ICB

Industry Consultation Body

POSITION PAPER

Future of Conformity Assessment

Within SES 2+ the concept of conformity assessment under the SES is to be replaced with a process of declaration or certification under the EASA system.

The ICB recognises that this represents an opportunity to improve the conformity assessment process reducing administrative burden and increasing effectiveness of interoperability compliance.

The ICB supports the creation of an EASA rule making task (RMT) to develop requirements and guidance material for the declaration or certification of systems and constituents. This paper sets out the scope of the RMT and the lessons learnt that should be reflected in the new approach.

This paper was adopted at ICB/57 on 10th September 2015.

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1   INTRODUCTION

The Council of the European Union agreed a legislative text for SES 2+ in December 2014 including a transition clause to support the transfer of the legislative requirements for interoperability from the SES legislation (SES 2+) to the EASA Basic Regulation (BR).

The ICB supports the creation of an EASA rulemaking task to develop the future declaration/certification process. This paper sets out the ICB's position on the issues to be considered during the development process so that the future model meets the needs of industry.

2   SCOPE OF EASA RULEMAKING TASK

The EASA rulemaking task should determine the best evolution for declaration/certification activities under EASA competence, building upon the strengths of the SES and EASA frameworks. Due consideration should be given to the lessons learned, as detailed in Section 3, from the current model to ensure the future model meets the needs of the industry and regulators.

The rulemaking task should build upon existing processes to reduce duplication of work and tasks and should eliminate gaps and overlaps between regulatory processes. The resulting process must apply to the entire lifecycle of a system.

To that extent the process followed to assess compliance must:
*   reflect the state of the art in the field of IT infrastructure management or other best practices;
*   be proportionate to the size, category and complexity of the system and nature thereof;
*   be applicable both at first installation as well as when introducing a change to the system;
*   integrate the assessment of regulatory requirements without duplication of tasks or change of the method;
*   be subject to the ANSP's management system;
*   cover the essential requirements of Annex Vb chapter 3 of the Basic Regulation;
*   be designed in a way that assessments, which are required in order to issue a declaration or a certificate, do neither duplicate the task nor raise the effort and costs for administration or performance of that process, but do deliver added value;
*   be designed in a way that assessments at network level may easily fit to the process;
*   make use of the process followed when notifying changes to a functional system and the related safety assessment, instead of impacting, duplicating or overlapping and potentially cross-referring to that process;
*   integrate legacy IRs which deliver system interoperability which is not aligned with the EASA BR Annex Vb system or service provision ERs.

To achieve this, the ICB recommends a two-step approach:

1. Step 1 should identify when the process should apply through development of a number of declaration/certification framework concepts. The concepts should be evaluated in a detailed Regulatory Impact Assessment and Cost Benefit Analysis in order to select the preferred regulatory option to be taken forward in

regulation. The chosen option should be subject to public consultation. In particular, the chosen concept must be robust to integrate and deal with the following aspects:

- foster the role of manufacturers and their activities related to declaration and certification, dependent on the characteristics of the systems;
- take into account that design and maintenance organisations play a part in the systems' lifecycle and regulatory scheme;
- take into account existing approval processes for equipment that is subject to ATM/ANS systems, such as Directive 2014/53/EU and prevent duplication and overlap of tasks and effort.

2. Step 2 should produce, after the public consultation, an EASA opinion and decision with draft IR, and associated AMC and GM documentation based on the results and recommendations of the public consultation.

In the course of this approach, the ICB recommends that due consideration be given to the transition arrangements to ensure that documentation produced under the current conformity assessment model is recognised under the amended EASA BR.

The rulemaking group should be composed of a balanced and experienced representation of the affected stakeholders, as well as stakeholders that are affected by a similar declaration/certification framework (eg airframers in the context of airworthiness) in order to identify best practice in existing declaration/certification schemes.

3 LESSONS LEARNED AND RECOMMENDATIONS

The ICB sees the transition to the EASA BR as an opportunity to refine and streamline the existing conformity assessment process. A new process based on building trust between NSAs and the ANSPs/airports could be more effective and less of an administrative burden. The ICB has identified the number of specific issues for consideration during the elaboration of the future model.

3.1 Essential Requirements

It has previously been challenging for ANSPs, industry and NSAs to demonstrate compliance with the high level essential requirements due to a lack of clear guidance and understanding of the expectations. The future model should explicitly describe how both service level and system level essential requirements should be addressed when performing conformity assessment.

3.2 SES Implementing Rules

There are a number of IRs that deliver system interoperability which are not aligned with the EASA Basic Regulation Annex Vb system or service provision ERs. The future declaration/certification process should ensure the integration of the legacy IRs.

3.3 The role of standards

The ICB considers that standards can bring much needed clarity and resolution for stakeholders with respect to demonstration of compliance with essential requirements. In particular the ICB supports the use of industry standards to make it easier for stakeholders to demonstrate compliance with these essential requirements.

3.4 Documentation to support approval processes

The documentation (DoV – Declaration of Verification, DSU – Declaration of Suitability for Use, and DoC – Declaration of Conformity) required to declare compliance with the interoperability regulation has been considered by many in great detail, for example by the Conformity Assessment Task Force and the NSA Coordination Platform. This led to the development of detailed guidelines and templates to help those affected to prepare the necessary documentation.

The ICB supports the creation of similar guidance and templates under the future declaration/certification process to assist industry perform conformity assessment and support approval processes.

3.5 Safeguards

Article 7 of the interoperability Regulation, on safeguards, specifies the actions required where non-compliance is detected. However this clause has not been used effectively to report non-compliance issues. Furthermore, the current conformity assessment process offers a snapshot of the state of compliance of the system/constituent prior to the entry into service, and does not consider behaviours which may emerge when the system/constituent is put into operation – though the current safeguarding process can be applied whenever non-conformity is detected.

The ICB considers that further guidance material is required to support improved use of safeguarding to ensure that implementation issues are resolved, eg a mechanism for ex-post monitoring would help to alleviate issues caused when systems/constituents are not able to deliver a satisfactory operational service.

The future process for declaration/certification should have clear guidelines on the NSA enforcement requirements where there is non-conformity with applicable rules, and a feedback loop to inform stakeholders of issues and to ensure transparency.

3.6 Reduced administrative burden

The ICB is supportive of a future process for declaration/certification under which ANSPs are given the ability to approve minor changes to systems/constituents without the involvement of the respective NSAs. This would significantly reduce the administrative burden on stakeholders and would introduce an element of flexibility for ANSPs.

To achieve this it is essential that the future process clearly defines the roles and responsibilities of the different stakeholders. It should enable flexible oversight of ANSPs and instil a robust communication chain between all stakeholders.

The future process for declaration/certification should identify and exploit the overlaps between safety assessments and interoperability assessments to deliver efficiency savings for ANSPs.

3.7 Network effect

The nature of demonstrating compliance with the essential and implementing requirements does not guarantee the successful performance of the end-to-end service at a network level – as typified by the complications encountered with the implementation of data link.

As an extension of the conformity assessment process, an assessment at network level mandated to a competent entity would support the smooth operation of the EATMN as

a whole. EASA would be well placed to conduct this, already having responsibility for pan-European network oversight. Such provisions need to carefully respect the preposition of common deployment plans and depend on well-defined requirements at network level.

3.8   Pan-European services and cross-borders

Under the SES framework, entities operating the same systems/constituents in more than one State are obliged to complete a conformity assessment for each Member State in which it operates. Not only does this lead to a significant multiplication of work to produce the required documentation, but any non-harmonised approach between NSAs to the conformity assessment process can create additional difficulties for stakeholders.

3.9   Transition phase

The current Council text for SES2+ includes a transition clause that ensures SES compliance activities should continue until the EASA system is defined.

The rule making task should consider how and when existing DOVs should be transferred to the EASA system. The ICB considers that it is not necessary to replicate conformity assessments carried out under the SES legal framework with the future model.

4   CONCLUSION

As indicated in previous position papers, the ICB supports the move of responsibility for conformity assessment from SES to EASA competence. Such a move should not undo the good work completed under the current SES system, and a clear understanding for the future process is necessary to avoid confusion and multiple approaches to ensuring compliance.

The ICB recommends that the Commission request EASA to initiate a rulemaking task as soon as possible to develop the future process for declaration/certification (including means of compliance and guidelines for the application of the process). The rulemaking task should be performed by a balanced team composed of both industry and NSA experts.

The ICB, through its Technical Sub-Group, is ready to actively participate in the EASA consultation activities building on the current experience.