



State Safety Programme

D E N M A R K

English version

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Preface

In 2013, the International Civil Aviation Organisation (ICAO) acceded to new regulations (a new Annex 19), which require that Contracting States prepare State Safety Programmes (SSPs) as standard.

An SSP must relate to ICAO's overall aviation safety requirements and it must ensure that all relevant elements in the Contracting State's safety system are in place, and that they are up to date.

Denmark already meets the majority of these ICAO requirements. This Danish SSP is therefore a description of elements in the Danish regulatory system for aviation which has already been laid down.

However, there are some ICAO requirements for SSPs which are new in a Danish context: Therefore, in this Danish SSP, specific safety targets for Danish aviation have been established. Furthermore, a general requirement has been set out for the establishment of Safety Management Systems (SMS) in all approved enterprises. However, this requirement will be implemented in step with EU regulations for the various technical fields.

In March 2014, the Danish Transport Authority published an aviation safety oversight strategy, stating the direction for the Authority's oversight work in the future. The strategy is an integral part of this Danish SSP.

The Danish SSP also supports the common European Aviation Safety Programme, which stipulates the more general principles for aviation safety in the EU.

Finally, this Danish SSP describes how the special status of Greenland and the Faeroe Islands as non-members of the EU is managed.

The measures that will subsequently be necessary for Denmark to fully comply with the SSP must be described in a State Safety plan (SSp), which must describe detailed elements for complying with the SSP. The Danish Transport Authority will start work on a State Safety plan in 2014.

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Introduction

A number of annexes have been prepared to the Convention on International Civil Aviation (the Chicago Convention) from 1944. These annexes provide more detailed descriptions of the international regulations within civil aviation with which, as a general rule, ICAO's Contracting States are obliged to comply. The annexes contain *Standards* and *Recommended Practices*. As a general rule, Contracting States are obliged to comply with *Standards*, whereas they ought to comply with the *Recommended practices*.

In March 2010, at a special *High-Level Safety Conference* at ICAO in Montreal, it was decided to prepare a new annex; *Annex 19*. This Annex was to contain requirements for safety work by Contracting States and enterprises.

ICAO adopted this new Annex on Safety Management in 2013. The Annex contains the overall requirements for establishing a SSP, requirements for the implementation of a SMS by approved enterprises/organisations, as well as requirements for the regulatory and oversight obligations of Contracting States. The relevant annexes stated below for the specific fields of operation contain more detailed requirements for the SMS within the respective fields.¹

When establishing their SSP, Contracting States must also determine a national safety target/safety level; *Acceptable Level of Safety*. This is typically achieved by implementing and maintaining an SSP, by establishing safety targets and safety indicators, as well as by describing how maintenance of the established safety level will be ensured.

Although the requirements for an SSP stem from requirements from ICAO and are therefore related to civil aviation, military aviation units also play a role in the preparation of the plan and indicators, because both civil and military aviation, to a certain extent, use the same common facilities and air space. The Danish Transport Authority has established collaboration agreements with Defence Command Denmark, which include guidelines for shared use of Danish air space.

¹More detailed standards for the establishment of SMS are contained in Annex 1 - Personnel Licensing; Annex 6, Part 1 - International Commercial Air Transport - Aeroplanes; Annex 6, Part 3 - International Operations - Helicopters; Annex 8 - Airworthiness of Aircraft; Annex 11 - Air Traffic Services; Annex 13 - Aircraft Accident and Incident Investigation; and Annex 14 - Aerodromes. An integral part of the State Safety Programme (SSP) is to implement an SMS in each of these fields. Moreover, the requirements for the contents of SSPs and SMS are described in detail in ICAO Doc. 9859 - *Safety Management Manual (SMM)*.

Similarly, the Accident Investigation Board Denmark (AIB) plays a significant role in the overall safety system in connection with investigations into accidents and serious incidents and, as relevant, with determining causes and, thus, helping to prevent repeat accidents.

This Danish SSP has been prepared on the basis of ICAO's guidelines and recommended structure. Furthermore, according to ICAO, the SSP must relate to the entire aviation system in the respective Contracting State, in both scope and complexity.

1. Safety policy and safety targets

This section sets out the Danish safety policy and the basic structure to ensure implementation of the safety policy, as well as maintenance of the safety level and safety targets stipulated. The legislative structure and the international and national legislation which form the framework for safety work in Danish aviation are described. Furthermore, there is an outline of the division of responsibilities between the organisations responsible for the tasks related to this SSP. Finally, there is a description of the enforcement policy in place.

1.1 Safety policy

Aviation safety in Denmark is at a high level. A comparison at global level reveals that Danish individuals can expect a high safety level when they use Danish aviation for transport, see 1.3.1.4.

The Danish Transport Authority is working to contribute, as a minimum, to maintain the current high safety level in Danish aviation, through legislative work, oversight efforts, as well as through drafting guidance material and establishing relevant communication activities and dialogue fora, see section 1.3.1. This is an ambitious goal, and it places great demands on Danish aviation companies as well as on the Danish Transport Authority, which is the competent authority in this field.

Therefore, the Danish Transport Authority always focusses on safety in its daily work and on striking the right balance between safe and efficient transport on the one hand and environmental considerations on the other. With a holistic approach such as this, the Danish Transport Authority hopes to ensure that the Danish aviation industry contributes to a positive and sustainable evolution of the Danish transportation system as a whole.

1.2 Safety targets

Aviation is almost by definition global. There are today a number of players internationally which have influence on safety work. These include ICAO and the European Union, under the auspices of which overall international efforts take place and general initiatives are launched. Denmark is actively involved in both these fora in order to influence safety factors in aviation while also taking the environment into consideration.

Liberalisation within the area of aviation means that safety work should no longer relate only to national conditions. The Danish Transport Authority's work is in line with the ongoing increased liberalisation, but also focuses on

environmental and socioeconomic impacts of liberalisation, as well as on how to manage these impacts through appropriate regulation.

Therefore, in collaboration with international organisations, and taking account of ICAO's *Global Aviation Safety Plan* and the EU's *European Aviation Safety Programme*, Denmark is dedicated to ensuring that the current high level of aviation safety is maintained in relation to aviation safety efforts, so that resources are utilised in the best possible way.

On the basis of the policy set out, the following safety targets have been determined for Danish aviation:

- 1. Aviation safety for commercial air transport must, as a minimum, be maintained at the current level, which means the ten-year continuous average for number of accidents involving aircraft registered in Denmark may not exceed 0.8 per 100,000 flights.*
- 2. Aviation safety for other aviation must, as a minimum, be maintained at the current level, which means the ten-year continuous average number of accidents involving aircraft registered in Denmark may not exceed 15 per 100,000 flights.*

These safety targets have been determined on the basis of experience harvested over a number of years and are based on a generally increasing level of safety throughout recent decades. Determination of the targets is described in more detail in section 1.3.1.

1.2.1 Legislative structure - legal basis

The following is an outline of the foundation for Danish aviation legislation, i.e. the Chicago Convention, including its implementation into Danish law.

The outline includes a brief description of the division of powers between the Minister's Department of the Danish Ministry of Transport, the Danish Transport Authority and Accident Investigation Board Denmark (AIB), all of which comprise the national authorities involved in the Danish civil aviation system.

Finally, there is an outline of EU aviation safety regulations, as well as the interplay and interfaces between national regulations in the Danish Air Navigation Act and EU regulations, including with regard to Greenland and the Faeroe Islands.

1.2.2 The Chicago Convention

The Chicago Convention was drafted in 1944. This Convention contains a series of central provisions on the establishment and regulation of cooperation in a large number of areas relating to international aviation,

including the field of safety in aviation. Furthermore, ICAO was established with the Convention.

The Chicago Convention entered into force on 4 April 1947 and may be acceded to by countries that are members of the UN.²

Article 37 of the Convention stipulates that Contracting States are obliged to collaborate in order to achieve uniformity in regulations, standards, procedures and organisation in relation to aircraft, personnel, airways and auxiliary services in all matters in which such uniformity will facilitate and improve international air navigation.

To meet the objective of Article 37 of the Convention, ICAO must adopt and amend annexes containing comprehensive international standards and recommended practices (SARPs).³

Furthermore, ICAO may adopt standards and recommended practices on any other matter related to aviation safety, regularity, and air navigation services which are deemed relevant.

Through the determination of standards, a minimum regulatory level has therefore been set for civil aviation at global level.

It follows from Article 38 of the Convention, that any Contracting State which finds it impracticable to comply in all respects with the standards adopted must give immediate notification to ICAO of the differences between its own practice and that established by the international standard.

²A number of supplementary agreements have been established under the Chicago Convention. These include a transit agreement and a transport agreement, see the International Air Services Transit Agreement of 7 December 1944, see Danish Order no. 60 of 12 December 1948, and the International Air Transport Agreement from 1944, which has not been acceded to by Denmark.

³The annexes shall include the following areas, acc. Article 37:

- Communications systems and air navigation aids, including ground marking;
- Characteristics of airports and landing areas;
- Rules of the air and air traffic control practices;
- Licensing of operating and mechanical personnel;
- Airworthiness of aircraft;
- Registration and identification of aircraft;
- Collection and exchange of meteorological information;
- Log books;
- Aeronautical maps and charts;
- Customs and immigration procedures;
- Aircraft in distress and investigation of accidents.

This also applies to later amendments to ICAO standards, so that any Contracting State which fails to make the necessary amendments to its own regulations within 60 days after the adoption of the amendment to an international standard must indicate to ICAO the actions which the Contracting State then proposes to take.

With regard to the provisions of the Convention itself, Contracting States are obliged to implement these in their own legislation, and this means that Contracting States do not have the option of giving notification to ICAO that they intend not to comply with the provisions of the Convention.

ICAO has a comprehensive audit programme according to which Contracting States must be subject to regular audits to ascertain their level of compliance with the international rules and practices which are required in order to retain the high level of safety for international aviation. As part of this programme, in 2008, the Danish Civil Aviation Authority (now the Danish Transport Authority) was audited and the result was generally concluded to be satisfactory, see section 3.1.

ICAO's *Universal Safety Oversight Audit Programme (USOAP)* has proved to be extremely resource demanding, as it involves auditing a total of 191 Contracting States. Therefore, it has been decided to follow a continuous monitoring programme instead, *Continuous Monitoring Approach (CMA)*, according to which ICAO evaluates compliance by Contracting States on the basis of relevant and up-to-date data, which the Contracting States are to report to ICAO. ICAO uses this data to assess in which areas, and to which extent, audits are relevant.

ICAO has not been in contact with Denmark with requests to perform new audits after establishing the CMA.

1.2.3 The Air Navigation Act

Basic Danish civil aviation regulations are based on the Chicago Convention with which Denmark, as being a Member of ICAO, is obliged to comply. The provisions of the Chicago Convention are included in the Air Navigation Act from 1960, which makes up the core of the legislative structure of aviation legislation in Denmark today.

The Air Navigation Act has been adopted by the Danish Parliament (the Folketing), which has also adopted amendments to this Act regularly since 1960. The current provisions are in Consolidating Act no. 1036 of 28 August 2013.

The Air Navigation Act is an enabling act, which grants the Minister of Transport powers to lay down more detailed regulations. Moreover, the Act

assigns various powers and tasks to the Danish Transport Authority and the AIB. With regard to the Danish Transport Authority these include powers to make decisions in specific cases and carry out oversight and inspection, while with regard to the AIB, they include investigations of accidents and serious incidents.⁴

Pursuant to sections 1 and 2, the Act applies to air navigation within Danish airspace and covers both Danish and foreign aircraft, unless otherwise stipulated by EU regulations. Furthermore, pursuant to section 4, the Act also generally applies to air navigation by Danish aircraft outside Danish airspace.

With regard to Greenland and the Faeroe Islands, see section 1.2.5 *Greenland and the Faeroe Islands and the Air Navigation Act* below.

1.2.4 The Order on Delegation of Powers

Pursuant to section 152 of the Air Navigation Act, the powers invested in the Minister for Transport pursuant to the Act are delegated extensively to the Danish Transport Authority, most recently in the Order on the Delegation of Powers, see section 6 of Order no. 893 of 29 August 2012, which deals with the tasks and powers, right of appeal and promulgation by the Danish Transport Authority of certain of the Authority's regulations.

The powers delegated primarily concern powers to stipulate regulations. These regulations are stipulated administratively upon consultation with the aviation industry and other stakeholders. In accordance with section 18 of the Order on Delegation of Powers, the regulations are designed as executive orders. With regard to technical/operational matters, they are designed as regulations for civil aviation, which have the same legal status as executive orders. Executive orders must be introduced (promulgated) in the Danish Law Gazette before they can take effect, whereas regulations for civil aviation only have to be announced on the website of the Danish Transport Authority, see section 18(2)-(4).

A total of 160 regulations for civil aviation have been issued within 11 key areas, along with a smaller number of executive orders.

Through a legislative amendment in 1978, the AIB was established as an independent institution under the Ministry of Transport in order to ensure that AIB is completely independent of the aviation oversight authority. Powers concerning the AIB, including the powers of the Minister of

⁴Pertaining to aircraft with a maximum take-off weight of more than 2,250kg.

Transport to issue regulations concerning the AIB, have therefore not been delegated to the Danish Transport Authority.

1.2.5 Greenland and the Faeroe Islands and the Air Navigation Act

As mentioned, the Air Navigation Act applies to air navigation within Danish airspace. As a general rule, this also applies to Greenland and the Faeroe Islands. However, the territorial scope of the Act is modified by section 158 as well as by provisions in later amendments to the Act.

1.2.5.1 Greenland

Pursuant to section 158(1) of the Air Navigation Act, it therefore only applies in Greenland with the floating exemptions given in special Greenland legislation. In practice, by far the majority of the provisions in the 1960 Air Navigation Act, including subsequent amendments, have been made to apply for Greenland. The 2011 amendment to the Air Navigation Act (Act no. 470 of 18 May 2011) stipulated that, as a general rule, the Act should not apply to Greenland, however that, by Royal Decree, it may be brought fully or partially into force for Greenland subject to any variations necessitated by the conditions prevailing in Greenland. This, in effect, means that the Government of Greenland will have to approve the amendment before it can take effect for Greenland.

This will also be the situation for future amendments to the Air Navigation Act.

1.2.5.2 The Faeroe Islands

Pursuant to section 158(2), the Air Navigation Act does not apply to the Faeroe Islands. However, it may be decided by Royal Decree that the Act should also apply to the Faeroe Islands to the extent and with the amendments recommended by the Faeroese Parliament. Since 1960 the situation has been that the Act and any amendments to the Act can only be made to have effect for the Faeroe Islands after approval by the Faeroese Parliament. Today the Air Navigation Act with amendments until and including 2011 (Act no. 470 of 18 May 2011) applies to the Faeroe Islands, see Order no. 1373 of 4 December 2013 on entry into force for the Faeroe Islands of the Air Navigation Act .

1.2.6 EU regulations and the role of EASA

Within the EU, the aviation area has been undergoing gradual liberalisation and this has led to the establishment of a free, single market for aviation in the EU with regard to flights within or between EU Member States, plus the EEA States; Norway, Iceland and Lichtenstein. In the field of aviation safety, the European Aviation Safety Agency (EASA) serves as the basis for

EU aviation safety regulatory work. The Agency is tasked with working for a continuous high and uniform safety level for civil aviation in all Member States. EASA was established with Regulation (EC) no. 1592/2002 of 15 July 2002, which is also the Basic Regulation for common rules in the field of civil aviation. This Regulation has today been replaced by Regulation (EC) no. 216/2008 of 20 February 2008. With this Regulation, the area of responsibility is extended to include common overall rules for air operations (OPS), including third-country operators as well as personnel certificates. Through an amendment in 2009 of Regulation no. 216/2008 (Regulation (EC) 1108/2009), aerodromes and air traffic management were also covered by EASA's general rules.⁵ Within the individual fields, detailed technical rules (implementing rules) have been set out to varying extents.⁶

Although the aviation safety field is regulated by EU regulations in key areas, areas still remain which have not yet been fully covered by EU regulations or which are not regulated by the EU at all. This mainly pertains to the so-called Annex II aircraft, which include historic aircraft, aircraft operated pursuant to a national permit to fly, as well as certain small private aeroplanes. Annex II types are listed in Annex II to Regulation (EC) no. 216/2008 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency.

Finally, Greenland and the Faeroe Islands are not EU Members and are therefore not covered by EU regulations but only by the national regulations of the Danish Air Navigation Act. However, executive orders and regulations for civil aviation may introduce regulations corresponding to the EU regulations, so that uniform regulations are in place for the entire Realm within the fields in question.

See section *1.2.6.2 Greenland and the Faeroe Islands and interactions between EU and national regulations* below about the interactions between EU and national regulations in relation to aviation regulation in Greenland and the Faeroe Islands.

⁵On 11 June 2013 in connection with the so-called SESII+ package on the Single European Sky (SES), the European Commission presented a proposal for an amendment of EASA Regulation no. 216/2008 (COM (2013) 409).

⁶Furthermore, EU rules have been issued in the fields of security (Regulation (EC) no. 300/2008 of 11 March 2008), the environment (noise), occupational health and safety, passenger rights, airport rates etc.

1.2.6.1 EU regulations in the individual fields

Regulation no. 216/2008 with subsequent amendments lays down the common, overall regulations for civil aviation in the following fields:

- design of aircraft and aircraft parts, including essential requirements for the airworthiness of aircraft, as well as guidelines for safeguarding continued airworthiness of these products
- air operations (OPS), including requirements for third-country operators and personnel certificates
- air traffic management (ATM), including air traffic controller certification as well as requirements for the design and operation of aerodromes (AGA).

The Regulation contains a number of provisions granting the European Commission authorisation to stipulate detailed rules within the fields in question, the so-called implementing rules.

Implementing rules have been adopted within the fields of certification, continuing airworthiness, flight crew, air operations, air traffic management and air navigation services (ATM/ANS), as well as the design and operation of aerodromes (AGA). The following provisions are relevant:

- Certification of aircraft
 - o Regulation (EC) no. 748/2012 of 3 August 2012 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations
- continuing airworthiness
 - o Commission Regulation (EC) no. 2042/2003 of 20 November 2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks
- flight crew
 - o Commission Regulation (EU) no. 1178/2011 of 3 November 2011 laying down technical requirements and administrative procedures related to civil aviation aircrew

- air operations
 - o Commission Regulation (EU) no. 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations
 - o Commission Regulation (EC) no. 859/2008 of 20 August 2008 amending Council Regulation (EEC) no. 3922/91 as regards common technical requirements and administrative procedures applicable to commercial transportation by aeroplane, see Annex III hereof

- air traffic management and air navigation services (ATM/ANS)
 - o Commission Regulation (EU) no. 805/2011 of 10 August 2011 laying down detailed rules for air traffic controllers' licences and certain certificates
 - o Commission Implementing Regulation (EU) no. 1034/2011 of 17 October 2011 on safety oversight in air traffic management and air navigation services
 - o Commission Implementing Regulation (EU) no. 1035/2011 of 17 October 2011 laying down common requirements for the provision of air navigation services
 - o Commission Regulation (EU) No. 1332/2011 of 16 December 2011 laying down common airspace usage requirements and operating procedures for airborne collision avoidance
 - o Commission Implementing Regulation (EU) no. 923/2012 of 26 September 2012 laying down the common rules of the air and operational provisions regarding services and procedures in air navigation
 - o Commission Regulation (EU) no.139/2014 of 12 February 2014 laying down requirements and administrative procedures related to aerodromes.

1.2.6.2 Greenland and the Faeroe Islands and the interaction between EU regulations and national regulations

Greenland and the Faeroe Islands are not members of the European Union and no association arrangements are in place in the field of aviation for these countries.⁷ Therefore, as a general rule, the EU regulations do not apply to Greenland and the Faeroe Islands. As a consequence, Greenland and the Faeroe Islands are to be considered third countries in an EU context, which means that the relevant aviation companies must be considered to have been established in a third country and, therefore, to a certain extent have to be approved by EASA. *Aircraft* based in Greenland and the Faeroe Islands, however, are considered to be covered by Regulation no. 216/2008, because these aircraft have been registered in Denmark and because Denmark carries out oversight of them. These aircraft therefore have to comply with the provisions of Regulation no. 216/2008 and with the implementing rules issued in pursuance hereof.

As mentioned, executive orders and regulations for civil aviation may introduce regulations corresponding to the EU regulations, so that uniform regulations are in place within the field in question and for the entire Realm, based in particular on the objective of a uniform safety level throughout the Realm, but also to avoid having to operate with two different sets of rule.

1.2.7 Stipulation of rules by the Danish Transport Authority

The power to stipulate rules, see the Order on Delegation of Powers, within the area of aviation safety, has been vested in the Danish Transport Authority with regard to:

⁷ However, negotiations about this matter with the Faeroe Islands are ongoing. Greenland and the Faeroe Islands are not members of the European Union and no association arrangements are in place in the field of aviation for Greenland and the Faeroe Islands. Greenland and the Faeroe Islands are therefore not a part of the European Communities' single market for aviation, just as the regulations in this field do not apply to aviation in Greenland and on the Faeroe Islands, or to aviation between Greenland and the Faeroe Islands, respectively, and the territory of the European Communities. Part of the EU's aviation policy with regard to third countries is to establish aviation agreements between the EU and neighbouring countries by which the aviation market is expanded to include these, as far as possible, on the basis of EU provisions on aviation (the Community acquis). One of these agreements is a so-called ECAA agreement; an agreement to establish a European Common Aviation Area, which covers the EU Member States, Norway, Iceland, Lichtenstein and a number of Western Balkan countries. Since the Faeroe Islands have expressed a wish for closer association with the single EU aviation market, work is being done to incorporate the Faeroe Islands into the ECAA agreement. On 27 March 2013, Denmark ratified the agreement; however, two EU Member States still need to ratify the agreement before it can come into effect and before the European Commission can issue a protocol on this matter. If the Faeroe Islands are covered by the agreement, they will have the rights and obligations following from EU regulations in the field of aviation, including EASA rules. However, formal implementation of the regulations covered by the agreement (the Community acquis) will be required, in the form of regulations for civil aviation.

- Implementing EU directives in Danish law⁸
- issuing rules in areas in which the EU has no authority
- issuing rules in areas that are not regulated by the EU but by individual Member States.

In accordance with its general regulatory principles which are stated in the aviation oversight strategy⁹, and on the basis of specified priorities, see below, the Danish Transport Authority decides which rules should be issued or deregulated in a given year. This is stated in the Danish Transport Authority's annual regulations plan which includes both administrative procedures (executive orders and regulations for civil aviation) as well as legislative bills to amend the Air Navigation Act.

Regulation by the Danish Transport Authority underpins mobility, traffic safety and green transport. Regulation is moreover based on the following principles:

- materiality and relevance,
- quality,
- proportionality,
- transparency and stakeholder involvement, as well as
- performance and evaluation.

The stipulation of rules is prioritised as follows:

- *International provisions/standards:*
 - o implementation of EU directives in regulations for civil aviation/executive orders,
 - o regulations (possibly required complementary provisions), and
 - o ICAO annexes.
- *Other aspects:*
 - o simplification of rules - relaxations for the industry (financial/administrative),

⁸In the aviation area, by far the majority of EU rules are issued in Regulations. These apply directly to enterprises and individuals in the Member States and, therefore, are not to be implemented into national law through e.g. executive orders or regulations for civil aviation. EU *directives*, on the other hand, are directed toward the Member States. The provisions of a directive will therefore not apply to enterprises and individuals until the directive has been implemented in national law through e.g. executive orders or regulations for civil aviation.

⁹"*Strategi og praksis for tilsyn med luftfartssikkerhed*" (Strategy and practice for aviation safety oversight, 2014), only available in Danish, see www.trafikstyrelsen.dk.

- deregulation of Danish provisions (as a consequence of EU rules), and
- updating older provisions.

A draft is drawn up which undergoes public consultation, including with the Greenland and Faeroese authorities. Any comments to the draft are incorporated into the order or the regulation for civil aviation as relevant.

Executive orders are announced in the Danish Law Gazette and on the Danish Transport Authority's website, whereas regulations for civil aviation are only announced on the website.

The annual regulations plan is updated regularly and it contains information about the reason for the issue of regulations (EU directives, amendments to ICAO annexes, deregulation, etc.).

1.3 Obligations and responsibilities

As mentioned above, this Danish SSP has been prepared on the basis of the ICAO guidelines stated in *Annex 19* of the Chicago Convention and which are described in more detail in the *Safety Management Manual (SMM)*, Doc 9859.

Annex 19 contains guidelines for the establishment of a SSP and a SMS. There are also general guidelines for the regulatory and oversight obligations of Contracting States. Moreover, this Danish SSP also endeavours to follow the guidelines in ICAO's Global Aviation Safety Plan and the EU's European Aviation Safety Programme.

The Danish Transport Authority has been granted authority by the Minister of Transport to carry out relevant safety tasks in relation to civil aviation, see the current Order on Delegation of Powers. Therefore, the Danish Transport Authority has been charged with managing the establishment and operation of this Danish SSP in collaboration with other relevant authorities.

In this context, other relevant authorities include the AIB and Defence Command Denmark. The special role of the latter is to address designation and use of Danish airspace for civil and military purposes.

The collaboration with the AIB and Defence Command Denmark in relation to the SSP is based primarily on collaboration agreements already in place. These include relevant fora for agreeing on the overall aspects of the SSP. Furthermore, a collaboration agreement with the AIB forms the basis for ongoing collaboration.

The Danish Transport Authority is managed by a Director General, who is responsible for establishing, executing and maintaining this SSP. The Director General evaluates the SSP and associated focus areas annually.

The SSP is organised internally in the Danish Transport Authority, with relevant communication for the bodies mentioned above which share in the responsibility for their respective parts of the programme.

Resources for the establishment, execution and maintenance of the programme are included in the Danish Transport Authority's ordinary budget along with its other assigned tasks.

1.3.1 Danish safety targets

According to ICAO, each country must establish safety targets for national aviation safety efforts. This section describes the Danish safety targets.

In connection with the initiation of a State Safety plan for this SSP and in collaboration with relevant partners, the Danish Transport Authority will establish safety indicators to support work to ensure a continued and uniform, high level of aviation safety in Denmark.

Furthermore, warnings will be established if certain indicators reflect conditions which can give rise to a risk that the safety target set cannot be met.

The same high aviation safety level is aimed for on the Faeroe Islands and in Greenland as in the rest of Denmark, however with due regard for the special topographical, climatic and societal conditions in these parts of the Realm.¹⁰

1.3.1.1 Safety targets in Europe

Market rules within aviation allow other EU operators to operate equally with Danish operators, both inside Denmark and to and from Denmark. This means that the level of safety for all EU operators will have increasing importance for Danish travellers. It is therefore important to work for the establishment of common safety targets at European level, applying for all Member States.

The European Commission is already going in this direction. In 2011, the Commission drafted the European Aviation Safety Programme, which

¹⁰In Greenland, in particular, air transport to a number of widely distributed settlements is vital for the continued existence of these settlements, even if conditions do not allow for full compliance with all international aviation standards. For individuals in these settlements, air transport will often be a more safe mode of transport than navigation in small vessels.

contains common guidelines which all Member States are encouraged to follow.

The overarching safety target at European level is for Europe to be the safest region in the world in terms of aviation safety.¹¹ Europe, alongside North America, is statistically the safest region in the world for aviation. At EU level, work is being carried out to further specify safety targets and to establish safety indicators.

1.3.1.2 Application of safety targets: Guiding principle for safety efforts

Safety targets play a role in continuing safety work. They are threshold values for whether a transport system can be considered safe enough, or whether the system has an inadequate safety level that must be addressed by the competent authority.

Thus, safety targets are also performance targets for authority efforts. If players are not meeting the targets, efforts by the authorities must be strengthened or altered. This could be in the form of new regulations, altered sanctions, more guidance, tightened inspection, or other relevant initiatives.

If, on the other hand, the system meets current safety targets, the authority can allow more self-governance for enterprises, or they can simplify rules and reduce administrative burdens for enterprises; all of which are factors which the Danish aviation industry stresses as important for the competitiveness of Danish aviation.

1.3.1.3 Performance indicators: Accidents

In the aviation sector, safety targets are linked in particular to accidents. Accidents need to be minimised or avoided entirely, and accidents need to be recorded for international statistics.

A distinction is made between two types of accident:

- *fatal accidents*, which involve fatalities, and
- *accidents* involving damage to products and/or less severe personal injury.

Safety statistics for Europe concern fatal accidents compared with the rest of the world. However, in Denmark fatal accidents in commercial air

¹¹ Source: Commission Staff Working Paper - "The European Aviation Safety Programme", 2011.

transport are so rare that it makes little sense to have a performance target for this type of accident. Furthermore, very small details and coincidences typically make the difference between an accident and a fatal accident. So the primary objective is to avoid accidents in general, because this also reduces the risk of fatal accidents.

Until common EU safety targets have been established, the Danish safety targets will therefore concern the number of accidents compared with the specific level of activities (accident rate).

The aviation industry is a complex group of actors faced with very differing requirements. Therefore, when setting safety targets, a distinction should be made between two main groups:

- 1) *Commercial air transport*: air transport of passengers or freight against payment
- 2) *Other aviation*: all civil aviation that is not commercial air transport, including aviation in which the aircraft is used for specialised services, e.g. photography, agriculture, observation, land surveying, etc. Private aviation makes up the greater part of this group.

Because of a relatively limited set of data on specific areas of operation, at present it is not considered meaningful to make a further breakdown of the safety targets.

1.3.1.4 Safety targets for commercial air transport

Commercial air transport is a very safe mode of transport in Denmark.

Comparing commercial air transport in the EU with the rest of the world, and comparing Danish commercial air transport with the EU confirms that Danish commercial air transport has a very high level of safety.

The EU is among the safest aviation regions in the world, and Danish commercial air transport places positively relative to the EU average. This conclusion is based on accident data on fatal accidents from EASA, as well as on data obtained from ICAO.¹²

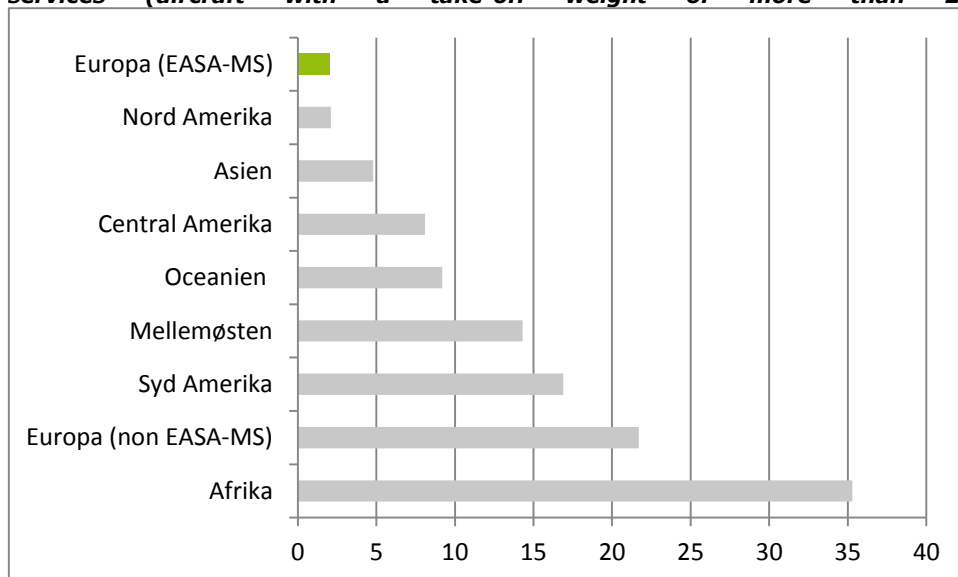
There are large regional differences in safety levels within commercial air transport, see figure 1. Over a ten-year period, the number of fatal

¹²Comparable data for accidents and flights are not available at individual country level in the EASA area. Thus, comparisons between countries are not readily possible.

accidents per 10 million flights is considerably lower in EASA Member States, which include Denmark, and in North America, than in the rest of the world.

In other words, Danish commercial air transport is a very safe mode of transport, also in an international perspective.

Figure 1: Number of fatal accidents per 10 million flights, 2003-2012, commercial air services (aircraft with a take-off weight of more than 2250kg)¹³.



(Source: EASA Annual Safety Review 2012)

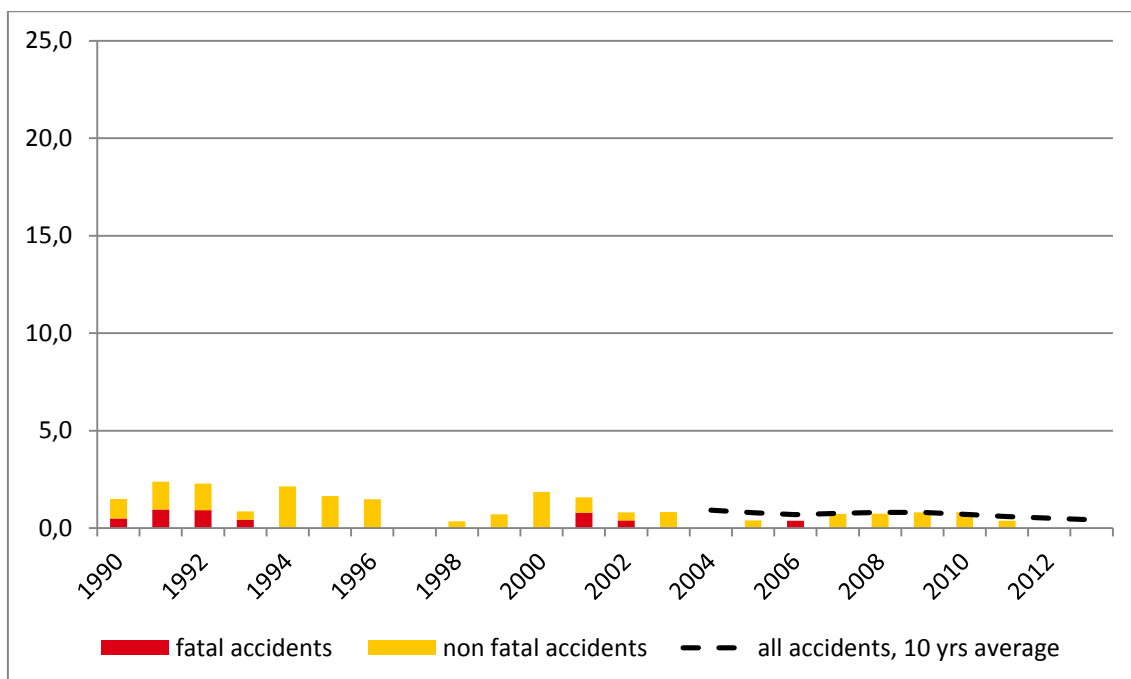
The target is, as a minimum, to maintain Danish commercial air transport at the current high safety level.

The safety level is measured by number of accidents relative to number of flights (accident rate) for Danish registered aircraft. Data is presented as ten-year averages in order to even out annual variations which can always occur due to the relatively few number of observations.

The ten-year average for number of accidents per 100,000 flights has been constant at between 0.5 and 0.8 in recent years, see figure 2.

¹³ Europe (EASA-MS) includes the EU member states and Iceland, Lichtenstein, Norway and Switzerland. Europe (non EASA-MS) includes a. o. Russia, Belarus, Ukraine and the countries in the former Yugoslavia.

Figure 2: Accidents and fatal accidents in Danish commercial air transport per 100,000 flights¹⁴¹⁵¹⁶



Note: In order to make for easier comparison between figures 2 and 3, the same scale has been used for both graphs.

Over the past ten years, there has only been a single fatal accident within commercial air transport involving Danish registered aircraft. This accident took place in Stord in Norway in 2006 when a chartered aeroplane drove off the runway, killing four people.

On the basis of the high level of safety observed, the safety target for Danish commercial air transport can be worded as follows:

Aviation safety for commercial air transport must, as a minimum, be maintained at the current level, which means the ten-year continuous average for number of accidents involving aircraft registered in Denmark may not exceed 0.8 per 100,000 flights.

This target does not exclude continuous endeavours to achieve an even higher level of safety. Within the framework of the current regulations and

¹⁴The number of flights is calculated on the basis of landings reported to the Danish Transport Authority.

¹⁵The calculation includes accidents and production involving Danish registered aircraft.

¹⁶The calculation cannot be compared with calculations of accident rates by ICAO, because ICAO uses a different method of calculation for accidents.

resource availability, to the widest possible extent, enterprises and authorities should exploit technological progress and gradually improve, make more efficient, as well as learn from, their own efforts in order to benefit aviation safety.

The safety target for commercial aviation also includes commercial helicopter transport, e.g. in the North Sea. Until now, Danish data has been considered too restricted to allow for any meaningful separate performance measurement of helicopter safety. However, international experience indicates that helicopter aviation entails a considerably higher risk than flying with fixed-wing aircraft. Helicopter transport is on the rise and, in upcoming years, the Danish Transport Authority will be keeping a close eye on this mode of transport with a view to possibly establishing a separate safety target for helicopter operations.

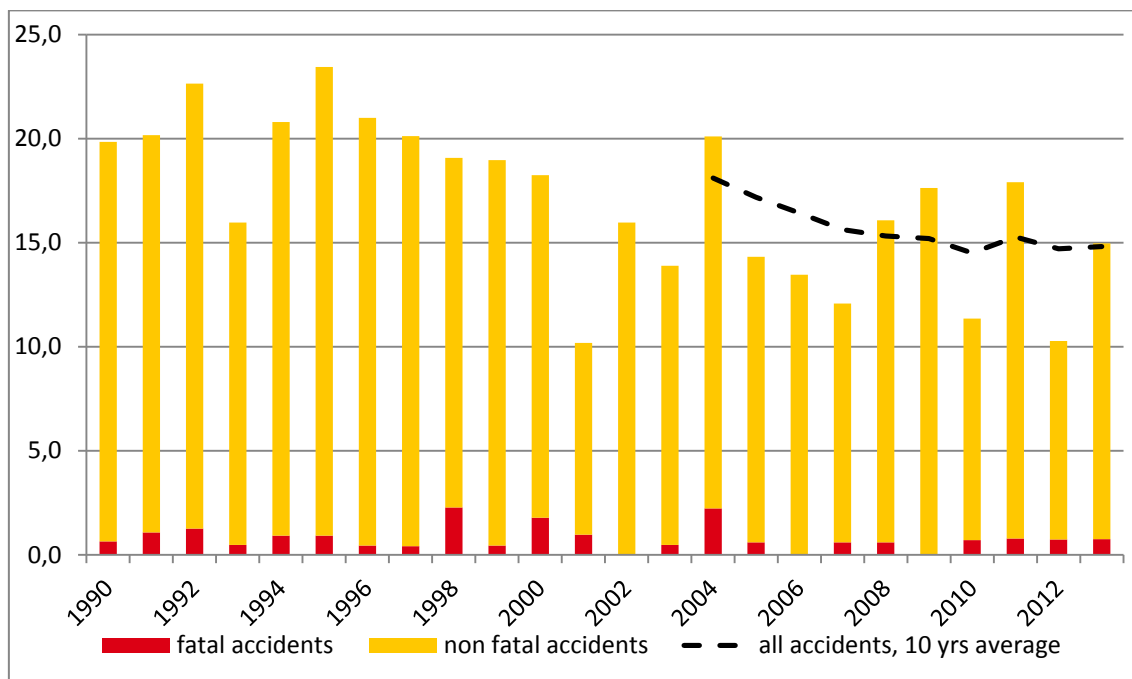
1.3.1.5 Safety targets for other aviation

Other aviation constitutes a very broad and differentiated group of operations, including private, flying-school and other commercial operations that are not commercial air transport, performed by aeroplanes, helicopters and gliders. The majority of these operations are private aviation. The proportion of private aviation has been falling in recent years, amongst other things due to rising costs.

The safety level within this very differentiated group is not at the same very high level as commercial air transport. A comparison of figures 2 and 3 reveals that commercial air transport is markedly more safe than other aviation operations (a factor of around 20).

Throughout recent years, the ten-year average for number of accidents per 100,000 flights for other aviation operations has been relatively constant at just under 15 accidents, see figure 3.

Figure 3: Accidents and fatal accidents in other aviation operations per 100,000 flights.¹⁷



Note: The figures do not include balloons and ultra-light aeroplanes, since flights with these types of aircraft are not registered by the Danish Transport Authority.

Fatal accidents for other aviation typically involve 1-2 people present in the aircraft.

The lower level of safety for other aviation is however considered acceptable, since these aviation operations are not commercial air transport, but work-related and recreational related activities which may be associated with some (minor) risk, which the participants should accept and be familiar with. Furthermore, it is extremely rare that accidents in the other-aviation category affect the safety of third parties, such as people on the ground.

Overall, the current safety level for other aviation is considered acceptable. On the basis of the safety level in recent years, the safety target for other aviation in Denmark is determined as follows:

¹⁷The number of flights is calculated on the basis of landings reported to the Danish Transport Authority.

Aviation safety for other aviation must, as a minimum, be maintained at the current level, which means the ten-year continuous average for number of accidents involving aircraft registered in Denmark may not exceed 15 per 100,000 flights.

As in the case of commercial air transport, the safety target does not rule out endeavours to achieve an even higher level of safety for other aviation operations. Within the framework of the current/upcoming regulations and current resource availability, to the widest possible extent, enterprises and authorities should exploit technological progress and gradually improve, make more efficient, as well as learn from their own efforts in order to benefit aviation safety.¹⁸

1.3.1.6 Aviation safety compared other modes of transport

The lower level of safety for other aviation, compared with commercial air transport, does not signify that other aviation operations constitute an unsafe mode of transport. Commercial air transport is a considerably safer mode of transport than e.g. cars (a factor of around 40), which is illustrated in table 1.

Table 1: Comparison of risks of different modes of transport, in the EU, 2008-2011.

Risk of death per billion passenger-km	
Aircraft	0,08
Train	0,14
Bus	0,20
Car	3,24
Motor cycle etc.	49,91

(Source: European Commission, DG MOVE)

Other aviation is a factor of around 20 more safe than commercial air transport, see figures 2 and 3. However, other aviation is nonetheless safer than transport by car.

¹⁸ Since 2012, the EU and EASA have worked to deregulate the General Aviation area, which makes up large part of the other aviation category.

1.3.2 The State Safety Programme in an international perspective

The national State Safety Programme is a part of an international system of programmes and plans to maintain and improve aviation safety at global level.

At the top of the hierarchy of this system is ICAO's *Global Aviation Safety Plan (GASP)*, which contains overall strategies for global aviation safety for the next 15 years.

The GASP concentrates on four focus areas: *standardisation, collaboration, resources and safety information exchange*; these areas are the cornerstones for future aviation safety work at global level.

The four focus areas have been established along with three safety functions: *effective safety oversight, implementation of safety management systems and predictive risk management*. Together the focus areas and the safety functions form a matrix of priority areas for future years.

The stated areas for activities are based on the necessity of a global initiative, and, as such, they are not in their entirety relevant in a Danish context. In Denmark, the majority of the contents of this SSP have been implemented for many years. This includes systematic drafting of legislation and regulations, efficient approval and oversight, and investigation of accidents and serious incidents.

At the next level of the hierarchy is the *European Aviation Safety Programme (EASP)*, which has been prepared by the European Commission. The overarching objective of this Programme is to establish a system for management of aviation safety in the EU which delivers a safety performance that is the best of any world region.

The EASP contains four key areas in accordance with ICAO's guidelines:

- *Safety Policies and Objectives* include harmonised regulations within the EU which must be complied with by the Member States in a standardised manner. Furthermore, there is the establishment of the Single European Sky, investigation of accidents and incidents, as well as registration and mutual exchange of safety information. The safety policies and associated targets are realised through an appropriate distribution of assignments between the Member States and EU bodies, as well as through the establishment of a number of fora for the exchange of information about safety matters.
- *Safety Risk Management* deals with requirements for the SSPs of Member States, requirements for the SMS of approved organisations,

adoption of norms for the *Safety Performance Indicators* of approved organisations, as well as risk evaluation involving systems for risk mitigation to the extent relevant.

- *Safety Assurance* deals with the oversight function, for the EU as well as for Member States, as well as with analyses and exchange of safety data.
- *Safety Promotion* has been established through several initiatives at joint EU level, e.g. the *European Strategic Safety Initiative*.

These initiatives are described in more detail under section 4.

Denmark supports common EU initiatives in the aviation field. These initiatives help ensure that adequate capacity is in place, just as common regulation helps ensure that air transport is conducted on a uniform basis, commercially and in terms of safety, in all Member States. The free market established within the EU means that the level of safety for other EU airlines is also important for Danish travellers.

1.4 Investigation of accidents and incidents

The AIB is an independent investigation body for accidents and serious incidents in aviation in Denmark, Greenland and the Faeroe Islands, and for accidents and incidents on Danish railways. The AIB is an independent institution under the Danish Ministry of Transport.

With regard to aviation, the national legislation is built up on the basis of international commitments both in relation to the ICAO and to the EU, and according to EU regulations there is a minimum obligation to investigate every accident or serious incident involving aircraft subject to EU provisions. The minimum obligations following from the Chicago Convention include requirements to investigate accidents, while there is a recommended practice with regard to serious incidents, however see the weight limit of 2250kg stated below.

According to the Chicago Convention, the task of the AIB is to investigate accidents and serious incidents, to prevent these and to prevent repeats.

Therefore, the AIB is not concerned with placing blame or liability in its investigations.

The EU regulations meet the requirements of the Chicago Convention. However, the EU has gone a step further in that the recommended practice from the ICAO regarding investigation of serious incidents involving aircraft with a maximum take-off weight of less than 2250kg has also been made compulsory within the EU.

The Danish national legislation via the Air Navigation Act applies for aircraft not subject to the EU regulations (Annex II aircraft). In this context, a lower investigation limit for aircraft of 2250kg has been set, and this is in accordance with the regulations from the ICAO stated in Annex 13. Similar regulations apply for serious incidents on the Faeroe Islands and in Greenland.

Investigations of accidents and incidents for civil aviation are regulated internationally in the ICAO's *Annex 13 - Aircraft Accident Investigation*, to the Chicago Convention and in EU Regulation 996/2010 - *on the investigation and prevention of accidents and incidents in civil aviation*.

Both the regulations from the ICAO and those from the EU state that there must be an independent investigation body and that the investigation body must have full authority and control of the investigation.

The international regulations have been implemented in Danish law in sections 134-144b of the Air Navigation Act.

Section 141 of the Air Navigation Act states that the AIB is to keep the Danish Transport Authority informed of findings and circumstances relating to an investigation which are deemed to be of essential importance for safety so that the Authority is able to react in the event that there are safety conditions that demand action.

The AIB prepares a draft report after an investigation. The draft must contain a statement on any preventive measures. After having obtained statements from relevant stakeholders, the report is completed and then made public.

As an alternative to preparing a full report, the AIB can prepare a statement. The statement has a more limited scope and it primarily includes factual information in connection to the accident or the serious incident. Statements are usually used in cases where it is deemed that a full report is unlikely to have essential importance for aviation safety.

The AIB publishes an annual account of its activities.

The EU regulations also require that the AIB take part in an established European network of investigation authorities.

The terms "accident", "serious incident" and "incident" are defined in the ICAO *Annex 13*, and they are reflected in Danish and European legislation.

As mentioned above, the AIB determines the scope of investigations to be carried out through evaluating the safety benefits of the investigation. Therefore, if the benefits so dictate, instead of preparing an accident report,

the AIB may instead decide to prepare a statement. Statements are less comprehensive than a report and they have to be completed within 60 days.

The AIB can also decide to investigate other relevant safety aspects if it is deemed that general safety benefits could be derived from this.

Finally, the AIB may supplement itself with representatives from other states, if Denmark thru agreements is obliged to do so. Furthermore, the European Commission and EASA can contribute special experts, if appropriate.

1.5 Enforcement policy

Sections 149 – 150d of the Air Navigation Act stipulate a number of provisions on penalties and suspension of rights for infringements of the aviation legislation; see Consolidating Act no. 959 of 12 September 2011.

Penalties for infringements range from fines to custodial penalties and/or suspension of rights (certificates), depending on the nature of the infringement.

However, if the relevant situation is an aviation-safety occurrence which has to be reported in the mandatory and penalty-free reporting system in Regulations for Civil Aviation (BL 8-10) *provisions on mandatory reports of aviation safety occurrences*, no penalty can be imposed, see section 149a of the Air Navigation Act.

Moreover, according to section 149(10), provisions on fines may be laid down in the executive orders and regulations for civil aviation issued by the Danish Transport Authority pursuant to the Air Navigation Act.

Furthermore, infringements of EU Regulations can be sanctioned according to the general penalty provision in section 149(11).

Perpetrators can be suspended from serving in an aircraft in serious circumstances pursuant to section 150. Suspension of certificate rights also applies for air traffic controllers, mechanics etc., see section 74.

1.5.1 Reaction and sanction options

The Danish Transport Authority operates with two concepts when following up deviations from current regulations as well as infringements.

1. *Reactions*: A reaction is a supervisory follow-up when a deviation from current regulations is ascertained, and it is applied as an order of correction to rectify the matter and/or a restriction or suspension

of the enterprise's licence, depending on the seriousness of the offence.

Reactions are imposed by the Danish Transport Authority.

2. *Sanctions*: A sanction is a measure usually applied if basic provisions are infringed or if legislation is otherwise seriously or repeatedly disregarded or in the event of aggravating circumstances. A sanction is a warning/reprimand, fine, custodial penalty, suspension of certificate or suspension of the right to operate an enterprise, depending of the seriousness of the offence.

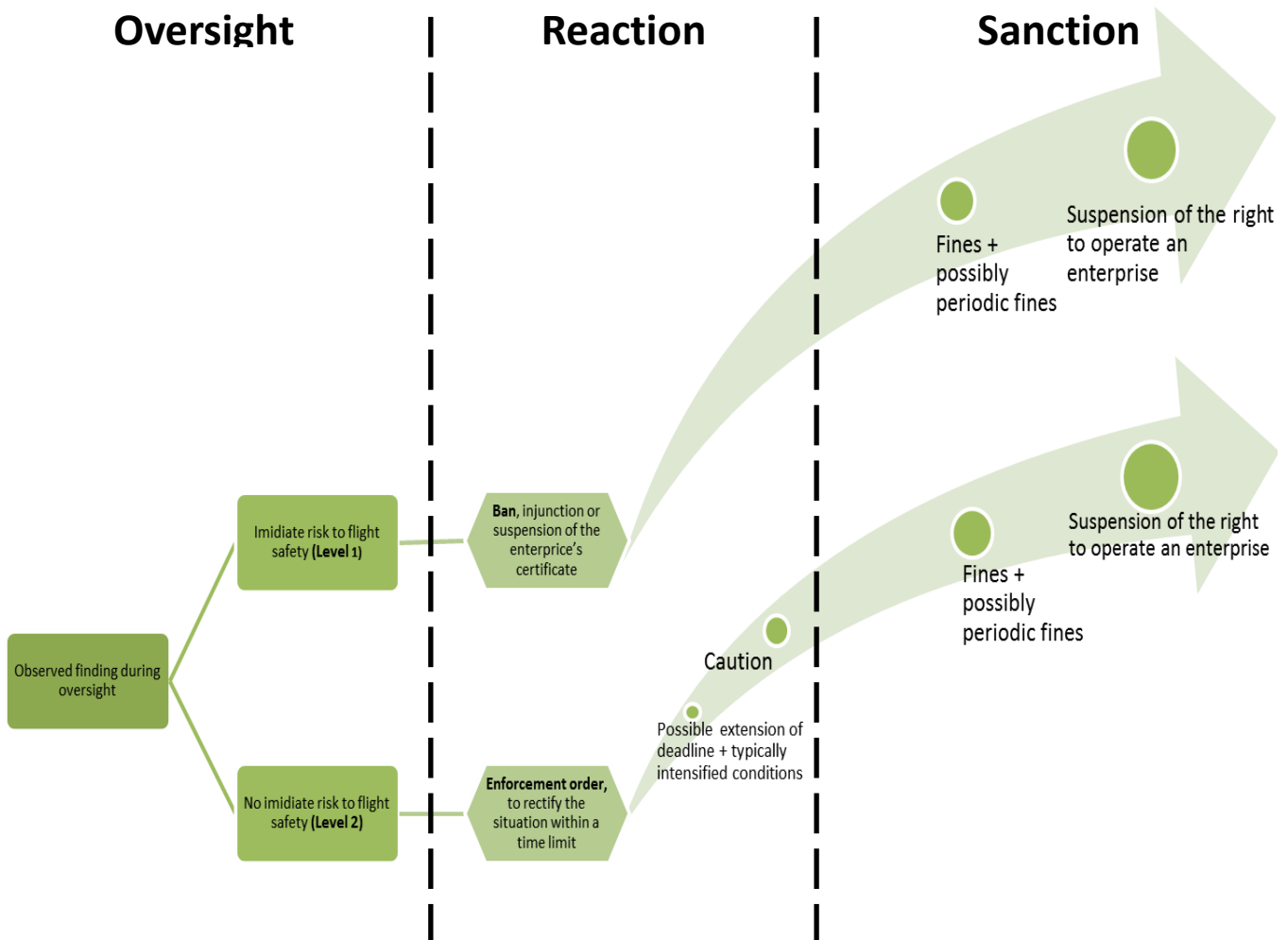
Sanctions are imposed by the legal system.

In a supervisory context, it is important to follow up on compliance by enterprises with instructions from the Danish Transport Authority (reactions) as a result of an inspection. The objective of the reaction is initially to have the situation rectified; not to sanction the enterprise. The usual procedure is that deviations are rectified by the enterprise when it has been made aware of the situation. If this happens, there is usually no need for criminal proceedings and sanctions.

Therefore, focus in the following is primarily on *reactions* as follow-up to a deviation. In exceptional situations, there will be a need to follow a reaction up with a criminal *sanction*.

Figure 4 illustrates the reaction and sanction possibilities for the Danish Transport Authority as well as the relationship between the various elements.

Figure 4: Reaction possibilities for the Danish Transport Authority - from ascertaining a deviation to possible criminal proceedings



1.5.1.1 Reactions

The Danish Transport Authority applies differentiated and transparent reactions to follow up inspections at which deviations from current regulations are ascertained. The reaction to be applied in a specific situation depends in particular on the significance of the deviation with regard to aviation safety (level 1 or 2). The reaction must not be more intrusive than necessary to achieve the objective of the reaction, i.e. that the situation be rectified within a stipulated timeframe and thus in line with the regulations (proportionality).

Reactions are classified into the following three levels:

- *Level 1:* For deviations of *decisive and material significance for aviation safety*, restriction (bans) or, if necessary, suspension of the enterprise's operating licence until the relevant deviation has been corrected and the situation rectified.
- *Level 2:* For deviations with *potential significance for aviation safety*, the enterprise or the certificate holder must carry out corrective actions and rectify the situation within a reasonable time limit (order of correction).
- *Level 3:* For observations which are not actual deviations, the enterprise will be made aware that there is a *situation which may be inappropriate* and which the enterprise should address. The level is not applied for technical fields in which level 3 is not covered by the international regulations.

1.5.1.2. Order of correction - the normal situation

When the Danish Transport Authority ascertains a deviation during an inspection, the Authority will follow up with a *reaction*. This is done by asking the relevant enterprise, in writing, to rectify the situation (corrective actions), usually within a stipulated time limit, but in some circumstances "immediately", if there is a real risk to aviation safety. In legal terms an order of correction is issued and this must be authorised by legislation. Specifically, the order of correction is included in the inspection report which is drawn up by the Danish Transport Authority in connection with an inspection and sent to the enterprise. This refers to the provisions in the Air Navigation Act (section 150(1)) and/or the relevant Regulation which empowers this. The order of correction must also contain a description of the deviation ascertained, with reference to the regulations which have not been followed so that the enterprise is clear about the situation to be rectified. However, the Danish Transport Authority does not usually advise on how the deviation is to be brought into compliance with the regulations.

1.5.1.3 Order of correction – serious risk for aviation safety (ban/restrictions and suspension)

If the deviation ascertained is of decisive and essential significance for aviation safety, the enterprise's operating licence can be restricted and if necessary suspended or alternatively compensatory measures can be introduced until the situation is rectified. Specifically, as in the normal situation, this is done by issuing an order of correction (included in the inspection report) to the relevant enterprise to rectify the situation within a specific time limit. Any restrictions or suspension of the enterprise's licence will usually be in a separate letter to the enterprise. The actions must be justified and there must be reference to the provisions which specifically authorise them.

When the Danish Transport Authority has ascertained that the deviations have been rectified, the Danish Transport Authority will revoke any restrictions or suspension of the enterprise's licence.

1.5.1.4 Follow-up on order of correction

The enterprise must comply with the order of correction from the Danish Transport Authority within the time limit. The time limit is set taking into account the nature of the deviation and the estimated time necessary to rectify the situation, as well as any deadlines consequential upon international provisions. When the order of correction has been fulfilled, the Danish Transport Authority will confirm to the enterprise that the order of correction has been satisfactorily complied with and the matter is concluded.

The Danish Transport Authority will usually not extend the time limit unless, as soon as it receives the order of correction, the enterprise refers to the Danish Transport Authority with a request for an extension. The enterprise must justify its request and there must be exceptional grounds for not being able to meet the time limit.

If the enterprise fails to comply with the order of correction within the time limit, the Danish Transport Authority will initially implement stricter safety measures. An ascertained deviation is a potential aviation safety risk. All else being equal, the more time that passes before the deviation is corrected, the greater the negative impact it will potentially have on aviation safety and it may develop into an actual safety risk. Therefore, on the basis of a specific risk assessment, it is often the case that compensatory safety terms are linked to any extension of the time limit.

The terms are set on the basis of a model in which the compensatory measures are tightened in line with the increase in the time factor, until the situation is rectified. The ultimate consequence could be to restrict or suspend the enterprise's licence.

The Danish Transport Authority's *reactions* are therefore tightened proportionally with estimated increased risks to aviation safety.

If the enterprise continues to fail to act in accordance with the order of correction, and rectify the situation within the agreed time limit, as a general rule the Danish Transport Authority will hand the matter over to the prosecuting authority with a request that, pursuant to section 149(7) of the Air Navigation Act, criminal proceedings be commenced for violation of aviation legislation due to failure to comply with the order of correction issued. In this connection, in addition to a fine, the Danish Transport Authority will also request that, pursuant to section 997(3) of the

Administration of Justice Act, periodic fines be imposed until the situation is rectified.

The matter has thereby moved from being a reaction to being an actual criminal sanction, see point 1.5.1.5.

1.5.1.5 Sanctions - criminal

If a deviation is a fundamental violation of aviation legislation, it could result in criminal proceedings being brought, for example if an aircraft is operated without a valid certificate of airworthiness.

Depending on the specific circumstances, for first offences, the Danish Transport Authority usually settles the matter with a written reprimand. If the guilty party does not wish to receive such a reprimand, the matter is handed over to the prosecuting authority with a claim for imposition of a fine.

In very serious or severe situations, there may also be a request to the prosecuting authority to suspend the relevant person or enterprise from providing services or operating in the aviation field for a defined period of time.

As mentioned above, if an order of correction or a ban is not complied with, the Danish Transport Authority will hand the matter over to the prosecuting authority with a request that a fine and periodical fines pursuant to the Administration of Justice Act be imposed until the order of correction has been complied with and the situation has been rectified.

1.5.1.6. Reactions and sanctions based on other observations than inspections

The Danish Transport Authority can also come into knowledge about safety irregularities and breaches of the law through other channels than inspection; media, the public, the internet, etc.

In such cases, the Danish Transport Authority will apply the same principles for reactions and sanctions as described above, after a detailed analysis of the situation.

2. Risk management

This section describes the requirements for Danish enterprises regarding risk management. To start there is a description of the safety requirements for the SMS¹⁹ of approved organisations, as well as subsequent requirements to establish safety targets and Safety Performance Indicators (SPIs).

2.1 Safety requirements for safety management systems at approved organisations

As part of implementation of this SSP, approved organisations within the aviation system must implement a safety management system (SMS).

These are:

- airlines
 - operational approval
 - technical approval
- independent technical organisations (CAMO)
- other aircraft operators (Complex Motor-powered Aircraft)
- approved training organisations
- maintenance organisations
- organisations which design or manufacture aircraft or aircraft equipment
- air navigation services (ANS)
- aerodromes.

The requirement is described in general in ICAO Annex 19, which therefore must be implemented in legislation. For Denmark, this is primarily through EU legislation. Denmark follows EU regulations and guidelines, and the areas are described in more detail below.

All function areas for which an SMS is required according to the ICAO are today very close to being implemented in EU legislation related to Council Regulation 216/2008 with associated implementing regulations.

¹⁹There is a requirement that the relevance of the SMS requirements be regularly evaluated to check they are correct and adequate. Given that today all SMS requirements are stated in EU Regulations, the process of drafting regulations in EASA and the EU secures this requirement.

For most technical fields, the requirements for a SMS have already been fully incorporated in EU legislation. Typically under consideration to enterprises and national authorities, implementation periods are usually set as full implementation will not be achieved until a later date. Finally, there are areas in which there are gaps in Union legislation regarding implementation of an SMS, but where processes have been initiated to draw up regulations to fill these gaps.

Therefore the requirement for respective Danish enterprises is being introduced in line with the EU's implementation requirements; no quicker.

General requirements for an SMS are described in Appendix II to Annex 19, and in more detail in the ICAO Safety Management Manual, Doc 9859, which forms the basis for national and EU legislation on the area.

The current status of regulatory work is described in the next section, in which Denmark follows the EU implementation deadlines for SMS.

2.1.1 Airlines

2.1.1.1 The operational area

The requirements for airlines to implement an SMS are stated in Implementing Regulation no. 965/2012 laying down technical requirements and administrative procedures related to air operations, Annex III, point ORO.GEN.200.

The Regulation entered into force on 28 October 2012, with a possibility for Member States to wait (opt out) until 28 October 2014 to implement, and like the majority of the Member States, Denmark has exercised this option.

2.1.1.2 The technical area

Airlines' technical organisations (CAMO) which are to manage continued airworthiness of the aircraft operated by the company, must be approved in accordance with the requirements in Regulation 2042/2003 Part M(G). This Regulation currently contains no requirements on implementing an SMS. A proposed amendment has been prepared to the Regulation stated in NPA²⁰ 2013-1, which requires introduction of a SMS in this area as well.

EASA has stated that work is expected to be completed in 2015, after which an implementation period is likely.

²⁰ Notice of Proposed Amendment - drawn up by EASA

2.1.2 Independent technical organisations

For continuing airworthiness management organisations (CAMOs), which are independent organisations without links to an airline, the requirements are similar to the requirements for the same type of organisation linked to an airline.

The expected date of implementation of the regulations is the same as that stated for CAMOs linked to airlines.

2.1.3 Other aircraft operators

The Regulation mentioned above also contains requirements on the establishment of an SMS for operators of "Complex Motor-powered Aircraft"²¹ (CMA) from autumn 2016. The requirements for airlines which carry out commercial air transport and private operators of CMAs are identical in the text of the Regulation, but the guidance material (Acceptable Means of Compliance (AMC)) distinguishes between "complex" and "non-complex" operators, and therefore there are reduced requirements for CMA operators.

2.1.4 Approved Training Organisations

The requirements for approved training organisations (ATO) to implement a SMS are stated in Implementing Regulation no. 290/2012 amending Regulation (EU) no. 1178/2011 laying down technical requirements and administrative procedures related to civil aviation aircrew, Annex VII, point ORA.GEN.200.

The requirements entered into force on 8 April 2012 for complex organisations, while less complex organisations have a deadline on 8 April 2015.

²¹ Complex Motor Powered Aircraft are defined in Regulation 216/2008 as:

- an aeroplane
 - with a maximum certificated take-off mass exceeding 5 700 kg, or
 - certificated for a maximum passenger seating configuration of more than nineteen, or
 - certificated for operation with a minimum crew of at least two pilots, or
 - equipped with (a) turbojet engine(s) or more than one turboprop engine, or
- a helicopter certificated:
 - for a maximum take-off mass exceeding 3 175 kg, or
 - for a maximum passenger seating configuration of more than nine, or
 - certificated for operation with a minimum crew of at least two pilots, or
- a tilt rotor aircraft.

The requirements reflect the “complex” and “non-complex” organisations in the AMC material. Complexity largely depends on the scope of the ATO’s activities as well as the complexity of the training courses carried out.

2.1.5 Maintenance organisations

In the ICAO provisions, organisations approved to maintain aircraft which operate in commercial air transport are also subject to the requirement to implement an SMS. These organisations are approved in accordance with Part 145 of Commission Regulation 2042/2003. As for continuing airworthiness management organisations (Part M), the EU regulations on the area are under preparation and have been described in NPA 2013-1. These regulations are also expected to be in place for maintenance organisations in 2015, after which they are to be implemented in the respective organisations.

2.1.6 Organisations which design or produce aircraft

These organisations are approved in line with Part 21 of Commission Regulation 748/2012, organisations approved to design pursuant to Part 21 Subpart J, and production organisations pursuant to Part 21 Subpart G. This Regulation does not yet contain regulations and requirements regarding implementation of SMS. According to EASA’s current rulemaking programme, a regulation drafting project has been established (MDM.060) and EASA currently expects to complete this with an opinion in 2015. Subsequently the proposed regulation has to go through the EU process in the EASA Committee etc., so the regulations are expected to be finally approved in 2017.

2.1.7 Air navigation services

Requirements for implementation of an SMS are stated in Annex I point 3 and Annex II point 3 in Regulation 1035/2011, and therefore they already apply.

The requirements in the above Regulation are not in full accordance with ICAO requirements for the area, as some ICAO requirements have been implemented in an alternative manner. This is solved by NPA 2013-8, which is currently being processed in the EASA system.

2.1.8 Aerodromes

This area has been regulated in national legislation until the start of 2014, and requirements to establish an SMS are stated in Part 7 of BL3-18, *Provisions on establishment of aerodrome management at approved aerodromes etc.* Requirements to establish an SMS have therefore been implemented for all approved aerodromes in Denmark.

Regulation 139/2014 of 12 February 2014 introduces common EU regulations for aerodromes, including requirements to establish an SMS.

The SMS requirements are described in detail in section D, ADR.OR.D.005.

2.2 Approval of the safety performance of approved organisations

Establishment of an SSP entails approval by the Danish Transport Authority of organisations' safety targets and Safety Performance Indicators (SPIs). In principle, safety targets and SPIs can be different for approved organisations within the same function area, but the targets must support the overall safety targets established at national level. A certain uniformity between the targets and SPIs is therefore considered a necessity.

The Danish Transport Authority has not yet set the criteria for the acceptable level of safety to be applied by approved organisations under their SMS.

The Danish Transport Authority is currently introducing a phased approach to implementation of SMS and, in connection with introduction within the respective areas, overall safety targets will be set for the function areas. In addition to the targets and SPIs they consider relevant for their own activities, the approved organisations will also have to take into account the overall targets for the area set by the Danish Transport Authority.

At national level, to meet the SSP, a State Safety plan (SSp) will subsequently be drawn up, which will describe the activities to be initiated in order to meet this SSP, its safety policy and the safety targets stipulated. Preparation of the SSp will also entail establishment of safety performance indicators for the respective specialist areas.

Establishment of a State Safety plan will commence in 2014.

3. Sustain the Danish aviation safety

This chapter describes how work on keeping the current high level of Danish aviation safety can be maintained, both in relation to the ICAO's regulations applicable for the Danish Transport Authority as the competent authority, and with regard to the more specific regulations for the aviation industry as well as the Danish Transport Authority's response in this context. First there is a description of the situation with regard to compliance with the overall elements. This is followed by an account of the Danish Transport Authority's approval and oversight system for the aviation area. Next there is a description of how safety data is collected and evaluated as well as how data is exchanged with relevant fora. Finally there is a closer examination of the selected areas on which the Danish Transport Authority has focus on the basis of the material collected.

3.1 Oversight at authority level

Accession to the Chicago Convention entails that Contracting States are obliged to comply with the ICAO's guidelines which, in addition to the Chicago Convention, are contained in the 19 Annexes. This has resulted in the eight critical elements²² laid down by the ICAO for regular evaluation and for relevant response in order to ensure that the elements are always complied with.

As mentioned earlier, ICAO Contracting States are audited in a similar manner to the auditing of approved enterprises carried out by the Danish Transport Authority. Denmark was most recently audited by the ICAO in 2008, and this included all the Annexes to the Convention. Denmark has a high degree of compliance with ICAO requirements and the result of the audit was generally satisfactory. However, the audit also ascertained deviations of a less important nature, which the Danish Transport Authority has subsequently worked to resolve.

²² The eight critical elements in an ICAO context are:

- CE-1: Primary aviation legislation
- CE-2: Specific operating regulations
- CE-3: State civil aviation system and safety oversight functions
- CE-4: Technical personnel qualification and training
- CE-5: Technical guidance, tools and the provision of safety-critical information
- CE-6: Licensing, certification, authorization and approval obligations
- CE-7: Surveillance obligations
- CE-8: Resolution of safety concerns.

In the meantime the ICAO has moved away from very comprehensive full audits of Contracting States and now has a monitoring system²³.

The deviations ascertained in the audit have now been included in the above monitoring programme as issues to be resolved.

3.2 Oversight at sector level

The overall principles for oversight work in the aviation area by the Danish Transport Authority have been laid down in the oversight strategy²⁴, and subsequent descriptions of how oversight and inspection is to be performed have been drawn up in accordance with the strategy.

The point of departure for oversight work by the Danish Transport Authority is to respect and support the segregation of roles and responsibilities between enterprises and the Authority stipulated in national and international legislation. Therefore the enterprises are responsible for safety. Oversight work by the Danish Transport Authority supports this responsibility and confirms that this responsibility is being met satisfactorily.

Danish Transport Authority is the *oversight authority* with powers to approve and oversee all matters within civil aviation. The Authority approves and oversees all civil players in the aviation industry.

Oversight within aviation is primarily subject to international regulations and practices and on the basis of guidelines set by the ICAO and the EU. The fundamental principle for oversight efforts is based on system inspection, with performance of sample inspections as required.

As SMS is implemented in the various technical fields, the relevant oversight documentation will be revised so that all elements in relation to SMS are audited as required.

The quality of the approval and oversight system is supported by clear procedures. Furthermore, it is ensured that all decisions in connection with approval of an operation are documented such that the basis for the approval is fully described and can be used as a reference in future

²³ The ICAO monitoring programme is called the "Continuous Monitoring Approach", and it is described in a manual (Doc 9735). The system is composed of information submitted to the ICAO, and on the basis of this there is an assessment of the extent to which an audit is required, and in which areas.

²⁴"*Strategi og praksis for tilsyn med luftfartssikkerhed*" (Strategy and practice for aviation safety oversight, 2014), only available in Danish, see www.trafikstyrelsen.dk.

inspections. In other words the Danish Transport Authority's approval system supports the Authority's oversight system.

As a support for the above, a quality system has been established within the Danish Transport Authority, which within the aviation area forms the basis to enable all employees, through systematic initiatives, to work towards realising the Danish Transport Authority's overall quality policy.

The quality policy of the Danish Transport Authority is as follows:

With a background in the strategic foundation of the Danish Transport Authority, the Authority as a whole as well as the individual employee must work with focus and across disciplines to maintain a high level of aviation safety in civil aviation.

The quality policy has the following dimensions:

Organisational quality which includes appropriate cross-disciplinary exploitation of our resources with focus on work procedures, organisation and collaboration relationships in order to contribute effectively and productively to task performance.

Technical quality, with focus on high professionalism, professional development and quality assurance so that work is performed correctly.

Quality recognised by users, in which users experience work by the Danish Transport Authority as dialogue-based, with the involvement of relevant parties and in accordance with the elements in the established quality system.

The following elements are included in the quality policy with the associated quality system:

- To secure planning and performance of oversight activities by the Danish Transport Authority such that the industry experiences uniform and high-quality services.
- To determine responsibilities and competences in connection with activities which can affect quality as well as allocate the resources necessary
- To secure planning and performance of the necessary quality-management activities
- To launch corrective and preventive actions to constantly improve the system.

- To satisfy all relevant national and international requirements for quality management.

The quality system applies for all aviation activities in connection with the main processes, aviation regulation, accession checks, safety oversight and analysis.

The quality system is validated through internal audits which are performed according to predetermined plans.

The results of these audits, together with other information, are included in the internal reporting on quality and quality management.

The reporting forms the basis for management evaluation of the effectiveness of the system and its continued suitability, and through this it forms the basis for launching the required preventive activities and improvements.

3.2.1 Planning

Every autumn, the Danish Transport Authority draws up an *oversight plan* for the following year, and this is published in January of the relevant oversight year. The oversight plan reflects the requirements for the intensity and frequency of inspections which are stipulated for the various technical oversight areas (maintenance organisations, training centres, etc.). Furthermore, experience from inspections in previous periods is included as well as an assessment of any relevant risks identified.

These risks could include:

- the complexity of the relevant certificate of the enterprise,
- experience of the enterprise's ability to comply with provisions, and
- a general assessment of the actual risk linked with the current certificate for the enterprise.

Moreover, the oversight work can be adjusted on the basis of circumstances which indicate the necessity of initiating special or tightened measures in the oversight area. Such measures could be prompted by one or more indications ascertained in connection with accidents or incidents, risk analyses, inspections completed, regular cross-disciplinary briefing and coordination, analyses of matters reported in the mandatory reporting system, experience obtained from other authorities or from the aviation industry, or current circumstances for a specific enterprise.

Accessible safety information received via various reporting systems, see section 3.3, is also included in setting the current oversight plan for a given technical field or a specific enterprise.

Overall, the oversight plan has two basic points of departure:

1. Compliance with international requirements for oversight by the Danish Transport Authority,
2. Optimal utilisation of the resources of the Authority in order to achieve maximum effect from the oversight.

Re 1) Compliance with international requirements for oversight by the Danish Transport Authority,

The oversight work by the Danish Transport Authority is cemented in an international system for regulation and oversight, including requirements for performance by the national authorities of oversight and inspection. For example there may be requirements for an inspection visit within a specific area at least every other year.

Planned inspections have been registered for each enterprise within a stipulated period. An oversight period is stated in the relevant international regulations, or it is set by the Danish Transport Authority, and it varies from between 12 and 60 months. Therefore, enterprises are inspected at different intervals within an oversight period, depending on the function area covered by the approved enterprise. As a minimum, all enterprises will be inspected at the intervals stipulated by legislation.

Re 2) Optimal utilisation of oversight resources

Within the framework stated by international regulations, enterprises and the depth of the inspection are prioritised on the basis of an assessment of the specific risks and the enterprise's ability to manage them. This prioritisation is carried out by the Danish Transport Authority as a specific assessment on the basis of knowledge about the enterprise, together with data about occurrences and previous inspections.

3.3 Notification of safety data, evaluation and response

As stated in the Air Navigation Act, the AIB and the Danish Transport Authority collect safety data relating to accidents, serious incidents and incidents as well as other safety-related occurrences.

3.3.1 Reports of accidents and serious incidents

Reports of accidents and serious incidents are made to the AIB in accordance with relevant legislation.

This is EU legislation as well as national legislation, depending on the type of aircraft as well as where the accidents or the serious incidents occurred. Reports and investigations etc. are described in more detail in section 1.4.

Information from the AIB regarding the above is included in the Danish Transport Authority's general evaluation of the state of Danish aviation, and accidents form the basis for the overall safety targets in this SSP.

Investigations by the AIB usually result in recommendations, which the Danish Transport Authority subsequently evaluates and responds to as required, depending on the level of risk these describe. This is both in relation to the recommendations addressed to the Danish Transport Authority and the recommendations to other bodies involved or which have had a role in the relevant episode.

3.3.2 Mandatory reporting of aviation safety occurrences

Since 2001 there has been a mandatory, confidential and non-punitive reporting system in Denmark which covers aviation safety occurrences which have not led to an accident or a serious incident. The system is therefore proactive and it is described in more detail in Regulation for Civil Aviation BL8-10, *Regulations on mandatory reporting of flight safety occurrences*.

The reporting requirement includes persons and enterprises in possession of an approval within the aviation system.

Since establishment of the system, around 3500 reports have been received each year.

When it established the system, Denmark was a pioneer country with regard to introducing a non-punitive system, irrespective of any regulations which may have been infringed, and this concept required an amendment to the Air Navigation Act. Exemption from penalties only applies to the extent that reporting the occurrence is mandatory. Similarly, confidentiality has also had a major influence on the success of the system, as certainty that the information will not end in the hands of unauthorised parties has had a major influence on the effectiveness of the system.

Hitherto, the area has been covered by Directive 2003/42/EC of the European Parliament and of the Council of 13 June 2003 *on occurrence reporting in civil aviation*.

In April 2014, as a replacement of the above Directive, EU Regulation 376/2014 *on the reporting, analysis and follow-up of occurrences in civil aviation* was adopted. The Regulation must to be implemented by 15 November 2015, or when the annexes to the Regulation describing the

occurrences to be reported have been adopted. The Regulation will entail more uniform implementation of a mandatory reporting system within the EU.

Reports are incorporated as an integrated part of the Danish Transport Authority's oversight activities and they are utilised in evaluation and response in relation to individual occurrences as required, as well as in a wider context at analysis level.

Reports, analyses and trends are distributed to inspectors through an integrated case-processing system. The inspector makes an evaluation and possibly a follow-up as well as a classification of the incident which is also registered, and follow-up is performed as is deemed relevant.

Special reports and analyses are generated as required in connection with oversight activities, and every year a report is prepared on the functions of the reporting system.

3.3.3 Voluntary reporting system

Denmark has been awaiting an EU initiative regarding establishment of a voluntary reporting system. A voluntary reporting system includes the option for anyone to report circumstances which they consider to be a real or potential risk to aviation safety. This possibility also includes people who are not directly involved in the aviation system.

Regulation (EU) no. 376/2014 *on the reporting, analysis and follow-up of occurrences in civil aviation.....*, which includes mandatory reporting, also deals with voluntary reporting, and this voluntary system must also be implemented similar to the mandatory system. The requirement includes both approved enterprises and the Member State.

3.3.4. Oversight data

For the aviation area, the Danish Transport Authority today possesses an electronic planning and registration system which is used for safety oversight audits. The system has been in operation since 2008, and therefore it contains records of all completed audits and findings identified since the system was establishment.

The system enables an overview of the findings ascertained within specific areas, both in relation to a specific enterprise and as a whole, and therefore it is included in ongoing evaluation of relevant oversight areas which require special attention.

The presence of oversight data will, as far as is relevant, be included in continuous evaluation of the initiative areas requiring most attention in

future inspections. This is considered an entirely natural process in line with the implementation of a more risk-based oversight system.

3.4 Special focus areas based on evaluations of safety data

At set intervals, evaluations are carried out of data within all relevant areas in order to assess circumstances in which special oversight initiatives are required.

On this basis, a number of special focus areas are established where additional attention is deemed necessary. These areas are regularly evaluated and are adjusted during the relevant year as is considered necessary.

3.4.1 Accident Investigation Board Denmark

On the basis of investigations and reports submitted from the AIB, the Danish Transport Authority completes an evaluation and implements any preventive measures.

3.4.2. Danish Transport Authority

The core area for the Danish Transport Authority is monitoring safety performance and identifying safety-related problems and risks, and on the basis of this, initiating relevant actions for selected focus areas.

An alarm function has been incorporated in the system for mandatory reporting, which can monitor developments within selected areas. On the basis of this monitoring, special analyses can be initiated and new focus areas can be designated. Results and trends are presented to the relevant oversight units at appropriate intervals so that incidents of special significance are evaluated.

Similarly, the relevant inspector is informed if a development is registered within the relevant inspector's area of responsibility which requires special attention.

Focus areas in oversight work on the basis of risk assessments and impact-related assessments are playing an increasingly important role in oversight work, and in future they will help focus on the areas in which oversight initiatives have the greatest effect and where resources can be exploited in the best possible way.

4. Danish promotion of safety

As well as drawing up regulations and performing effective oversight, a pivotal aspect of efforts by the Danish Transport Authority to maintain the high level of safety in Danish aviation is to promote safety through effective training, communication and dissemination of safety information, both internally and externally, and these things combined are to contribute to further spread of a safety culture within the Danish Transport Authority and in the aviation industry in general.

This chapter is an account of the Danish Transport Authority's activities in this regard.

4.1 Internal training, communication and dissemination of safety information within the Danish Transport Authority

In order to ensure that aviation inspectors from the Danish Transport Authority are competent to perform inspection, the Danish Transport Authority has set competence and experience requirements for inspectors within all oversight areas. The Authority ensures that the inspectors' knowledge about relevant safety aspects is kept up to date through regular updates to training programmes and so on.

In 2013 a competence management system was established to ensure that relevant competences for inspectors are registered and that there is regular follow-up that the competences stipulated are always relevant for the oversight tasks the inspector is to perform.

Competence management is also to secure a uniform approach to oversight tasks, and this is in accordance with the oversight strategy.

Furthermore, inspectors from the Danish Transport Authority take part in relevant international fora so that in general the Authority is kept up to date with developments within aviation.

International fora include a number of initiatives launched by EASA at European level.

For example:

- The European Strategic Safety Initiative (ESSI), under which a number of work groups have been set up, including:
 - The Commercial Aviation Safety Team (ECAST)
 - The Helicopter Safety Team (EHEST)
 - The Commercial Aviation Safety Team (ECAST)
- The European Human Factors Advisory Group (EHFAG)
- The Network of Analysts.

Moreover, mandatory reporting of aviation safety occurrences plays a key role in internal communication and dissemination of safety information. These reports are collated and communicated regularly to the relevant technical units.

Furthermore, from 2014 there will be follow-up on the safety targets, see section 1.3.1 and the Safety Performance Indicators (SPIs). This information is shared with aviation inspectors so that they are well versed with developments within their respective areas.

The results of oversight activities and monitoring of the level of safety are disseminated in an annual safety report.²⁵

4.2 External training, communication and dissemination of safety information

A number of dialogue fora have been set up in Denmark, in which the authorities hold consultations with the Danish aviation business community. This enables mutual discussions about important aviation-safety conditions with relevant players.

From 2014, the dialogue fora can be divided into three levels. The upper level is the *Danish Aviation Council*, which was established by the Minister of Transport. As well as the Minister of Transport and the director general of the Danish Transport Authority, a wide cross-section of players from Danish aviation take part in the Council. Generic challenges for the aviation industry are discussed in this forum.

At the next level is the *Branchepanelet (Sector Panel)*, with participation from the Danish Transport Authority at deputy director general level. Discussions in this forum deal with new and national and international regulation within safety/security, civil use of airspace, etc. The panel is composed of specialist directors/managers from the aviation industry as well as employee representatives.

Specifically, the work of the Sector Panel includes how dissemination of information about current and upcoming EU/EASA regulation can be improved. This applies in particular to covering EU/EASA regulation, as this is the primary source of regulations on aviation safety. In future, the Sector

²⁵ *Sikkerhedsrapport for civil luftfart, 2012* (and subsequent years - only in Danish), see www.trafikstyrelsen.dk

Panel will be involved in the Opinions presented by EASA to the European Commission.

Opinions typically contain reasoning for the proposed regulation in the Regulatory Impact Assessment (RIA).

Current considerations include implementing a process introducing a “Danish consultation” of EASA’s Opinions when they are published.

The Danish Transport Authority has regularly set up *ad hoc expert groups* which consider specific issues.

In addition to communicating with the sector via dialogue fora, the Danish Transport Authority holds regular workshops or conferences when new Danish and international legislation is to be implemented.

Finally, the Danish Transport Authority promotes safety information on its website with references and links to relevant international initiatives.

The State Safety Programme (SSP) has been designed on the basis of ICAO regulations in which a new Annex 19 to the Chicago Convention requires Contracting States to establish an SSP

SSP describes how Contracting States establish relevant safety systems to comply with the ICAO's requirements, including a new measure to establish specific safety targets for aviation safety, and to implement Safety Management Systems in enterprises with an approval within the aviation system.

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State Safety Programme