BLACKLISTING:
THE CONFLICT BETWEEN NATIONAL AND
INTERNATIONAL AVIATION SAFETY
STANDARDS

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Ladies and gentlemen, this is the captain speaking. Firstly, I'd like to thank you for choosing to fly Mandarin Airlines. As we taxi out to the runway please make yourself comfortable... and for those of you sitting on the right side of the plane... please look to your LEFT!
Issues to be Addressed:

• What are the means by which legal obligations in the area of aviation safety have become binding upon States?
• What are the substantive conventional international laws governing safety?
• What has been the level of national compliance with and implementation of such laws and standards?
• What means have been employed, unilaterally and multilaterally, to monitor compliance, and sanction noncompliance?
Politically Motivated Blacklists

Blacklisting a State's aircraft from one's skies is nothing new. During war, the airlines of a belligerent State are banned. During most of the Cold War, the US refused to allow the world's largest airline, Aeroflot, to fly to the US, while the Soviet Union banned most western aircraft from its vast airspace. After Fidel Castro came to power in Cuba, its airlines were banned from serving US cities.

Overflight rights also were denied Cuba's airlines until Cuba brought a complaint before the ICAO Council. Both the US and Cuba had ratified the multilateral Air Transit Agreement, conferring First and Second Freedom rights to the other; hence, the US ban on Cuban flights was unlawful. Ultimately, the US capitulated.
• Article 12 of the Chicago Convention requires every contracting State to keep its regulations uniform, to the greatest extent possible, with those established under the Convention.

• Article 37 of the Convention attempts to achieve uniformity in air navigation, by requiring that every contracting State cooperate in achieving "... the highest practicable degree of uniformity in regulations, standards, procedures, and organization in relation to aircraft personnel, airways and auxiliary services in all matters in which uniformity will facilitate and improve air navigation. To this end [ICAO] shall adopt and amend from time to time...international standards and recommended practices and procedures" addressing various aspects of air safety and navigation.
Chicago Convention

Article 38 provides that any State finding it impracticable to comply with SARPs, or which has or adopts regulations different therefrom, "shall give immediate notification" to ICAO of the differences. The Council is then obliged immediately to notify other States of such noncompliance.
Article 37 gives ICAO the authority to promulgate Annexes to the Chicago Convention. Member States must comply with the Annex standards and procedures, unless they promptly object under Article 38. Most do not exercise their right to object under Article 38. Thus, a State has an affirmative duty to harmonize its domestic law with the SARPs. But this duty is emasculated by the ability of a State to opt-out if it deems it impracticable to comply.
Article 33 of the Chicago Convention

Under Article 33, States are obliged to recognize the validity of the certificates of airworthiness and personnel licenses issued by the State in which the aircraft is registered, so long as the standards under which such certificates or licenses were rendered are at least as stringent as those established under the Chicago Convention. The negative implications of Article 33 are that if a State fails to comply "with the minimum standards which may be established from time to time pursuant to this Convention", then other States are not obliged to recognize the validity of the Certificates of Airworthiness issued by the delinquent State, and may therefore ban such aircraft from their skies, even when they have conferred traffic rights to the State pursuant to Article 6 of the Convention.
Article 6 of the Chicago Convention provides that "[n]o scheduled international air service may be operated over and into the territory of a contracting State, except with the special permission or other authorization of that State, and in accordance with the terms of such permission or authorization."
In addition to traffic rights, Bermuda I also addressed various "soft rights" issues, such as safety. Article 4 provides that the certificates of airworthiness, competency and licenses issued by one contracting State shall be honored as valid by the other.
A typical, modern approach is found in the so-called "APEC Multilateral Agreement". It repeats Bermuda I's reciprocal recognition clause, but adds that such recognition is contingent on the requirements for such licensing or certification are at least as stringent as those set forth in the Chicago Convention and its Annexes, echoing Article 33 of the Chicago Convention.
On the afternoon of May 25, 1979, American Airlines DC-10 Flight 191 crashed on take-off from Chicago's O'Hare International Airport, killing all 271 persons on board. Early reports indicated that the left wing pylon and the engine attached to it had separated from the wing as the aircraft took off. Later investigations showed that as the engine-pylon assembly tore loose from the wing, it severed hydraulic and electrical lines, which caused one set of wing slats to retract. The retraction of these slats, which govern slow speed lift, in turn caused asymmetrical lift of the aircraft.

“If doubts about airworthiness exist, one country may refuse to recognize another country’s certificate of airworthiness, but only if the certificating nation has not observed the minimum standards of airworthiness established in Annex 8 pursuant to Articles 33 and 37 of the Chicago Convention.”
US FOREIGN AIRPORT SECURITY ACT OF 1985

At various times, the DOT has decertified and recertified various foreign airports—including Lagos, Bogotá, Athens, Manila, Port-au-Prince and Beirut—on the basis of FAA security audits.
The US launched the International Aviation Safety Assessment Program [IASA] in 1991
IASA Process:

Under the International Convention on Civil Aviation (Chicago Convention) each country is responsible for the safety oversight of its own air carriers. Other countries can only conduct specific surveillance activities, principally involving inspection of required documents and the physical condition of aircraft.

FAA conducts the **International Aviation Safety Assessment Program** (IASA), assessing the Civil Aviation Authority (CAA) of each country that has carriers operating to the United States. Because of the provisions of the Chicago Convention and national sovereignty, FAA is not permitted to evaluate a foreign carrier within its own sovereign state.

An IASA assessment determines if the foreign CAA provides oversight to its carriers that operate to the United States according to international standards. The International Civil Aviation Organization (ICAO), a United Nations agency, and Annexes 1, 6, and 8 of the Chicago Convention develop those standards.

If the CAA meets standards, FAA gives that authority a Category 1 rating. Category 1 means the air carriers from the assessed state may initiate or continue service to the United States in a normal manner and take part in reciprocal code-share arrangements with U.S. carriers.

**IASA ratings** (MS Excel) are released to the public.

**What happens if a CAA does not meet ICAO standards?**

If the CAA does not meet standards, FAA gives that CAA a Category 2 rating. Category 2 means the air carriers from the assessed state cannot initiate new service and are restricted to current levels of any existing service to the United States while corrective actions are underway.

http://www.faa.gov/passengers/international_travel/
**IASA Categories**

- **Category 1, Does Comply with ICAO Standards:** A country's civil aviation authority has been assessed by FAA inspectors and has been found to license and oversee air carriers in accordance with ICAO aviation safety standards.

- **Category 2, Does Not Comply with ICAO Standards:** The Federal Aviation Administration assessed this country's civil aviation authority (CAA) and determined that it does not provide safety oversight of its air carrier operators in accordance with the minimum safety oversight standards established by the International Civil Aviation Organization (ICAO). 

Source: FAA
This rating is applied if one or more of the following deficiencies are identified:

1. the country lacks laws or regulations necessary to support the certification and oversight of air carriers in accordance with minimum international standards;
2. the CAA lacks the technical expertise, resources, and organization to license or oversee air carrier operations;
3. the CAA does not have adequately trained and qualified technical personnel;
4. the CAA does not provide adequate inspector guidance to ensure enforcement of, and compliance with, minimum international standards;
or
5. the CAA has insufficient documentation and records of certification and inadequate continuing oversight and surveillance of air carrier operations.
Consequences of Category 2:

1. The air carriers from the assessed state are restricted to current levels of any existing service to/from the United States;
2. No reciprocal code-share arrangements between air carriers for the assessed state and U.S. carriers are allowed; and
3. The carrier’s aircraft are subject to additional inspections at U.S. airports.
21 States:

Bangladesh
Belize
Cote D'Ivorie
Croatia
Democratic Republic of the Congo
Gambia
Guyana
Haiti
Honduras
Indonesia
Israel
Kiribati
Nauru
Nicaragua
Paraguay
Philippines
Serbia and Montenegro
Swaziland
Ukraine
Uruguay
Zimbabwe

FAA FLIGHT STANDARDS SERVICE:
IASA CATEGORY 2 STATES (2009)

http://www.faa.gov/safety/programs_initiatives/oversight/iasa/media/asaws.xls

"Category 2 States do not meet ICAO Standards"

Croatia removed from this list as of 2011
## FAA Category 2 – "Does Not Meet ICAO Standards"

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The United States Federal Aviation Administration (FAA) established the IASA program through public policy in August of 1992. FAA's foreign assessment program focuses on a country's ability, not the individual air carrier, to adhere to international standards and recommended practices for aircraft operations and maintenance established by the United Nation's technical agency for aviation, the International Civil Aviation Organization (ICAO).

The purpose of the IASA is to ensure that all foreign air carriers that operate to or from the United States are properly licensed and with safety oversight provided by a competent Civil Aviation Authority (CAA) in accordance with ICAO standards.

The FAA works with countries to ensure that they comply with ICAO standards and earn IASA Category 1 ratings.
2004-2005

- June – Egypt’s Flash Airline jet crashes in Red Sea, killing 133 French nationals
- August – West Caribbean Airways jet crashes in Venezuela killing 160 (152 French)
- August – Helios Airways crashed near Athens, killing 121
Prior European Blacklists

Several European States had previously blacklisted certain airlines from their skies.

- The United Kingdom had banned aircraft operated by airlines from Equatorial Guinea, The Gambia, Liberia and Tajikistan, as well as Sierra Leone's Star Air and Air Universal, Cameroon Airlines, Albanian Airlines and the Democratic Republic of Congo's Central Air Express.

- France banned North Korea's Air Koryo, the United States' Air Saint Thomas, Liberia's International Air Services, Lineas Aer de Mozambique, and Thailand's Phuket Airlines.

- Belgium banned airlines from the Ukraine, Republic of Central Africa, Egypt, Armenia, Democratic Republic of Congo, Libya, Nigeria, Ghana and Rwanda.

- Switzerland banned airlines from Azerbaijan, Egypt, Bulgaria, Lebanon and Nigeria.
THE EU PROMULGATED REGULATIONS GOVERNING OPERATING BANS ON FOREIGN CARRIERS IN LATE 2005.

THE REGULATION PROVIDES THAT BANS ARE TO BE IMPOSED "ACCORDING TO THE MERITS OF EACH INDIVIDUAL CASE", EVALUATING "WHETHER THE AIR CARRIER IS MEETING THE RELEVANT SAFETY STANDARDS".

THE PHRASE "RELEVANT SAFETY STANDARDS" IS DEFINED AS "THE INTERNATIONAL SAFETY STANDARDS CONTAINED IN THE CHICAGO CONVENTION AND ITS ANNEXES . . . AS WELL AS, WHERE APPLICABLE, THOSE IN RELEVANT COMMUNITY LAW."

THE EU REGULATIONS "NAME AND SHAME"
EU Criteria

Three broad areas are assessed under the Regulation:

1. evidence of serious safety deficiencies;
2. the lack or willingness of an air carrier to address safety deficiencies; and
3. the lack or ability or willingness of the governmental authorities responsible for safety oversight to address safety deficiencies.
11.4.2008

LEGAL NOTICE

- The civil aviation authorities of Member States of the European Community are only able to inspect aircraft of airlines that operate flights to and from Community airports; and in view of the random nature of such inspections, it is not possible to check all aircraft that land at each Community airport.

- The fact that an airline is not included in the Community list does not, therefore, automatically mean that it meets the applicable safety standards.

- Where an airline which is currently included in the Community list deems itself to be in conformity with the necessary technical elements and requirements prescribed by the applicable international safety standards, it may request the Commission to commence the procedure for its removal from the list. Source: EU
On March 22, 2006, the European Union published a consolidated blacklist of 92 airlines to be banned from EU skies.

The blacklist is updated every three months.

The list is dominated by African airlines.

The original list included 50 carriers from the Democratic Republic of Congo, 13 from Sierra Leone, 11 from Equatorial Guinea, 6 from Swaziland, 3 from Liberia as well as airlines in Kazakhstan, Thailand, and North Korea.
Democratic Republic of Congo
- Africa One
- African Company Airlines
- Aigle Aviation
- Air Boyoma
- Air Kasai
- Air Navette
- Air Tropiques s.p.r.l.
- Ato—Air Transport Office
- Blue Airlines
- Business Aviation s.p.r.l.
- Butembo Airlines
- CAA—Compagnie Africaine d’Aviation
- Cargo Bull Aviation
- Central Air Express
- Cetracia Aviation Service
- CHC Stélavía
- Comair
- Compagnie Africaine d’Aviation
- CO-ZA Airways
- Das Airlines
- Doren Aircargo
- Enterprise World Airways
- Filair
- Free Airlines
- Galaxy Corporation
- GR Aviation
- Global Airways
- Goma Express
- Great Lake Business Company
- I.T.A.B.—International Trans Air Business
- Jetair—Jet Aero Services, s.p.r.l.
- Kinshasa Airways, s.p.r.l.
- Kivu Air
- Lac—Lignes Aériennes Congolaises
- Malu Aviation
- Malilia Airlift
- Mango Mat
- Rwabika “Bushi Express”
- Safari Logistics
- Services Air
- Tembo Air Services
- Thom's Airways
- TMK Air Commuter
- Tracep
- Trans Air Cargo Services
- Transports Aériennes Congolais (Traco)
- Uhuru Airlines
- Virunga Air Charter
- Waltair Aviation
- Wimbi Diri Airways

North Korea
- Air Koryo

Comoros
- Air Service Comores

Afghanistan
- Ariana Afghan Airlines

Kazakhstan
- BGB Air
- GST Aero Air Company

Kyrgyzstan
- Phoenix Aviation
- Reem Air

Thailand
- Phuket Airlines

Rwanda
- Silverback Cargo Freighters Air Consul SA

Equatorial Guinea
- Avirex Guinee Equatoriale
- COAGE—Compagnie Aeree de Guinee Equatorial
- Ecuato Guineana de Aviacion
- Ecuatorial Cargo
- GEASA—Guinea Ecuatorial Airlines SA
- GETRA—Guinea Ecuatorial de Transportes Ae5eos
- Jetline Inc.
- KNG Transavia Cargo
- Prompt Air GE SA
- UTAGE—Union de Transport Aereo de Guinea Ecuatorial

Liberia
- International Air Services
- Satgur Air Transport, Corp.
- Weasua Air Transport, Co. Ltd.

Sierra Leone
- Aerolift, Co. Ltd.
- Airlink Air Links
- Air Leone, Ltd.
- Air Rum, Ltd.
- Air Salone, Ltd.
- Air Universal, Ltd.
- Destiny Air Services, Ltd.
- First Line Air (SL), Ltd.
- Heavylift Cargo
- Paramount Airlines, Ltd.
- Star Air, Ltd.
- Teebah
- West Coast Airways Ltd.

Swaziland
- African International Airways, (Pty) Ltd.
- Airlink Swaziland, Ltd.
- Jet Africa
- Northeast Airlines, (Pty) Ltd.
- Scan Air Charter, Ltd.
- Swazi Express Airways

The EU Blacklist
(2006)
THE EU LIST IS UPDATED EVERY THREE MONTHS

- By 2008, the EU had blacklisted all the airlines of the Democratic Republic of the Congo, Equitorial Guinea, Indonesia, the Kyrgyz Republic, Liberia, Sierra Leone, and Swaziland, as well as:
  - AIR KORYO Democratic People Republic of Korea
  - AIR WEST CO. LTD Sudan
  - ARIANA AFGHAN AIRLINES Afghanistan
  - MAHAN AIR Islamic Republic of Iran
  - SILVERBACK CARGO FREIGHTERS Rwanda
  - TAAG ANGOLA AIRLINES Angola
  - UKRAINE CARGO AIRWAYS Ukraine
  - UKRAINIAN MEDITERRANEAN AIRLINES Ukraine
  - VOLARE AVIATION ENTREPRISE Ukraine

By April 2009, the EU had blacklisted:

- And all the airlines of:
  - Angola
  - Benin
  - D.R. Congo
  - Kyrgyz Republic
  - Equitorial Guinea
  - Indonesia
  - Liberia
  - Gabon
  - Sierra Leone
  - Swaziland

Certain airlines of:

- Kazakhstan
- D.R. Korea
- Sudan
- Afghanistan
- Ukraine
- Cambodia
- Rwanda
By July 2009, the EU had blacklisted more than 250 airlines

The EU banned all the airlines of:

- Liberia
- Sierra Leone
- Swaziland
- Zambia

And specific airlines of:

- Afghanistan (1)
- Benin (9)
- Angola (18)
- Cambodia (1)
- D.R. Congo (58)
- Equatorial Guinea (10)
- Gabon (6)
- Indonesia (55)

And imposed restrictions upon specific airlines of:

- D.R. Korea (1)
- Rwanda (1)
- Sudan (1)
- Ukraine (4)
- Angola
- Aruba
- Comoro
- Gabon
- South Africa

By 2010, the EU had blacklisted airlines of:

- Afghanistan
- Angola
- Cambodia
- Benin
- Republic of Congo
- Democratic Republic of Congo
- Djibouto
- Equitorial Guinea
- Indonesia
- Kazakhstan
- Kyrgyz Republic
- Liberia
- Gabon
- Philippines
- Sao Tome and Principe
- Sierra Leone
- Sudan
- Swaziland
- Zambia

The EU had placed operational restrictions on certain airlines of:

- DPRK
- Gabon
- Aruba
- Bangladesh
- Camoros
- Gabon
- Iran
- Angola
- Ukraine
- South Africa

(with the exception of aircraft registered in the EU)
EU BLACKLIST 2011

Afghanistan
Angola
Benin
Congo
D.R. Congo
Djibouti
Equatorial Guinea
Ghana
Indonesia
Kazakhstan
Kyrgyz Republic
Liberia
Gabon
Mauritania
Mozambique
Philippines
Sao Tome and Principe
Sierra Leone
Sudan
Suriname
Swaziland
Zambia
EU CRITERIA FOR BLACKLISTING

- with respect to Bangladesh, the Democratic Republic of Korea, Kyrgyzstan and Libya, a finding that they had "not exercised an adequate oversight... in accordance with their obligations under the Chicago Convention";

- with respect to the Democratic Republic of the Congo, Equatorial Guinea and Swaziland, a finding that they did not "have the ability to provide adequate oversight to...airlines and ensure that they operate in accordance with ICAO standards"; and

- with respect to Equatorial Guinea, Kyrgyzstan and Sierra Leone, a finding was made that their airlines had a principal place of business in another State, in contravention of Annex 6 to the Chicago Convention.[1]

EU Criteria

“The key conclusions to be drawn from this latest update of the list are twofold:

- a) the list acts a strong incentive to remedy safety deficiencies; withdrawal from the list is indeed possible, when the parties concerned put effectively in place sound corrective action to comply with all relevant safety standards;

- b) the concept of a Community list is increasingly proving to serve as a preventive rather than punitive instrument for safeguarding aviation safety. This is illustrated by the numerous instances where the Community has successfully addressed potential safety threats well ahead of resorting to the drastic measure of imposing restrictions.”

“The safety audits of the International Civil Aviation Organisation (ICAO) constitute a pillar and one of the common criteria which are used to impose an operating ban. Enhancing the cooperation in this area with ICAO is therefore essential.”

EU Process

“The civil aviation authorities of Member States of the European Union are only able to inspect aircraft of airlines that operate flights to and from Union airports; and in view of the random nature of such inspections, it is not possible to check all aircraft that land at each Union airport. The fact that an airline is not included in the Community list does not, therefore, automatically mean that it meets the applicable safety standards. Where an airline which is currently included in the Community list deems itself to be in conformity with the necessary technical elements and requirement as prescribed by the applicable international safety standards, it may request the Commission to commence the procedure for its removal from the List.”

LUANDA, ANGOLA — An Angolan airlines plane crashed on landing at an airport in northern Angola on Thursday, killing five people on the same day the European Union said it was blacklisting the airline due to safety concerns.

The European Union announced Thursday it was adding the airline to its revised international blacklist. The airline would be barred from flying to EU nations because of safety concerns, the European Commission said. Earlier this year, the European union unilaterally banned 62 African airlines from flying into EU airspace following a string of air disasters, including the Kenya Airways B737 crash that killed 114 people.

On Thursday, African governments inaugurated the civil aviation agency, based in Namibia with regional offices in South Africa, Ethiopia, Libya, Nigeria and Cameroon. The body aims to streamline aviation regulations and licensing throughout Africa at a time when the continent has the worst accident record in the world. About 3 percent of air traffic worldwide currently takes place over Africa.
Angola Threatens Reprisals

LUANDA, Angola (AP) — The Angolan government warned it may ban European airlines from its airspace in response to the EU's blacklisting of the country's flag-carrier.

Angolan Deputy Transport Minister Helder Preza said late Sunday the decision was "groundless." "We will have to study the decision and act accordingly," Preza told Radio Nacional de Angola, adding that the government would "use the principle of reciprocity."

TAAG flies to Paris and Lisbon, Portugal. Air France, British Airways and TAP Air Portugal all fly to the Angolan capital, Luanda.
The EU Responds

“Progress made by the civil aviation authority of Angola and the air carrier TAAG Angola Airlines to resolve progressively any safety deficiencies are recognised. In that context, the cooperation and assistance agreement signed between the civil aviation authorities of Angola and of Portugal allowed the airline to operate again into Portugal only with certain aircraft and under very strict conditions.”

Late 2011: The EU blacklists airlines from the Philippines, Honduras and the two Congos

- Aeromajestic and Interisland Airlines, a Filipino company, Stellar Airways from the Democratic Republic of Congo and Equatorial Congo from the Republic of Congo were banned because they failed to provide documented evidence that they comply with international safety standards. Honduran carrier Rollins Air was placed on the list after France raised concerns about the airline's safety.
- Three Boeing 767s operated by Jordanian Aviation were prohibited from using European airspace.
- Three Russian carriers were left off the EU blacklist - VIM AVIA, Yakutia and Tatarstan Airlines - after Russian authorities imposed operating restrictions on the companies.
- Although the EU's air safety committee was "very concerned" with the performance of Albanian airlines, the commission kept them off the list too after Albanian authorities took "very strong" safety enforcement measures.
- The EU flight-ban list now counts 273 airlines from 20 countries.

EU Blacklist 2013: Number of Carriers Banned

Afghanistan 5
Angola 13
Benin 9
Republic of Congo 9
Dem.Rep. of Congo 51
Djibouti 1
Equatorial Guinea 5
Eritrea 3
Ghana 1
Indonesia 52
Kazakstan 28
Kyrgyz Republic 14
Liberia 1
Gabon 7
Mozambique 16
Philippines 32
Sao Tome & Principe 11
Sierra Leone 7
Sudan 18
Surinam 1
Swaziland 1
Zambia 1
Surinam 1
Swaziland 1
Zambia 1
EU Press Release July 2013

- Taking into account the improved safety oversight provided by the competent authorities of the Philippines, and the ability of the air carrier Philippine Airlines to ensure effective compliance with relevant aviation safety regulations, and following an on-site safety assessment visit last June, it was decided to lift the ban affecting this carrier registered in the Philippines. For all other carriers registered in the Philippines the ban remains.

- Conviasa, registered in Venezuela, was also removed from the EU air safety list, following the successful resolution of the serious safety deficiencies which led to its ban from EU skies in April 2012. These improvements were proved during consultations with the Commission and the EU’s Agency for aviation safety (EASA), and through recent audits performed by Spain and by the International Civil Aviation Organization (ICAO) in Venezuela.

- In December 2012 Mauritania became the first country to be fully removed from the EU air safety list, where it was added in 2010. The improvements that led to this decision were verified during an on-site safety assessment visit conducted by the Commission in April 2013.

- Consultations were held with the civil aviation authorities of Libya. Progress was noted by the Committee, but the Libyan civil aviation authorities agreed to maintain the voluntary restrictions applicable to all airlines licensed in Libya. This voluntary restriction excludes Libyan airlines from flying into the EU until when they will be fully recertified in accordance with international safety standards. The on-going implementation of these measures will remain under close monitoring by the Commission and the EU Air Safety Committee.

- The Commission also praised the good progress in Sudan as well as in Mozambique.

- The Commission recognised the efforts of the safety oversight authorities of the Democratic Republic of Congo, Indonesia, Kazakhstan, Libya, Mauritania, Mozambique, Philippines, Russia and Sudan to reform their civil aviation system and to improve safety, in order to eventually become able to guarantee the effective application of international safety standards. The Commission continues to actively provide support and assistance for these reforms in cooperation with ICAO, EU Member States and EASA.
The updated EU air safety list includes all airlines certified in 21 states, for a total of 295 airlines fully banned from EU skies: Afghanistan, Angola, Benin, Republic of the Congo, the Democratic Republic of the Congo, Djibouti, Equatorial Guinea, Eritrea, Gabon (with the exception of 3 airlines which operate under restrictions and conditions), Indonesia (with the exception of 5 airlines), Kazakhstan (with the exception of one airline which operates under restrictions and conditions), Kyrgyzstan, Liberia, Mozambique, Nepal, Philippines (with the exception of one airline), Sierra Leone, Sao Tome and Principe, Sudan, Swaziland and Zambia. The list also includes 2 individual airlines: Blue Wing Airlines from Suriname and Meridian Airways from Ghana, for an overall total of 297 airlines.

Additionally, the list includes 10 airlines subject to operational restrictions and thus allowed to operate into the EU under strict conditions: Air Astana from Kazakhstan, Afrijet, Gabon Airlines, and SN2AG from Gabon, Air Koryo from the Democratic People's Republic of Korea, Airlift International from Ghana, Air Service Comores from the Comoros, Iran Air from Iran, TAAG Angolan Airlines from Angola and Air Madagascar from Madagascar.

European Commission
Press release
Brussels, 5 December 2013
The updated EU Air Safety List includes all airlines certified in 20 states, for a total of 231 airlines: Afghanistan, Angola (with the exception of one airline which operates under restrictions and conditions), Benin, Republic of the Congo, Democratic Republic of the Congo, Djibouti, Equatorial Guinea, Eritrea, Gabon (with the exception of 2 airlines which operate under restrictions and conditions), Indonesia (with the exception of 4 airlines), Kazakhstan (with the exception of one airline which operates under restrictions and conditions), Kyrgyzstan, Liberia, Libya, Mozambique, Nepal, São Tomé and Príncipe, Sierra Leone, Sudan and Zambia. The list also includes one individual airline: Blue Wing Airlines (Suriname), bringing the overall total of airlines banned from EU skies to 232.

Additionally, the list includes 8 airlines which are subject to operational restrictions. These airlines can only fly to the Union with specific aircraft types: Air Astana (Kazakhstan), Afrijet and SN2AG (Gabon), Air Koryo (Democratic People's Republic of Korea), Air Service Comores (the Comoros), Iran Air (Iran), TAAG Angolan Airlines (Angola) and Air Madagascar (Madagascar).
Adverse Effects of Blacklisting

- Loss of traffic in blacklisted markets;
- Tarnished reputation in flown markets;
- Higher aircraft insurance rates, or inability to procure insurance for blacklisted airlines or tour operators that book them;
- Inability to lease aircraft; and
- Higher cost of capital by commercial banks.
ICAO Oversight

In 1994 the ICAO General Assembly passed Resolution A32-11, which established ICAO's Safety Oversight Programme [SOP].

ICAO in 1999 replaced the SOP with a more meaningful and mandatory Universal Safety Oversight Audit Programme [USOAP].
By 1997, ICAO had found that though 75% of States had laws establishing a CAA, only 51% had given it adequate legal status, 22% had adequate staffing, and 13% had adequate inspector training.

By 2004, ICAO had audited 181 States for safety compliance and performed 120 audit follow-up missions.

In 2005, ICAO began a comprehensive systems audit of all Annexes.

By April 2008, 90 member States had been audited.

41.6% of audited States lacked implementation of Critical Elements of Safety Oversight.
In 2005, the USOAP was expanded to cover the safety-related provisions in all safety-related Annexes (all with the exception of Annex 9 — *Facilitation* and Annex 17 — *Security*) and also to implement a comprehensive systems approach for the conduct of safety oversight audits. The new approach consists of three phases:

- **Pre-audit phase.** During this phase, the information provided by the State in the State Aviation Activity Questionnaire (SAAQ) and Compliance Checklists (CCs) is reviewed by SOA to analyze the type of organization for safety oversight established by the State, the implementation of Annexes provisions and the differences from SARPs identified by the States. This allows ICAO to tailor the audit in accordance with the level and complexity of aviation activities in the State and determine the duration of the audit and the size and required composition of the audit team.

- **On-site phase.** During this phase, the State is visited by an ICAO audit team to validate the information provided by the State and conduct an on-site audit of the State’s system and overall capability for safety oversight. This includes an audit of the organization, processes, procedures and programmes established and maintained by the State to help it fulfil its safety oversight obligations.

- **Post-audit phase.** This phase encompasses all the activities following the on-site audit, including the preparation of the audit interim report, the development by the State of its corrective action plan and the completion of the audit final report. In accordance with Assembly Resolution A35-6, the audit final reports are made available to Contracting States in their entirety through a secure website, along with information derived from the AFDD. Source: ICAO
ICAO SAFETY OVERSIGHT AUDIT

The comprehensive systems approach for the conduct of safety oversight audits consist of the following safety related annexes:

- Annex 1 Personnel Licensing,
- Annex 2 Rules of the Air,
- Annex 3 Meteorological Service for International Air Navigation,
- Annex 4 Aeronautical Charts,
- Annex 5 Units of Measurement to be Used in Air and Ground Operations,
- Annex 6 Part I Operation of Aircraft,
- Annex 6 Part II Operation of Aircraft,
- Annex 6 Part III Operation of Aircraft,
- Annex 7 Aircraft Nationality and Registration Marks,
- Annex 8 Airworthiness of Aircraft,
- Annex 10 Volume I Aeronautical Telecommunications,
- Annex 10 Volume II Aeronautical Telecommunications,
- Annex 10 Volume III Aeronautical Telecommunications,
- Annex 10 Volume IV Aeronautical Telecommunications,
- Annex 10 Volume V Aeronautical Telecommunications,
- Annex 11 Air Traffic Services,
- Annex 12 Search and Rescue,
- Annex 13 Aircraft Accident and Incident Investigation,
- Annex 14 - Volume I Aerodromes,
- Annex 14 - Volume II Aerodromes,
- Annex 15 Aeronautical Information Services,
- Annex 16 - Volume I Environmental Protection,
- Annex 16 - Volume II Environmental Protection,
- Annex 18 The Safe Transport of Dangerous Goods
Principal Issues of Assessment

- Is there a clear policy governing regulation of airworthiness, operations, and personnel licensing?
- Is there an appropriate system for certification of aircraft operators and maintenance organizations?
- Are inspectors and licensing personnel given periodic training?
- Is appropriate reference material available?
- Do provisions exist for license and certificate revocation if deficiencies are identified?
- Does the CAA have an adequate budget to accomplish its mission?
Principal Deficiencies

- Absence of basic aviation laws;
- Failure of the CAA to enforce safety laws and regulations;
- Failure of national laws to conform to SARPs.
THE EIGHT CRITICAL ELEMENTS OF USOAP AUDITS

1. Primary Aviation Legislation
2. Specific Operating Regulations
3. Civil Aviation System and Safety Oversight Functions
4. Qualification and Training of Technical Staff
5. Procedures and Technical Guidance
6. Licensing and Certification Obligations
7. Surveillance Obligations
8. Resolution of Safety Concerns
SAFETY OVERSIGHT AUDIT RESULTS UNDER THE COMPREHENSIVE SYSTEMS APPROACH

Level of Implementation of the Critical Elements of a Safety Oversight System

CRITICAL ELEMENT 1 Not implemented 10 = Fully implemented

\( \square \) = Global average

<table>
<thead>
<tr>
<th>CRITICAL ELEMENT</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Primary aviation legislation</td>
<td>1</td>
</tr>
<tr>
<td>Specific operating regulations</td>
<td>1</td>
</tr>
<tr>
<td>State civil aviation system and safety oversight functions</td>
<td>1</td>
</tr>
<tr>
<td>Technical personnel qualification and training</td>
<td>1</td>
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<tr>
<td>Technical guidance, tools and the provision of safety-critical information</td>
<td>1</td>
</tr>
<tr>
<td>Licensing, certification, authorization and approval obligations</td>
<td>1</td>
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<tr>
<td>Surveillance obligations</td>
<td>1</td>
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<tr>
<td>Resolution of safety concerns</td>
<td>1</td>
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<tr>
<td>Region</td>
<td>2005</td>
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<tr>
<td>-------------------------------</td>
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<tr>
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ICAO SECURITY AUDITS

- The 33rd ICAO General Assembly passed several resolutions strongly condemning the use of aircraft as weapons of mass destruction.”
- One such resolution called upon ICAO to establish a security audit program modeled on USOAP.
- In 1994, ICAO had inaugurated the Safety Oversight Programme [SOP] to assess State compliance with SARPs.
- In 2001, ICAO launched the Universal Security Audit Programme [USAP] to assess State compliance with Annex 17 (security).
In 2005, the ICAO Council approved a procedure for disclosing information about a State having significant SARPs deficiencies in its aviation safety obligations.

In 2006, aviation Directors-General from 153 of 189 member States agreed that by March 23 2008, the names of those States that fail to agree to full transparency of their USOAP audits will be posted on the ICAO website.

More than 100 States have already agreed to transparency. By September 2006, 79 States had made their USOAP audits publicly available on the ICAO website. By Nov. 2008, 161 State audit results were posted at: http://www.icao.int/fsix/auditRep1.cfm

ICAO and IATA also signed a MOU "to share safety-related information from their respective audit programs to better identify potential safety risks and prevent aircraft accidents", as well as share accident and incident monitoring. The two have agreed that "experts from each organization will be allowed to participate as observers in audit missions of the other, upon request."
An Example of Audit Executive Summaries (one paragraph)

- Côte d’Ivoire has not made noticeable progress in its civil aviation organization and in the development of safety oversight qualifications. The area’s organization has not yet been reviewed in order to reinstate in the NCAA the regulatory functions granted to other units operating in the area, created since 1995. Also, the delegation which is essential to the Director of the NCAA and to civil aviation inspectors has not yet been identified or carried out. The NCAA has qualified technical personnel to fulfil safety oversight tasks and the related process is well-managed by the technical personnel. However, on account of its public establishment status, the NCAA cannot provide its management staff with adequate working and remuneration conditions and has great difficulty maintaining key qualifications within the agency. The NCAA does not have the essential rights and means to develop and implement a structured training programme. The current training provided by the NCAA to its technical personnel does not take into account the policy to develop qualifications or the need to develop individual or collective technical qualifications according to service priorities, the evolution of flight equipment activities and technology as well as the tasks to be provided to that end.
CRITICAL ELEMENTS OF A SAFETY OVERSIGHT SYSTEM (Doc 9734 refers)
Lack of Effective Implementation (%) — Zimbabwe

- Global: 181 (32.44%)
- Audit: 30.61%
- Follow-Up: 14.19%

Note: The above graphic representation of the situation in the State at the time of the audit follow-up mission is limited to reflecting the progress made in implementing the ICAO recommendations made during the initial audit.
BLACKLISTING:
THE CONFLICT BETWEEN NATIONAL AND
INTERNATIONAL AVIATION SAFETY
STANDARDS

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