Transport Malta

Malta
State Safety Programme

Transport Malta - Civil Aviation Directorate

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Foreword

Civil Aviation is Malta's essential link to the world and a significant enabler and contributor towards the country's economic competitiveness. For aviation in Malta to continue to grow and stay ahead in an ever-changing landscape, the Authority needs to build on past successes and plan for the future.

As Malta's regulatory authority for aviation, the Civil Aviation Directorate needs to continue its process of adapting regulations while maintaining safety of the air transport system. Risk management is a well-established discipline in the aviation industry today. The State Safety Programme is an important link in the chain of the Civil Aviation Directorate's regulatory function. The Programme provides a high-level vision of the safety activities performed by the State, together with regulations and directives declared by the State in order to support its responsibilities concerning safe and efficient delivery of aviation activities.

The aviation industry is dynamic in nature and it is essential that regulatory bodies maintain the capability to identify and address changes within the environment. This increases responsibility not only on national authorities but also on all industry stakeholders. Data collection, its analysis and a pro-active approach is necessary to help maintain an effective safety structure.

Capt. Charles Pace

Director General for Civil Aviation
Transport Malta

Malta SSP Amendment Record

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Abbreviations

ALoS	Acceptable Level of Safety
AOC	Air Operator Certificate
ATC	Air Traffic Control
ATM/ANS	Air Traffic Management/Air Navigation Services
BAAI	Bureau of Air Accident Investigation
CAD	Civil Aviation Directorate (TM-CAD)
CORSIA	Carbon Offsetting and Reduction Scheme for International Aviation
DGCA	Director General for Civil Aviation
EASA	European Aviation Safety Agency
EASP	European Aviation Safety Programme
EC	European Commission
ECAC	European Civil Aviation Conference
ECCAIRS	European Coordination Centre for Accident and Incident Reporting System
EPAS	European Plan for Aviation Safety
EU	European Union
GASP	Global Aviation Safety Plan
IAN	Information and Advisory Notice
ICAO	International Civil Aviation Organisation
MET	Meteorological Office
MSM	Management System Manual (TM-CAD)
NASP	National Aviation Safety Plan
OAN	Operations Advisory Notice
PEL	Personnel Licensing (TM-CAD)
SACA	Safety Assessment of Community Aircraft
SAFA	Safety Assessment of Foreign Aircraft
SANA	Safety Assessment of National Aircraft
SARPs	Standards and Recommended Practices
SES	Single European Sky
SCU	Safety and Compliance Unit (TM-CAD)
S.L.	Subsidiary Legislation
SMS	Safety Management System
SPI	Safety Performance Indicator
SRM	Safety Risk Management (TM-CAD)
SSP	State Safety Programme
SPAS	State Plan for Aviation Safety
TM-CAD	Transport Malta Civil Aviation Directorate

Definitions

'aerodrome operator' means any legal or natural person operating or proposing to operate one or more aerodromes;

'aircraft' means any machine that can derive support in the atmosphere from the reactions of the air other than reactions of the air against the earth's surface;

'air carrier' means an undertaking with a valid operating licence or equivalent;

'aircraft operator' means any legal or natural person operating or proposing to operate one or more aircraft;

'Chicago Convention' means the Convention on International Civil Aviation and the Annexes thereto, signed in Chicago on 7 December 1944;

'commercial air transport' means an aircraft operation to transport passengers, cargo or mail for remuneration or other valuable consideration;

'ground handling service' means any service provided at aerodromes comprising safety - related activities in the areas of ground supervision, flight dispatch and load control, passenger handling, baggage handling, freight and mail handling, apron handling of aircraft, aircraft services, fuel and oil handling, and loading of catering; including the case where aircraft operators provide those ground handling services to themselves (self-handling);

'international standards and recommended practices' means the international standards and recommended practices adopted by ICAO in accordance with Article 37 of the Chicago Convention;

'national competent authority' means one or more entities designated by a Member State and having the necessary powers and allocated responsibilities for performing the tasks related to certification, oversight and enforcement in accordance with this Regulation and with the delegated and implementing acts adopted on the basis thereof, and with Regulation (EC) No 549/2004;

'oversight' means the verification, by or on behalf of the competent authority, on a continuous basis that the requirements of this Regulation and of the delegated and implementing acts adopted on the basis thereof, on the basis of which a certificate has been issued or in respect of which a declaration has been made, continue to be complied with;

'**qualified entity'** means an accredited legal or natural person which may be charged with certain certification or oversight tasks under this Regulation by and under the control and the responsibility of the Agency or a national competent authority;

'safety management system' means a systematic approach to managing aviation safety including the necessary organisational structures, accountabilities, policies and procedures,

and includes any management system that, independently or integrated with other management systems of the organisation, addresses the management of safety.

'safety performance indicator' means a parameter used for monitoring and assessing safety performance;

'safety performance target' means a planned or intended objective for complying with safety performance indicators over a given period of time.

Overview

In an Island State with an economy highly dependent upon tourism and international business, the safe development of civil aviation cannot be underestimated. Aviation in Malta cannot develop in an unchecked and in a haphazard manner but is conditional to safety standards set by the Civil Aviation Directorate, which is therefore required to maintain an adequate oversight system. The responsibility to achieve the identified objectives lies with both the State and industry, with each side required to be conscious of the other side's obligations.

Based on the ICAO Doc 9859 Safety Management NPAS framework, the State Safety Programme - Malta is divided into four main components:

- State Safety Policy, Objectives and Resources
- State Safety Risk Management
- State Safety Assurance
- State Safety Promotion

Each of the above components are sub-divided into elements which details the specific sub-processes, specific activities or tools that the CAD needs to conduct the management of safety in a manner that combines prescriptive and performance-based approaches and supports the implementation of SMS by industry partners.

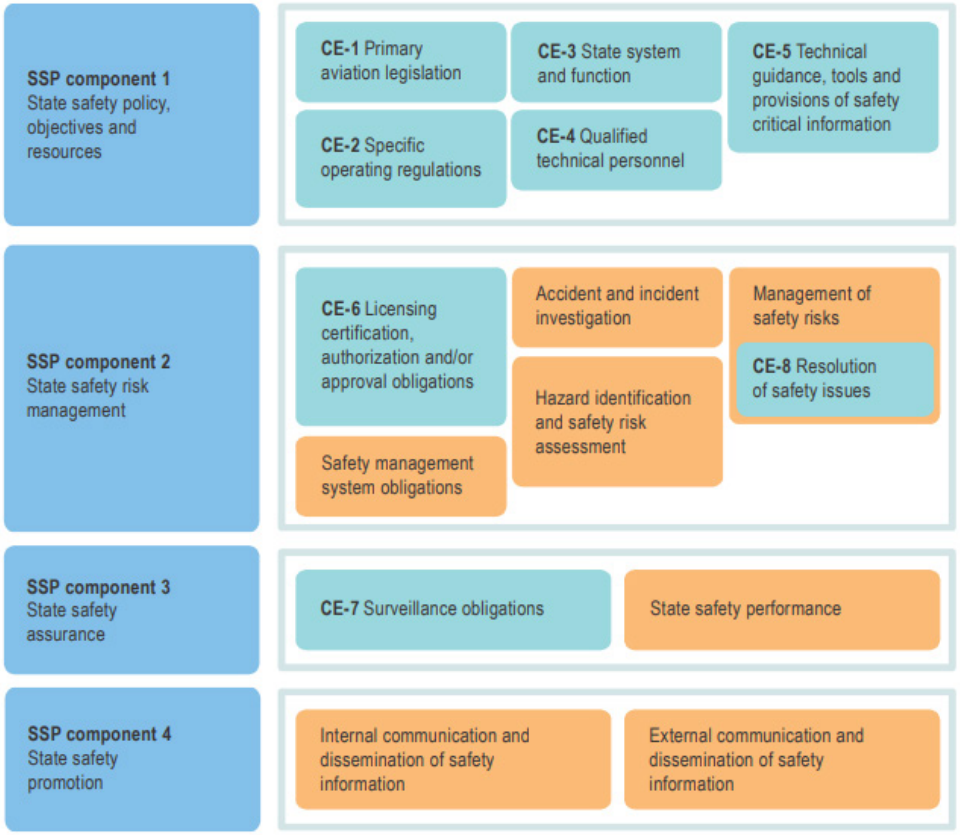

Exhibit 1 - The Integrated State Safety Programme.
(International Civil Aviation Organization, 2018)

Regulation in the Aviation Sector

Aviation is a dynamic industry which incorporates various players and stakeholders operating in this environment. Throughout the years, aviation developed into one of the safest means of transport. One main contributing factor to this safety improvement was that a number of organisations and institutions have been set up at global, regional and local level to develop common rules, regulations, standards and procedures and oversee their implementation across all aviation domains.

The regulatory framework and safety requirements have been built up over decades and are continually being amended and enhanced to achieve an ever-increasing safety performance and to meet future challenges posed by the implementation of new air navigation concepts and the need to ensure sustainable development of civil aviation.

Safety regulation can be easily described on three tiers:

- International regulatory arrangements and requirements: Established and promulgated by the International Civil Aviation Organisation (ICAO).
- Regional regulatory arrangements and requirements: In Europe, European Aviation Safety Agency (EASA).
  The objective is to ensure a high and uniform level of safety in civil aviation, by the adoption of common safety rules and measures in line with ICAO standards and recommended practices.
- National regulatory arrangements and requirements promulgated in national legislation and other normative acts by the designated State authorities. National safety regulatory requirements should comply with those established at global and regional level.

Common safety rules constitute the backbone of the European Union (EU) aviation safety system. They provide for a uniform level of requirements for operators, manufacturers and aviation personnel, thus facilitating the flow of products, persons and services in the internal market, and allowing for mutual recognition of safety certificates, reducing the administrative burden and workload for the national authorities and the industry.

Aviation safety management

Safety management seeks to proactively mitigate safety risks before they result in aviation accidents and incidents. Through the implementation of safety management, States can manage their safety activities in a more disciplined, integrative and focused manner. Possessing a clear understanding of its role and contribution to safe operations enables a State and its aviation industry to prioritize actions to address safety risks and more effectively manage its resources for the optimal benefit of aviation safety.

Obligations of the International Civil Aviation Organization (ICAO)

The ICAO is a specialised agency of the United Nations. Its duties are defined in the Convention on International Civil Aviation (the Chicago Convention) signed on 5 December 1944. ICAO works with the Convention's Member States and 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, which in turn permits the global aviation network to operate safely and reliably.

In Annex 19 to the Convention, ICAO imposes general safety management responsibilities and obligations on member states, having to do with the development and introduction of State Safety Programmes (SSP) and aviation organisations' Safety Management Systems (SMS). The Global Aviation Safety Plan (GASP) was created to facilitate global and coordinated improvement of aviation safety. The GASP is updated every three years and adopted by the ICAO Assembly. The GASP outlines regional and national safety efforts and the structures of safety management.

With the aim to enhance global cooperation on safety management, ICAO has launched a Safety Management programme incorporating near, mid and long-term goals. An immediate mid-term objective running for 2022 is to support regions and governments in the efficient deployment of SSPs and SMSs.

The responsibility for safety management cannot be attributed to a single organisation or entity. On the contrary, safety management is part of a chain of tasks distributed across multiple industry stakeholders; global (i.e. ICAO), regional organisations (ex: EASA), national governments/authorities and aviation organisations.

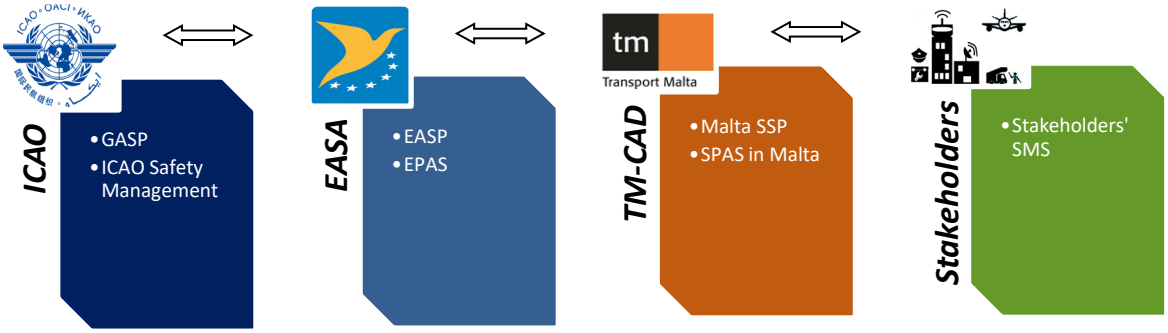

Exhibit 2 - The global chain in aviation safety management.

Safety Management at the EU level

The first EASA SSP/SMS requirements have been adopted in the form of authority and organisation requirements with Regulation (EU) 290/2012 in the domain of flight and cabin crew and Regulation (EU) 965/2012 in the domain of air operations. Since then, requirements have been progressively extended to other domains of the aviation system. Additionally, industry organisations, Member States, EASA and the European Commission, have taken a proactive approach and worked collaboratively to develop the European Aviation Safety Programme (EASP). The EASP aids Member States in meeting their legal obligations and further improving safety.

The EASP describes aviation safety management at the European level. It provides an overview of the applicable legislation, measures and processes. The objective of the European Aviation Safety Programme is to ensure that the system for the management of aviation safety in the EU delivers a safety performance that is the best of any world region, uniformly enjoyed across the whole Union, and continuing to improve over time.

Meanwhile, The European Plan for Aviation Safety (EPAS) describes the identified key risks in aviation at the European level and strategic safety objectives and measures for attaining them, while acknowledging the global objectives set forth in the GASP. The EPAS is updated annually for a four-year period. The EPAS is produced as part of the Safety Risk Management process (SRM) at EASA. EASA coordinates the development of the European aviation risk portfolio within its SRM process. Malta integrates the Member State actions identified in the EPAS into the SPAS in Malta. These actions must be processed, documented and implemented by aviation operators if applicable to their operation.

The amended EASA 'Basic Regulation' will make the EASP, EPAS as well as the SSP and SPAS mandatory. This is similar to what was mandated by ICAO to all Contracting States.

SSP Implementation

This SSP is a living document that will continue to evolve as it matures in time. Its implementation will evolve across time and new actions will be amended in order to address any identified gaps or due to regulatory changes. The SSP implementation is coordinated by the Safety and Compliance Unit in collaboration with the respective domain units within CAD and State aviation stakeholders.

1. State safety policy, objectives and resources

1.1 Primary Legislation (ICAO CE-1)

Malta has implemented, and will continue to adopt and implement, a safety legislative framework pursuant to EASA standards and in-line with ICAO Standards and Recommended Practices. This legislation defines how Malta shall conduct the management of safety in the State. It is important to note that EU Regulations have direct effect in Malta and might be supported with further local legislation to deal with specific administrative matters. Nevertheless, any EU Directives must be transposed into Maltese law in respect of Malta being a full Member State of the European Union.

Oversight authority – Transport Malta Civil Aviation Directorate

Malta has designated Transport Malta Civil Aviation Directorate as the competent authority within Malta with the necessary powers and allocated responsibilities for the certification and oversight of persons and organisations subject to Regulation (EU) No 2018/1139 and its implementing rules.
Cap 499 Act No XV of 2009 (as amended) enacted by the President of Malta, and with the advice and consent of the House of Representatives provides for the establishment of a body corporate known as Transport Malta which assumes the functions previously exercised by the Malta Maritime Authority, the Malta Transport Authority and the Department for Civil Aviation and for the exercise by or on behalf of the Authority of the functions relating to transport by air, road, rail or sea. The functions of the Authority are described in Article 6 of the Act and in particular Article 9 has the powers and functions in connection with civil aviation.

The Principle Legislation Chapter 499 Authority for Transport in Malta Act is supported with various Subsidiary Legislations and Legal Notices in relation to the specific aviation activities within the Maltese territory. Such National legislation is available on the Transport Malta website. Nevertheless, all latest versions of National aviation legislation can be accessed on the Laws of Malta website https://legislation.mt/.

European Legislation

Malta is a Member-State of the European Union hence legislation published by the European Commission is effective to the State. Regulation (EU) No 2018/1139 referred to as the 'Basic Regulation' on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency and its Implementing Rules are directly effective to the State. Transport Malta Civil Aviation Directorate is the designated National competent authority for the purposes of this regulation.

Occurrence Reporting

TM-CAD is the competent authority designated to independently collect, evaluate, process, analyse and store details of occurrences reported. Occurrence reporting in Malta is regulated by Regulation (EU) No 376/2014, aimed at improving aviation safety by ensuring that relevant safety information relating to civil aviation is reported, collected, stored, protected, exchanged, disseminated and analysed.

Commission Implementing Regulation (EU) No 2015/1018 is the list referred to when classifying occurrences in civil aviation as mandatorily reportable according to Regulation (EU) No 376/2014.

Accident Investigation

On an international level, Annex 13 of the Chicago Convention provides for the legislative framework for air accident investigations, whilst on a European level, it is Regulation 996/2010. Both legislations are then incorporated into Maltese law, namely Subsidiary Legislation 499.22, entitled Civil Aviation (Investigation of Air Accidents and Incidents) Regulations. This Subsidiary Legislation establishes the body allowed to carry out safety investigations in accordance with the applicable regulations and is identified as the Bureau of Air Accident Investigation (BAAI). The Bureau is functionally independent of any other authority in Malta in order to eliminate the possibility of any conflict with the functions of the Bureau or influence its objectivity.

ICAO Annexes

The Chicago Convention ICAO Annexes Standard and Recommended Practices which are effective at European Legislation are also applicable in Malta.

TM-CAD Enforcement policy

In-line with European and National legislation, Malta has a set of penalties and sanctions at its disposal to enforce legal requirements upon non-conforming individuals or entities. The legal and related financial sanctions are listed the Air Navigation Order (1990) S.L. 499.09 as amended.

The ultimate responsibility for the prosecution of civil aviation offences lies with the Law Courts of Malta. The CAD promotes the notion of Just Culture among all industry partners and will keep on striving to, with respect to provisions stipulated in Regulation (EU) No. 376/2014, to not attribute blame on individuals who voluntarily report infringements as long as there is no evidence that the act was deliberately and maliciously performed.

1.2 Specific Operational Regulations (ICAO CE-2)

The main product and objective of TM-CAD is the performance of safety oversight based on Regulation (EU) 2018/1139 and its Implementing rules and Delegated acts.

The Units within the CAD are responsible for the accomplishment of the safety oversight in the various fields of operation and in coherence to their respective Unit Procedures Manuals. The Unit Heads are responsible for the implementation and control of safety oversight audit and inspection plans. Care shall be taken to keep planning data up to date in line with changes in the underlying planning assumptions, with particular focus on risk-based oversight principles.
The Units' Procedures Manuals are aimed at defining the responsibilities and process of the various CAD Units in the performance of safety oversight and ensuring that the safety oversight is performed diligently in a standardised manner with proper co-ordination and liaison both internally and with external entities or competent authorities.

Immediate reaction to a safety problem

The provisions of the Basic Regulation and the Delegated/Implementing Acts shall not prevent a Member State from reacting proportionately and immediately to a safety problem or serious risk which involves a product, person or organisation subject to the provisions of the regulation. Each inspectorate conducting respective oversight activities collect and analyse safety information.

Upon the identification of a safety problem following either:

- results from routine scheduled or spot inspections and audits; or
- the receipt of a voluntary or occurrence report; or
- the receipt of information/reports from other entities (EASA, FAA etc.),

the Head of Unit concerned communicates this information to the department employee/s and notify all persons or organisations which need to comply with them under Regulation (EU) No 2018/1139 and its Implementing Rules of the safety measures to address the safety problem.

Adequate measures to address the safety problem shall be taken by the relevant units with the assistance of the TM-CAD Management. TM-CAD may also have to act to initiate the process for immediate suspension or revocation of a certificate, approval or licence if deemed necessary. When applying such action TM-CAD shall immediately notify the Agency, the Commission and the other Member States in accordance with the procedures stipulated in the MSM.

1.3 State system and function (ICAO CE-3)

Transport Malta - Civil Aviation Directorate

The Civil Aviation Directorate within Transport Malta regulates all aviation activities in Malta due to membership of the following organisations:

- The International Civil Aviation Organisation (ICAO)
- The European Civil Aviation Conference (ECAC)
- EUROCONTROL
- The European Aviation Safety Agency (EASA)

The CAD ensures that the Maltese air transport industry, in all its aspects, continues to be developed in a safe and efficient manner in order to serve the island's needs. The CAD has a range of responsibilities and offers a selection of services to ensure the safety of those involved and to regulate all practices.

The CAD is responsible for:

- The safety of aircraft
- Aircraft and aerodrome operators
- Air navigation service providers
- The licensing of aeronautical personnel
- Registration of aircraft
- The conclusion of international air services agreements

Regulatory powers were conferred to CAD following enactment of National legislation Cap 499 Act No XV of 2009, by which the functions of the Authority are described in Article 6 of the Act and in particular Article 9 were the powers and functions in connection with civil aviation are mentioned.

ATM/ANS and MET

Malta Air Traffic Services Ltd. (MATS) is responsible for the provision of air traffic services within the territory of Malta including its territorial waters as well as the airspace over the high seas within the Malta FIR/UIR. Additionally, in accordance with a co-ordination agreement between Rome ACC and Malta ACC, air traffic services are provided under the delegated authority, in the Rome FIR/UIR. The services are provided in accordance with the provisions contained in the applicable EU Regulations and ICAO documents.

The Meteorological Office of Malta International Airport plc provides meteorological services general ofgeneral aviation. The MET Office, which incorporates a Meteorological Watch Office, is located on the aerodrome at Luqa where a continuous forecasting and observing service is maintained. Meteorological service is provided for the Malta FIR/UIR and the service is provided in accordance with the International provisions.
Both entities are independent from the CAD. Oversight for both service providers is performed by the CAD in accordance with the EASA safety oversight programmes.

Organisation responsible for coordinating the SSP

The SSP is developed by the Safety and Compliance Unit (SCU) within the CAD. The development is not carried out in isolation and includes co-ordination with all aviation

stakeholders via the various communication and information sharing platforms available. The SCU manages the daily operation of the programme and reports directly to the accountable manager. Co-ordination meetings between the relevant parties are held in relation to the monitoring, implementation and review of the SSP goals.
The Director General for Civil Aviation (DGCA) is the Accountable Manager ultimately responsible for the implementation, operation and supervision of the programme. Nevertheless, all relevant entities, aviation-industry partners and possible individual participants to whom this programme is applicable are responsible for the successful execution of the processes described in the programme.
The SSP is a live document and freely available for download from the TM-CAD website and is prominently featured in the CAD Management System Manual.

SSP coordination group

The Malta SSP coordination group consists of technical experts within the CAD and meets on an annual basis. Meetings are chaired by the SCU Manager or a designated substitute. Depending on the matters in hand, additional aviation industry partners such as the Bureau of Air Accident Investigation (BAAI) may be invited to attend such coordination meetings. Information and input streams, such as safety oversight activities and occurrence reporting event trends are part of the support tools available for this coordination group.

SSP functions and activities

The CAD values highly the importance of safe operation of aircraft and considers it as one of the pillars for aviation growth. Safety oversight and SMS implementation for organisations under the CAD oversight is performed via the respective units within CAD, namely the Flight Operations Inspectorate, Airworthiness and Aircraft Registration Inspectorate, Personnel Licensing, Air Navigation Services and Aerodrome Licensing. A high-level of coordination is performed between each mentioned Unit and the SCU, especially with regards to occurrence reporting received in accordance with Regulation (EU) 376/2014. Further supporting the DGCA, the CAD has within its structure the Air Transport Regulation Unit (ATRU), Duty Management Office and Administration provisions.

Complimenting the internal set-up and discussions, the CAD promotes yearly meetings with industry stakeholders to discuss general industry concerns, ranging from regulatory challenges, general organisational and operational management and safety trends deriving from occurrence reporting data. All information and data are gathered to help assist in understanding challenges as well when reviewing and implementing SSP goals.

State safety policy and safety objectives

As a State, Malta is committed to develop, implement, maintain and constantly improve strategies and processes to ensure that all aviation activities under its oversight will achieve the highest level of safety performance, while meeting both the national and international standards.

Operators, service providers, flight training schools, maintenance organisations and relevant aviation entity shall be required to demonstrate that their management systems adequately reflect a SMS approach. The expected result of this approach is improved safety management and safety practices, including safety reporting within the civil aviation industry.

All levels of management are accountable for the delivery of the highest level of safety performance within the State of Malta, starting with the Accountable Executive.

The Civil Aviation Directorate's commitment is to:

i. Develop general rulemaking and specific operational policies that build upon safety management principles, based on a comprehensive analysis of the State's aviation system;
ii. Consult with all segments of the aviation industry on issues regarding regulatory development;
iii. Support the management of safety in the State through an effective safety reporting and communication system;
iv. Interact effectively with service providers in the resolution of safety concerns;
v. Ensure that within the Civil Aviation Directorate, sufficient resources are being allocated and personnel are selected and/or trained to have the proper skills as required for discharging their responsibilities, both safety related and otherwise;
vi. Conduct both performance-based and compliance-oriented oversight activities, supported by analysis and prioritised resource allocation based on safety risk;
vii. Comply with and, wherever possible, exceed international safety requirements and standards
viii. Promote and educate the aviation industry on safety management concepts and principles;
ix. Oversee the implementation of SMS within aviation organisations;
x. Ensure that all activities under oversight achieve the highest safety standards;
xi. Establish provisions for the protection of safety data collection and processing systems as stated in Article 81 of the ANO, Regulation (EU) 376/2014, together with information material issued by the CAD so that individuals and entities are encouraged to provide essential safety-related information on hazards, and there is a continuous flow and exchange of safety management data between the State and aviation industry partners;
xii. Establish and measure the realistic implementation of our SSP against safety indicators and safety targets which are clearly identified; and
xiii. Promulgate an enforcement policy that ensures that no information derived from any safety data collection and processing system established under the SSP or the SMS will be used as the basis for enforcement action, except in the case of gross negligence or wilful deviation.

The safety policy shall be understood, implemented and observed by all staff involved in activities related to the Civil Aviation Directorate.

State Safety resources

The CAD forms part of Transport Malta the Authority for Transport in Malta set up by Act XV of 2009. As part of its operation within Transport Malta, the CAD provides its budgeting plans to ensure that sufficient financial resources are allocated by Transport Malta for the Directorate. These financial resources also include funds directly collected from invoiced services of the Directorate. The growth of aviation in Malta has provided steady financial income to both Transport Malta and the State.

A gradual and steady capacity building was undertaken to sustain the growth of aviation in Malta and the necessary reorganisation of the CAD. This is a continuous process whereby capacity and resources are measured to ensure that CAD can conduct its duties in an effective and efficient way. This capacity is also supported with an annual training budget to ensure that the competencies of CAD employees are enhanced and remain effective in the conduct of their duties. The safety management aspects mentioned in this SSP are all included in the annual operating budget of CAD and has been so for the past years.

Investments not directly related to human resource capacity, such as modernising software tools to enhance the gathering and management of occurrence reporting have been conducted as part of the continuous improvement and to assist in managing the growth of the aviation sector in Malta.

State Plan for Aviation Safety (SPAS)

The Malta SPAS is the master planning document containing the strategic direction for the management of aviation safety for a set time period. This plan lists national safety issues, identifies national safety indicators and safety targets while also addressing regional driven initiatives to enhance specific domains within the aviation industry. The Malta SPAS is a living document which will require annual review to incorporate and address safety issues identified from the aviation occurrence reporting system and data from regional publications such as the EPAS. TM-CAD, as the designated authority, is committed in ensuring that the Malta SPAS is kept up to date as one of the means to ensure its effectiveness.

In line with the 2020-2022 edition of the GASP and EPAS, each State should develop a national aviation safety plan. The SPAS is the means to demonstrate commitment to the implementation of activities for improvement of safety in the State.

1.4 Qualified technical personnel (ICAO CE-4)

The tasks and activities involved in aviation safety oversight include a wide range of audits, inspections, evaluations, analysis and other interventions. Effective implementation of these tasks requires the intervention of sufficiently qualified personnel during the various stages of the process.

The CAD continuously strives in having a knowledgeable and competent workforce able to perform its duties to the best possible outcome as required by the regulations. Every individual

is employed with the CAD following a public call of application as stipulated by local procedures.

An initial competency assessment would enable the Unit Heads to perform a gap analysis against the qualification and experience requirements necessary to perform the tasks associated with the terms of reference/responsibilities of the position or authorisations to be issued. The assessment would encompass technical knowledge, experience, attitude, aptitude, traits and demeanour. The gap analysis would enable the Unit Heads to tailor the training programme according to the needs of the personnel.
The Unit Head should strive to train the Unit personnel such that the Unit would have the necessary knowledge and experience to deal with the work scope of the Unit. This may mean that the personnel may have different training and expertise from each other but as a team cover the whole scope.

CAD employees who are authorised to conduct audits will follow an initial training programme as identified in the CAD Management System Manual. Part of this initial training incorporates SMS principle training. An individual's training path is further supported with recurrent training, especially to cater for regulatory changes and/or wider individual competency.

All Inspectors and Inspecting Officers are 'Authorised Persons' and are the final recipients of the powers granted by the ANO to the Director General as referred to in Article 84 of the Air Navigation Order (ANO). These powers are transferred through the issue of the Warrant Card signed by the DGCA. On appointment having satisfactorily completed all relevant training and competency assessment, Inspectors and inspecting officers are issued with authorisations or warrant cards which specify their authorisations and privileges given by law.

1.5 Technical guidance, tools and provisions of safety critical information (ICAO CE-5)

In order to provide standardised guidelines to all employees within the CAD, all high-level management provisions are stipulated in the TM CAD Management System Manual. This controlled document approved by the DGCA, is easily accessible to all CAD employees via internal server and the CAD web-based management tool. In support of the MSM, each Unit in CAD has its own standard operations manual where specific processes are further explained and detailed. This method allows each employee to understand the flow of requirements and regulatory obligations. Unit Heads are responsible for the necessary amendments to the MSM document, which is then issued from the ATRU.

The CAD, via any of its respective Units, publishes a variety of notices (OANs, IANs, PEL, SIAN, Operational safety newsletters). Depending on the nature of each notice, these are either made available on the TM-CAD website or else distributed among aviation partners via email or the CAD web-based portal.

Specific forums such as, but not limited to Flight Operations Coordination Group or Cabin Crew Safety Meeting, are discussion platforms whereby CAD strives to continuously highlight and promote operational and safety-related practices and discuss concerns and lessons learned.

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2. State Safety Risk Management

The goal of the CAD is to promote a proactive safety culture rather than being reactive to events. Data gathering and analysis, together with multiple reference sources allows for a better understanding of the aviation environment and will help augment traditional analysis methods.
To external entities under its oversight, the CAD addresses Safety Risk Management by:

- Requiring entities to implement an SMS to manage and improve their aviation activities;
- Ensuring that entities have identified hazards and key risk areas supported with a realistic management of such identifiers;
- Reviewing and evaluating the effectiveness of the SMS by means of general monitoring and scheduled oversight activities.

The CAD prioritises its oversight activities based on the Risk-Based Oversight principle, driven by the overall surveillance of activities undertaken by each particular entity and measured against an assessed risk acceptance.

2.1 Licensing certification, authorisation and/or approval obligations (ICAO CE-6)

The CAD follows the relevant EU Regulation and EASA AMCs with regards to the creation of documented processes and procedures as a means to ensure that individuals and organisations performing an aviation activity meet the established requirements before they are allowed to exercise the privileges of a licence, certificate, authorisation or approval to conduct the relevant aviation activity. Where the regulation confers the powers for oversight, the CAD conducts audits on the organisation as part of its oversight cycle, based on checklists deriving from the regulation in relation to the auditing domain.

The complete documentation for each licence issuance or renewal treated with utmost confidentially and includes all correspondence, applications, assessments, examination results, medical reports, and other licensing documentation. All of the above are managed and stored as per the CADs record keeping policies.

The operational procedures for licensing, authorisation and approval obligations are documented in each of the respective Unit's manuals and are reviewed for correctness by the Unit Heads. Each Unit manual is available to the employees working in that Unit.

2.2 Safety management system obligations

The CAD requires that, in-line with ICAO Annex 19 and where EU Regulations provisions allow, that organisations under its oversight introduce an SMS framework to manage the

safety assurance within their entity. SMS review and oversight is documented by procedures in the respective CAD Unit manual.

Any entity operating under the following industry branch are required to have a SMS framework:

- Training organisations in accordance with ICAO Annex 1
- Air Carriers
- Commercial Air Transport operators
- Aircraft manufacturing companies
- Air traffic control providers
- Aerodrome operators
- Part-145 aircraft maintenance companies
- Continuous Airworthiness Maintenance Organisations (CAMO)

The CAD has established mechanisms, such as ad-hoc inspections and scheduled audits, to ensure the effective monitoring, identification of hazards and management of safety risks by the qualified entity. This ensures that the service provider's SMS is implemented, functions as intended and is effective.
The CAD acknowledges that one organisation is not the same as the other, resulting in different set-up sizes and levels of operational complexity. Hence, the CAD takes a flexible approach when auditing SMS of organisations, yet in full respect with EU regulations and EASA provisions by which the complexity of the organisation is taken into consideration.

Safety Performance Indicators (SPIs)

As part of a holistic SMS process, the entity must identify hazards and risks, and compile a set of SPIs. These are reviewed and accepted by the CAD if the proposed SPIs are appropriate and pertinent to the entity's aviation activities. Some of these SPIs may link to the State SPIs for measuring and monitoring the Acceptable Level of Safety (ALoS). This need not be the case for all SPIs due to the differences in operation of each organisation.

SPIs must be monitored over a period and measured against baseline performance values. These baseline values may be either established by the entity following internal monitoring or else based on targets established at the State, regional or global level.

The CAD gathers Safety data from the occurrence reports received pursuant to Regulation (EU) 376/2014, entity oversight, document publications such as the EPAS, Annual Safety Reviews and other relevant data analysis. The data is seen and considered from a local perspective and identify the most relevant SPIs that will provide added value towards improving safety assurance.

In relation to the SPAS in Malta, the CAD will identify national industry SPI's and will segregate them in respect to the different aviation domains within the industry. Additionally, apart from SPI's at an operational level, the document will also include Systemic SPI's to address aviation system-wide challenges.

2.3 Accident and incident investigation

Bureau for Air Accident Investigation (BAAI)

Subsidiary Legislation 499.22 Civil Aviation (Investigation of Air Accidents and Incident) Regulations establishes the body allowed to carry out safety investigations in accordance with the applicable regulations. The Bureau is functionally independent of any other authority in Malta in order to eliminate the possibility of any conflict with the functions of the Bureau or influence its objectivity. S.L. 499.22 is coherent with Regulation (EU) No 996/2010 and Annex 13 to the Convention on International Civil Aviation, providing a comprehensive legislative framework for the BAAI to conduct its tasks in a fair and standardised way.

The sole objective of a Safety Investigation is to enhance safety by preventing accidents and incidents. A typical investigation will include the gathering of evidence and analysis of data, including the reasons and all factors that may have significantly contributed to cause an accident or incident. Where appropriate the BAAI will issue safety recommendations without the apportionment of blame or liability.

The independence and objectivity of an investigation are guaranteed by law and by the fact that BAAI operates with a distinct budget. BAAI can neither receive nor request instructions on the conduct of an investigation and its personnel must refrain from participating in the investigation work or the compilation of an investigation report if they or a close relative is personally involved in the accident or serious incident. Where necessary the BAAI may cooperate with the CAD, while maintaining its complete independence from the Directorate and/or from any other aviation organisation.

2.4 Collection and management of safety-related data

Occurrence Reporting and National Database

Another measure of important value to help in effectively shifting the Safety assurance towards a proactive approach, the State must have in place an effective occurrence reporting system. Malta has in place a system to receive and manage these reports, pursuant to Regulation (EU) No 376/2014, and the CAD is the competent authority tasked in managing such database.

The SCU within the CAD is the unit responsible to ensure that an occurrence reporting system is effective in collecting and evaluating these reports as well as exchanging information with the relevant organisations and entities as required by the Basic Regulation and its implementing rules. The implementation of these functions is managed with the other units within CAD. The CAD strives in creating an effective reporting culture to allow the widest possible data gathering for better accuracy of the safety level in the territory. Subsequently the SCU must constantly encourage and educate providers about the importance of occurrence reporting. The CAD, together with the expertise of the relevant inspector(s), may be required to give safety recommendations based on current regulations and best practices.

In respect of the above, the CAD has created a web-based portal to facilitate reporting. Reports may be submitted by any individual via the designated web-link (https://tmcad.totalaoc.com/SMS/Case/ExternalReport.aspx) which is linked to the occurrence reporting database. This link can be found and accessed via the TM-CAD website. Anyone who opts to submit a report to TM-CAD via the EC aviation reporting portal (aviationreporting.eu) will be redirected to the TM-CAD occurrence reporting portal.

Just Culture

TM-CAD promotes a culture in which it aims, in particular, at ensuring confidence of aviation professionals in occurrence reporting systems and encourages them to report any relevant safety information with a view to contribute to the enhancement of aviation safety and accident prevention. To this end, the CAD requires organisations to adopt Just Culture principles in their procedures and Safety Managements. Furthermore, the CAD believes and promotes a culture where individuals are not punished for actions, omissions or decisions taken by them that are commensurate with their experience and training, but which result in a reportable event.

Nevertheless, Just Culture must not be used as a means to exonerate individuals from their responsibilities but rather to find a balance between full impunity and blame culture. For particular cases, the CAD and legislation provide exceptions to the principle of Just Culture. Exceptions are granted in cases of wilful misconduct, and situations where there has been a manifest, severe and serious disregard of an obvious risk and profound failure of professional responsibility to take such care as is evidently required in the circumstances, causing foreseeable damage to a person or property, or which seriously compromises the level of aviation safety.

Mandatory Reporting

For the purposes of mandatory occurrence reporting, a reportable occurrence in relation to an aircraft includes any incident which endangers or which, if not corrected, would endanger an aircraft, its occupants or any other person. Commission Implementing Regulation (EU) 2015/1018 lays down a list of classifying occurrences in civil aviation which should be referred to when reporting occurrences, under mandatory reporting systems.

Any reports which do not fall under any of the categories or scenarios listed in Regulation (EU) 2015/1018 may still be reported to the CAD via the same web-link. These are classified as Voluntary Reports and CAD may still take any appropriate action if this will serve to improve aviation safety.

Data input, analysis and exchange of information

States are required to contribute to the ECCAIRS database, where reports received are inputted into this database in order for the European Commission to obtain a clear understanding of the level of safety within States and for States to compare their level of safety

with each other. The mission of ECCAIRS is to assist National and European transport entities in collecting, sharing and analysing their safety information in order to improve public transport safety.

The occurrence reporting databases of EASA, the Member States and organisations use formats which are:

- Standardised to facilitate information exchange; and
- Compatible[1] with the ECCAIRS Software and the ADREP taxonomy.

Regulation (EU) No. 376/2014 requires that safety information relating to civil aviation is reported, collected, stored, protected, exchanged, disseminated and analysed. Data sharing within EASA is accepted by contributing to the European Central Repository (ECR) via the ECCAIRS programme. Apart from inputting data in the ECCAIRS database, the CAD is also concerned with the analysis of this data, from which safety trends can be established and highlight any areas of concern.

Nevertheless, each qualified entity must ensure that its SMS is robust enough to identify any negative trends, and proactively take the necessary actions to ensure the safe operation of its service. The CAD expects that findings deriving from an analysis and the subsequent mitigation measures are communicated to the Directorate. These are then updated in the database.

As a means to assist in the requirements of occurrence reporting, the CAD has issued guidance material titled “Information on the general overview of mandatory occurrence reporting and voluntary occurrence reporting, regulatory obligations and CAD requirements which can be downloaded freely from the TM-CAD website.

Data publishing

Following the inputting of data in the National database data is exchanged via the ECCAIRS and ECR channels. The CAD analyses such submitted reports and periodically prepares reports in order to assist in assessments and identify trends. This data is presented both internally and/or externally and reflects a fair picture of the aviation industry within the State and/or among operators under TM-CAD’s oversight. This data may be exchanged during specifically set meetings or conferences aimed at addressing specific issues and challenges among aviation partners.
Additionally, the CAD publishes annual statistics and data gathering information deriving from occurrences reports and made available to the general public via the best possible medium available.

When publishing such data, the CAD ensures confidentiality of the information and presents the data in a clear and concise format with the sole intention of promoting and improving safety awareness.

[1] ADREP taxonomy compatibility is understood as a reporting system which uses the ADREP taxonomy.

2.5 Hazard identification and safety risk assessment

One of the most important measure for a pro-active approach is to identify hazards and emerging trends across the aviation system. The CAD makes use of multiple data streams to assist in hazard and safety risk identification, deriving from but not limited to, ad-hoc and scheduled inspections/audits, SANA, SACA and SAFA inspections and carrier score, analysis of mandatory and voluntary occurrence reports, and regional and international publications (EPAS, EASP, GASP etc).

The CAD shall call a Safety Risk Assessment and mitigation meeting when:

- A change in the aviation system (regulatory, technology etc) is planned;
- Negative trends identified through occurrence reports;
- A negative trend identified through analysis from EU or International organisations;
- Issues are constantly identified during audits posing a potential threat to safety;
- A proposed change that will directly affect the operation TM-CAD;
- A sudden change in the operating environment (ex: impact of a pandemic) occurs.

The procedure to conduct such safety risk assessments are documented in the CAD's MSM and provides a comprehensive overview of the necessary processes, documents, risk assessment tools, classifications and mitigations.

TM-CAD Safety Risk Management

CAD's operation carries its fair share of challenges and is not excluded from threats that might negatively impact its role and responsibilities within the aviation industry. It is therefore necessary that the CAD identifies its own operational risks. These risks are to be logged for mitigation and monitoring purposes and to ensure that such threats do not escalate to a point whereby CAD cannot conduct its operations in a safe and effective manner.

The identified risks will be reviewed periodically for effectiveness of the mitigation measures and relative risk score. Additionally, the review will identify whether the risk is still applicable or not to the CAD's operation. Given that CAD's operating environment is dynamic, new risks might crop up from time to time. It is essential that CAD remains vigilant on this front and, in such circumstances add newly identified risks to its log and monitor them accordingly via a new risk management process.

TM-CAD Management of Change

When changes are introduced into a system, the established safety risk picture of the system will change. Changes may introduce hazards that may impact the effectiveness of existing defences. This could result in new risk or changes to existing safety risks. The management of change process is normally initiated by the Head of a Unit. However, any person within the CAD who sees a safety issue can bring it to the attention of the Head of the Unit. The process can also be started by the DGCA.

The management of change process is described in detail in the MSM and is presented in this SSP in the form of a flow chart depicted in exhibit 3.

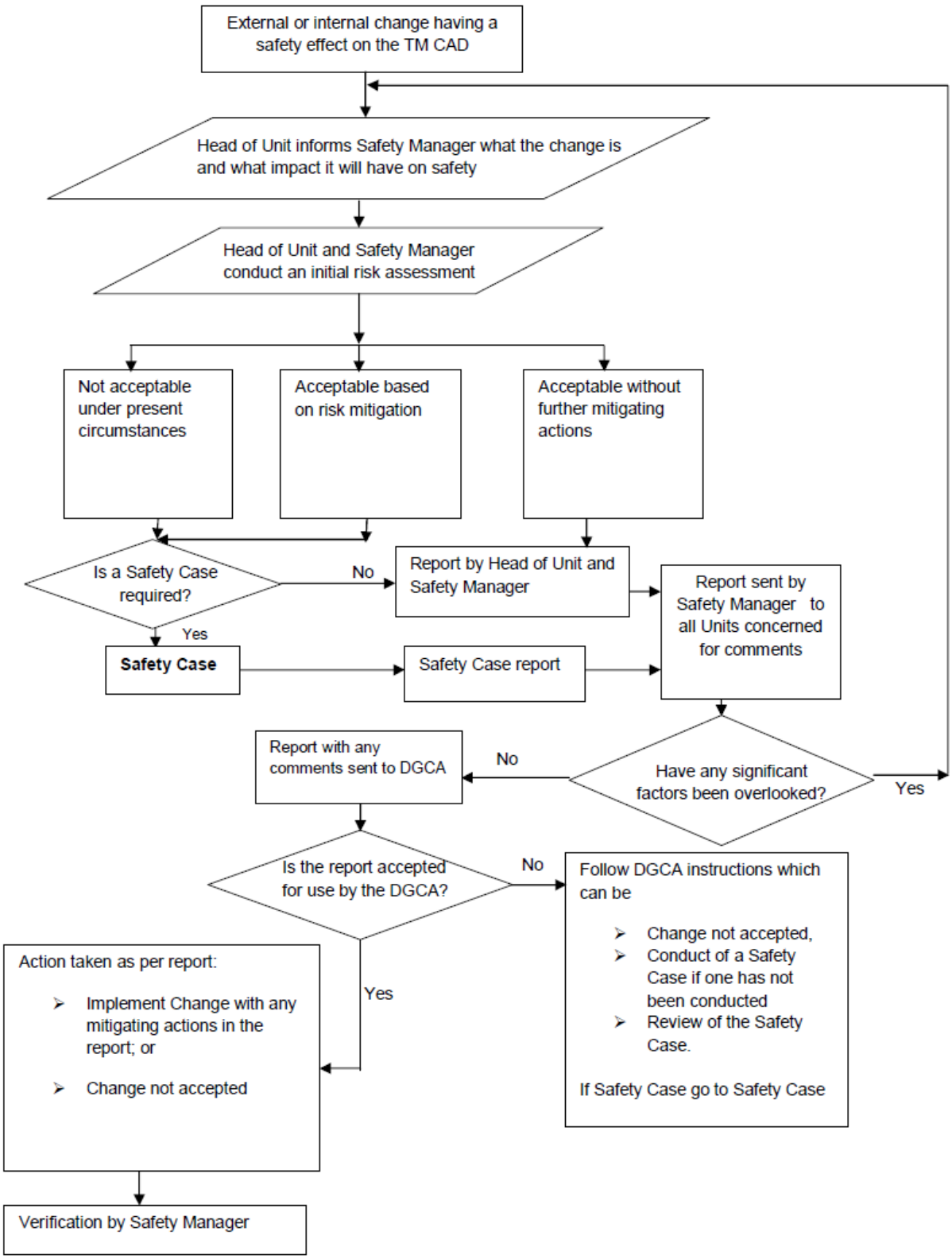

Exhibit 3 - TM-CAD Management of Change flow.
(Transport Malta - Civil Aviation Directorate, 2020)

State Safety Objectives

The SCU is the unit within the CAD that gathers, and analyses safety data received from the various reporting and database streams available. Following the periodical internal review of data, State Safety Objectives are created as a means to obtain an ultimate goal. The safety objectives are composed of Outcome oriented and Process oriented objectives and can be found in the Malta SPAS.

These objectives are sustained by identifying safety performance indicators as the key to understand better the pre-cursor events of such risks. Monitoring and review of these objectives is conducted on a continuous basis and measured against their respective identified ALoS.

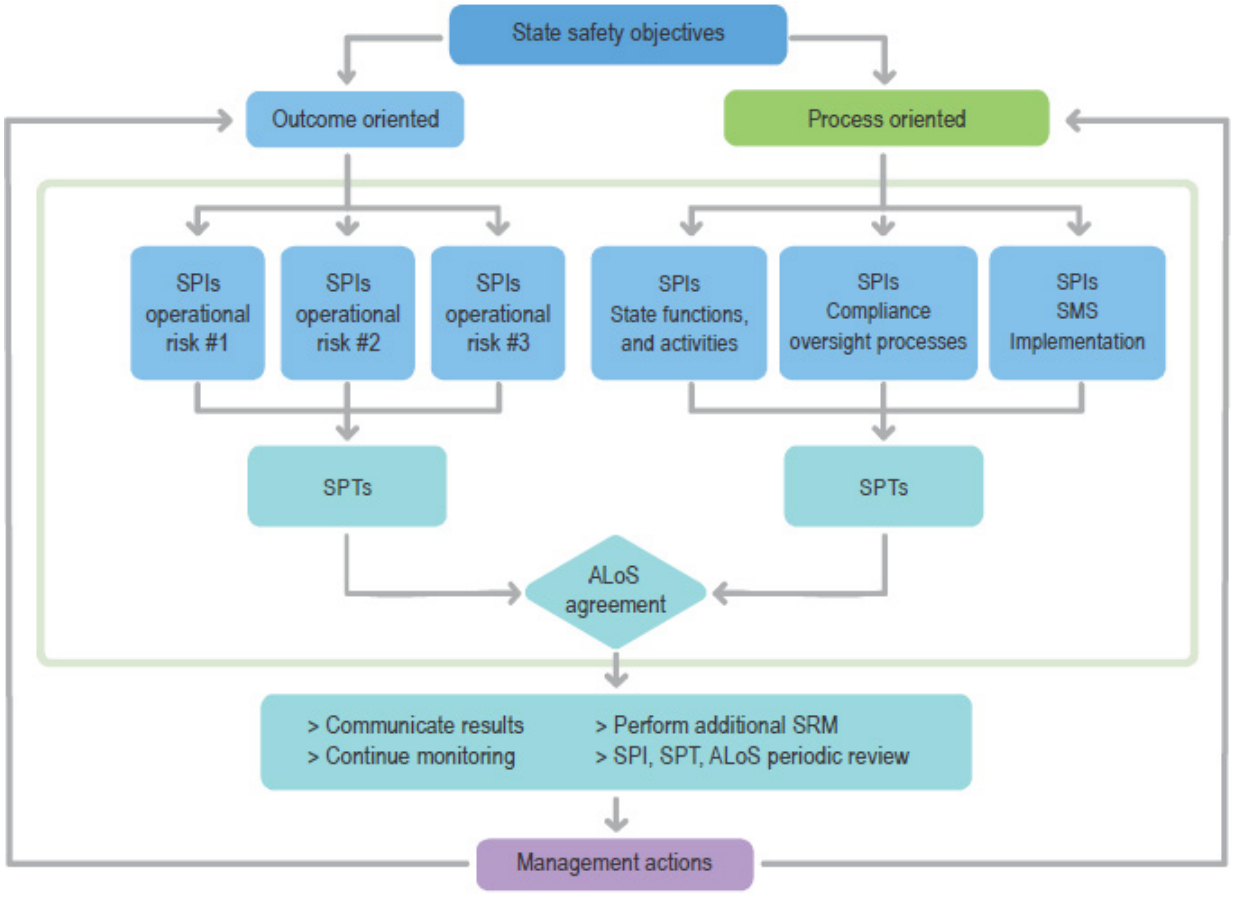

Exhibit 4 - Acceptable Level of Safety.
Adapted from (International Civil Aviation Organization, 2018)

2.6 Management of safety risks - Resolution of safety issues (ICAO CE-8)

Each hazard and/or risk is to be documented in the appropriate Safety Risk Assessment form as per CAD MSM procedures. The main objectives of such cases are to:

- Close the gaps identified;
- Anticipate hazards that could result from the change and evaluate the associated risk;
- To mitigate these risks;
- To validate the implemented risk mitigation means and to monitor the safety performance.

The management of these cases shall provide the basis for decision making. Based on the outcome, the risk and its mitigations must be monitored for their effectiveness in order to ensure that an acceptable level of safety has been achieved.

All cases shall be revised and verified by management and the risk will be assessed against safety. Nevertheless, due consideration should be given to other factors which may potentially impact the Directorate, such as Reputation, Financial, Operational, Strategic, Environmental, and Regulatory.

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3. State safety assurance

State safety assurance activities aim to assure that the functions are achieving their intended safety objectives and targets. Similar to how an organisation utilises its SMS assurance capability to measure their safety processes for effectiveness, and that they are on target to achieve their safety objectives, the State safety assurance activities, will provide the State with assurance that its safety processes are functioning effectively and the State is on target to achieve its safety objectives via the collective efforts of the State's aviation industry.

3.1 Surveillance obligations (ICAO CE-7)

The main product and objective of TM-CAD is the performance Safety Oversight in accordance with aviation legislation and in the best interest of safety and industry growth.
Each Unit of the CAD is responsible for the accomplishment of the safety oversight in its specialised field and are defined in both the TM-CAD MSM and the respective Unit Manuals.
The Unit Heads are responsible for the implementation and control of safety oversight audit and inspection plans. Maintaining data in line with changes in the underlying planning assumptions shall be essential, with particular focus on risk-based oversight principles.

Oversight is to be conducted in a structured manner and through various methods including audits, inspections and surveys. Oversight plans are conducted on an annual basis and shall reflect the complexity and operation of the organisation/entity under review. All oversight activities are documented in its appropriate format and any results of findings, corrective actions and mitigation measures are monitored. Additionally, data sharing, information gathering, and targeted meetings are also effective means that help assist in analysis and issue evaluations.

Approval, Certification and continuing oversight

Oversight is conducted along the various stages of an organisations operation and depending on the operation type. In the initial application stage, prior to any approval being issued, the respective unit within CAD will conduct the necessary evaluation to ensure compliance with the applicable regulatory framework for that type of operation. Once all checklists and requirements are met certification is granted. As part of the ongoing approval of this certification, the CAD will devise an oversight plan composed of audits and inspections. Ad-hoc inspections may also be carried to further strengthen the continuous oversight.

All oversight audits and inspections are carried out by qualified auditors/inspectors as approved by the TM-CAD managements system.

Aircraft Ramp Inspections

The EU Ramp Inspection Programme is a European Programme with regards to the performance of ramp inspections on aircraft used by third country operators (SAFA) or used by operators under the regulatory oversight of another EU Member State (SACA).

The Programme is regulated by Commission Regulation (EU) No 965/2012 and it provides for the inspection of:

- Aircraft suspected (e.g. based on safety relevant information collected by the Participating States or on regular analysis of performed by EASA) of non-compliance with the applicable international or EU standard safety requirements.
- Aircraft free from any suspicion, in which case a spot-check procedure is applied.

The EU Ramp Inspection Programme has two major components:

- SAFA ramp inspections (for third country operators); and
- SACA ramp inspections (for community operators – checked against EU standards).

Aircraft operators can be subject to a ramp inspection, mainly concerned with the aircraft documents and manuals, flight crew licenses, the apparent condition of the aircraft and the presence and condition of mandatory cabin safety equipment. These checks are carried out in accordance with a procedure which is common to all the Participating States, documented in a common format and submitted into a centralised EASA database.

TM-CAD Internal Compliance

The SCU manages and performs the internal compliance monitoring of the management system pursuant to the procedures described in the Safety and Compliance Unit Manual. The SCU conducts compliance monitoring of the CAD units as required by ARO.GEN.200, ARA.GEN.200, ADR.AR.B.005, ATCO.AR.B.001 and ATM/ANS.AR.B.001.

The Compliance Monitoring System (CMS) follows the PLAN-DO-CHECK-ACT cycle, incorporating scheduled and unscheduled independent audits and inspections and a feedback system for closure of findings. The CMS also incorporates risk management process and safety risk assessment of findings as part of the establishment of an internal audit process.

3.2 State safety performance

The CAD monitors the level of aviation safety and its related performance and presents them under two specific fields: Systemic and Operational related. These two fields are key parts of the Malta SPAS and deal with the identification of safety concerns in each respective aviation domain. Data for such monitoring is obtained via the information streams of Occurrence reporting, oversight cycles performed by CAD and general industry data sharing.

The data gathered by the SCU is compiled and each field has its own set of SPIs, SPTs and ALoS. These indicators and values are reviewed annually as a means to maintain a relevant evaluation of the safety performance of the State.

SPIs and SPTs

The SPIs and SPTs are the tangible outcomes following the analysis of the data gathered from multiple sources. These metrics are a measurement tool to also help identify risk areas and the implementation and effective levels of the actions taken. The Malta SPAS provides SPIs and SPTs related to Systemic and Operational threats. The 'Systemic' field deals with system-wide issues, stemming from Malta-specific issues and safety risk areas as provided in the EPAS. The SPT is supported with an ALoS based on trends of the aviation activity in Maltese airspace or Malta-registered aircraft. The 'Operational' threats extend to specific domains of aviation activity and highlight SPIs and SPTs that local aviation partners must process in relation to their operation and include them in their hazard/risk log.

For SPTs that were not met, there will be a need to understand why and require analysis whether improvement was still recorded even if the target has not been met, and what further actions are required. This may require additional analysis that could identify some risk factors that were not addressed or maybe some risk mitigations in place that are not effective.

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4. State safety promotion

TM-CAD values the element of safety within the aviation industry and is working hard to ensure that this value is embraced by its employees and the aviation industry. In relation to this, the CAD adapts its safety training needs and promotion material based on what is deemed as the most beneficial to the audience or end-user. This strategy is pursued for both internal communication and external information sharing.

4.1 Internal communication and dissemination of safety information

Each employee of TM-CAD is informed about the amount of occurrence reports received annually by the Directorate by means of an annual safety review report. This information is the working basis for the SCU to prepare an in-depth data analysis as part of the on-going promotion and analysis of events. Furthermore, for occurrences which are deemed of considerable importance, the SCU notifies the respective oversight inspector by means of a separate notification in order to ensure that the report is brought to the attention of the inspector and also of any actions the SCU is requesting.

At least annually, all employees of the CAD are provided with statistics showing an overview of the safety environment of aviation gathered from the data analysis derived from occurrence reports submitted to the Malta database. Additionally, all CAD employees are informed about the State SPIs of including any amendments to them. Documents published by EASA or other aviation regulatory or aviation bodies deemed to be safety-relevant are disseminated by means of electronic notification.

The SCU is present during the CAD management meetings to which safety concerns or observations may be raised directly with the other Heads of Units at high-level. Annually, the SCU shall present statistical data to the CAD management team on the safety-related environment within the State and among entities under the oversight of TM-CAD.

4.2 External communication and dissemination of safety information

The CAD's main communication channels with its stakeholders are email, Centrik web-based tools and TM-CAD's website. One-to-one meetings both physically present or via conference calls/VoiP are also common ways of how information is shared, discussed and clarified.

When regulation updates are in the pipeline, or enacted, TM-CAD disseminates such information via email. Information dissemination to changes or particular issues is further supported by means of specific meetings and discussion/information sessions for the industry partners or public.

Communication and management of audit findings are informed and managed via the web-based tool developed by Centrik and used by the CAD. Access to this tool is provided to all nominated post-holders or responsible nominees for entities under TM-CAD oversight. Nevertheless, since the CAD still has some of its Units in a transition from a paper-based audit

system to this electronic system, in such cases, the notification of findings and their management is dealt with via email.

Electronic bulletins and other safety-related information published by regional or international bodies (EASA, ICAO) are made available on the TM-CAD website. Annual statistics published by the CAD are also made available for viewing and download from the TM-CAD website.
Social media is still not a popular means however this does not eliminate the possibility of embracing such tools as added sources of information dissemination.

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Appendix I

Malta State Enforcement Policy for Civil Aviation

(Issue 2.0, August 2020)

1. Introduction

This enforcement policy is promulgated under that statutory authority in *CAP 499 TM ACT XV of 2009, CAP 499 Article 6 and CAP 499 Article 9.* The powers and functions of CAD's enforcement authority are aligned with Regulation (EU) 2018/1139 of the European Parliament and of the Council, as amended.

2. Principles

2.1 This enforcement policy is the culmination of a comprehensive review by the Civil Aviation Directorate (CAD) of its capacity and regulations for evaluating activities by service providers.

2.2 The implementation of safety management systems (SMS) requires that the CAD develops a flexible enforcement approach to this evolving safety framework while at the same time carrying out enforcement functions in an equitable, practical and consistent manner. A flexible enforcement approach in an SMS environment should be based in two general principles:

2.2.1 To develop enforcement procedures that allow service providers to deal with, and resolve, events involving safety deviations, internally, within the context of service provider's SMS, and to the satisfaction of the authority. Intentional contraventions of CAP 499 TM ACT XV of 2009, CAP 499 Art. 6, CAP 499 Art. 9 and the State's Civil Aviation Regulations will be investigated and may be subject to conventional enforcement action if appropriate.

2.2.2 That no information derived from safety data collection and processing systems established under SMS shall be used as the basis for enforcement action.

3. Scope

3.1 The principles underlying this enforcement policy statements and association enforcement procedures apply to service providers operating in accordance with ICAO:

- Annex 1 – Personnel Licensing;
- Annex 6 – Operation of Aircraft,
  Part I – International Commercial Air Transport – Aeroplanes and
  Part III – International Operations – Helicopters;
- Annex 8 – Airworthiness of Aircraft;
- Annex 11 – Air Traffic Services;
- Annex 14 – Aerodromes, Volume I – Aerodrome Design and Operations.

3.2 Within the context of this guidance, the term “service provider” refers to any organisation providing aviation services. The term includes approved training organisations that are exposed to safety risks during the provision of their services, aircraft operators, approved maintenance organisations, organisations responsible for type design and/or manufacture of aircraft, air traffic service providers and certified aerodromes, as applicable.

4. General

4.1 Service providers will establish, maintain and adhere to an SMS that is commensurate with the size, nature and complexity of the operations authorised to be conducted under their operations certificate and to the hazards and safety risks related to these operations.

4.2 In order to develop an enforcement policy that supports the implementation of SMS, CAD inspectors will maintain an open communication with service providers.

4.3 When a service provider operating under a SMS unintentionally contravenes the Civil Aviation regulations, specific review procedures will be used. These procedures will allow the CAD inspector responsible for the oversight of the service provider the opportunity to engage in dialogue with the SMS-governed organisation. The objective of this dialogue is to agree on proposed corrective measures and an action plan that adequately addresses the deficiencies that led to the contravention and to afford the service provider and a reasonable time to implement them. This approach aims to nurture and sustain effective safety reporting, whereby service providers’ employees can report safety deficiencies and hazards without fear of punitive action. A service provider can therefore, without apportioning blame, analyse the event and the organisational or individual factors that may have led to it, in order to incorporate remedial measures that will best help prevent recurrence.

5. Remedial Measures

TM-CAD, through the inspector responsible for the oversight of the service provider, will evaluate the corrective measures proposed by the service provider, and/or the system currently in place to address the event underlying the contravention. If the corrective measures proposed are considered appropriate and likely to prevent recurrence and foster future compliance, the review of the violation will then be concluded with no enforcement action. In cases where either the corrective measures or the systems in place are considered inappropriate, the CAD will continue to interact with the service provider to find a satisfactory resolution that would prevent enforcement action. However, in cases where the service provider refuses to address the event and provide effective corrective measures, the CAD will consider taking enforcement action or other administrative action regarding the certificate.

6. Enforcement Procedures

Breaches of aviation regulations may occur for many different reasons from a genuine misunderstanding of the regulations, to total disregard for aviation safety. The CAD has a range of enforcement procedures in order to effectively address safety obligations under the applicable state act in light of different circumstances.

7. Impartiality of Enforcement Actions

Enforcement decisions must not be influenced by:

a) Personal conflict;
b) Considerations such as gender, religion, political views or affiliation; or
c) Personal, political or financial power of those involved.

8. Proportionality of Responses

Enforcement decisions must be proportional to the identified breaches and the safety risks they underlie, based on two principles:

a) The CAD will act against those who consistently and deliberately operate outside Civil Aviation regulations; and
b) The CAD will promote training or supervision of those who show commitment to resolving safety deficiencies.

9. Natural Justice and Accountability

Enforcement decisions must:

a) Be fair and follow due process;
b) Be transparent to those involved;
c) Consider the circumstances of the case and the attitude/actions of the service provider when considering action;
d) Be consistent actions/decisions for like/similar circumstances; and
e) Be subject to appropriate internal and external review.

10. Exceptions

10.1 This policy is not applicable if there is evidence of deliberate effort to conceal non-compliance. Police intervention may be required, if this evidence results in a criminal offence.

10.2 This policy is not applicable if the service provider fails to provide confidence in its means of hazard identification and safety risk management.

10.3 This policy is not applicable if the service provider is a recurrent violator. A recurrent violator is a violator who, in the past, has had the same or closely related violations.

10.4 In such circumstances, the penalty matrix or applicable measurement of the established enforcement procedure will be applicable.

Civil Aviation Directorate
2020