applied by 48 Participating States¹⁷. Because of this latter

¹⁶ Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council, OJ L 296, 25.10.2012, p.1.

¹⁷ The EU RAMP inspection programme (SAFA) is implemented by the 28 EU Member States, plus Iceland, Norway, Switzerland, all other ECAC States (Albania, Armenia, Bosnia and Herzegovina, Georgia, Republic of Moldova, Monaco, Montenegro, Serbia, The former Yugoslav Republic of Macedonia, Turkey, Ukraine), and outside Europe by Australia, Canada, Israel, Morocco, Singapore, and the United Arab Emirates.

aspect, the SAFA Programme generates safety information not only in the EU, but worldwide. Inspectors follow a checklist with 53 inspection items, which includes pilots licenses, procedures and manuals carried in the cockpit, compliance with these procedures by flight and cabin crew, safety equipment in cockpit and cabin, cargo carried in the aircraft and the technical condition of the aircraft. Since the time between arrival and departure may not be sufficient to go through the full checklist, and aircraft should not be delayed except for safety reasons, some of the 53 items may not be always inspected.

The second tool ensures prior verification of the safety of non-EU carriers through the Third Country Operator (TCO) Authorisation system, implemented by EASA. EASA manages a single European system for assessing the safety performance of foreign air carriers (Articles 59-61 of Regulation (EU) 2018/1139¹⁸), thereby replacing various schemes of the Member States previously in place. Commission Regulation (EU) No 452/2014¹⁹ establishes an authorisation system for third country operators which intend to fly to the EU. This Regulation requires third country air operators wishing to operate to EU destinations to apply in advance to EASA to obtain a safety authorisation., Such authorisation is issued only when it is demonstrated that the requesting air carrier comply with minimum international aviation safety (ICAO) Standards, and can detail limitations (e.g. by excluding certain type of operations from the authorisation). The TCO process therefore implies a technical review by EASA, which results in an administrative decision: if the technical assessment concludes that the air carrier does not meet the international safety standards, the authorisation is not granted (or it can be revoked when the air carrier was already authorised and the assessment is part of continuous monitoring).

The third tool consists of the Air Safety List Regulation, which bans air carriers from or restricts their access to the EU airspace. The Air Safety List is managed by the Commission, which has the competence to impose a ban on the basis of the common criteria outlined in the Regulation. Such ban is maintained until the banned third country air carriers and their responsible civil aviation authorities demonstrate that they have addressed the identified deficiencies in compliance with the safety standards. The Air Safety List Regulation also foresees that appropriate action should be taken with a view to assist air carriers in remedying the deficiencies which gave rise to the operating ban.

EU rules and policies strive to provide a high level of safety for all operations in EU airspace and to protect EU passengers who travel with third country air carriers, both

¹⁸ Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91, OJ L212, 22.08.2018, p. 1.

¹⁹ Commission Regulation (EU) No 452/2014 of 29 April 2014 laying down technical requirements and administrative procedures related to air operations of third country operators pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council, OJ L 133, 6.5.2014, p. 12.

within Europe and further abroad. As EU passengers are likely to travel with non-European air carriers, the safety of third country air carriers were therefore considered as an integral part of the EU aviation safety policy.

As provided in the Annex to the Air Safety List Regulation, when considering to ban a carrier or a group of carriers, the Commission should verify the correspondence with the common criteria: any one of these criteria, on its own or in combination with others, may be used as the basis for the proposal of an operating ban. Such common criteria are based upon the relevant safety standard, which are those established by the Chicago Convention and its Annexes under the auspices of ICAO when non-European carriers are concerned, and the EU air safety acquis for EU carriers.

The Air Safety List is divided into two parts. The first part contains the air carriers banned from operating in the EU airspace (Annex A), whereas the second part includes those air carriers that are subject to operational restrictions, meaning that only part of their fleet is banned (Annex B). The list is updated regularly and published in the Official Journal of the European Union. It is also published on the website of the European Commission Directorate General for Mobility and Transport²⁰. According to the latest update of the Air Safety List, which was conducted in April 2019, a total of 120 air carriers are on the Air Safety List. In detail, 114 air carriers certified in 16 non-EU countries and six individual air carriers are banned from EU skies under Annex A; and, four airlines from five non-EU countries face restrictions for their operations into the EU under Annex B²¹.

4. METHOD

Short description of methodology

In order to carry out this evaluation, the Commission contracted a study²² to support the work. The aim of the evaluation is to determine the extent to which the general objectives of the Air Safety List regulation have been achieved since its first measures became operational in 2006. The examination covered the role that the Air Safety List has played in achieving its objectives, and in the overall improvement of international aviation safety standards.

The data collection tools that were used to gather the relevant information consisted of a document review, stakeholder interviews, an online stakeholders survey, case studies, a workshop, and an open public consultation.

²⁰ https://ec.europa.eu/transport/modes/air/safety/air-ban_en

²¹ Commission Implementing Regulation (EU) 2019/618 of 15 April 2019 amending Regulation (EC) No 474/2006 as regards the list of air carriers which are banned from operating or are subject to operational restrictions within the Union, OJ L 106, 17.4.2019, p. 1.

²² Support study for the evaluation of Regulation (EC) No 2111/2005, commissioned by the Directorate General for Mobility and Transport (DG MOVE), performed by Valdani Vicari & Associati.

The document review covered the Commission's, EASA's and ICAO's reporting and monitoring documents, position papers from European and national industry associations as well as external reports and other relevant documentation from the airlines, insurance brokers and tour operators.

Stakeholders interviews were conducted with the Commission (DG MOVE, DG GROW) and EEAS officials, members of the European Parliament, EASA officials, Member States Civil Aviation Authorities (CAAs), civil aviation authorities in third countries, ICAO, industry associations and individual companies.

The online survey covered a representative selection of stakeholders involved in the EU Air Safety List's activities, namely the national authorities and/or governments of the EU Member states, EU actors (European Commission, European Parliament, EASA, EUROCONTROL, EEAS, EU delegations within third countries), third country civil aviation administrations, the airline industry (associations, manufacturers, alliances, economic operators), aviation insurance industry, consumer associations, international aviation organizations, regional aviation organizations, the travel and tourism industry and related industrial sectors.

In addition, views from the general public were assessed by analysing the results of an open public consultation as well as position papers of external stakeholders uploaded in the context of the open public consultation.

For the efficiency analysis, a workshop for the members and observers of the EU Air Safety Committee was organised under the theme of '10-years EU Air Safety List'. The workshop focused on the functioning of the committee and gathered opinions on the organizational structure, management and governance as well as on communication resources and activities.

Three case studies were conducted on the application of the Air Safety List Regulation in order to further investigate the potential impacts of the application of the Air Safety List Regulation. These studies comprise air carriers or states responsible for the oversight of certain air carriers that have been affected by decisions made under the Air Safety List regulation, namely Mozambique, Kazakhstan, and Zambia. The selection was done on the basis of the findings of the interviews and on the desk research conducted: this led to focusing on examples of air carriers that were on the Air Safety List and were subsequently removed. These cases were selected because of the wide impact of the banning (all carriers from each country) and the fact that they experienced the full Air Safety List process (investigation, banning, verification of sustainable improvements and eventual removal from the list).

5. ANALYSIS AND ANSWERS TO THE EVALUATION QUESTIONS

5.1. Relevance

The original objectives, namely to protect and better inform European air passengers, are still relevant in 2018, particularly because international traffic has increased worldwide,

and EU citizens travel internationally even more than they did in 2005²³. This means that EU passengers might increasingly travel with non-EU air carriers. The level of aviation safety still varies considerably in different regions of the world, as measured by the USOAP²⁴.

The Air Safety List has covered gaps that were not covered by other instruments at the EU level. In 2006, the only EU instrument monitoring the safety of air carriers was the SAFA ramp inspection programme²⁵, but it lacks the coercive and information aspects that are established with the Air Safety List Regulation. Ramp inspections are an effective tool to monitor compliance of airlines with the relevant safety standards, and EASA regularly analyses the results of the inspections and provides its feedback to the Commission and the SAFA participating States. A ramp inspection can lead to corrective actions to be taken before the flight takes place in case of major non-compliances. However, an instrument such as the Air Safety List gave to the EU an effective coercive tool, capable to forbid the use of EU airspace for safety reasons.

Since 2006 the EU aviation safety policy has been developing, also through the expansion of EASA's competences and resources, and the implementation of Part-TCO²⁶. Despite these developments, the Air Safety List remains a relevant tool which is still needed for maintaining a high level of safety for European citizens, by means of monitoring and assessing the safety of air carriers, and banning them from the EU airspace in case of insufficient safety, as well as for informing EU passengers on the safety level of air carriers they will use outside of the EU. The latter aspect is especially significant given that it is currently not covered by any other legislation worldwide. The Air Safety List covers gaps that are not covered by other instruments. It is still the only safety-enforcement means at the disposal of the EU with a worldwide scope of action, whereas the scope of Part-TCO is limited to the operators which have the intention to fly to EU destinations.

5.2. Effectiveness

Regarding the Regulation's outputs, the Commission has to verify the Air Safety List every three months, and update it if it is necessary. On average, the Air Safety List is updated twice a year.

The update of the list can be initiated following an investigation opened upon Commission initiative, or at the request of a Member State.

²³ The amount of people travelling by air has doubled since the adoption of the Air Safety List Regulation. In terms of numbers, the total amount of passengers transported by air developed as following: 1.969.590.799 passengers in 2005, 2.628.261.258 in 2010, 3.978.849.402 in 2017. Sources: Eurostat, ICAO. As regards the share of passengers per area of the air carriers, the share of EU carriers has decreased (from 23.00% in 2005, down to 20.71% in 2010 and 19.20% in 2017).

²⁴ <https://www.icao.int/safety/CMAForum/Pages/FAQ.aspx> .

²⁵ <https://www.easa.europa.eu/easa-and-you/air-operations/ramp-inspection-programmes-safa-saca> .

²⁶ <https://www.easa.europa.eu/easa-and-you/air-operations/tco-third-country-operators> .

In case of urgency, individual Member States can still impose an immediate national ban to react to an immediate safety problem – this has indeed happened a number of times since 2006. However, in such a case, that Member State should inform the Commission accordingly, and request the update of the EU list so that the ban covers the whole Union. In a similar scenario, whenever an urgency is at stake, the Commission can impose a temporary EU-wide ban immediately (when the continuation of the operation of an unsafe carrier can constitute a risk to safety), and to refer the matter to the EU Air Safety Committee within 10 working days. That possibility has never been used to date.

The time needed from the start of an investigation to a decision on a ban can vary: depending on the availability of substantiated information, it can range from a few weeks to several months, including the time granted to an operator for exercising its rights of defence. However, when the Commission imposes a temporary and immediate ban due to urgency, it can waive the rights of defence. The carrier will however still have a possibility to exercise its rights of defence after the Commission submitted the matter to the Air Safety Committee for the confirmation of the ban. In practice, the Commission has to date never imposed unilaterally any operating ban without first according a hearing to the carrier concerned. The dissuasive nature of the Air Safety List instrument can lead and has led to situations whereby no decision to ban has been taken, because a carrier has performed corrective actions leading to a sustainable solution to the safety deficiencies identified previously and thus making a decision by the Commission unnecessary. This preventive and dissuasive force of the Air Safety List contributes to enhancing aviation safety globally as it pushes air carriers and authorities to make the changes that are needed to avoid being put on the list.

In addition, there are indications that the Air Safety List can be effective beyond the direct objectives of protecting the EU airspace and informing passengers by triggering profound improvements in safety policy and performance in third countries. As demonstrated by the case study of Kazakhstan in the VVA study, the impact of the ban on the country pushed the airlines and the Kazakh authorities to improve their air safety system. According to the Kazakh stakeholders concerned, the main positive impact of the listing was that the country progressively reacted and embarked on an ambitious reform of its aviation sector to enhance safety. Air safety became a priority in the country's political agenda for several years, until the sustainable, structural improvements allowed the removal of the EU ban.

In a number of cases however, the banning did not result in ambitious reforms of the air safety system and enhancement of airlines' oversight: as a consequence, a number of countries which were included in the list in 2006 are still on the list today.

There is a consensus among all stakeholders that were consulted, that the Air Safety List has contributed to improve aviation safety standards in third countries. The majority of stakeholders interviewed agreed that the Air Safety List acted as a trigger for third countries to continuously improve aviation legislation and regulations, to improve the responsible civil aviation authorities and their oversight activity.

Between 2006 and 2017 the number of countries that were put on the Air Safety List, whereby all air carriers from these countries were banned from EU airspace, was on the rise until 2009. Since then, the number started to decrease due to successful reforms of air safety legislation, policy and implementation in countries concerned by previous bans. Over time, the air carriers of seven countries²⁷ have managed to be released from the Air Safety List.

Throughout the years, the Commission has complemented the Air Safety List with a comprehensive programme of technical assistance to support non-EU countries and help them to improve their aviation safety systems. These programmes are implemented by EASA. However, some of the stakeholders commented that the Air Safety List does not give banned airlines sufficient guidance on how to solve their problems, and it is not ensured that operational improvements are implemented by banned air carriers. It has therefore been advocated that a more comprehensive assessment should be carried out which would also take into consideration the safety and the quality management system of an airline. This is already taken into account by the Commission. While in the early years of the Air Safety List, bans of individual operators were largely based on the results of ramp checks (SAFA), since several years the Commission has been assessing the compliance of carriers with the international safety standards. Therefore, today the Commission takes into account elements such as the safety management system and the quality management of the airlines concerned, and does not limit its assessment of air carriers to on-the-spot checks which cannot substitute proper regulatory oversight by the competent aviation authority. An important additional tool for this work arrived in 2014, with the introduction of the TCO authorisation system, conducted by EASA. The information acquired through this system became an important source of data for the Commission.

A limited number of stakeholders advocated for more ‘socio-economic factor solutions’, such as financial assistance, technological assistance and personnel with the necessary expertise to assist banned air carriers in their aviation safety improvement efforts. They commented that simply banning countries will cause the aviation industry in that banned country to be in a worse position for remedying its safety issues. However, it should be reminded that the EU has put in place a number of instruments with the purpose of supporting the sustainable development of civil aviation in the beneficiary countries, among which the most relevant is the EU Safety List Service Framework contract, managed by EASA. Under this framework contract, EASA provides expertise and related technical assistance to countries that are subject of Air Safety List measures and investigations. In addition, other regional projects, funded by EU external assistance funds (involving the Foreign Policy Instrument, DG DEVCO or DG NEAR), have been employed to the benefit of impacted civil aviation authorities.

The common criteria for considering to impose an EU ban include reports of safety deficiencies identified during SAFA ramp inspections. Therefore, air carriers found not in compliance with safety standards will have a high SAFA ratio and incur the risk of

²⁷ Following the update of the Air Safety List of June 2018.

being included in a Commission investigation, and eventually being banned. Using SAFA results as an indicator, it is shown that the overall ratio of worldwide operators has decreased from an average of 1.67 in 2006, to 0.85 in 2009, 0.76 in 2010, down to 0.65 in February 2018. Taking into account that, in the last years, SAFA inspections have been carried out also in participating States from outside the EU, it can be assessed that over time SAFA inspections in EU Member States show a stricter compliance to safety rules by foreign carriers. The available data also show that countries whose carriers were put on the Air Safety List had consistently lower scores than the average. On the other hand, the countries that were removed from the Air Safety List had made sure that the SAFA ratio of their carriers improved to make such a release sustainable.

The majority of the stakeholders who were interviewed agree that the Air Safety List has brought improvements in supporting EU passengers in making informed choices when they travel both inside and outside of the EU, providing safety status of their operating air carrier. Indeed Article 11 of the Air Safety List Regulation introduced the obligation to disclose the identity of the air carrier operating the flight for EU airlines and travel agents. Also, Article 12 of that Regulation introduced the right for EU passengers to be reimbursed or rerouted in cases where Regulation 261/2004 did not apply and the operating airline featured in the Air Safety List. Despite these positive changes, some stakeholders perceive that there is a lack of awareness among the general public about the Air Safety List and the rights connected to it, which could undermine the full effectiveness of the Regulation. They agree that communication methods should be improved to provide passengers with information on the airlines that are on the Air Safety List.

Finally, the study reports that the implementation of the Air Safety List has also brought about some unintended or indirect consequences, such as increased insurance costs for airlines put on the list, potential loss of tourism income for countries whose airlines were put on the list, and damage to a country's reputation and that of the banned airline. While these consequences were foreseen in some cases, it is true that their extent was not anticipated. Another indirect effect of the EU Air Safety List is that a new sector of aviation consultants has emerged across the world. For these consultants, the outcomes of the Air Safety List provide new business opportunities.

As regards the effectiveness of the Air Safety List, the key objective to maintain a high level of protection for passengers from safety risks has been attained, since the air carriers which were assessed to be not in compliance with the relevant international standards have been included in a public list and forbidden to enter the Union's airspace. It is also demonstrated that the possibility of an EU-wide air ban is an effective EU-market access denial mechanism, which has the power to influence both air carriers and, most significantly, regulatory authorities. Airlines which are banned are excluded from the EU airspace, and similarly airlines which do not fully implement safety standards have been keeping themselves away from the European skies so as to avoid the risk of EU investigations and bans. Also, this risk has been pushing third country authorities to better enforce the relevant international safety standards on the air carriers that they certify.

There were also attempts to circumvent the ban, for instance by moving the an air carrier (fleet, management, staff) from a banned country to a different country – however, when this happened the new air carriers, successors of banned air carriers, were also subject of Commission’s investigations and further action as necessary.

5.3. Efficiency

Costs related to the implementation of this Regulation in the Union can potentially fall on transport operators and travel agencies (costs related to informing passengers) and on national and Union authorities, including the costs related to the functioning of the Air Safety Committee. The benefits range from a better protection/safety standards and full information available to the EU passengers about banned airlines to an enhanced safety level of third countries’ air carriers and a greater transparency for the air carriers, which are assessed against public safety-based criteria.

The Air Safety List is an efficient tool for the EU, as the only significant cost at the level of the Union and its Member States appears to be the cost that is associated with the management of the Air Safety Committee. According to Commission estimates, this cost amounted to around €2 million over the 10-year period. In addition, the use of the comitology procedure for the preparation of the Air Safety List ensures significant cost savings for Member States in terms of coordination and representativeness. Back in 2005, no other instrument was available to the Commission to achieve the same goals and none has been put in place since that would produce the same effects at a lower cost – the TCO authorisation system is limited to flights of third countries air carriers operating to/from the Union, and do not cover overflights. In addition, the financial implications for 28 national systems to assess and if necessary ban airlines would be likely much higher, with a strong impact on national resources, and with a much lesser efficiency, compared to the Air Safety List system.

Although the budget dedicated is to be considered of a limited amount, a relevant number of interviewed Member States civil aviation authorities argued that the main issue related to the efficiency of the Air Safety List is the financial costs for national stakeholders to join meetings in Brussels. This concerns meetings for the preparation of technical hearings (contrary to the meetings of the Air Safety Committee, where Member States' experts are reimbursed). Representatives of the Committee say that, due to budgetary reasons, they cannot attend all the hearings and technical meetings, therefore lacking all relevant information useful for decision-making. Some of them suggested that greater efficiencies could be achieved by making the technical hearings accessible via audio-visual conference.

The other cost for the EU associated to the Air Safety List are the technical assistance activities, meant to assist air carriers in remedying the identified deficiencies, which however should not be directly linked to the Regulation itself. On the contrary, the work leading to the adoption of the Air Safety List has helped the Commission to correctly identify the countries that would most benefit from assistance, and has thus contributed to improve spending of EU external assistance funds. This also potentially contributed to

the main objective of preventing air transport accidents and contributed to save the costs associated to those.

Despite the relatively low cost for the Union and the Member States of the management of the Air Safety List, it may however induce significant costs on third countries and/or their airline industry who must bear the costs of upgrading their aviation safety systems. However, these costs are anyway an integral part of any modern, compliant aviation national system. With the Air Safety list, the EU does not require anything more than full compliance with the relevant international safety standards.

In addition, a number of stakeholders considered that the process necessary for the update of the Air Safety List was much longer than the time needed for taking action in the framework of the EASA's TCO authorisation system. In fact, taking into account the ordinary procedure for the update of the list, the minimum timeframe for action is six weeks. Conversely, action under the TCO process (which implies a technical review by EASA resulting in an administrative decision) might be faster. Because of the different procedures involved, some stakeholders argued that it is not possible to be removed from the Air Safety List in a sufficiently short period of time, because of the need to comply with a time-consuming legislative procedure.

The aviation industry of the countries included on the Air Safety List also bear economic costs. The immediate one is the exclusion from any European route that automatically applies if all air carriers from a given country are included on the Air Safety List, as well as from routes to third countries that mirror the Air Safety List, although unofficially.

Furthermore, the risk profile of an airline included on the Air Safety List is affected, increasing its insurance premium and limiting its opportunities for raising funds from financial intermediaries. It affects the airline's reputation and may affect its operational results, also in other markets than the EU.

Some of the interviewees from countries affected by the Air Safety List indicated that the impact of an EU ban on an airline's operational results could be such as to render safety improvements difficult to finance, and to endanger their survival as a company. Whereas it is acknowledged that an unsafe airline should never be allowed to operate, they advocate that the Commission, before opening a formal investigation, send "early warnings" as a help to address emerging safety problems, particularly at the level of the oversight authorities. Such early warnings would prevent the need for a ban on such country's airlines if the necessary corrective actions are undertaken. Although the Air Safety List Regulation does not specifically mandate such preventive action, in practice the Regulation is effectively used also in a proactive manner. In the past years, the Commission developed and maintained a regular dialogue with a number of third country oversight authorities aimed at preventing safety performance deteriorations. Contrary to the U.S. system, the Air Safety List does not require that the "early warning" activity is notified to the public. Such confidential dialogue and exchange of safety information can help to persuade third country authorities to take the necessary remedial actions and improve their safety records before it is too late and the Commission has no other option

that to include this country in the Air Safety List. Therefore, those preventive actions prevent the occurrence of the costs associated to the inclusion on the Air Safety List.

Overall, the Air Safety List Regulation appears efficient and the costs associated to its implementation are largely offset by the benefits it has brought.

5.4. Coherence

The EU toolbox for the assessment of the safety of third country air carriers contains in essence three tools:

- prior verification of the safety of third country air carriers through the Third Country Operator Authorisation system (Commission Regulation (EU) No 452/2014);
- actual verification of the safety of third country aircraft through ramp inspections under the Safety Assessment of Foreign Aircraft (SAFA) programme (Commission Regulation (EU) No 965/2012);
- the Air Safety List, which is used to inform passengers on the safety of third country air carriers and to ban or restrict third country air carriers from EU airspace for safety reasons.

The inspections on aircraft used by third country operators (SAFA) are part of the EU Ramp Inspection Programme coordinated by EASA. There is a high degree of complementarity between SAFA and the Air Safety List, as SAFA represents one of the main data sources of safety deficiencies on which banning decisions are based.

The Third Country Operator Regulation (Part-TCO) entered into force in April 2014. Since then any third-country operator that intends to perform commercial air transport operations into one of the Member States requires a TCO authorisation issued by EASA. Through a number of actions a maximum of coherence is brought between the two instruments. In accordance with the applicable legislation²⁸, an air carrier cannot be granted with a TCO authorisation as long as it is included in the Air Safety List. Should a banned air carrier apply for a TCO authorisation, the Agency can perform its technical assessment: should the assessment be positive, the Agency cannot issue the authorisation, but it should inform to the Commission of the results of the audit. For air carriers included in the list because of deficiencies at the level of their oversight authority (when all carriers from a country are banned), the Agency can proceed conducting its assessment only when authorised by the Commission²⁹. Conversely, when a TCO application is refused or an existing TCO authorisation is revoked on safety grounds, the Air Safety List is engaged: so far, all passenger operators for which EASA has refused an initial TCO application for safety reasons have been eventually subject to the Air Safety List operating ban.

²⁸ Commission Regulation (EU) No 452/2014, ART.210 (a)(5).

²⁹ However, when the air carrier is subject to an operating ban due to the State of the operator not performing adequate oversight, the Commission will decide when the Agency can proceed to further assessment of the operator and the State of Operator under Regulation (EC) No 2111/2005.

Several interviewees point at a certain overlap in the scope of coverage between the Air Safety List and Part-TCO. Although the implementation rules and procedures differ, both the Air Safety List and Part-TCO assess an airline's situation on a case-by-case basis and can effectively ban an air carrier from entering EU airspace (the Air Safety List) or landing at any EU airport (Part TCO). The majority of the industry stakeholders interviewed advocated for further efforts ensuring better alignment between TCO and the Air Safety List, and stated that there is a need to better clarify roles and responsibilities between the Commission and EASA, in particular to avoid duplication. The co-legislators, at the time of the drafting of the Air Safety List Regulation, anticipated the future role of EASA and the co-existence of both systems: “With an extension of the competencies of this Agency, such as in respect of third country aircraft, its role under this Regulation could be further expanded”³⁰. Already since the early years of the Air Safety List, experts from EASA have been contributing to the technical evaluation of the cases considered for the Air Safety List: this ranges from the analysis of the relevant technical documentation, to the systematic participation as team members in the EU on-site assessment visits conducted by the Commission. The possibility to further expand the technical role of EASA, particularly as regards the analysis of information and data, as well as regards the conduct of EU on-site assessment visits, should therefore be taken into consideration.

Several interviewed stakeholders consider that, as an option to deal with the overlap in the scope of coverage between the Air Safety List and TCO, the effects of a negative decision for safety reasons with respect to a TCO application should be considered as equivalent to an EU-wide ban in the meaning of the Air Safety List. In view of the fact that the TCO system offers the possibility to appeal a refusal by EASA to issue a TCO authorisation, it is argued that operators subject to Part-TCO enforcement measures do not need further action as the inclusion in the Air Safety List – this possibility would avoid duplication of work. However, such an approach would deprive EU citizens from the right of information about third country air carriers and from the rights associated to it as per Air Safety List Regulation. To avoid this loss of rights, it could therefore be considered to amend the TCO Regulation to mirror the passengers information rights enshrined in the Air Safety List Regulation. A number of stakeholders also proposed as an alternative option that the Air Safety List focuses on the country dimensions and addresses structural deficiencies at the level of States, whereas the decisions at the level of the individual operators would be left to the TCO authorisation system. The latter option would however require an amendment of the Air Safety List Regulation. A third option, that could be assessed as complementary to the previous ones, would be to mandate EASA to perform the technical assessments once an investigation has been initiated, including the conduct of the on-site audits, whereas the Commission should

³⁰ Recital 19 of Regulation (EC) No 2111/2005 of 14 December 2005.

maintain its responsibility on the opening and closure of investigations, and on the proposals to be made to the Air Safety Committee.

In addition to its EU dimension, air safety is influenced by the inherently international nature of the aviation industry. International cooperation is thus essential to ensure network safety and the development of globally agreed standards. The EU works closely with ICAO, as ICAO Standards and Recommended Practices are well reflected in the EU legislation.

In this regard, the Commission signed a Memorandum of Cooperation with ICAO in 2011 that provided the framework for enhanced cooperation in the areas of aviation safety, aviation security, air traffic management and environmental protection.

Synergies between ICAO and the EU are also to be found in the context of the Air Safety List: ICAO issues ‘Significant Safety Concerns’ to countries³¹, which provides information about the aviation safety situation of the country and can be used as one of the reasons to consider adding that country to the Air Safety List. The same applies to a downgrade by the Federal Aviation Agency (FAA) of the United States within its International Aviation Safety Assessment (IASA) programme.

ICAO has no powers to enforce any recommendations arising from ICAO’s Universal Safety Oversight Audit Programme. ICAO cannot force a civil aviation authority or a government to take any steps to address deficiencies identified in the audit. Thus, the EU Air Safety List and the FAA’s list are deemed to be the most forceful measures to encourage addressing non-compliance with ICAO standards.

It is argued by some of the interviewed stakeholders that greater international cooperation between the three oversight systems can contribute to greater international harmonisation of standards to the benefit of passengers and the aeronautical industry. From the point of view of operators and authorities from the third countries, there should be no inconsistencies between decisions of ICAO, of the EU, and of the Federal Aviation Administration. Some stakeholders advocate deeper information exchange with the FAA to better exploit synergies. This could be enhanced through the international cooperation channels which already exist between the EU and the FAA.

While the Air Safety List Regulation appears coherent with other EU rules, certain steps could be considered to further foster this coherence.

As regards the information to passengers, there are no other EU regulations that either are in contradiction with the Air Safety List regulation, or that would realised the objective

³¹ "During the course of an audit, ICAO may identify what is referred to as a ‘Significant Safety Concern’ with respect to the ability of the audited State to properly oversee its airlines (air operators); airports; aircraft; and/or air navigation services provider under its jurisdiction. This does not necessarily indicate a particular safety deficiency but, rather, indicates that the State is not providing sufficient safety oversight to ensure the effective implementation of all applicable ICAO Standards. Full technical details of the ICAO findings are made available to the State’s Civil Aviation Authority to guide rectification, as well as to all ICAO Member States to facilitate any actions that they may consider necessary to ensure safety. The audited State also undertakes to regularly report to ICAO progress on the correction of the safety concern". <https://www.icao.int/safety/CMAForum/Pages/FAQ.aspx>

of the intervention. In addition, certain provisions of the the Air Safety List regulation as regards information to passengers are complementary to Regulation 261/2004 – the Regulation provides for the right to reimbursement or re-routing in case an air carrier has been included into the Air Safety List and, as a consequence, the flight is cancelled or the passenger has chosen not to travel with the banned carrier when the flight is operated outside of the EU and is therefore not cancelled.

5.5. EU Added Value

As also indicated by the results of the study, it is assessed that the Air Safety List Regulation has a particularly strong EU added value.

First, the Regulation ensures that all EU passengers benefit from the same level of protection wherever they are travelling within, to or from the EU.

Second, EU involvement ensures greater influence over third country air carriers confirming that the intervention of a banning instrument, including the threat of a ban, is more relevant, efficient and powerful at the EU level compared to national bans which could be circumvented as shown by the past experience (operators banned in one country rescheduling flights from nearby airports of another Member States, and banning countries being vulnerable to retaliatory action by the third countries whose air carriers were banned). The Air Safety List Regulation has proved to have a preventive and dissuasive effect, since authorities, when confronted with verified evidence of safety deficiencies, have often proactively taken enforcement measures such as restricting the operations of an air carrier or even withdrawing its air operator certificate.

Third, improved coordination among Member States, as the comitology procedure allows for the full representation of Union Member State. All Member States are involved in the proceedings; they have full access to the documentation and can express their voice in the Air Safety Committee. Furthermore, the comitology procedure allows for clear cost-savings for Member States.

In addition, the common criteria listed in the Air Safety List Regulation increase the transparency of the process compared to the previous system based on national bans, and improve the relationships with national authorities and the industry.

Finally, an EU coordinated approach brought about technical cooperation and knowledge transfer among Member States, facilitating coordination and information exchange among Member States. Also, in this area the EU speaks with a single voice. This has resulted in improved international air safety oversight and enforcement of safety standards.

On the basis of all these elements it can be concluded that the EU added value of the Air Safety List is very high.

6. CONCLUSIONS

The evaluation shows that the Air Safety List Regulation and its objectives remains fully relevant after more than 10 years, and that the Regulation has proven to be an effective,

efficient and coherent tool to protect European citizens, with particularly high value added at the level of the EU.

In terms of relevance, the intervention of the EU was necessary at the time of its adoption and it is still necessary now. Individual measures such as national bans would be insufficient in providing a uniform and efficient reaction to the risks arising from the operations of unsafe air carriers in the EU and outside of the EU. In the meantime, new instruments at EU level have been adopted (Part-TCO), reinforcing the EU international air safety system by allowing for a scrutiny before operations are conducted within the EU, and therefore complementing the Air Safety List measures. The Air Safety List Regulation is the only means to control operations conducted outside of the EU and thus affording higher protection of EU passengers by extending it to flights outside of the EU. The Air Safety List remains the only safety-enforcement means at the disposal of the EU with a worldwide scope of action.

As regards its effectiveness, it is demonstrated that the Air Safety List is effective in keeping unsafe airlines outside of the EU airspace by means of the ban, and it establishes a framework for informing passengers, travelling both inside and outside of the EU, about safety status of their operating air carrier. In addition, its preventive and dissuasive effects have contributed to enhancing aviation safety globally.

The efficiency of the Air Safety List is very high, as the only costs at the level of the Union and its Member States are those associated with the Air Safety Committee, and with the technical assistance provided to third countries. In addition, the Air Safety List has proved its efficiency in identifying the right targets of such technical assistance. As regards the speed of decision-making, its efficiency is guaranteed by fast-track procedures agreed with the Secretariat-General of the Commission and with the European Parliament, and the Regulation includes urgency measures.

In terms of coherence, the Air Safety List is largely consistent with other EU instruments, notably with the SAFA Programme and the EASA TCO authorisation system. The interaction between those instruments could however be fine-tuned, in particular to avoid duplication of work as far as TCO is concerned, and better exploit synergies. Also, the Air Safety List Regulation enlarges the scope of the passenger rights regulation, as regards the right of reimbursement or re-routing when an air carrier becomes subject to an EU ban.

The EU added value of the Air Safety List Regulation is very strong, particularly because of the much stronger Union-level influence over the safety of third country air carriers and third countries' safety oversight compared to individual efforts limited to national level. The same is true for the coordinated approach as regards technical cooperation: the inclusiveness and equal representation of all the Member States gives them access to safety information from many different sources – an access which separately would not have been possible to such an extent.

Also, the evaluation of costs and benefits revealed that the Air Safety List Regulation has a high value-for-money, since its direct running costs are limited compared to the

benefits in the form of better protection of the EU travellers, the prevention of accidents and the administrative costs saved at Member State level.

In spite of undeniable positive outcomes of the Regulation as regards passenger rights, information was not available to help fully conclude on the objective of passenger information. Further action in terms of communication could be considered so as to further improve the awareness of the travel industry and of the travelling public as regards the air carriers subject to a ban, particularly when they continue to operate outside the EU airspace. This can be achieved by means of enhanced and targeted communication.

The evaluation underlines the importance of close cooperation between all international aviation safety stakeholders involved, and in particular the Commission, EASA, Member States, third countries, the U.S. FAA and ICAO, reflecting the fact that aviation safety is a shared global concern.

The ongoing increase of targeted assistance to third countries subject to a ban or under risk of being banned has greatly helped to accept the Air Safety List in third countries and so avoid retaliatory actions. The targeted assistance has leveraged the Air Safety List and allowed a number of States and airlines to be removed from the List or has prevented the inclusion of certain countries to the list. The latter was also due to the deterrent value of the Air Safety List, whereby only a limited fraction of the investigated cases has led to a ban.

Finally, more systematic interactions with third country oversight authorities, in the early stages of safety performance weakening, could stimulate corrective actions before the need for a ban actually arises. In any case, the Air Safety List has proven to serve not only as a punitive tool, but also as a positive pre-emptive tool of key importance, and that latter aspect could be further strengthened.

Annex 1: Procedural information

1. LEAD DG, DeCIDE PLANNING/CWP REFERENCES

- Lead DG is DG MOVE, Unit E4: Aviation Safety
- Reference number 2016/MOVE/067

2. ORGANISATION AND TIMING

The evaluation was performed as part of the Commission 2015 AVIATION STRATEGY FOR EUROPE.

The evaluation started in 2016, with the first meeting of the Inter-Service Steering Group on 7 March 2016 and a roadmap published on 4 May 2016.

The Commission launched a call for tenders for a support study on “Evaluation of Regulation 2111/ 2005 on the establishment of a Community list of air carriers subject to an operating ban in the Community”. A framework service contract was signed with Roland Berger Strategy Consultants in cooperation with Valdani Vicari & Associati SRL and Gide Loyrette Nouel under framework contract number MOVE/A3/119-2013/LOT1-ROLAND BERGER. The evaluation study was performed 2016-2017 and the final study report was delivered in February 2018.

The evaluation study is based on the assessment of the effectiveness, efficiency, coherence, relevance and EU added value of the Air Safety List, and reviews the objectives of the original regulatory intervention and the performance of the intervention as compared to the initial expectations and the current situation. The study also determines whether there are overlaps with other safety-related regulatory tools.

Based on the results of each evaluation themes, conclusions have been drawn on whether improvements can be made to the application of the Air Safety List Regulation and to the communication of measures taken under it, including the provision of information to passengers.

The Inter-Service Steering Group held another two meetings after the first meeting in March 2016, on the different steps of the evaluation process. The Commission Services participating in the ISG are: Secretariat-General, European Commission Legal Service (SJ), DG Internal Market, Industry, Entrepreneurship and SMEs (DG GROW), DG for International cooperation and Development (DG DEVCO), DG for Neighbourhood and Enlargement Negotiations (DG NEAR), DG for Trade (DG TRADE), European External Action Service (EEAS) and the European Union Aviation Safety Agency.

Finally, the Inter-Service Steering Group was consulted on the draft of the Staff Working Document in November 2018.

3. EXCEPTIONS TO THE BETTER REGULATION GUIDELINES

No exceptions to the Better Regulation Guidelines.

4. CONSULTATION OF THE RSB (IF APPLICABLE)

N/A

5. EVIDENCE, SOURCES AND QUALITY

The evaluation of the Air Safety List was based on the intervention logic of Regulation (EC) No 2111/2005 and a comprehensive analytical framework comprising the evaluation questions and their respective judgement criteria, indicators and information sources.

The data collection tools used to gather the relevant information consisted of a document review, stakeholder interviews, an online stakeholders survey, case studies, a workshop and an open public consultation.

The document review covered the Commission's, EASA's and ICAO's reporting and monitoring documents, position papers from European and national industry associations as well as external reports and other relevant documentation from the airlines, insurance brokers and tour operators.

Interviews were conducted with Commission (DG MOVE, DG GROW) and EEAS officials, members of the European Parliament, EASA officials, Member States Civil Aviation Authorities (CAAs), civil aviation authorities in third countries, ICAO, industry associations and individual companies.

The online survey covered a representative selection of stakeholders involved in the Air Safety List's activities, namely the national authorities and/or governments of the EU Member states, EU actors³², third country civil aviation administrations, Airline Industry³³, aviation insurance industry, consumer associations, international aviation organisations, regional aviation organisations, the travel and tourism industry and related industrial sectors.

In addition, the views of stakeholders were assessed by analysing the results of an open public consultation as well as position papers of external stakeholders uploaded in the context of the open public consultation.

For the efficiency analysis, a workshop was organised, '10-years EU Air Safety List', with the members of the EU Air Safety Committee. The workshop focused on the

³² European Commission, European Parliament, EASA, EUROCONTROL, EEAS, EU delegations to third countries.

³³ Associations, manufacturers, alliances, economic operators.

functioning of the committee and gathered opinions on the organisational structure, management and governance as well as on communication resources and activities.

Three case studies were conducted on the application of the Regulation (EC) No 2111/2005. The case studies comprise air carriers or states responsible for the oversight of certain air carriers that have been affected by decisions made under the Air Safety List regulation.

Annex 2: Stakeholder consultation³⁴

The Synopsis Report presents the three consultation activities conducted during the Evaluation of Regulation (EC) No 2111/2005: online survey, interviews and open public consultation. The strategy for the consultation activities, as well as the results and the representativeness of answers to this consultation are explained in this report. The list of stakeholders who responded to each consultation activity is provided.

A significant number of stakeholders answered the online survey (152) and the type of stakeholders who answered is quite varied. The response to our interviews is satisfactory as 44 stakeholders were interviewed from different fields of air safety (national civil aviation authorities, industry associations, EU stakeholders, individual airlines etc.).

The main issue encountered during these three types of consultation activities were the fact that the stakeholders did not answer all the questions of the online survey, interview or open public consultation. This problem was resolved by triangulating the results of these three consultation activities in order to establish the comprehensive findings in the main report, reflecting the range of opinions of stakeholders.

1.1. Description of the online survey strategy

The study team launched an online survey from 25 April to 29 May 2017. We received 152 answers in total, of which 103 were valid answers: 43 answers from national authorities or governments of the EU Member States; 28 EU stakeholders (i.e. European Commission, European Parliament, EASA, EUROCONTROL, EASA, EU delegations within third countries); 15 from third country civil aviation administrations; 17 from other stakeholders (e.g. travel and tourism industry, airline industry, consumer associations, regional aviation organisations, international aviation organisations and aviation insurance industry).

Due to data privacy, it is not possible to provide any information related to the identity of the respondent, if not legally authorised to do so. Therefore, geographical coverage of the online survey is based on the IP addresses of the respondents and may not fully correspond to the stakeholders' geographical origins. The link to the online survey was created with the SurveyGizmo survey tool and sent to the selected stakeholders by the contractor.

The survey questionnaire was drafted based on the evaluation questions and was approved by the European Commission (DG MOVE).

³⁴ The Synopsis Report is extracted from the Stakeholder Consultation Report of the Evaluation of Regulation (EC) No 2111/2005 on the establishment of a Community list of air carriers subject to an operating ban in the Community (Chapter 3).

The main limitation to the online survey is that, given the diversity of profiles, not all questions have been answered to the same extent, as respondents are often more involved in certain work areas of the Air Safety List than others.

We received 152 answers in total to our survey:

- 55 were “*completed*” answers (i.e. the respondent went through all the questions and submitted the questionnaire);
- 97 were “*partial*” answers (i.e. the respondent abandoned the questionnaire at a certain point).

All the “*partial*” answers were checked manually to assess their relevance and potential inclusion in the final sample. “*Partial*” answers that provided more information than basic information were included. Out of these, 103 “*valid*” answers were obtained.

In terms of geographical coverage, we received answers from 47 countries.³⁵ The overall coverage is represented in

Table 1.

Table 1 : Survey - Geographical coverage

Country	No. of answers received	Relative weight
Angola	3	2%
Antigua and Barbuda	1	1%
Australia	1	1%
Austria	3	2%
Belgium	49	32%
Bulgaria	1	1%
Canada	2	1%
Croatia	2	1%
Cyprus	1	1%
Czech Republic	1	1%
Denmark	2	1%
Dominican Republic	1	1%
Egypt	1	1%
Estonia	1	1%
Finland	1	1%
France	4	3%
Germany	3	2%
Greece	2	1%
Hungary	1	1%

³⁵ Based on the respondent IP address.

Country	No. of answers received	Relative weight
Ireland	3	2%
Italy	2	1%
Japan	1	1%
Kazakhstan	2	1%
Lebanon	1	1%
Liberia	1	1%
Lithuania	2	1%
Luxembourg	3	2%
Madagascar	2	1%
Malaysia	1	1%
Malta	3	2%
Netherlands	2	1%
Pakistan	1	1%
Portugal	1	1%
Romania	8	5%
Senegal	1	1%
Serbia	1	1%
Singapore	1	1%
Slovakia	1	1%
Slovenia	1	1%
Spain	3	2%
Sri Lanka	1	1%
Switzerland	1	1%
Thailand	1	1%
United Kingdom	8	5%
United States	4	3%
Zambia	3	2%
n/a	13	9%
Total	152	100%

In terms of profile of the respondents, the most representative category that answered our survey is “The national authorities and governments of the EU Member states” (29%), followed by “EU stakeholders (European Commission, European Parliament, EASA, EUROCONTROL, EEAS, EU Delegations within Third Countries)” (19%) and “Third Country Civil Aviation Administrations” (8%).

A complete overview is presented in Figure 2.

Figure 2: Survey – graphic representation of geographical coverage

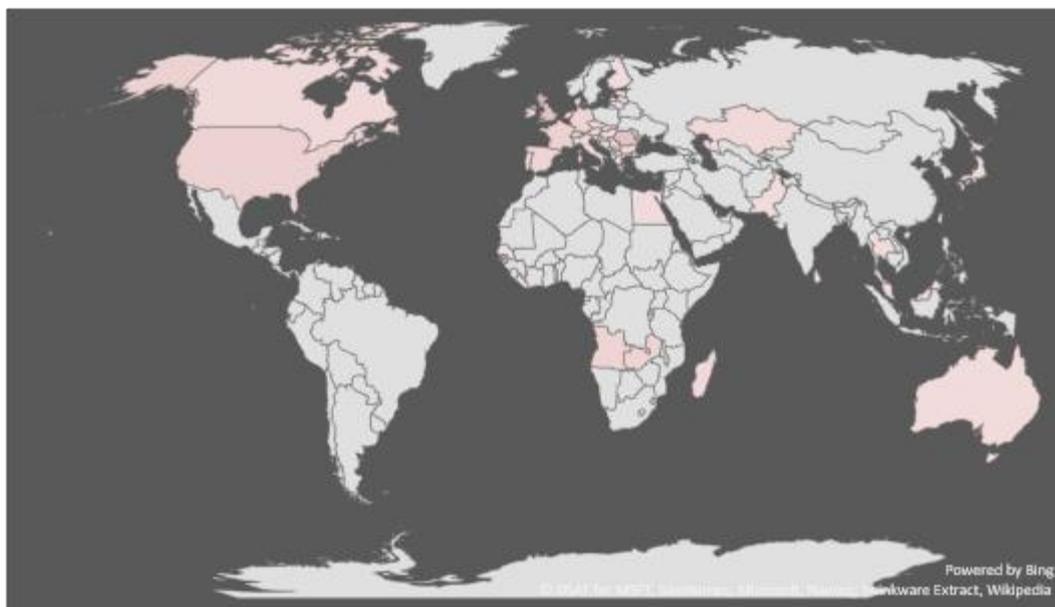
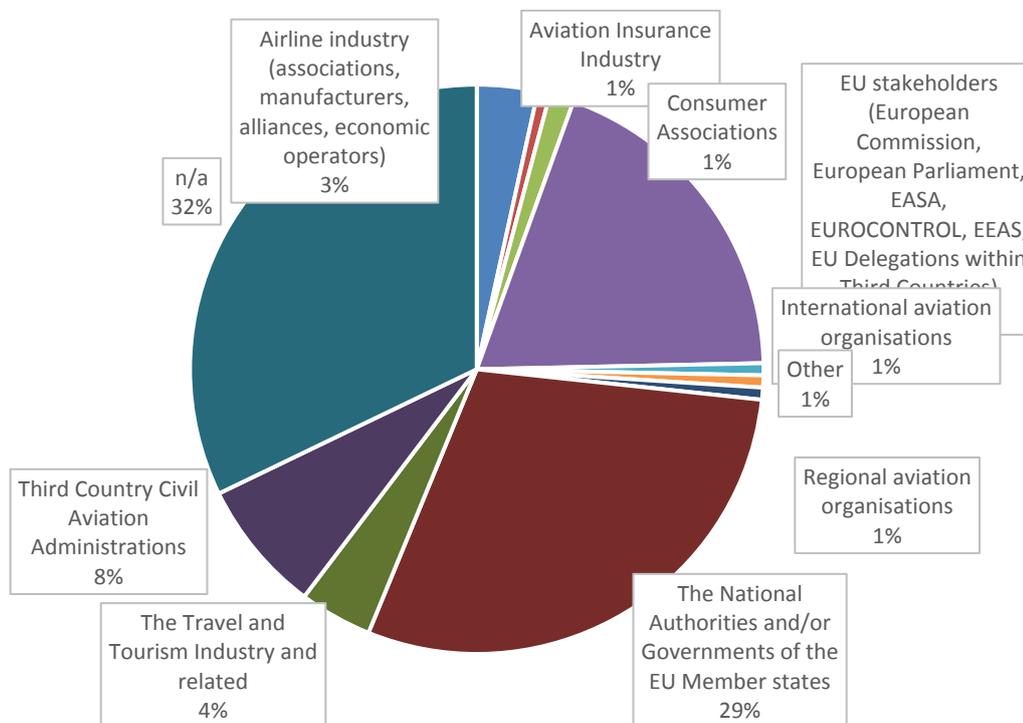


Figure 3: Survey – profile of respondents



1.2. Description of the targeted interviews' strategy

Face-to-face or telephone interviews were conducted with the different categories of stakeholders involved in or impacted by the Air Safety List, including Commission officials, EASA staff and management, Member States civil aviation authorities, EEAS delegations, civil aviation authorities in third countries, industry associations and individual airline companies. The complete list of stakeholders interviewed can be found in Table 2.

To take into consideration the specificity and relevance of information collected during the interviews, different sets of questions were asked around the profile, the specific area of competence and activity of the stakeholder. The study team faced some limitations during the interview phase, as interviews with national civil aviation authorities were only conducted in five Member States (Finland, Germany, Ireland, Italy and the Netherlands) and in six third countries (Benin, Kazakhstan, Madagascar, Mozambique, Namibia and Pakistan) based on their willingness to participate in this study.

In total, 44 stakeholders were interviewed. Of these, 15 were conducted with national civil aviation authorities, 10 with individual airline companies, seven with industry associations, five with EU stakeholders (European Commission, European Parliament) and seven with EASA staff and management. The majority of national civil aviation authorities interviewed were from third countries. Most of the individual aviation companies were international companies (Boeing, Airbus, British airlines).

Table 2: List of interviewees

Organisation
Agence Nationale de l'Aviation Civile - Benin
Airastana
Airbus
Airlines 4 Europe
ATR Aircraft
Austrian Federal Chamber of Labour – Brussels Office
Aviation Civile de Madagascar
Boeing
Boeing
Boeing
British Airlines
CASSOA
Civil Aviation Authority Mozambique
Civil Aviation Authority of The Netherlands
Civil Aviation Committee of the Ministry of Investments and Development of the Republic of Kazakhstan
Deutsche Lufthansa AG
DG GROW
DG MOVE
DG MOVE
DG MOVE
EASA
EEAS Angola
EEAS Zambia
ENAC
European Council of General Aviation Support
European Parliament

Organisation
European Regions Airline Association
Finnish Transport Safety Agency
ICAO
IATA
Irish Aviation Authority
Luftfahrt-Bundesamt
Namibia Civil Aviation Authority
Namibia Civil Aviation Authority
Namibia Civil Aviation Authority
Pakistan Civil Aviation Authority
Pakistan Civil Aviation Authority
Permanent Representative of Cameroon to ICAO
TUI Group
Turkish Airlines

1.3. Description of open public consultation

The open public consultation “Public Consultation on the EU Air Safety List ('Black List of Airlines') Regulation” was launched by the European Commission on 8 August 2017, and ran until 7 November 2017.

A total of 24 stakeholders participated in the open public consultation and a large majority of the answers were received from EU stakeholders (18 answers). The two categories of participants were individuals (11 stakeholders) and organisations (13 respondents). Different types of organisations participated in the consultation: national aviation authorities of an EU country, airlines, an industry association, an airline association, a national chamber of labour and a tour operator.

Regarding organisations, national aviation authorities of EU Member States were the most numerous stakeholders with five participants. Out of the 13 organisations that responded, seven indicated the size of their organisations: four are large enterprises (a chamber of labour, two airlines and a tour operator) and three are medium-size.

Of the 16 countries of origin of the participants 12 were EU Member States (Austria, Belgium, Czech Republic, Germany, Italy, Latvia, Malta, the Netherlands, Portugal, Slovakia, Spain and the United Kingdom) and four non-EU countries were represented (Egypt, Jordan, Mexico and the Sultanate of Oman). By nationality, the Netherlands was the most represented country with four of the responses. The second most responsive countries were Belgium, Malta, Spain and the United Kingdom with two respondents each.

The respondents to the online public consultation indicated that if they take an airline flight more than five times a year, 11 of the participants who replied fly between two EU airports. Seven of the respondents fly between one and five times a year between an airport within the EU and an airport outside of the EU. In comparison, when respondents

only fly less than once a year, nine indicated that it occurs between two airports outside the EU.

The public consultation has been a useful tool for reaching a number of stakeholders not included in the survey, interviews or the target audience of the workshop. The results of the open public consultation complemented the information gathered through desk research, interviews and the online survey. However, considering the limited uptake (24 replies), the explanatory power of the open public consultation is limited. The contractor has relied more on other data collection tools to answer the evaluation questions.

Annex 3: Methods and analytical models

The development of the analytical framework of the evaluation of Regulation (EC) No 2111/2005 was based on the intervention logic and the following evaluation questions:

Relevance

- *Question 1:* To what extent have the original objectives of Regulation (EC) No 2111/2005 been appropriate for the original intervention?
- *Question 2:* How well do the original objectives still correspond to the current needs of the EU citizen as they make travel choices both within the EU and beyond?
- *Question 3:* To what extent are the objectives of Regulation (EC) No 2111/2005 still relevant, taking into account the developments in the EU and third country air carrier policy area?
- *Question 4:* Which other strategic options were available in 2006 under an EU regulatory framework, in relation to the monitoring and enforcement of international safety standards (with respect to third country air carriers) compared to what is available now?

Effectiveness

- *Question 1:* To what extent do the outcomes or observed effects in terms of protection of and information to EU passengers correspond to the objectives?
- *Question 2:* To what extent has the Air Safety List Regulation contributed to improving aviation safety standards in third countries?
- *Question 3:* How proportionate has the intervention been in terms of effectively addressing prevalent safety risks both within third countries and third country air carriers?
- *Question 4:* What have been the unintended or unforeseen consequences of the establishment of the EU Air Safety List?

Efficiency

- *Question 1:* To what extent has the intervention been cost-effective?
- *Question 2:* Have the costs being attributable to different stakeholders been proportionate?

Coherence

- *Question 1:* To what extent is the intervention coherent with EU aviation safety policy, including the external dimension of EU aviation policy as well as other EU instruments relating to the assessment of third country air carrier safety

standards, e.g. examining gaps, overlaps or inconsistencies between different regulations?

- *Question 2:* Are there particular synergies and/or inconsistencies related to the intervention that have affected EU aviation policy?

EU Added Value

- *Question 1:* What is the added value of the regulation compared to what national action and international agreements could achieve?
- *Question 2:* To what extent do the actions addressed by the Air Safety List Regulation continue to require action at EU level?

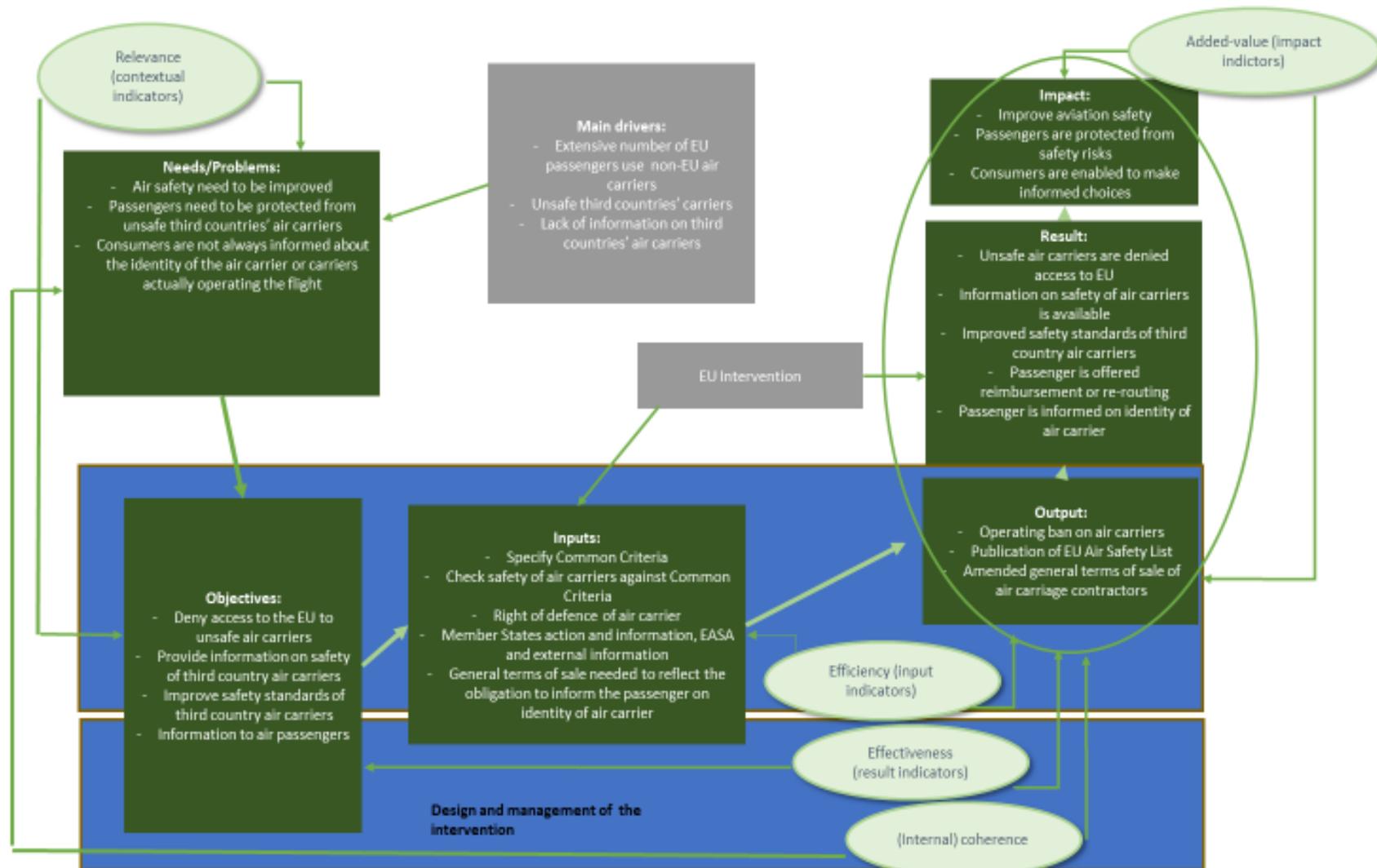
The intervention logic using a visual logic diagram is presented (**Error! Reference source not found.**) in order to illustrate the inputs and the causal chain of the intervention behind the EU Air Safety List. The text below presents how the different measures are expected to interact and how the different components are expected to fit together.

Figure 1: Intervention Logic

The graphical representation of the intervention logic links the following main elements:

Main drivers → Needs/ Problems → Objectives → Inputs → Output → Result → Impact





Annex 4: Evaluation matrix

The core of the study to be carried out is the assessment and response to the evaluation questions, in line with the EU Better Regulation Guidelines³⁶ and Toolbox³⁷. The use of a structured analytical framework will allow the evaluation team to conduct robust, logical and solid evaluation work and to elaborate substantive conclusions and recommendations based on the evaluation findings.

The evaluation questions considered in our analysis are:

- Relevance
- Effectiveness
- Efficiency
- Coherence
- EU added value

For each of the evaluation criteria, the main related questions are reviewed and addressed in the following tables (i.e. by introducing the main criteria for judgement, as well as the indicators and the sources of information to be adopted to address each question).

The tables below describe in further details our analytical framework, including evaluation questions and related evaluation criteria, indicators and data sources to be considered in the assessment.

36 http://ec.europa.eu/smart-regulation/guidelines/ug_chap6_en.htm

37 http://ec.europa.eu/smart-regulation/guidelines/toc_tool_en.htm

1. Relevance

Question	Judgement criteria/Breakdown questions	Indicators	Preliminary data source
Relevance			
<p>To what extent have the original objectives of Regulation 2111/2005 been appropriate for the original intervention?</p>	<p>To what extent the General Objectives (high level of protection for EU passengers from safety risks, enabling consumers to make informed air travel choices and improve aviation safety) reflected the needs of EU passengers in 2005?</p> <p>To what extent the Specific Objectives (deny access to unsafe carriers, provide information to air passengers including on third-country carriers, improve safety standards) reflected the needs of EU passengers in 2005?</p>	<p>a. Number of EU air passengers as a % of total EU population (by age cohorts – 2000 to 2005)</p> <p>b. Travel patterns of EU air passengers (within and outside the EU – 2000 to 2005)</p> <p>c. Number of air accidents involving EU passengers (total and with third-countries carriers) as a % of total EU passengers (within and outside the EU by carriers – 2000 to 2005)</p> <p>d. Perception of EU passengers (and other relevant stakeholders) of the relevance of air safety (2005)</p> <p>e. Perception of the consumers on the provision of passenger information at the time of the intervention (2005)³⁸</p> <p>f. Number of carriers used by EU passengers not meeting relevant safety requirements (2000-2005)</p> <p>g. Number of access of unsafe carriers in EU (2000-2005)</p>	<p>Secondary sources</p> <p>For a/c/f. (Eurostat, specific datasets, studies)</p> <p>For d. (studies, Eurobarometer)</p> <p>Primary sources</p> <p>For b, d, f. Survey, Public Consultation, interview</p>

³⁸ We do not believe passengers will have a clear view on what happened at the time of intervention, therefore we aim to inform this indicator partly through desk research and partly through key stakeholders.

Question	Judgement criteria/Breakdown questions	Indicators	Preliminary data source
Relevance			
<p>How well do the original objectives still correspond to the current needs of the EU citizen as they make travel choices both within the EU and beyond?</p>	<p>To what extent the General Objectives (high level of protection for EU passengers from safety risks, enabling consumers to make informed air travel choices and improve aviation safety) still reflected the needs of EU passengers in 2016?</p> <p>To what extent the Specific Objectives (deny access to unsafe carriers, provide information to air passengers including on third-country carriers, improve safety standards) still reflected the needs of EU passengers in 2016?</p>	<p>a. Trends of EU air passengers as a % of total EU population (by age cohorts – 2000 to 2016)</p> <p>b. Trends of air accidents involving EU passengers (total and including third-country carriers) as a % of total EU passengers through time (within and outside the EU by carriers – 2000 to 2016)</p> <p>c. Trends in access of unsafe carriers in EU</p> <p>d. Perception of EU citizens/passengers (and other relevant stakeholders) of the relevance of air safety (2016) – if possible with respect to the baseline (2000/2005)</p> <p>e. Trends in carriers used by EU passengers not meeting relevant safety requirements, as % of carriers used through time (2000-2016)</p>	<p>Secondary sources</p> <p>For a/b/c. (Eurostat, specific datasets, studies)</p> <p>For d. (studies, Eurobarometer)</p> <p>Public consultation</p> <p>Primary sources</p> <p>For d/e. Interviews, Survey, Public Consultation, Workshop</p>
<p>To what extent are the objectives of Regulation 2111/2005 still relevant, taking into account the developments in the EU and third country air carrier policy area?</p>	<p>To what extent the objectives reflect EU developments in air carrier policy and practices with respect to air safety?</p> <p>To what extent the objectives reflect third-countries developments in air carrier policy and practices with respect to safety area?</p>	<p>a. Number and subjects of relevant policy/practices in EU and third-countries (2000-2016)</p> <p>b. Extent to which policy/practices make the current objectives partially relevant /</p>	<p>Secondary sources:</p> <p>For a/b/c. (studies)</p>

Question	Judgement criteria/Breakdown questions	Indicators	Preliminary data source
Relevance			
		<p>irrelevant (for EU and third-countries)</p> <p>c. Elements of the objective mostly affected by the new policy/practices (and features of such policies/practices)</p>	<p>Primary sources</p> <p>For a/b/c.</p> <p>Interviews, Survey, Public Consultation, Workshop</p> <p>Own assessment</p>
<p>Which other strategic options were available in 2006 under an EU regulatory framework, in relation to the monitoring and enforcement of international safety standards (with respect to third country air carriers) compared to what is available now?</p>	<p>Which other strategic options (i.e. range of Specific/Operational Objectives aimed at achieving the General Objectives) were available in 2006 to address the safety needs of EU passengers back then?</p> <p>To what extent the changes in the policy/practices through time (as assessed in the previous question) have changed the range of strategic options possible?</p> <p>What are the potentially most effective strategic options (i.e. previously dismissed and/or new identified Specific/Operational Objectives) available to address the current safety needs of EU passengers?</p> <p>To what extent strategic options may emerge in the context of global ICT and data sharing development potentials?</p>	<p>a. Number, type and features of strategic options (2005)</p> <p>b. Options made obsolete by new policy/practices (2005/2016)</p> <p>c. Number of alternative strategic options emerging</p> <p>d. Relevance of remaining options and/or newly identified emerging options in achieving the General Objectives (as assessed by stakeholders)</p>	<p>Secondary sources</p> <p>For a/b/c.</p> <p>(studies / internal reports)</p> <p>Primary sources</p> <p>For a/b/c/d.</p> <p>Interviews, Survey, Public Consultation, Workshop</p> <p>Own assessment</p>

6. Effectiveness

Question	Judgement criteria/Breakdown questions	Indicators	Preliminary data source
Effectiveness			
<p>To what extent do the outcomes or observed effects in terms of protection of and information to EU passengers correspond to the objectives?</p>	<p>Have the measures taken under the Air Safety List Regulation protected EU citizens to the degree intended?</p> <p>Has sufficient passenger information been provided on the risks associated with air carriers that have been identified as being unsafe?</p> <p>Has imposition of ban prevented access of unsafe carriers?</p>	<p>a. Trend in air accidents involving EU passengers, in absolute terms and as a % of total EU passengers (within and outside the EU by carriers – 2000 to 2016)</p> <p>b. Trend in number of carriers used by EU passengers not meeting relevant safety requirements (2000-2016)</p> <p>c. Number of unsafe air carriers being uploaded on the list as % of total unsafe carriers through time (2000-2016)</p> <p>d. Number of unsafe air carriers being banned as % of total unsafe carriers through time (2000-2016)</p> <p>e. Perception of relevant stakeholders on the relevance of the information on the list in providing a reference for their choices (2016)</p> <p>f. Perception of relevant stakeholders on the relevance of the other actions in preventing safety risks (2016)</p>	<p>Secondary sources</p> <p>For a/b. (Eurostat, specific datasets, studies)</p> <p>For c/d. (studies, internal statistics)</p> <p>Primary sources</p> <p>For e/f. Interviews, Survey, Public Consultation, Workshop</p> <p>Own assessment</p>
<p>To what extent has the Air Safety List Regulation contributed to improving aviation safety standards in third countries?</p>	<p>Has the presence of being listed under the Air Safety List affected behaviour of carriers?</p> <p>Have the Air Safety List's implementing measures in any way</p>	<p>a. Number of carriers perceiving being part of the list as a negative factor, as % of those listed</p> <p>b. Number of Carriers mentioning being listed/banned</p>	<p>Secondary sources</p> <p>For a/b. (studies)</p>

Question	Judgement criteria/Breakdown questions	Indicators	Preliminary data source
Effectiveness			
	<p>contributed to the raise of safety standards?</p> <p>Have bans helped in improving safety standards?</p> <p>Have measures directed at individual air carriers had any effect?</p> <p>Has the Air Safety Regulation had a deterrent value³⁹ on third countries, despite action not always being taken?</p> <p>Has the Air Safety Regulation contributed to an increase of international aviation safety standards, despite action not always being taken?</p> <p>Has the availability of measures in some way affected the outcome of a case or how it has been dealt with?</p>	<p>as a factor in decrease of EU passengers, as % of those listed</p> <p>c. Improvements of safety standards (% of those improving and time-frames for improvements) of carriers being listed/banned (2005/2016)</p> <p>d. Perception of relevance by main stakeholders (i.e. consumer, EU carriers, third-party carriers)</p>	<p>For c/d.</p> <p>(specific datasets, studies, internal statistics)</p> <p>Public consultation</p> <p>Primary sources</p> <p>For all.</p> <p>Interviews, Survey, Public Consultation, Workshop</p> <p>Own assessment</p>
<p>How proportionate has the intervention been in terms of effectively addressing prevalent safety risks both within third countries and third country air carriers?</p>	<p>Have the implemented measure been proportionate in scope, focus and scale with respect to the problem?</p> <p>Would greater/narrower scope, focus and/or scale have been required to address safety risks?</p> <p>Were allocated resources and capacity available amongst</p>	<p>a. Evidence of (lack of) proportional scope, focus and scale of intervention</p> <p>b. Evidence of (limits in) capacity and/or resources available in order to address the challenges identified</p> <p>c. Perception of main stakeholders (i.e. consumer, EU</p>	<p>Secondary sources</p> <p>For a/b/c.</p> <p>(studies / internal statistics)</p> <p>Primary sources</p>

39 "Deterrent value" e.g. "dissuasive effect" on third countries. This question asks whether or not the Regulation have facilitated improvements in air safety in third countries.

Question	Judgement criteria/Breakdown questions	Indicators	Preliminary data source
Effectiveness			
	implementing body proportionate to the required tasks?	carriers, third-party carriers)	<p>For a/b.</p> <p>Case studies</p> <p>For c.</p> <p>Interviews, Survey, Consultation, Workshop Public</p> <p>Own assessment</p>
What have been the unintended or unforeseen consequences of the establishment of the EU Air Safety List?	<p>Has the Air Safety Regulation had unintended consequences?</p> <p>Have travel patterns consequentially altered in an unexpected manner?</p>	<p>a. Evidence of unintended consequences in addressing the challenges identified</p> <p>b. Perception of main stakeholders (i.e. consumer, EU carriers, third-party carriers)</p>	<p>Secondary sources</p> <p>For a.</p> <p>(studies / internal statistics)</p> <p>Primary sources</p> <p>For a.</p> <p>Case studies</p> <p>For b.</p> <p>Interviews, Survey, Consultation, Workshop Public</p> <p>Own assessment</p>

7. Efficiency

Question	Judgement criteria/Breakdown questions	Indicators	Preliminary data source
Efficiency			
<p>To what extent has the intervention been cost-effective?</p>	<p>To what extent compliance costs⁴⁰ incurred to comply with the Regulation have been proportionate to the results achieved?</p> <p>To what extent implementation and enforcements costs⁴¹ borne to enforce the Regulation have been proportionate to the results achieved?</p> <p>To what extent costs and resources devoted to the imposition of operating ban have been proportionate to the results achieved?(compliance costs)</p> <p>To what extent costs and resources devoted to oblige carriers to inform passengers have been proportionate to achieved results? (compliance costs)</p> <p>To what extent costs and resources devoted to the set-up and updating of the EU Air Safety List have been proportionate to achieved results? (implementation/ enforcement costs)</p> <p>To what extent costs and resources devoted to the organisation and governance of activities implemented have been proportionate to the overall achievements of these?</p>	<p>a. Direct and indirect costs related to the implementation and enforcement of each Operational Objective</p> <p>b. Indirect costs related to the compliance of the stakeholders to the Regulation's Objectives</p> <p>c. Organisational costs for governing and managing the initiative</p> <p>d. Results with respect to Specific and General Objectives (i.e. as described under the previous questions)</p> <p>e. Perception of main stakeholders (i.e. EU, MS, carriers, consumers)</p>	<p>Secondary sources</p> <p>For a/b/c. (studies / internal statistics and reports)</p> <p>For d. Based on effectiveness evaluation questions</p> <p>Primary sources</p> <p>For a/d. Case studies</p> <p>For e. Interviews, Survey, Public Consultation, Workshop</p>

40 "Compliance costs" e.g. costs incurred by businesses and other parties in undertaking the actions necessary to comply with the new regulatory requirements (Definition from Tool #52: Methods to Assess Costs and Benefits of the Better Regulation Toolbox).

41 "Implementation and enforcement costs" e.g. costs directly borne by public authorities in implementing, administering and enforcing regulatory requirements (Definition from Tool #52: Methods to Assess Costs and Benefits of the Better Regulation Toolbox).

Question	Judgement criteria/Breakdown questions	Indicators	Preliminary data source
Efficiency			
<p>Have the costs being attributable to different stakeholders proportionate?</p>	<p>(implementation/ enforcement costs)</p> <p>To what extent have the ratio of costs attributable to the EU and EU Member States been proportionate?</p> <p>To what extent have the costs attributable to public bodies and private carriers been proportionate to the overall society benefits⁴²?</p> <p>To what extent have the costs attributable to operators and consumers been proportionate to the overall society benefits?</p>	<p>a. Implementation costs (direct and indirect) attributed to each stakeholder group</p> <p>b. Compliance costs attributed to each stakeholder group</p> <p>c. Perception of stakeholders (i.e. EU, MS, carriers, consumers)</p>	<p>Own assessment</p> <p>Secondary sources</p> <p>For a/b/ c.</p> <p>(studies / internal statistics and reports)</p> <p>based on findings emerging from previous evaluation question</p> <p>Primary sources</p> <p>For a/b.</p> <p>Case studies</p> <p>For c.</p> <p>Interviews, Survey, Public Consultation, Workshop</p> <p>Own assessment</p>

8. Coherence

⁴² The benefits can be direct or indirect as defined by the Tool #52: Methods to Assess Costs and Benefits of the Better Regulation Toolbox. Examples of direct costs would be an improved market efficiency or additional citizens' satisfaction. Example of indirect costs would be spill over effects related to third party compliance to new legal rules or non-monetizable benefits.

Question	Judgement criteria/Breakdown questions	Indicators	Preliminary data source
Coherence			
<p>To what extent is the intervention coherent with EU aviation safety policy, including the external dimension of EU aviation policy as well as other EU instruments relating to the assessment of third country air carrier safety standards, e.g. examining gaps, overlaps or inconsistencies between different regulations?</p>	<p>To what extent gaps, overlaps or inconsistencies exist between the intervention and other EU aviation safety policy including their external dimension?</p> <p>To what extent gaps, overlaps or inconsistencies exist between the intervention and other EU instruments relating to the assessment of third-countries safety standards?</p> <p>To what extent the inconsistencies amongst the policies/initiatives identified in the previous questions have affected EU aviation policy?</p>	<p>a. Number and type of specific EU policies and interventions (potentially) addressing the same General Objectives of the initiative</p> <p>b. Specific areas of overlaps and inconsistencies amongst those policies and initiatives and the one assessed</p> <p>c. Areas of specific needs for EU air safety remaining unaddressed (gaps) by all the identified policies and interventions (including the one evaluated)</p> <p>d. Perception of stakeholders on the relevance of such gaps, overlaps and/or inconsistencies</p>	<p>Secondary sources</p> <p>For a/b.</p> <p>(policy documents / studies / internal statistics and reports)</p> <p>Primary sources</p> <p>For a/b/c/d.</p> <p>Interviews, Survey, Public Consultation, Workshop</p> <p>Own assessment</p>
<p>Are there particular synergies and/or inconsistencies related to the intervention that have affected EU aviation policy?</p>	<p>To what extent gaps, overlaps or inconsistencies exist between the intervention and other global aviation safety policy and regulation e.g. ICAO?</p> <p>To what extent synergies emerged amongst the policies/initiatives identified in the previous questions have affected EU aviation policy?</p>	<p>a. Number and type of gaps, overlaps and inconsistencies amongst the initiative and existing policies and initiatives (as emerging from previous evaluation question)</p> <p>b. Number and type of synergies emerging amongst such policies and initiatives</p> <p>c. Specific effects of those (synergies and inconsistencies) with respect to the achievement of General Objectives of the initiative</p>	<p>Secondary sources</p> <p>For a/b/c.</p> <p>(studies / internal statistics and reports)</p> <p>For c.</p> <p>Based EU aviation policy reports and sources, as well as effectiveness evaluation questions</p>

Question	Judgement criteria/Breakdown questions	Indicators	Preliminary data source
Coherence			
		evaluated d. Perception of stakeholders on the relevance of such synergies and/or inconsistencies in affecting the performance of the EU aviation policy	Primary sources For a/b/c/d. Interviews, Survey, Public Consultation, Workshop
Own assessment			

9. EU added value

Question	Judgement criteria/Breakdown questions	Indicators	Preliminary data source
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EU added value			
<p>What is the added value of the regulation compared to what national action and international agreements could achieve?</p>	<p>What EU added value is provided specifically by the intervention, with respect to what national actions could have achieved?</p> <p>What EU added value is provided specifically by the intervention, with respect to what international actions could have achieved?</p>	<p>a. Extent to which the actions promoted cover policy areas of specific EU competency (e.g. EU Treaty)</p> <p>b. Extent to which actions promoted cover a territorial scope broader than that of single MS and/or coordination across MS is required</p> <p>c. Extent to which EU involvement ensure greater bargaining power towards third-countries carriers</p> <p>d. Extent to which EU involvement fulfils gaps existing in international interventions with respect to the interest of EU passengers</p>	<p>Secondary sources</p> <p>For a/b/c/d.</p> <p>(studies / internal statistics and reports)</p> <p>Primary sources</p> <p>For a/b/c/d.</p> <p>Interviews, Survey, Public Consultation, Workshop</p> <p>Own assessment</p>
<p>To what extent do the actions addressed by the Air Safety List Regulation continue to require action at EU level?</p>	<p>Is the intervention at the EU level still appropriate to meet the General Objectives⁴³ of the Regulation?</p> <p>To what extent the actions addressed by the EU intervention (Air Safety List Regulation) are still relevant to reach these General Objectives?</p>	<p>a. Relevance of current objectives (specific evaluation questions section)</p> <p>b. Effectiveness of current actions (specific evaluation questions section)</p> <p>c. Coherence of current actions with respect to existing/new policies and initiatives at EU and international level (specific evaluation questions section)</p> <p>d. Areas for further action better suited to the changed</p>	<p>Secondary sources</p> <p>For a/b/c.</p> <p>As indicated in specific sections</p> <p>Primary sources</p> <p>For a/b/c.</p> <p>As indicated in specific sections</p> <p>For d.</p> <p>Interviews, Survey, Public</p>

43 "General Objectives" e.g. high level of protection for EU passengers from safety risks, enabling consumers to make informed air travel choices and improve aviation safety

Question	Judgement criteria/Breakdown questions	Indicators	Preliminary data source
EU added value			
		context and needs	Consultation, Workshop <i>Own assessment</i>

Annex 5: EU technical assistance to support non-EU countries

EU-CHINA Aviation Partnership Project (APP):

Full Name	EU-China Aviation Partnership Project
Duration	Sept 2015 - Aug 2020
Objective	The overall objective is to complement and reinforce European aviation interests in China through increased and deepened EU-China aviation dialogues and technical cooperation/exchanges in the context of the EU's external aviation policy, thereby promoting the European aviation industry in a key growth market, contributing inter alia to a continued high level of aviation safety.

Eastern Partnership and Central Asia (EaP/CA) Project:

Full Name	Eastern Partnership and Central Asia (EaP/CA) Project
Duration	Starting date: Feb. 2016 - Jan 2020
Objective	The overall objective is to support the sustainable development of the civil aviation administration system in the beneficiary countries to comply with the international standards in the field of aviation safety and security and, specifically for the Eastern Partnership countries, with the requirements of the Common Aviation Area Agreements being negotiated or signed with the EU.

EU-LATIN AMERICA AND CARIBBEAN (LAC) APP:

Full Name	EU-Latin America Civil Aviation Project
Duration	Starting date: 01/01/2018 Total Duration: 4 years
Objective	The EU-LAC Aviation Partnership Project is funded by the European Union and implemented by the European Union Aviation Safety Agency (EASA) to enhance political, economic and environmental partnership between the EU and LAC region in the domain of civil aviation.

ARISE PLUS CIVIL AVIATION Project:

Full Name	ARISE Plus Civil Aviation Project
Contracting Party	DG DEVCO (EU Delegation to Thailand)
Duration	Starting date: 01/01/2018 Total Duration: 48 months
Objective	Support the development of the ASEAN Single Aviation Market, and in particular aviation safety, security and, air traffic management which are key priorities outlined under the Kuala Lumpur Transport Strategic Plan 2016-2025 adopted by the ASEAN Transport Ministers in November 2015. This project will also address environmental protection issues, shall enhance the air transport market and will provide support for an EU-ASEAN comprehensive air transport agreement.

EU- South East Asia APP:

Full Name	EU South East Asia Aviation Partnership Project
Contracting Party	FPI (Service for Foreign Policy Instrument), EU Delegation to Thailand
Duration and overall budget	Starting date: 01/01/2018 Total Duration: 48 months
Objective	The overall objective is to enhance political, economic and environmental partnership between the EU and South East Asia in the domain of civil aviation. The specific purpose is to align EU and South East Asia policy in the field of civil aviation, facilitate market access for EU aviation industry and minimise the impact of aviation on the environment and climate change. Areas of intervention will include regulatory convergence, and preparation and support for implementing the EU-ASEAN comprehensive air transport agreement and a Global Market Based Measure (GMBM) for carbon neutral growth. The project will also raise the profile and visibility of the EU as a centre of aviation excellence when engaging in this partnership.

EU-SOUTH ASIA APP:

Full Name	EU-South Asia Aviation Partnership Project
Contracting Party	FPI
Duration	Starting date: 16 December 2016 Total Duration: 48 months
Objective	The overall objective of the project is to contribute to the development of European aviation interests in South Asia in order to provide a more compatible and open market for the European aviation industry. This should be done by promoting European aviation policies, standards and technology which will also foster a higher level of aviation safety and environmental standards in the region.

EASA-SAAU Airworthiness Convergence Project

Full Name	"Convergence of certification systems based on the Arrangement between the State Aviation Administration of Ukraine and the European Commission on convergence of Certification Systems" (EASA-SAAU Airworthiness Convergence project)
Contracting Party	ENI (EU Delegation to Ukraine)
Duration	Starting date: 20/02/2017 Total Duration: 36 months
Objective	The overall objective of this project is to facilitate preparations for the implementation of the relevant provisions stemming from the Common Aviation Area Agreement (CAA Agreement) between the EU and Ukraine, the Working Arrangement (WA) between the State Aviation Administration of Ukraine (SAAU) and EASA, the Arrangement between SAAU and the European Commission (EC) with regard to the convergence of certification systems as well as other potential future aviation safety arrangements and agreements between Ukraine and the EU. This should be done by supporting a set of activities ensuring effective implementation of the relevant EU acquis in Ukraine and by reinforcing SAAU's

	structural capacity for airworthiness oversight, in liaison with other on-going technical cooperation projects.
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Zambia – Aviation Sector Support Programme II

Full Name	Aviation Sector Support Programme II
Contracting Party	ENI (EU Delegation to Zambia)
Duration	Starting date: 01/09/2017 Total Duration: 48 months
Objective	The overall objective of this project is to develop a reliable and effective aviation sector capable of contributing to economic growth in Zambia.

CAA Thailand – Support Project

Full Name	CAA Thailand – Support Project
Contracting Party	Civil Aviation Authority of Thailand
Duration	Starting date: 01/08/2017 Total Duration: 24 months
Objective	The objectives of this project are to support the Civil Aviation Authority of Thailand in resolving its safety oversight concerns and to assist its transition towards EU-based regulations.

SAFETY-LIST III:

Full Name	EU Safety List Service Framework Contract
Contracting Party	MOVE
Duration	Starting date: Q1 2018 - One year, renewed automatically up to three times.
Objective	Provision of expertise and related technical assistance in the framework of Regulation (EC) No 2111/2005 on the establishment of a Union list of banned carriers subject to an operating ban within the Union and informing the air travelling public.

EASA IPA 4 – Programme on aviation safety

Full Name	EASA – IPA 4 Programme on aviation safety
Contracting Party	DG-NEAR
Duration	Starting date: 01/01/2018 Total Duration: 24 months
Objective	The overall objective of this project is to further support the sustainable development of civil aviation and the civil aviation administration system in the beneficiary countries, and, specifically for the Western Balkan states, with the requirements of the ECAA signed with the EU and its Member States.

PASTA-CO ECCAS

Full Name	PASTA-CO ECCAS
Contracting Party	Economic Community of Central African States (ECCAS)
Duration	Signed on: 17/04/2018 Total Duration: 24 months Budget: 1.712 Mio €
Objective	This project is a follow-up of the ATA-AC project. It is however not financed by EU but by the African Development Bank (AfDB). The overall objective of the project is to mainly provide training.