Brazilian Aviation Law:

Key Legislation for the Aviation Sector

MATTOS FILHO > Mattos Filho, Veiga Filho, Marrey Jr e Quiroga Advogados

VADE MECUM

Brazilian Aviation Law Key Legislation for the Aviation Sector

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MATTOS FILHO > Mattos Filho, Veiga Filho, Marrey Jr e Quiroga Advogados This *Vade Mecum* aims to assist those interested in consulting the legislation and regulations applicable to the aviation sector, using the full text available on the competent bodies' official online portals. The content presented in this document references laws and regulations published as of October 15, 2021, and does not replace the original versions available in Brazil's Official Federal Gazette and other applicable means.

INTRODUCTION

In memory of José Eduardo Carneiro Queiroz, whose extraordinary leadership, wisdom and generosity will inspire us forever.

The aviation sector is complex, dynamic, challenging and extremely important to our society's social and economic development. Every day, thousands of flights connect people, objects, goals and ideals.

To ensure the industry functions harmoniously and safely, aviation authorities around the world regularly issue and update legislation at both the domestic and international levels. As a result, airline operators and other players in the industry are supported by a robust legal framework, constantly in evolution.

Seeking to stimulate a greater level of integration in the market, Mattos Filho's Aviation practice has compiled Brazil's extensive and varied civil aviation regulations into this unprecedented *vade mecum*.

As the result of our professionals' combined efforts, this initiative features the Brazilian aviation sector's main laws and regulations, facilitating the access of all those interested in the topic and promoting the Brazilian aviation industry so that it may continue to reach ever greater heights.

Adriana Simões

Partner – Mattos Filho, Veiga Filho, Marrey Jr. e Quiroga Advogados

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INTERNATIONAL CONVENTIONS DECREE No. 20,704 OF NOVEMBER 24, 1931

Promulgates the Warsaw Convention for the unification of certain rules relating to international carriage by air

THE HEAD OF THE PROVISIONAL GOVERNMENT OF THE REPUBLIC OF THE UNITED STATES OF BRAZIL:

Having approved the Convention for the unification of certain rules relating to international carriage by air, concluded in Warsaw, on October 12, 1929, by the Second International Conference on Private Air Law, meeting, in that Capital, from October 4 to October 12, 1929, and having effected, on last May 2, in the archives of the Ministry of Foreign Affairs of Poland, the deposit of the respective Brazilian instrument of ratification:

Decrees that that Convention, appended by copy to the present decree, be executed and complied with as entirely as contained therein.

Rio de Janeiro, November 24, 1931, 110th of the Independence and 43rd of the Republic.

GETULIO DORNELLES VARGAS

HEAD OF THE PROVISIONAL GOVERNMENT OF THE REPUBLIC OF THE UNITED STATES OF BRAZIL

I hereby make known to those who see this Letter of ratification that, between the United States of Brazil and several other countries represented at the International Conference on Private Air Law, held in Warsaw from October 4 to October 12, 1929, a Convention, the additional protocol, and the final Protocol, of the following content, have been concluded and signed by the respective representatives on said October 12:

CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO INTERNATIONAL CARRIAGE BY AIR

The President of the German Reich, the Federal President of the Republic of Austria, His Majesty the King of the Belgians, the President of the United States of Brazil, His Majesty the King of the Bulgarians, the President of the Nationalist Government of the Republic of China, His Majesty the King of Denmark and Iceland, His Majesty the King of Egypt, His Majesty the King of Spain, the Head of State of the Republic of Estonia, the President of the Republic of Finland, the President of the French Republic, His Majesty the King of Great Britain, Ireland and the British Overseas Territories, Emperor of India, the President of the Hellenic Republic, His Serene Highness the Regent of the Kingdom of Hungary, His Majesty the King of Italy, His Majesty the Emperor of Japan, the President of the Republic of Latvia, His Royal Highness the Grand Duchess of Luxembourg, the President of the United States of Mexico, His Majesty the King of Norway, Her Majesty the Oueen of the Netherlands, the President of the Republic of Poland, His Maiestv the King of Romania, His Maiesty the King of Sweden the Swiss Federal Council, the President of the Czechoslovak Republic, the Central Executive Committee of the Union of Soviet Socialist Republics, the President of the United States of Venezuela, His Majesty the King of Yugoslavia,

Having recognized the usefulness of regulating in a uniform manner the conditions of international air carriage, with respect to documents used in such transportation as well as the carrier's liability,

Have appointed for that purpose their respective Plenipotentiaries, who, having been duly authorized, have concluded and signed the following Convention:

CHAPTER I

SCOPE - DEFINITIONS

Article 1

 This Convention applies to all international carriage of persons, luggage or goods performed by aircraft for reward. It applies equally to gratuitous carriage by aircraft performed by an air transport undertaking.

2. For the purposes of this Convention the expression "international carriage" means any carriage in which, according to the contract made by the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transhipment, are situated either within the territories of two High Contracting Parties, or within the territory of a single High Contracting Party, if there is an agreed stopping place within a territory subject to the sovereignty, suzerainty, mandate or authority of another Power, even though that Power is not a party to this Convention. A carriage without such an agreed stopping place between territories subject to the sovereignty, suzerainty, mandate or authority of the same High Contracting Party is not deemed to be international for the purposes of this Convention.

3. A carriage to be performed by several successive air carriers is deemed, for the purposes of this Convention, to be one undivided carriage, if it has been regarded by the parties as a single operation, whether it had been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character merely because one contract or a series of contracts is to be performed entirely within a territory subject to the sovereignty, suzerainty, mandate or authority of the same High Contracting Party.

Article 2

1. This Convention applies to carriage performed by the State or by legally constituted public bodies provided it falls within the conditions laid down in Article 1.

2. This Convention does not apply to carriage performed under the terms of any international postal Convention.

CHAPTER II

DOCUMENTS OF CARRIAGE

SECTION I - PASSENGER TICKET

Article 3

1. For the carriage of passengers the carrier must deliver a passenger ticket which shall contain the following particulars:

(a) the place and date of issue;

(b) the place of departure and of destination;

(c) the agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right, the alteration shall not have the effect of depriving the carriage of its international character;

(d) the name and address of the carrier or carriers;

(e) a statement that the carriage is subject to the rules relating to liability established by this Convention.

2. The absence, irregularity or loss of the passenger ticket does not affect the existence or the validity of the contract of carriage, which shall none the less be subject to the rules of this Convention. Nevertheless, if the carrier accepts a passenger without a passenger ticket having been delivered he shall not be entitled to avail himself of those provisions of this Convention which exclude or limit his liability.

SECTION II - LUGGAGE TICKET

Article 4

1. For the carriage of luggage, other than small personal objects of which the passenger takes charge himself, the carrier must deliver a luggage ticket.

2. The luggage ticket shall be made out in duplicate, one part for the passenger and the other part for the carrier.

3. The luggage ticket shall contain the following particulars:

(a) the place and date of issue;

(b) the place of departure and of destination;

(c) the name and address of the carrier or carriers;

(d) the number of the passenger ticket;

(e) a statement that delivery of the luggage will be made to the bearer of the luggage ticket;

(f) the number and weight of the packages;

(g) the amount of the value declared in accordance with Article 22(2);

(h) a statement that the carriage is subject to the rules relating to liability established by this Convention.

4. The absence, irregularity or loss of the luggage ticket does not affect the existence or the validity of the contract of carriage, which shall none the less be subject to the rules of this Convention. Nevertheless, if the carrier accepts luggage without a luggage ticket having been delivered, or if the luggage ticket does not contain the particulars set out at (d), (f) and (h) above, the carrier shall not be entitled to avail himself of those provisions of the Convention which exclude or limit his liability.

SECTION III - AIR CONSIGNMENT NOTE

Article 5

1. Every carrier of goods has the right to require the consignor to make out and hand over to him a document called an "air consignment note"; every consignor has the right to require the carrier to accept this document.

2. The absence, irregularity or loss of this document does not affect the existence or the validity of the contract of carriage which shall, subject to the provisions of Article 9, be none the less governed by the rules of this Convention.

Article 6

1. The air consignment note shall be made out by the consignor in three original parts and be handed over with the goods.

2. The first part shall be marked "for the carrier," and shall be signed by the consignor. The second part shall be marked "for the consignee"; it shall be signed by the consignor and by the carrier and shall accompany the goods. The third part shall be signed by the carrier and handed by him to the consignor after the goods have been accepted.

3. The carrier shall sign on acceptance of the goods.

4. The signature of the carrier may be stamped; that of the consignor may be printed or stamped.

5. If, at the request of the consignor, the carrier makes out the air consignment note, he shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

Article 7

The carrier of goods has the right to require the consignor to make out separate consignment notes when there is more than one package.

Article 8

The air consignment note shall contain the following particulars:

(a) the place and date of its execution;

(b) the place of departure and of destination;

(c) the agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right the alteration shall not have the effect of depriving the carriage of its international character;

(d) the name and address of the consignor;

(e) the name and address of the first carrier;

(f) the name and address of the consignee, if the case so requires;

(g) the nature of the goods;

(h) the number of the packages, the method of packing and the particular marks or numbers upon them;

(i) the weight, the quantity and the volume or dimensions of the goods;

(j) the apparent condition of the goods and of the packing;

(k) the freight, if it has been agreed upon, the date and place of payment, and the person who is to pay it;

(I) if the goods are sent for payment on delivery, the price of the goods, and, if the case so requires, the amount of the expenses incurred;

(m) the amount of the value declared in accordance with Article 22 (2);

(n) the number of parts of the air consignment note;

(o) the documents handed to the carrier to accompany the air consignment note;

(p) the time fixed for the completion of the carriage and a brief note of the route to be followed, if these matters have been agreed upon;

(q) a statement that the carriage is subject to the rules relating to liability established by this Convention.

Article 9

If the carrier accepts goods without an air consignment note having been made

out, or if the air consignment note does not contain all the particulars set out in Article 8(a) to (i) inclusive and (q), the carrier shall not be entitled to avail himself of the provisions of this Convention which exclude or limit his liability.

Article 10

1. The consignor is responsible for the correctness of the particulars and statements relating to the goods which he inserts in the air consignment note.

2. The consignor will be liable for all damage suffered by the carrier or any other person by reason of the irregularity, incorrectness or incompleteness of the said particulars and statements.

Article 11

1. The air consignment note is prima facie evidence of the conclusion of the contract, of the receipt of the goods and of the conditions of carriage.

2. The statements in the air consignment note relating to the weight, dimensions and packing of the goods, as well as those relating to the number of packages, are prima facie evidence of the facts stated; those relating to the quantity, volume and condition of the goods do not constitute evidence against the carrier except so far as they both have been, and are stated in the air consignment note to have been, checked by him in the presence of the consignor, or relate to the apparent condition of the goods.

Article 12

1. Subject to his liability to carry out all his obligations under the contract of carriage, the consignor has the right to dispose of the goods by withdrawing them at the aerodrome of departure or destination, or by stopping them in the course of the journey on any landing, or by calling for them to be delivered at the place of destination or in the course of the journey to a person other than the consignee named in the air consignment note, or by requiring them to be returned to the aerodrome of departure. He must not exercise this right of disposition in such a way as to prejudice the carrier or other consignors and he must repay any expenses occasioned by the exercise of this right.

2. If it is impossible to carry out the orders of the consignor the carrier must so inform him forthwith.

3. If the carrier obeys the orders of the consignor for the disposition of the goods without requiring the production

of the part of the air consignment note delivered to the latter, he will be liable, without prejudice to his right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air consignment note.

4. The right conferred on the consignor ceases at the moment when that of the consignee begins in accordance with Article 13. Nevertheless, if the consignee declines to accept the consignment note or the goods, or if he cannot be communicated with, the consignor resumes his right of disposition.

Article 13

1. Except in the circumstances set out in the preceding Article, the consignee is entitled, on arrival of the goods at the place of destination, to require the carrier to hand over to him the air consignment note and to deliver the goods to him, on payment of the charges due and on complying with the conditions of carriage set out in the air consignment note.

2. Unless it is otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the goods arrive.

3. If the carrier admits the loss of the goods, or if the goods have not arrived at the expiration of seven days after the date on which they ought to have arrived, the consignee is entitled to put into force against the carrier the rights which flow from the contract of carriage.

Article 14

The consignor and the consignee can respectively enforce all the rights given them by Articles 12 and 13, each in his own name, whether he is acting in his own interest or in the interest of another, provided that he carries out the obligations imposed by the contract.

Article 15

1. Articles 12, 13 and 14 do not affect either the relations of the consignor or the consignee with each other or the mutual relations of third parties whose rights are derived either from the consignor or from the consignee.

2. The provisions of Articles 12, 13 and 14 can only be varied by express provision in the air consignment note.

Article 16

1. The consignor must furnish such information and attach to the air consignment note such documents as are necessary to meet the formalities of customs, octroi or police before the goods can be delivered to the consignee. The consignor is liable to the carrier for any damage occasioned by the absence, insufficiency or irregularity of any such information or documents, unless the damage is due to the fault of the carrier or his agents.

2. The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

CHAPTER III

LIABILITY OF THE CARRIER

Article 17

The carrier is liable for damage sustained in the event of the death or wounding of a passenger or any other bodily injury suffered by a passenger, if the accident which caused the damage so sustained took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

Article 18

1. The carrier is liable for damage sustained in the event of the destruction or loss of, or of damage to, any registered luggage or any goods, if the occurrence which caused the damage so sustained took place during the carriage by air.

2. The carriage by air within the meaning of the preceding paragraph comprises the period during which the luggage or goods are in charge of the carrier, whether in an aerodrome or on board an aircraft, or, in the case of a landing outside an aerodrome, in any place whatsoever.

3. The period of the carriage by air does not extend to any carriage by land, by sea or by river performed outside an aerodrome. If, however, such a carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or transshipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the carriage by air.

Article 19

The carrier is liable for damage occasioned by delay in the carriage by air of passengers, luggage or goods.

Article 20

1. The carrier is not liable if he proves that he and his agents have taken all necessary measures to avoid the damage or that it was impossible for him or them to take such measures.

2. In the carriage of goods and luggage the carrier is not liable if he proves that the damage was occasioned by negligent pilotage or negligence in the handling of the aircraft or in navigation and that, in all other respects, he and his agents have taken all necessary measures to avoid the damage.

Article 21

If the carrier proves that the damage was caused by or contributed to by the negligence of the injured person the Court may, in accordance with the provisions of its own law, exonerate the carrier wholly or partly from his liability.

Article 22

1. In the carriage of passengers the liability of the carrier for each passenger is limited to the sum of 125,000 francs. Where, in accordance with the law of the Court seised of the case, damages may be awarded in the form of periodical payments, the equivalent capital value of the said payments shall not exceed 125,000 francs. Nevertheless, by special contract, the carrier and the passenger may agree to a higher limit of liability.

2. In the carriage of registered luggage and of goods, the liability of the carrier is limited to a sum of 250 francs per kilogram, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of the value at delivery and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the actual value to the consignor at delivery.

3. As regards objects of which the passenger takes charge himself the liability of the carrier is limited to 5,000 francs per passenger.

4. The sums mentioned above shall be deemed to refer to the French franc consisting of 65 « milligrams gold of millesimal fineness 900. These sums may be converted into any national currency in round figures.

Article 23

Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in this Convention shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Convention.

Article 24

1. In the cases covered by Articles 18 and 19 any action for damages, however founded, can only be brought subject to the conditions and limits set out in this Convention.

2. In the cases covered by Article 17 the provisions of the preceding paragraph also apply, without prejudice to the questions as to who are the persons who have the right to bring suit and what are their respective rights.

Article 25

1. The carrier shall not be entitled to avail himself of the provisions of this Convention which exclude or limit his liability, if the damage is caused by his wilful misconduct or by such default on his part as, in accordance with the law of the Court seised of the case, is considered to be equivalent to wilful misconduct.

2. Similarly the carrier shall not be entitled to avail himself of the said provisions, if the damage is caused as aforesaid by any agent of the carrier acting within the scope of his employment.

Article 26

1. Receipt by the person entitled to delivery of luggage or goods without complaint is prima facie evidence that the same have been delivered in good condition and in accordance with the document of carriage.

2. In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within three days from the date of receipt in the case of luggage and seven days from the date of receipt in the case of goods. In the case of delay the complaint must be made at the latest within fourteen days from the date on which the luggage or goods have been placed at his disposal.

3. Every complaint must be made in writing upon the document of carriage or by separate notice in writing despatched within the times aforesaid. 4. Failing complaint within the times aforesaid, no action shall lie against the carrier, save in the case of fraud on his part.

Article 27

In the case of the death of the person liable, an action for damages lies in accordance with the terms of this Convention against those legally representing his estate.

Article 28

1. An action for damages must be brought, at the option of the plaintiff, in the territory of one of the High Contracting Parties, either before the Court having jurisdiction where the carrier is ordinarily resident, or has his principal place of business, or has an establishment by which the contract has been made or before the Court having jurisdiction at the place of destination.

2. Questions of procedure shall be governed by the law of the Court seised of the case.

Article 29

1. The right to damages shall be extinguished if an action is not brought within two years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.

2. The method of calculating the period of limitation shall be determined by the law of the Court seised of the case.

Article 30

1. In the case of carriage to be performed by various successive carriers and falling within the definition set out in the third paragraph of Article 1, each carrier who accepts passengers, luggage or goods is subjected to the rules set out in this Convention, and is deemed to be one of the contracting parties to the contract of carriage in so far as the contract deals with that part of the carriage which is performed under his supervision.

2. In the case of carriage of this nature, the passenger or his representative can take action only against the carrier who performed the carriage during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier has assumed liability for the whole journey.

3. As regards luggage or goods, the passenger or consignor will have a right of action against the first carrier, and the passenger or consignee who is entitled to delivery will have a right of action against the last carrier, and further, each may take action against the carrier who performed the carriage during which the destruction, loss, damage or delay took place. These carriers will be jointly and severally liable to the passenger or to the consignor or consignee.

CHAPTER IV

PROVISIONS RELATING TO COMBINED CARRIAGE

Article 31

1. In the case of combined carriage performed partly by air and partly by any other mode of carriage, the provisions of this Convention apply only to the carriage by air, provided that the carriage by air falls within the terms of Article 1.

2. Nothing in this Convention shall prevent the parties in the case of combined carriage from inserting in the document of air carriage conditions relating to other modes of carriage, provided that the provisions of this Convention are observed as regards the carriage by air.

CHAPTER V

GENERAL AND FINAL PROVISIONS

Article 32

Any clause contained in the contract and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this Convention, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void. Nevertheless for the carriage of goods arbitration clauses are allowed, subject to this Convention, if the arbitration is to take place within one of the jurisdictions referred to in the first paragraph of Article 28.

Article 33

Nothing contained in this Convention shall prevent the carrier either from refusing to enter into any contract of carriage, or from making regulations which do not conflict with the provisions of this Convention.

Article 34

This Convention does not apply to international carriage by air performed by way of experimental trial by air navigation undertakings with the view to the establishment of a regular line of air navigation, nor does it apply to carriage performed in extraordinary circumstances outside the normal scope of an air carrier's business.

Article 35

The expression "days" when used in this Convention means calendar days, not working days.

Article 36

The Convention is drawn up in French in a single copy which shall remain deposited in the archives of the Ministry for Foreign Affairs of Poland and of which one duly certified copy shall be sent by the Polish Government to the Government of each of the High Contracting Parties.

Article 37

1. This Convention shall be ratified. The instruments of ratification shall be deposited in the archives of the Ministry for Foreign Affairs of Poland, which will notify the deposit to the Government of each of the High Contracting Parties.

2. As soon as this Convention shall have been ratified by five of the High Contracting Parties it shall come into force as between them on the ninetieth day after the deposit of the fifth ratification. Thereafter it shall come into force between the High Contracting Parties who shall have ratified and the High Contracting Party who deposits his instrument of ratification on the ninetieth day after the deposit.

3. It shall be the duty of the Government of the Republic of Poland to notify to the Government of each of the High Contracting Parties the date on which this Convention comes into force as well as the date of the deposit of each ratification.

Article 38

1. This Convention shall, after it has come into force, remain open for accession by any State.

2. The accession shall be effected by a notification addressed to the Government of the Republic of Poland, which will inform the Government of each of the High Contracting Parties thereof.

3. The accession shall take effect as from the ninetieth day after the notification made to the Government of the Republic of Poland.

Article 39

1. Any one of the High Contracting Parties may denounce this Convention by a notification addressed to the Government of the Republic of Poland, which will at once inform the Government of each of the High Contracting Parties.

2. Denunciation shall take effect six months after the notification of denunciation, and shall operate only as regards the Party who shall have proceeded to denunciation.

Article 40

1. Any High Contracting Party may, at the time of signature or of deposit of ratification or of accession declare that the acceptance which he gives to this Convention does not apply to all or any of his colonies, protectorates, territories under mandate, or any other territory subject to his sovereignty or his authority, or any territory under his suzerainty.

2. Accordingly any High Contracting Party may subsequently accede separately in the name of all or any of his colonies, protectorates, territories under mandate or any other territory subject to his sovereignty or to his authority or any territory under his suzerainty which has been thus excluded by his original declaration.

3. Any High Contracting Party may denounce this Convention, in accordance with its provisions, separately or for all or any of his colonies, protectorates, territories under mandate or any other territory subject to his sovereignty or to his authority, or any other territory under his suzerainty.

Article 41

Any High Contracting Party shall be entitled not earlier than two years after the coming into force of this Convention to call for the assembling of a new international Conference in order to consider any improvements which may be made in this Convention. To this end he will communicate with the Government of the French Republic which will take the necessary measures to make preparations for such Conference.

This Convention done at Warsaw on the 12th October, 1929, shall remain open for signature until the 31st January, 1930.

BY GERMANY:

- R. RICHTER.
- DR. A. WEGERDT.
- DR. E. ALBRECRT.
- DR. OTTO RIESE

BY AUSTRIA:

- STROBELE.
- REINOEHL.

BY THE UNITED STATES OF BRAZIL:

• ALCIBIADES PECANHA.

BY DENMARK:

- L. INGERSLEV.
- KNUD GREGERSEN.

BY FRANCE:

- PIERRE -ETIENNE FLANDIN.
- GEORGES RIPERT.

BY GREAT BRITAIN AND NORTHERN IRELAND:

- A. H. DENNIS.
- ORME CLARK.
- R. L. MEGARRY.

BY THE FEDERATION OF AUSTRALIA:

- A. H. DENNIS.
- ORME CLARKE.
- R. L. MEGARRY.

BY THE UNION OF SOUTH AFRICA:

- A. H. DENNIS.
- ORME CLARKE.
- R. L. MEGARRY.

BY ITALY:

• A. GLANNINI.

BY LUXEMBOURG:

• E. ARENDT.

BY POLAND:

- AUGESTE ZALESKI.
- ALFONS KUHN.

BY SWITZERLAND:

- EDM. PITTARD.
- DR. F. HESS.

BY YUGOSLAVIA:

• IVO DE GIULLI.

ADDITIONAL PROTOCOL

TO ARTICLE 2

At the time of ratification or acceptance, the High Contracting Parties reserve the right to declare that Article 2, paragraph 1 of this Convention shall not apply to international air transportation conducted directly by the State, its colonies, protectorates, territories or any other political demarcation under its sovereignty, suzerainty or authority.

BY GERMANY:

- R. RICHTER.
- Dr. A. WEGERDT.
- Dr. E. ALBRECHT.
- Dr. OTTO RIESE.

BY AUSTRIA:

- STROBELE.
- REINOEHL.

BY THE UNITED STATES OF BRAZIL:

• ALCIBIADES PECANHA.

BY DINAMARCA:

- L. INGERSLEV.
- KNUD GREGERSEN.

BY FRANCE:

- PIERRE-ETIENNE FLANDIN.
- GEORGES RIPERT.

BY GREAT BRITAIN AND NORTHERN IRELAND:

- A. H. DENNIS.
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- R. L. MEGARRY.

BY THE FEDERATION OF AUSTRALIA:

- A. H. DENNIS.
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- ORME CLARK.
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• A. GIANNINI.

BY LUXEMBOURG:

• E. ARENDT.

BY POLAND:

- AUGUSTE ZALESKI.
- ALFONS KUHN.

BY SWITZERLAND:

- EDM. PITTARD.
- DR. F. IIESS.

BY YUGOSLAVIA:

• IVO DE GIULLI.

[The Final Protocol has been deleted from the present version of this Convention]..

DECREE No. 21,713 OF AUGUST 27, 1946

Promulgates the Convention on International Civil Aviation, concluded in Chicago on December 7, 1944, and signed by Brazil in Washington on May 29, 1945.

PRESIDENT OF THE REPUBLIC,

CONSIDERING that the Convention on International Civil Aviation, concluded in Chicago on December 7, 1944, on occasion of the International Civil Aviation Conference, was approved on September 11, 1945, and ratified on March 26, 1946, by the Brazilian Government, and signed by Brazil in Washington on May 29, 1945;

WHEREAS the said instrument of ratification was deposited in the archives of the Government of the United States of America on June 8, 1946;

Using the powers vested in him by article 74, letter a, of the Constitution

DECREES:

<u>Art. 1</u>

The Convention on International Civil Aviation, annexed by copy to the present decree, signed by Brazil in Washington, on May 29, 1945, is hereby promulgated.

<u>Art. 2</u>

This decree takes effect on the date of its publication.

Rio de Janeiro, August 27, 1946; 125th of the Independence and 58th of the Republic.

EURICO G. DUTRA

S. DE SOUSA LEÃO GRACIE

CONVENTION ON INTERNATIONAL CIVIL AVIATION

PREAMBLE

WHEREAS the future development of international civil aviation can greatly help to create and preserve friendship and understanding among the nations and peoples of the world, yet its abuse can become a threat to the general security; and

WHEREAS it is desirable to avoid friction and to promote that cooperation be-

tween nations and peoples upon which the peace of the world depends;

THEREFORE, the undersigned governments having agreed on certain principles and arrangements in order that international civil aviation may be developed in a safe and orderly manner and that international air transport services may be established on the basis of equality of opportunity and operated soundly and economically;

Have accordingly concluded this Convention to that end.

PART I

AIR NAVIGATION

CHAPTER I

GENERAL PRINCIPLES AND APPLICATION OF THE CONVENTION

<u>Article 1</u>

SOVEREIGNTY

The contracting States recognize that every State has complete and exclusive sovereignty over the airspace above its territory.

<u>Article 2</u>

TERRITORY

For the purposes of this Convention the territory of a State shall be deemed to be the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection or mandate of such State.

Article 3

CIVIL AND STATE AIRCRAFT

a. This Convention shall be applicable only to civil aircraft, and shall not be applicable to state aircraft.

b. Aircraft used in military, customs and police services shall be deemed to be state aircraft.

c. No state aircraft of a contracting State shall fly over the territory of another State or land thereon without authorization by special agreement or otherwise, and in accordance with the terms thereof. d. The contracting States undertake, when issuing regulations for their state aircraft, that they will have due regard for the safety of navigation of civil aircraft.

Article 4

MISUSE OF CIVIL AVIATION

Each contracting State agrees not to use civil aviation for any purpose inconsistent with the aims of this Convention.

CHAPTER II

FLIGHT OVER TERRITORY OF CONTRACTING STATES

Article 5

RIGHT OF NON-SCHEDULED FLIGHT

Each contracting State agrees that all aircraft of the other contracting States, being aircraft not engaged in scheduled international air services shall have the right, subject to the observance of the terms of this Convention, to make flights into or in transit non-stop across its territory and to make stops for non-traffic purposes without the necessity of obtaining prior permission, and subject to the right of the State flown over to require landing. Each contracting State nevertheless reserves the right, for reasons of safety of flight, to require aircraft desiring to proceed over regions which are inaccessible or without adequate air navigation facilities to follow prescribed routes, or to obtain special permission for such flights.

Such aircraft, if engaged in the carriage of passengers, cargo, or mail for remuneration or hire on other than scheduled international air services, shall also, subject to the provisions of Article 7, have the privilege of taking on or discharging passengers, cargo, or mail, subject to the right of any State where such embarkation or discharge takes place to impose such regulations, conditions or limitations as it may consider desirable.

Article 6

SCHEDULED AIR SERVICES

No scheduled international air service may be operated over or into the territory of a contracting State, except with the special permission or other authorization of that State, and in accordance with the terms of such permission or authorization.

Article 7

CABOTAGE

Each contracting State shall have the right to refuse permission to the aircraft of other contracting States to take on in its territory passengers, mail and cargo carried for remuneration or hire and destined for another point within its territory. Each contracting State undertakes not to enter into any arrangements which specifically grant any such privilege on an exclusive basis to any other State or an airline of any other State, and not to obtain any such exclusive privilege from any other State.

Article 8

PILOTLESS AIRCRAFT

No aircraft capable of being flown without a pilot shall be flown without a pilot over the territory of a contracting State without special authorization by that State and in accordance with the terms of such authorization. Each contracting State undertakes to insure that the flight of such aircraft without a pilot in regions open to civil aircraft shall be so controlled as to obviate danger to civil aircraft.

Article 9

PROHIBITED AREAS

a. Each contracting State may, for reasons of military necessity or public safety, restrict or prohibit uniformly the aircraft of other States from flying over certain areas of its territory, provided that no distinction in this respect is made between the aircraft of the State whose territory is involved, engaged in international scheduled airline services, and the aircraft of the other contracting States likewise engaged. Such prohibited areas shall be of reasonable extent and location so as not to interfere unnecessarily with air navigation. Descriptions of such prohibited areas in the territory of a contracting State, as well as any subsequent alterations therein, shall be communicated as soon as possible to the other contracting States and to the International Civil Aviation Organization.

b. Each contracting State reserves also the right, in exceptional circumstances or during a period of emergency, or in the interest of public safety, and with immediate effect, temporarily to restrict or prohibit flying over the whole or any part of its territory, on condition that such restriction or prohibition shall be applicable without distinction of nationality to aircraft of all other States.

c. Each contracting State, under such regulations as it may prescribe, may require any aircraft entering the areas contemplated in subparagraphs (a) or (b) above to effect a landing as soon as practicable thereafter at some designated airport within its territory.

Article 10

LANDING AT CUSTOMS AIRPORT

Except in a case where, under the terms of this Convention or a special authorization, aircraft are permitted to cross the territory of a contracting State without landing, every aircraft which enters the territory of a contracting State shall, if the regulations of that State so require, land at an airport designated by that State for the purpose of customs and other examination. On departure from the territory of a contracting State, such aircraft shall depart from a similarly designated customs airport. Particulars of all designated customs airports shall be published by the State and transmitted to the International Civil Aviation Organization established under Part 11 of this Convention for communication to all other contracting States.

Article 11

APPLICABILITY OF AIR REGULATIONS

Subject to the provisions of this Convention, the laws and regulations of a contracting State relating to the admission to or departure from its territory of aircraft engaged in international air navigation, or to the operation and navigation of such aircraft while within its territory, shall be applied to the aircraft of all contracting States without distinction as to nationality, and shall be complied with by such aircraft upon entering or departing from or while within the territory of that State.

Article 12

RULES OF THE AIR

Each contracting State undertakes to adopt measures to insure that every aircraft flying over or maneuvering within its territory and that every aircraft carrying its nationality mark, wherever such aircraft may be, shall comply with the rules and regulations relating to the flight and maneuver of aircraft there in force. Each contracting State undertakes to keep its own regulations in these respects uniform, to the greatest possible extent, with those established from time to time under this Convention. Over the high seas, the rules in force shall be those established under this Convention. Each contracting State undertakes to insure the prosecution of all persons violating the regulations applicable.

Article 13

ENTRY AND CLEARANCE REGULATIONS

The laws and regulations of a contracting State as to the admission to or departure from its territory of passengers, crew or cargo of aircraft, such as regulations relating to entry, clearance, immigration, passports, customs, and quarantine shall be complied with by or on behalf of such passengers, crew or cargo upon entrance into or departure from, or while within the territory of that State.

Article 14

PREVENTION OF SPREAD OF DISEASE

Each contracting State agrees to take effective measures to prevent the spread by means of air navigation of cholera, typhus (epidemic), smallpox, yellow fever, plague, and such other communicable diseases as the contracting States shall from time to time decide to designate, and to that end contracting States will keep in close consultation with the agencies concerned with international regulations relating to sanitary measures applicable to aircraft. Such consultation shall be without prejudice to the application of any existing international contracting States may be parties.

Article 15

AIRPORT AND SIMILAR CHARGES

Every airport in a contracting State which is open to public use by its national aircraft shall likewise, subject to the provisions of Article 68, be open under uniform conditions to the aircraft of all the other contracting States. The like uniform conditions shall apply to the use, by aircraft of every contracting State, of all air navigation facilities, including radio and meteorological services, which may be provided for public use for the safety and expedition of air navigation.

Any charges that may be imposed or permitted to be imposed by a contracting State for the use of such airports and air navigation facilities by the aircraft of any other contracting State shall not be higher, a. As to aircraft not engaged in scheduled international air services, than those that would be paid by its national aircraft of the same class engaged in similar operations, and

b. As to aircraft engaged in scheduled international air services, than those that would be paid by its national aircraft engaged in similar international air services.

All such charges shall be published and communicated to the International Civil Aviation Organization, provided that, upon representation by an interested contracting State, the charges imposed for the use of airports and other facilities shall be subject to review by the Council, which shall report and make recommendations thereon for the consideration of the State or States concerned. No fees, dues or other charges shall be imposed by any contracting State in respect solely of the right of transit over or entry into or exit from its territory of any aircraft of a contracting State or persons or property thereon.

Article 16

SEARCH OF AIRCRAFT

The appropriate authorities of each of the contracting States shall have the right, without unreasonable delay, to search aircraft of the other contracting States on landing or departure, and to inspect the certificates and other documents prescribed by this Convention.

CHAPTER III

NATIONALITY OF AIRCRAFT

Article 17

NATIONALITY OF AIRCRAFT

Aircraft have the nationality of the State in which they are registered.

Article 18

DUAL REGISTRATION

An aircraft cannot be validly registered in more than one State, but its registration may be changed from one State to another.

Article 19

NATIONAL LAWS GOVERNING REGISTRATION

The registration or transfer of registration of aircraft in any contracting State shall be made in accordance with its laws and regulations.

Article 20

DISPLAY OF MARKS

Every aircraft engaged in international air navigation shall bear its appropriate nationality and registration marks.

<u>Article 21</u>

REPORT OF REGISTRATIONS

Each contracting State undertakes to supply to any other contracting State or to the International Civil Aviation Organization, on demand, information concerning the registration and ownership of any particular aircraft registered in that State. In addition, each contracting State shall furnish reports to the International Civil Aviation Organization, under such regulations as the latter may prescribe, giving such pertinent data as can be made available concerning the ownership and control of aircraft registered in that State and habitually engaged in international air navigation. The data thus obtained by the International Civil Aviation Organization shall be made available by it on request to the other contracting States.

CHAPTER IV

MEASURES TO FACILITATE AIR NAVIGATION

Article 22

FACILITATION OF FORMALITIES

Each contracting State agrees to adopt all practicable measures, through the issuance of special regulations or otherwise, to facilitate and expedite navigation by aircraft between the territories of contracting States, and to prevent unnecessary delays to aircraft, crews, passengers and cargo, especially in the administration of the laws relating to immigration, quarantine, customs and clearance.

Article 23

CUSTOMS AND IMMIGRATION PROCEDURES

Each contracting State undertakes, so far as it may find practicable, to establish customs and immigration procedures affecting international air navigation in accordance with the practices which may be established or recommended from time to time, pursuant to this Convention. Nothing in this Convention shall be construed as preventing the establishment of customs-free airports.

Article 24

CUSTOMS DUTY

a. Aircraft on a flight to, from, or across the territory of another contracting State shall be admitted temporarily free of duty, subject to the customs regulations of the State. Fuel, lubricating oils, spare parts, regular equipment and aircraft stores on board an aircraft of a contracting State, on arrival in the territory of another contracting State and retained on board on leaving the territory of that State shall be exempt from customs duty, inspection fees or similar national or local duties and charges. This exemption shall not apply to any quantities or articles unloaded, except in accordance with the customs regulations of the State, which may require that they shall be kept under customs supervision.

b. Spare parts and equipment imported into the territory of a contracting State for incorporation in or use on an aircraft of another contracting State engaged in international air navigation shall be admitted free of customs duty, subject to compliance with the regulations of the State concerned, which may provide that the articles shall be kept under customs supervision and control.

Article 25

AIRCRAFT IN DISTRESS

Each contracting State undertakes to provide such measures of assistance to aircraft in distress in its territory as it may find practicable, and to permit, subject to control by its own authorities, the owners of the aircraft or authorities of the State in which the aircraft is registered to provide such measures of assistance as may be necessitated by the circumstances. Each contracting State, when undertaking search for missing aircraft, will collaborate in coordinated measures which may be recommended from time to time pursuant to this Convention.

Article 26

INVESTIGATION OF ACCIDENTS

In the event of an accident to an aircraft of a contracting State occurring in the territory of another contracting State, and involving death or serious injury, or indicating serious technical defect in the aircraft or air navigation facilities, the State in which the accident occurs will institute an inquiry into the circumstances of the accident, in accordance, so far as its laws permit, with the procedure which may be recommended by the International Civil Aviation Organization. The State in which the aircraft is registered shall be given the opportunity to appoint observers to be present at the inquiry and the State holding the inquiry shall communicate the report and findings in the matter to that State.

Article 27

EXEMPTION FROM SEIZURE ON PATENT CLAIMS

a. While engaged in international air navigation, any authorized entry of aircraft of a contracting State into the territory of another contracting State or authorized transit across the territory of such State with or without landings shall not entail any seizure or detention of the aircraft or any claim against the owner or operator thereof or any other interference therewith by or on behalf of such State or any person therein, on the ground that the construction, mechanism, parts, accessories or operation of the aircraft is an infringement of any patent, design, or model duly granted or registered in the State whose territory is entered by the aircraft, it being agreed that no deposit of security in connection with the foregoing exemption from seizure or detention of the aircraft shall in any case be required in the State entered by such aircraft.

b. The provisions of paragraph (a) of this Article shall also be applicable to the storage of spare parts and spare equipment for the aircraft and the right to use and install the same in the repair of an aircraft of a contracting State in the territory of any other contracting State, provided that any patented part or equipment so stored shall not be sold or distributed internally in or exported commercially from the contracting State entered by the aircraft.

c. The benefits of this Article shall apply only to such States, parties to this Convention, as either (1) are parties to the International Convention for the Protection of Industrial Property and to any amendments thereof; or (2) have enacted patent laws which recognize and give adequate protection to inventions made by the nationals of the other States parties to this Convention.

Article 28

AIR NAVIGATION FACILITIES AND STANDARD SYSTEMS

Each contracting State undertakes, so far as it may find practicable, to:

a. Provide, in its territory, airports, radio services, meteorological services and other air navigation facilities to facilitate international air navigation, in accordance with the standards and practices recommended or established from time to time, pursuant to this Convention;

b. Adopt and put into operation the appropriate standard systems of communications procedure, codes, markings, signals, lighting and other operational practices and rules which may be recommended or established from time to time, pursuant to this Convention;

c. Collaborate in international measures to secure the publication of aeronautical maps and charts in accordance with standards which may be recommended or established from time to time, pursuant to this Convention.

CHAPTER V

CONDITIONS TO BE FULFILLED WITH RESPECT TO AIRCRAFT

<u>Article 29</u>

DOCUMENTS CARRIED IN AIRCRAFT

Every aircraft of a contracting State, engaged in international navigation, shall carry the following documents in conformity with the conditions prescribed in this Convention:

a. Its certificate of registration;

b. Its certificate of airworthiness;

c. The appropriate licenses for each member of the crew;

d. Its journey log book;

e. If it is equipped with radio apparatus, the aircraft radio station license;

f. If it carries passengers, a list of their names and places of embarkation and destination;

g. If it carries cargo, a manifest and detailed declarations of the cargo.

Article 30

AIRCRAFT RADIO EQUIPMENT

a. Aircraft of each contracting State may, in or over the territory of other contracting States, carry radio transmitting apparatus only if a license to install and operate such apparatus has been issued by the appropriate authorities of the State in which the aircraft is registered. The use of radio transmitting apparatus in the territory of the contracting State whose territory is flown over shall be in accordance with the regulations prescribed by that State.

b. Radio transmitting apparatus may be used only by members of the flight crew who are provided with a special license for the purpose, issued by the appropriate authorities of the State in which the aircraft is registered.

Article 31

CERTIFICATES OF AIRWORTHINESS

Every aircraft engaged in international navigation shall be provided with a certificate of airworthiness issued or rendered valid by the State in which it is registered.

Article 32

LICENSES OF PERSONNEL

a. The pilot of every aircraft and the other members of the operating crew of every aircraft engaged in international navigation shall be provided with certificates of competency and licenses issued or rendered valid by the State in which the aircraft is registered.

b. Each contracting State reserves the right to refuse to recognize, for the purpose of flight above its own territory, certificates of competency and licenses granted to any of its nationals by another contracting State.

Article 33

RECOGNITION OF CERTIFICATES AND LICENSES

Certificates of airworthiness and certificates of competency and licenses issued or rendered valid by the contracting State in which the aircraft is registered, shall be recognized as valid by the other contracting States, provided that the requirements under which such certificates or licenses were issued or rendered valid are equal to or above the minimum standards which may be established from time to time pursuant to this Convention.

Article 34

JOURNEY LOG BOOKS

There shall be maintained in respect of every aircraft engaged in international navigation a journey log book in which shall be entered particulars of the aircraft, its crew and of each journey, in such form as may be prescribed from time to time pursuant to this Convention.

Article 35

CARGO RESTRICTIONS

a. No munitions of war or implements of war may be carried in or above the territory of a State in aircraft engaged in international navigation, except by permission of such State. Each State shall determine by regulations what constitutes munitions of war or implements of war for the purposes of this Article, giving due consideration, for the purposes of uniformity, to such recommendations as the International Civil Aviation Organization may from time to time make.

b. Each contracting State reserves the right, for reasons of public order and safety, to regulate or prohibit the carriage in or above its territory of articles other than those enumerated in paragraph (a): provided that no distinction is made in this respect between its national aircraft engaged in international navigation and the aircraft of the other States so engaged; and provided further that no restriction shall be imposed which may interfere with the carriage and use on aircraft of apparatus necessary for the operation or navigation of the aircraft or the safety of the personnel or passengers.

Article 36

PHOTOGRAPHIC APPARATUS

Each contracting State may prohibit or regulate the use of photographic apparatus in aircraft over its territory.

CHAPTER VI

INTERNATIONAL STANDARDS AND RECOMMENDED PRACTICES

Article 37

ADOPTION OF INTERNATIONAL STANDARDS AND PROCEDURES

Each contracting State undertakes to collaborate in securing the highest practicable degree of uniformity in regulations, standards, procedures, and organization in relation to aircraft, personnel, airways and auxiliary services in all matters in which such uniformity will facilitate and improve air navigation.

To this end the International Civil Aviation Organization shall adopt and amend from time to time, as may be necessary, international standards and recommended practices and procedures dealing with:

a. Communications systems and air navigation aids, including ground marking;

b. Characteristics of airports and landing areas;

c. Rules of the air and air traffic control practices;

d. Licensing of operating and mechanical personnel;

e. Airworthiness of aircraft;

f. Registration and identification of aircraft;

g. Collection and exchange of meteorological information;

h. Log books;

i. Aeronautical maps and charts;

j. Customs and immigration procedures;

k. Aircraft in distress and investigation of accidents;

and such other matters concerned with the safety, regularity, and efficiency of air navigation as may from time to time appear appropriate.

Article 38

DEPARTURES FROM INTERNATIONAL STANDARDS AND PROCEDURES

Any State which finds it impracticable to comply in all respects with any such international standard or procedure, or to bring its own regulations or practices into full accord with any international standard or procedure after amendment of the latter, or which deems it necessary to adopt regulations or practices differing in any particular respect from those established by an international standard, shall give immediate notification to the International Civil Aviation Organization of the differences between its own practice and that established by the international standard. In the case of amendments to international standards, any State which does not make the appropriate amendments to its own regulations or practices shall give notice to the Council within sixty days of the adoption of the amendment to the international standard, or indicate the action which it proposes to take. In any such case, the Council shall make immediate notification to all other states of the difference which exists between one or more features of an international standard and the corresponding national practice of that State.

Article 39

ENDORSEMENT OF CERTIFICATES AND LICENSES

a. Any aircraft or part thereof with respect to which there exists an international standard of airworthiness or performance, and which failed in any respect to satisfy that standard at the time of its certification, shall have endorsed on or attached to its airworthiness certificate a complete enumeration of the details in respect of which it so failed.

b. Any person holding a license who does not satisfy in full the conditions laid down in the international standard relating to the class of license or certificate which he holds shall have endorsed on or attached to his license a complete enumeration of the particulars in which he does not satisfy such conditions.

Article 40

VALIDITY OF ENDORSED CERTIFICATES AND LICENSES

No aircraft or personnel having certificates or licenses so endorsed shall participate in international navigation, except with the permission of the State or States whose territory is entered. The registration or use of any such aircraft, or of any certificated aircraft part, in any State other than that in which it was originally certificated shall be at the discretion of the State into which the aircraft or part is imported.

Article 41

RECOGNITION OF EXISTING STANDARDS OF AIRWORTHINESS

The provisions of this Chapter shall not apply to aircraft and aircraft equipment of types of which the prototype is submitted to the appropriate national authorities for certification prior to a date three years after the date of adoption of an international standard of airworthiness for such equipment.

Article 42

RECOGNITION OF EXISTING STANDARDS OF COMPETENCY OF PERSONNEL

The provisions of this Chapter shall not apply to personnel whose licenses are originally issued prior to a date one year after initial adoption of an international standard of qualification for such personnel; but they shall in any case apply to all personnel whose licenses remain valid five years after the date of adoption of such standard.

PART II

THE INTERNATIONAL CIVIL AVIATION ORGANIZATION

CHAPTER VII

THE ORGANIZATION

Article 43

NAME AND COMPOSITION

An organization to be named the international Civil Aviation Organization is formed by the Convention. it is made up of an Assembly, a Council, and such other bodies as may be necessary.

Article 44

OBJECTIVES

The aims and objectives of the Organization are to develop the principles and techniques of international air navigation and to foster the planning and development of international air transport so as to:

a. Insure the safe and orderly growth of international civil aviation throughout the world;

 b. Encourage the arts of aircraft design and operation for peaceful purposes;

c. Encourage the development of airways, airports, and air navigation facilities for international civil aviation;

d. Meet the needs of the peoples of the world for safe, regular, efficient and economical air transport;

e. Prevent economic waste caused by unreasonable competition;

f. Insure that the rights of contracting States are fully respected and that every contracting State has a fair opportunity to operate international airlines;

g. Avoid discrimination between contracting States;

h. Promote safety of flight in international air navigation;

i. Promote generally the development of all aspects of international civil aeronautics.

Article 45

PERMANENT SEAT

The permanent seat of the Organization shall be at such place ae shall be determined at the final meeting of the Interim Assembly of the Provisional International Civil Aviation Organization set up by the Interim Agreement on International Civil Aviation signed at Chicago on December 7, 1944.

The seat may be temporarily transferred elsewhere by decision of the Council.

Article 46

FIRST MEETING OF ASSEMBLY

The first meeting of the Assembly shall be summoned by the Interim Council of the above-mentioned Provisional Organization as soon as the Convention has come into force, to meet at a time and place to be decided by the Interim Council.

Article 47

LEGAL CAPACITY

The Organization shall enjoy in the territory of each contracting State such legal capacity as may be necessary for the performance of its functions. Full juridical personality shall be granted wherever compatible with the constitution and laws of the State concerned.

CHAPTER VIII

THE ASSEMBLY

Article 48

MEETINGS OF ASSEMBLY AND VOTING

a. The Assembly shall meet annually and shall be convened by the Council at a suitable time and place. Extraordinary meetings of the Assembly may be held at any time upon the call of the Council or at the request of any ten contracting States addressed to the Secretary General.

b. All contracting States shall have an equal right to be represented at the meetings of the Assembly and each contracting State shall be entitled to one vote. Delegates representing contracting States may be assisted by technical advisers who may participate in the meetings but shall have no vote.

c. A majority of the contracting States is required to constitute a quorum for the meetings of the Assembly. Unless otherwise provided in this Convention, decisions of the Assembly shall be taken by a majority of the votes cast.

Article 49

POWERS AND DUTIES OF ASSEMBLY

The powers and duties of the Assembly shall be to:

a. Elect at each meeting its President and other officers;

b. Elect the contracting States to be represented on the Council, in accordance with the provisions of Chapter IX;

c. Examine and take appropriate action on the reports of the Council and decide on any matter referred to it by the Council;

d. Determine its own rules of procedure and establish such subsidiary commissions as it may consider to be necessary or desirable;

e. Vote an annual budget and determine the financial arrangements of the Organization, in accordance with the provisions of Chapter XII;

f. Review expenditures and approve the accounts of the Organization;

g. Refer, at its discretion, to the Council, to subsidiary commissions, or to any other body any matter within its sphere of action;

h. Delegate to the Council the powers and authority necessary or desirable for the discharge of the duties of the Organization and revoke or modify the delegations of authority at any time;

i. Carry out the appropriate provisions of Chapter XIII;

j. Consider proposals for the modification or amendment of the provisions of this Convention and, if it approves of the proposals, recommend them to the contracting States in accordance with the provisions of Chapter XXI;

k. Deal with any matter within the sphere of action of the Organization not specifically assigned to the Council.

CHAPTER IX

THE COUNCIL

Article 50

COMPOSITION AND ELECTION OF COUNCIL

a. The Council shall be a permanent body responsible to the Assembly. It shall be composed of twenty-one contracting States elected by the Assembly. An election shall be held at the first meeting of the Assembly and thereafter every three years, and the members of the Council so elected shall hold office until the next following election.

b. In electing the members of tile Council, the Assembly shall give adequate representation to (1) the States of chief importance in air transport: (2) the States not otherwise included which make the largest contribution to the provision of facilities for international civil air navigation; and (3) the States not otherwise included whose designation will insure that all the major geographic areas of the world are represented on tile Council. Any vacancy on the Council shall be filled by the Assembly as soon as possible; any contracting State so elected to the Council shall hold office for the unexpired portion of its predecessor's term of office.

c. No representative of a contracting State on the Council shall be actively associated with the operation of an international air service or financially interested in such a service.

Article 51

PRESIDENT OF COUNCIL

The Council shall elect its President for a term of three years. He may be reelected. He shall have no vote. The Council shall elect from among its members one or more Vice Presidents who shall retain their right to vote when serving as acting President. The President need not be selected from among the representatives of the members of the Council but, if a representative is elected, his seat shall be deemed vacant and it shall be filled by the State which he represented. The duties of the President shall be to:

a. Convene meetings of the Council, the Air Transport Committee, and the Air Navigation Commission;

b. Serve as representative of the Council; and

c. Carry out on behalf of the Council the functions which the Council assigns to him.

Article 52

VOTING IN COUNCIL

Decisions by the Council shall require approval by a majority of its members. The Council may delegate authority with respect to any particular matter to a committee of its members. Decisions of any committee of the Council may be appealed to the Council by any interested contracting State.

Article 53

PARTICIPATION WITHOUT A VOTE

Any contracting State may participate, without a vote, in the consideration by the Council and by its committees and commissions of any question which especially affects its interests. No member of the Council shall vote in the consideration by the Council of a dispute to which it is a party.

Article 54

MANDATORY FUNCTIONS OF COUNCIL The Council shall:

a. Submit annual reports to the Assembly;

b. Carry out the directions of the Assembly and discharge the duties and obligations which are laid on it by this Convention;

c. Determine its organization and rules of procedure;

d. Appoint and define the duties of an Air Transport Committee, which shall be chosen from among the representatives of the members of the Council, and which shall be responsible to it;

e. Establish an Air Navigation Commission, in accordance with the provisions of Chapter X;

f. Administer the finances of the Organization in accordance with the provisions of Chapters XII and XV;

g. Determine the emoluments of the President of the Council;

h. Appoint a chief executive officer who shall be called the Secretary General, and make provision for the appointment of such other personnel as may be necessary, in accordance with the provisions of Chapter XI;

i. Request, collect, examine and publish information relating to the advancement of air navigation and the operation of international air services, including information about the costs of operation and particulars of subsidies paid to airlines from public funds;

j. Report to contracting States any infraction of this Convention, as well as any failure to carry out recommendations or determinations of the Council;

k. Report to the Assembly any infraction of this Convention where a contracting State has failed to take appropriate action within a reasonable time after notice of the infraction;

I. Adopt, in accordance with the provisions of Chapter VI of this Convention, international standards and recommended practices; for convenience, designate them as Annexes to this Convention; and notify all contracting States of the action taken;

m. Consider recommendations of the Air Navigation Commission for amendment of the Annexes and take action in accordance with the provisions of Chapter XX;

n. Consider any matter relating to the Convention which any contracting State refers to it.

Article 55

PERMISSIVE FUNCTIONS OF COUNCIL The Council may:

a. Where appropriate and as experience may show to be desirable, create subordinate air transport commissions on a regional or other basis and define groups of states or airlines with or through which it may deal to facilitate the carrying out of the aims of this Convention;

b. Delegate to the Air Navigation Commission duties additional to those set forth in the Convention and revoke or modify such delegations of authority at any time;

c. Conduct research into all aspects of air transport and air navigation which are of international importance, communicate the results of its research to the contracting States, and facilitate the exchange of information between contracting States on air transport and air navigation matters;

d. Study any matters affecting the organization and operation of international air transport, including the international ownership and operation of international air services on trunk routes, and submit to the Assembly plans in relation thereto;

e. Investigate, at the request of any contracting State, any situation which may appear to present avoidable obstacles to the development of international air navigation; and, after such investigation, issue such reports as may appear to it desirable.

CHAPTER X

THE AIR NAVIGATION COMMISSION

Article 56

NOMINATION AND APPOINTMENT OF COMMISSION

The Air Navigation Commission shall be composed of twelve members appointed by the Council from among Commission persons nominated by contracting States. These persons shall have suitable qualifications and experience in the science and practice of aeronautics. The Council shall request all contracting States to submit nominations. The President of the Air Navigation Commission shall be appointed by the Council.

Article 57

DUTIES OF COMMISSION

The Air Navigation Commission shall:

a. Consider, and recommend to the Council for adoption, modifications of the Annexes to this Convention;

b. Establish technical subcommissions on which any contracting State may be represented, if it so desires;

c. Advise the Council concerning the collection and communication to the contracting States of all information which it considers necessary and useful for the advancement of air navigation.

CHAPTER XI

PERSONNEL

Article 58

APPOINTMENT OF PERSONNEL

Subject to any rules laid down by the Assembly and to the provisions of this Convention, the Council shall determine the method of appointment and of termination of appointment, the training, and the salaries, allowances, and conditions of service of the Secretary General and other personnel of the Organization, and may employ or make use of the services of nationals of any contracting State.

Article 59

INTERNATIONAL CHARACTER OF PERSONNEL

The President of the Council, the Secretary General, and other personnel shall not seek or receive instructions in regard to the discharge of their responsibilities from any authority external to the Organization. Each contracting State undertakes fully to respect the international character of the responsibilities of the personnel and not to seek to influence any of its nationals in the discharge of their responsibilities.

Article 60

IMMUNITIES AND PRIVILEGES OF PERSONNEL

Each contracting State undertakes, so far as possible under its constitutional procedure, to accord to the President of the Council, the Secretary General, and the other personnel of the Organization, the immunities and privileges which are accorded to corresponding personnel of other public international organizations. If a general international agreement on the immunities and privileges of international civil servants is arrived at, the immunities and privileges accorded to the President, the Secretary General, and the other personnel of the Organization shall be the immunities and privileges accorded under that general international agreement.

CHAPTER XII

FINANCE

Article 61

BUDGET AND APPORTIONMENT OF EXPENSES

The Council shall submit to the Assembly an annual budget, annual statements of accounts and estimates of all receipts and expenditures. The Assembly shall vote the budget with whatever modification it sees fit to prescribe, and, with the exception of assessments under Chapter XV to States consenting thereto, shall apportion the expenses of the Organization among the contracting States on the basis which it shall from time to time determine.

Article 62

SUSPENSION OF VOTING POWER

The Assembly may suspend the voting power in the Assembly and in the Council of any contracting State that fails to discharge within a reasonable period its financial obligations to the Organization.

Article 63

EXPENSES OF DELEGATIONS AND OTHER REPRESENTATIVES

Each contracting State shall bear the expenses of its own delegation to the Assembly and the remuneration, travel, and other expenses of any person whom it appoints to serve on the Council, and of its nominees or representatives on any subsidiary committees or commissions of the Organization.

CHAPTER XIII

OTHER INTERNATIONAL ARRANGEMENTS

Article 64

SECURITY ARRANGEMENTS

The Organization may, with respect to air matters within its competence directly affecting world security, by vote of the Assembly enter into appropriate arrangements with any general organization set up by the nations of the world to preserve peace.

Article 65

ARRANGEMENTS WITH OTHER INTERNATIONAL BODIES

The Council, on behalf of the Organization, may enter into agreements with other international bodies for the maintenance of common services and for common arrangements concerning personnel and, with the approval of the Assembly, may enter into such other arrangements as may facilitate the work of the Organization.

Article 66

FUNCTIONS RELATING TO OTHER AGREEMENTS

a. The Organization shall also carry out the functions placed upon it by the International Air Services Transit Agreement and by the International Air Transport Agreement drawn up at Chicago on December 7, 1944, in accordance with the terms and conditions therein set forth.

b. Members of the Assembly and the Council who have not accepted the International Air Services Transit Agreement of the International Air Transport Agreement drawn up at Chicago on December 7, 1944 shall not have the right to vote on any questions referred to the Assembly or Council under the provisions of the relevant Agreement.

PART III

INTERNATIONAL AIR TRANSPORT

CHAPTER XIV

INFORMATION AND REPORTS

<u>Article 67</u>

FILE REPORTS WITH COUNCIL

Each contracting State undertakes that its international airlines shall, in accordance with requirements laid down by the Council, file with the Council traffic reports, cost statistics and financial statements showing among other things all receipts and the sources thereof.

CHAPTER XV

AIRPORTS AND OTHER AIR NAVIGATION FACILITIES

Article 68

DESIGNATION OF ROUTES AND AIRPORTS

Each contracting State may, subject to the provisions of this Convention, designate the route to be followed within its territory by any international air service and the airports which any such service may use.

Article 69

IMPROVEMENT OF AIR NAVIGATION FACILITIES

If the Council is of the opinion that the airports or other air navigation facilities, including radio and meteorological services, of a contracting State are not reasonably adequate for the safe, regular, efficient, and economical operation of international air services, present or contemplated, the Council shall consult with the State directly concerned, and other States affected, with a view to finding means by which the situation may be remedied, and may make recommendations for that purpose. No contracting State shall be guilty of an infraction of this Convention if it fails to carry out these recommendations.

Article 70

FINANCING OF AIR NAVIGATION FACILITIES

A contracting State, in the circumstances arising under the provisions of Article 69, may conclude an arrangement with the Council for giving effect to such recommendations. The State may elect to bear all of the costs involved in any such arrangement. If the State does not so elect, the Council may agree, at the request of the State, to provide for all or a portion of the costs.

Article 71

PROVISION AND MAINTENANCE OF FACILITIES BY COUNCIL

If a contracting State so requests, the Council may agree to provide, man, maintain, and administer any or all of the airports and other air navigation facilities including radio and meteorological services, required in its territory for the safe, regular, efficient and economical operation of the international air services of the other contracting States, and may specify just and reasonable charges for the use of the facilities provided.

Article 72

ACQUISITION OR USE OF LAND

Where land is needed for facilities financed in whole or in part by the Council at the request of a contracting State, that State shall either provide the land itself, retaining title if it wishes, or facilitate the use of the land by the Council on just and reasonable terms and in accordance with the laws of the State concerned.

Article 73

EXPENDITURE AND ASSESSMENT OF FUNDS

Within the limit of the funds which may be made available to it by the Assembly under Chapter XII, the Council may make current expenditures for the purposes of this Chapter from the general funds of the organization. The Council shall assess the capital funds required for the purposes of this Chapter in previously agreed proportions over a reasonable period of time to the contracting States consenting thereto whose airlines use the facilities. The Council may also assess to States that consent any working funds that are required.

Article 74

TECHNICAL ASSISTANCE AND UTILIZATION OF REVENUES

When the Council, at the request of a contracting State, advances funds or provides airports or other facilities in whole or in part, the arrangement may provide, with the consent of that State, for technical assistance in the supervision and operation of the airports and other facilities, and for the payment, from the revenues derived from the operation of the airports and other facilities, and other facilities, of the operating expenses of the airports and the other facilities, and of interest and amortization charges.

Article 75

TAKING OVER OF FACILITIES FROM COUNCIL

A contracting State may at any time discharge any obligation into which it has entered under Article 70, and take over airports and other facilities which the Council has provided in its territory pursuant to the provisions of Articles 71 and 72, by paying to the Council an amount which in the opinion of the Council is reasonable in the circumstances. If the State considers that the amount fixed by the Council is unreasonable it may appeal to the Assembly against the decision of the Council and the Assembly may confirm or amend the decision of the Council.

Article 76

RETURN OF FUNDS

Funds obtained by the Council through reimbursement under Article 75 and from receipts of interest and amortization payments under Article 74 shall, in the case of advances originally financed by States under Article 73, be returned to the States which were originally assessed in the proportion of their assessments, as determined by the Council.

CHAPTER XVI

JOINT OPERATING ORGANIZATIONS AND POOLED SERVICES

Article 77

JOINT OPERATING ORGANIZATIONS PERMITTED

Nothing in this Convention shall prevent two or more contracting States from constituting joint air transport operating organizations or international operating agencies and from pooling their air services on any routes or in any regions, but such organizations or agencies and such pooled services shall be subject to all the provisions of this Convention, including those relating to the registration of agreements with the Council. The Council shall determine in what manner the provisions of this Convention relating to nationality of aircraft shall apply to aircraft operated by international operating agencies.

Article 78

FUNCTION OF COUNCIL

The Council may suggest to contracting States concerned that they form joint organizations to operate air services on any routes or in any regions. Article 79

PARTICIPATION IN OPERATING ORGANIZATIONS

A State may participate in joint operating organizations or in pooling arrangements, either through its government or through an airline company or companies designated by its government. The companies may, at the sole discretion of the State concerned, be state-owned or partly state-owned or privately owned.

PART IV

FINAL PROVISIONS

CHAPTER XVII

OTHER AERONAUTICAL AGREEMENTS AND ARRANGEMENTS

Article 80

PARIS AND HABANA CONVENTIONS

Each contracting State undertakes, immediately upon the coming into force of this Convention, to give notice of denunciation of the Convention relating to the Regulation of Aerial Navigation signed at Paris on October 13, 1919 or the Convention on Commercial Aviation signed at Habana on February 20, 1928, if it is a party to either. As between contracting States, this Convention supersedes the Conventions of Paris and Habana previously referred to.

Article 81

REGISTRATION OF EXISTING AGREEMENTS

All aeronautical agreements which are in existence on the coming into force of this Convention, and which are between a contracting State and any other State or between an airline of a contracting State and any other State or the airline of any other State, shall be forthwith registered with the Council.

Article 82

ABROGATION OF INCONSISTENT ARRANGEMENTS

The contracting States accept this Convention as abrogating all obligations and understandings between them which are inconsistent with its terms, and undertake not to enter into any such obliga-

tions and understandings. A contracting State which, before becoming a member of the Organization has undertaken any obligations toward a non-contracting State or a national of a contracting State or of a non-contracting State inconsistent with the terms of this Convention, shall take immediate steps to procure its release from the obligations. If an airline of any contracting State has entered into any such inconsistent obligations, the State of which it is a national shall use its best efforts to secure their termination forth with and shall in any event cause them to be terminated as soon as such action can lawfully be taken after the coming into force of this Convention.

Article 83

REGISTRATION OF NEW ARRANGEMENTS

Subject to the provisions of the preceding Article, any contracting State may make arrangements not inconsistent with the provisions of this Convention. Any such arrangement shall be forthwith registered with the Council, which shall make it public as soon as possible.

CHAPTER XVIII – DISPUTES AND DEFAULT

Article 84

SETTLEMENT OF DISPUTES

If any disagreement between two or more contracting States relating to the interpretation or application of this Convention and its Annexes cannot be settled by negotiation, it shall, on the application of any State concerned in the disagreement, be decided by the Council. No member of the Council shall vote in the consideration by the Council of any dispute to which it is a party. Any contracting State may, subject to Article 85, appeal from the decision of the Council to an ad hoc arbitral tribunal agreed upon with the other parties to the dispute or to the Permanent Court of International Justice. Any such appeal shall be notified to the Council within sixty days of receipt of notification of the decision of the Council.

Article 85

ARBITRATION PROCEDURE

If any contracting State party to a dispute in which the decision of the Council is under appeal has not accepted the Statute of the Permanent Court of International Justice and the contracting States parties to the dispute cannot agree on the

choice of the arbitral tribunal, each of the contracting States parties to the dispute shall name a single arbitrator who shall name an umpire. If either contracting State party to the dispute fails to name an arbitrator within a period of three months from the date of the appeal, an arbitrator shall be named on behalf of that State by the President of the Council from a list of qualified and available persons maintained by the Council. If, within thirty days, the arbitrators cannot agree on an umpire, the President of the Council shall designate an umpire from the list previously referred to. The arbitrators and the umpire shall then jointly constitute an arbitral tribunal. Any arbitral tribunal established under this or the preceding Article shall settle its own procedure and give its decisions by majority vote, provided that the Council may determine procedural questions in the event of any delay which in the opinion of the Council is excessive.

Article 86

APPEALS

Unless the Council decides otherwise any decision by the Council on whether an international airline is operating in conformity with the provisions of this Convention shall remain in effect unless reversed on appeal. On any other matter, decisions of the Council shall, if appealed from, be suspended until the appeal is decided. The decisions of the Permanent Court of International Justice and of an arbitral tribunal shall be final and binding.

Article 87

PENALTY FOR NON-CONFORMITY OF AIRLINE

Each contracting State undertakes not to allow the operation of an airline of a contracting State through the airspace above its territory if the Council has decided that the airline concerned is not conforming to a final decision rendered in accordance with the previous Article.

Article 88

PENALTY FOR NON-CONFORMITY BY STATE

Tile Assembly shall suspend the voting power in the Assembly and in the Council of any contracting State that is found in default under the provisions of this Chapter.

CHAPTER XIX

WAR

<u>Article 89</u>

WAR AND EMERGENCY CONDITIONS

In case of war, the provisions of this Convention shall not affect the freedom of action of any of the contracting States affected, whether as belligerents or as neutrals. The same principle shall apply in the case of any contracting State which declares a state of national emergency and notifies the fact to the Council.

CHAPTER XX

ANNEXES

Article 90

ADOPTION AND AMENDMENT OF ANNEXES

a. The adoption by the Council of the Annexes described in Article 54, subparagraph (1), shall require the vote of twothirds of the Council at a meeting called for that purpose and shall then be submitted by the Council to each contracting State. Any such Annex or any amendment of an Annex shall become effective within three months after its submission to the contracting States or at the end of such longer period of time as the Council may prescribe, unless in the meantime a majority of the contracting States register their disapproval with the Council.

b. The Council shall immediately notify all contracting States of the Coming into force of any Annex or amendment thereto.

CHAPTER XXI

RATIFICATIONS, ADHERENCES, AMENDMENTS, AND DENUNCIATIONS

Article 91

RATIFICATION OF CONVENTION

a. This Convention shall be subject to ratification by the signatory States. The instruments of ratification shall be deposited in the archives of the Government of the United States of America, which shall give notice of the date of the deposit to each of the signatory and adhering States. b. As soon as this Convention has been ratified or adhered to by twenty-six States it shall come into force between them on the thirtieth day after deposit of the twenty-sixth instrument. It shall come into force for each State ratifying thereafter on the thirtieth day after the deposit of its instrument of ratification.

c. It shall be the duty of the Government of the United States of America to notify the government of each of the signatory and adhering States of the date on which this Convention comes into force.

Article 92

ADHERENCE TO CONVENTION

a. This Convention shall be open for adherence by members of the United Nations and States associated with them, and States which remained neutral during the present world conflict.

b. Adherence shall be effected by a notification addressed to the Government of the United States of America and shall take effect as from the thirtieth day from the receipt of the notification by the Government of the United States of America, which shall notify all the contracting States.

Article 93

ADMISSION OF OTHER STATES

States other than those provided for in Articles 91 and 92 (a) may, subject to approval by any general international organization set up by the nations of the world to preserve peace, be admitted to participation in this Convention by means of a four-fifths vote of the Assembly and on such conditions as the Assembly may prescribe: provided that in each case the assent of any State invaded or attacked during the present war by the State seeking admission shall be necessary.

Article 94

AMENDMENT OF CONVENTION

a. Any proposed amendment to this Convention must be approved by a twothirds vote of the Assembly and shall then come into force in respect of States which have ratified such amendment when ratified by the number of contracting States specified by the Assembly. The number so specified shall not be less than two-thirds of the total number of contracting States.

b. If in its opinion the amendment is of such a nature as to justify this course, the

Assembly in its resolution recommending adoption may provide that any State which has not ratified within a specified period after the amendment has come into force shall thereupon cease to be a member of the Organization and a party to the Convention.

Article 95

DENUNCIATION OF CONVENTION

a. Any contracting State may give notice of denunciation of this Convention three years after its coming into effect by notification addressed to the Government of the United States of America, which shall at once inform each of the contracting States.

b. Denunciation shall take effect one year from the date of the receipt of the notification and shall operate only as regards the State effecting the denunciation.

CHAPTER XXII

DEFINITIONS

Article 96

For the purpose of this Convention the expression:

a. "Air service" means any scheduled air service performed by aircraft for the public transport of passengers, mail or cargo.

b. "International air service" means an air service which passes through the air space over the territory of more than one State.

c. "Airline" means any air transport enterprise offering or operating an international air service.

d. "Stop for non-traffic purposes" means a landing for any purpose other than taking on or discharging passengers, cargo or mail.

SIGNATURE OF THE CONVENTION

In witness whereof, the undersigned plenipotentiaries, having been duly authorized, sign this Convention on behalf of their respective governments on the dates appearing opposite their signatures.

Done at Chicago the seventh day of December 1944 in the English language. The texts of this Convention drawn up in the English, French, Russian and Spanish languages are of equal authenticity. These texts shall be deposited in the archives of the Government of the United States of America, and certified copies shall be transmitted by that Government to the Governments of all the States which may sign or adhere to this Convention. This Convention shall be open for signature at Washington, D.C.

DECREE No. 6,055 OF MARCH 6, 2007

Provides for the creation of the Permanent Delegation of Brazil to the International Civil Aviation Organization (ICAO), and sets forth other provisions.

THE PRESIDENT OF THE REPUBLIC, using the powers conferred on him/her by art. 84, item IV, of the Constitution, and in view of the provisions in art. 43 of Decree no. 5979, of December 6, 2006,

DECREES:

<u>Art. 1</u>

The Permanent Delegation of Brazil to the International Civil Aviation Organization (ICAO) is created.

Sole paragraph. The Permanent Delegation of Brazil provided for in the caput will be headquartered in Montreal, Canada.

<u>Art. 2</u>

The issues related to the Convention on Biological Diversity (CBD) and the Multilateral Fund for the Implementation of the Montreal Protocol are assigned to the Permanent Delegation of Brazil provided for in art. 1.

<u>Art. 3</u>

This Decree takes effect on the date of its publication.

Brasília, March 6, 2007; 186th of the Independence and 119th of the Republic.

LUIZ INÁCIO LULA DA SILVA

CELSO LUIZ NUNES AMORIM

DECREE No. 2,735 OF AUGUST 13, 1998

Promulgates the Protocol relating to an amendment to the Convention on International Civil Aviation (Article 83 bis), signed at Montreal on October 6, 1980.

THE PRESIDENT OF THE REPUBLIC, using the powers conferred on him/her by art. 84, item VIII, of the Constitution,

WHEREAS the Protocol relating to an Amendment to the International Civil Aviation Convention (Article 83 bis) was signed in Montreal on October 6, 1980;

WHEREAS the above multilateral act was timely approved by means of Legislative Decree No. 29, of September 18, 1990;

WHEREAS the Protocol entered into force internationally on June 20, 1997;

WHEREAS the Brazilian Government deposited the Instrument of Ratification of the Protocol relating to an Amendment to the Convention on International Civil Aviation (Article 83 bis), on October 30, 1990, and the same came into force for Brazil on June 20, 1997, the date of its international entry into force;

DECREES:

<u>Art. 1</u>

The Protocol relating to an Amendment to the Convention on International Civil Aviation (Article 83 bis), signed in Montreal, on October 6, 1980, attached by copy to the present Decree, shall be complied with as entirely as contained therein.

<u>Art. 2</u>

This Decree takes effect on the date of its publication.

Brasília, August 13th, 1998; 177th of the Independence and 110th of the Republic.

FERNANDO HENRIQUE CARDOSO

LUIZ FELIPE LAMPREIA

PROTOCOL RELATING TO AN AMENDMENT TO THE CONVENTION ON INTERNATIONAL CIVIL AVIATION

SIGNED AT MONTREAL ON 6 OCTOBER 1980

The Assembly Of The International Civil Aviation Organization

Having met in its Twenty-third Session at Montreal on 6 October 1980,

Having noted Resolutions A21-22 and A22-28 on lease, charter and interchange of aircraft in international operations,

Having noted the draft amendment to the Convention on International Civil Aviation prepared by the 23rd Session of the Legal Committee,

Having noted that it is the general desire of Contracting States to make a provision for the transfer of certain functions and duties from the State of registry to the State of the operator of the aircraft in the case of lease, charter or interchange or any similar arrangements with respect to such aircraft,

Having considered it necessary to amend, for the purpose aforesaid, the Convention on International Civil Aviation done at Chicago on the seventh day of December 1944,

1. Approves, in accordance with the provisions of Article 94(a) of the Convention aforesaid, the following proposed amendment to the said Convention:

Insert after Article 83 the following new Article 83 bis:

"Article 83 bis

TRANSFER OF CERTAIN FUNCTIONS AND DUTIES

(a) Notwithstanding the provisions of Articles 12, 30, 31 and 32(a), when an aircraft registered in a contracting State is operated pursuant to an agreement for the lease, charter or interchange of the aircraft or any similar arrangement by an operator who has his principal place of business or, if he has no such place of business, his permanent residence in another contracting State, the State of registry may, by agreement with such other State, transfer to it all or part of its functions and duties as State of registry in respect of that aircraft under Articles 12, 30, 31, and 32(a). The State of registry shall be relieved of responsibility in respect of the functions and duties transferred.

(b) The transfer shall not have effect in respect of other contracting States before either the agreement between States in which it is embodied has been registered with the Council and made public pursuant to Article 83 or the existence and scope of the agreement have been directly communicated to the authorities of the other contracting State or States concerned by a State party to the agreement.

(c) The provisions of paragraphs (a) and (b) above shall also be applicable to cases covered by Article 77.",

2. SPECIFIES, pursuant to the provisions of the said Article 94(a) of the said Convention, ninety-eight as the number of Contracting States upon whose ratification the proposed amendment aforesaid shall come into force, and

3. RESOLVES that the Secretary General of the International Civil Aviation Organization draw up a Protocol, in the English, French, Russian and Spanish languages, each of which shall be of equal authenticity, embodying the proposed amendment above-mentioned and the matter hereinafter appearing:

(a) The Protocol shall be signed by the President of the Assembly and its Secretary General.

(b) The Protocol shall be open to ratification by any State which has ratified or adhered to the said Convention on International Civil Aviation.

(c) The instruments of ratification shall be deposited with the International Civil Aviation Organization.

(d) The Protocol shall come into force in respect of the States which have ratified it on the date on which the ninety-eighth instrument of ratification is so deposited.

(e) The Secretary General shall immediately notify all Contracting States of the date of deposit of each ratification of the Protocol.

(f) The Secretary General shall immediately notify all States parties to the said Convention of the date on which the Protocol comes into force.

(g) With respect to any Contracting State ratifying the Protocol after the date aforesaid, the Protocol shall come into force upon deposit of its instrument of ratification with the International Civil Aviation Organization.

CONSEQUENTLY, pursuant to the aforesaid action of the Assembly,

This Protocol has been drawn up by the Secretary General of the Organization.

IN WITNESS WHEREOF, the President and the Secretary General of the aforesaid Twenty-third Session of the Assembly of the International Civil Aviation Organization, being authorized thereto by the Assembly, sign this Protocol.

DONE at Montreal on the sixth day of October of the year one thousand nine hundred and eighty, in a single document in the English, French, Russian, and Spanish languages, each of which shall be of equal authenticity. This Protocol shall remain deposited in the archives of the International Civil Aviation Organization, and certified copies thereof shall be transmitted by the Secretary General of the Organization to all States parties to the Convention on International Civil Aviation done at Chicago on the seventh day of December, 1944.

R.S. NYAGA

President of the 23rd Session of the Assembly

YVES LAMBERT

Secretary General

NATIONAL CIVIL AVIATION AGENCY – RESOLUTION No. 105 OF JUNE 23, 2009

Deals with the procedures for implementing the Protocol of Amendment to the International Civil Aviation Convention signed on October 6, 1980 and enacted, in Brazil, by Decree No. 2,735, of August 13, 1998 – Article 83 bis.

THE BOARD OF DIRECTORS OF THE NA-TIONAL CIVIL AVIATION AGENCY – ANAC, in the exercise of the powers granted thereto in arts. 11, item V, of Law 11,182, of September 27, 2005, and 9, item IV, of the Internal Regulation approved by Resolution no. 71, of January 23, 2009, in accordance with the provisions in arts. 8, item IV, of the aforementioned Law, and 4, items II, IV, V and VI, of Decree No. 5,731, of March 20, 2006, and

WHEREAS the 26th Meeting of the International Civil Aviation Organization – ICAO, in view of the resolutions in A-21-22 and A-22-28 on lease, charter and exchange of aircraft in international operations and the bill for Amendment to the International Civil Aviation Convention (Chicago Convention) prepared by the 23rd Session of the Legal Committee, approved the Amendment to the Convention in order to insert therein Article 83 bis;

WHEREAS the adoption of Article 83 bis allows the State of Registry to transfer to the State of the Operator, in whole or in part, its duties and functions of certification and continuous surveillance, established in Articles 12, 30, 31 and 32 (a) of the International Civil Aviation Convention (Chicago Convention) with respect to an aircraft;

WHEREAS the Protocol of Amendment to the International Civil Aviation Convention, which provides for the transfer of certain duties and functions – Article 83 bis, was enacted by Decree No. 2,735, of August 13, 1998;

WHEREAS the provision in Article 83 bis does not imply automatic transfer of certain duties and functions from the State of Registry to the State of the Operator, requiring specific agreement between the Contracting States involved,

RESOLVES:

<u>Art. 1</u>

Duties and functions of State of Registry provided for in the Chicago Convention may be transferred, in whole or in part, to the State of the Operator by means of a specific agreement between the relevant Contracting States, which shall be restricted to the limits established by Article 83 bis and expressly provide:

I – which duties and functions of certification and continuous surveillance will be transferred, noting that the duty or function not specified in the Transfer Agreement remains under the entire responsibility of the State of Registry of the aircraft;

II – whether the duties and functions will be transferred in whole or in part, and, in case of partial transfer, the transfer limits must be expressly specified;

III – the commitment of the Contracting States involved in maintaining permanent contact with a view to improving the procedures relating to the transferred responsibilities and in holding meetings at regular intervals, with such periodicity as established in the Transfer Agreement, in order to discuss the problems found out in the inspections of operations and airworthiness, conducted by the respective inspectors;

IV – which aircraft and respective engines will be the subject matter of the transfer of responsibilities, as well as their model and type, their nationality and registration marks, their serial number and other identification features, as applicable;

V – the applicable rules and regulations, including safety requirements related to flight operations, continued airworthiness and maintenance of the aircraft and the licensing and qualification of crew members, with due regard to the specifications of the subject matter of the Transfer Agreement and observing the transfer limits; VI – the period and form of use of the aircraft (schedules, airports, routes, interchange point, etc.), with due regard to the validity of the Transfer Agreement;

VII – its duration, which must not exceed the term of any commercial agreement or arrangement involving the use of the aircraft and respective engines that are the subject matter of the Transfer Agreement, if applicable.

§1 For the Transfer Agreement to be signed, the regulatory requirements for the areas of operations, licensing and airworthiness of the Contracting States involved must be sufficiently equivalent.

§2 The operator shall keep on board the aircraft a certified copy of the Transfer Agreement, in order to allow the proper identification of the State responsible for the operational safety in connection with a verification process.

§3 If the commercial arrangement involving the use of the aircraft and respective engines, for any reason, is terminated on a date prior to the expiration date established in the Transfer Agreement, the Brazilian air company responsible for that aircraft should inform ANAC, in writing, of the effective termination date within 07 (seven) days after its occurrence.

<u>Art. 2</u>

The provisions of the Transfer Agreement must comply with the guidelines of the International Civil Aviation Organization – ICAO.

<u>Art. 3</u>

The airline responsible for the operation and the airline interested in operating an aircraft subject to a Transfer Agreement must be duly certified and authorized to conduct the same types of operations, with due regard to the limitations and procedures for each type of operation.

Sole paragraph. The Transfer Agreement does not replace the procedures for revising the Operating Specifications for the inclusion of a new aircraft, the Operations and Maintenance Manuals, the Training Program and other procedures, as applicable.

<u>Art. 4</u>

If the responsibility established in Article 31 of the Convention to issue or declare an Airworthiness Certificate to be valid for a Brazilian aircraft is transferred to another Contracting State, in accordance with Article 83 bis of the Convention, the Airworthiness Certificate for such aircraft must be suspended at the initial stage of the transfer.

Sole paragraph. The aircraft owner or operator must return the Airworthiness Certificate to ANAC, when notified by ANAC that an agreement pursuant to Article 83 bis of the Convention has been entered into, within 07 (seven) days after the date determined for the beginning of its effective term.

<u>Art. 5</u>

Requests for the transfer of certain duties and functions of certification and continuous surveillance established in Articles 30, 31 and 32 (a) of the International Civil Aviation Convention (Chicago Convention) with respect to an aircraft must be submitted to the ANAC Executive Board in its initial stage.

<u>Art. 6</u>

The Transfer Agreement will be entered into between the Civil Aviation Authorities of the Contracting States involved, subject to their legal attributions. Sole paragraph. The Transfer Agreement may be in the form of a Memorandum of Understanding.

<u>Art. 7</u>

The transfer must be notified to ICAO by the State of Registry within 30 (thirty) days from its execution.

<u>Art. 8</u>

This Resolution takes effect on the date of its publication.

SOLANGE PAIVA VIEIRA

Director-President

DECREE No. 5,910 OF SEPTEMBER 27, 2006

Promulgates the Convention for the Unification of Certain Rules Relating to International Carriage by Air, done at Montreal on May 28, 1999.

THE PRESIDENT OF THE REPUBLIC, using the powers conferred on him/her by art. 84, item IV, of the Constitution, and

Whereas the Convention for the Unification of Certain Rules Relating to International Carriage by Air was concluded in Montreal on May 28, 1999;

Whereas the National Congress approved this Convention through the Legislative Decree No. 59, of April 18, 2006;

Whereas the Agreement entered into force internationally on November 4, 2003, and for Brazil on July 18, 2006, pursuant to its Article 53;

DECREES:

<u>Art. 1</u>

The Convention for the Unification of Certain Rules Relating to International Carriage by Air, concluded in Montreal on May 28, 1999, annexed by copy to the present Decree, shall be executed and complied with as fully as contained therein.

<u>Art. 2</u>

Any acts that may result in a revision of the referred Convention, as well as any complementary adjustments that, under the terms of art. 49, item I of the Constitution, entail burdensome charges or commitments to the national patrimony, are subject to the approval of the National Congress.

<u>Art. 3</u>

This Decree takes effect on the date of its publication.

Brasília, September 27, 2006; 185th of the Independence and 118th of the Republic.

LUIZ INÁCIO LULA DA SILVA

CELSO LUIZ NUNES AMORIM

CONVENTION FOR THE UNIFICATION OF CERTAIN RULES FOR INTERNATIONAL CARRIAGE BY AIR

THE STATES PARTIES TO THIS CONVEN-TION,

RECOGNIZING the significant contribution of the Convention for the Unification of Certain Rules to International Carriage by Air signed in Warsaw on 12 October 1929, hereinafter referred to as the "Warsaw Convention", and other related instruments to the harmonization of private international air law;

RECOGNIZING the need to modernize and consolidate the Warsaw Convention and related instruments;

RECOGNIZING the importance of ensuring protection of the interests of consumers in international carriage by air and the need for equitable compensation based on the principle of restitution;

REAFFIRMING the desirability of an orderly development of international air transport operations and the smooth flow of passengers, baggage and cargo in accordance with the principles and objectives of the Convention on International Civil Aviation, done at Chicago on 7 December 1944;

CONVINCED that collective State action for further harmonization and codification of certain rules governing international carriage by air through a new Convention is the most adequate means of achieving an equitable balance of interests,

HAVE AGREED AS FOLLOWS:

CHAPTER I

GENERAL PROVISIONS

Article 1

SCOPE OF APPLICATION

1. This Convention applies to all international carriage of persons, baggage or cargo performed by aircraft for reward. It applies equally to gratuitous carriage by aircraft performed by an air transport undertaking.

2. For the purposes of this Convention, the expression international carriage means any carriage in which, according to the agreement between the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transhipment, are situated either within the territories of two States Parties, or within the territory of a single State Party if there is an agreed stopping place within the territory of another State, even if that State is not a State Party. Carriage between two points within the territory of a single State Party without an agreed stopping place within the territory of another State is not international carriage for the purposes of this Convention.

3. Carriage to be performed by several successive carriers is deemed, for the purposes of this Convention, to be one undivided carriage if it has been regarded by the parties as a single operation, whether it has been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character merely because one contract or a series of contracts is to be performed entirely within the territory of the same State.

4. This Convention applies also to carriage as set out in Chapter V, subject to the terms contained therein.

Article 2

CARRIAGE PERFORMED BY STATE AND CARRIAGE OF POSTAL ITEMS

1. This Convention applies to carriage performed by the State or by legally constituted public bodies provided it falls within the conditions laid down in Article 1.

2. In the carriage of postal items, the carrier shall be liable only to the relevant postal administration in accordance with the rules applicable to the relationship between the carriers and the postal administrations.

3. Except as provided in paragraph 2 of this Article, the provisions of this Convention shall not apply to the carriage of postal items.

CHAPTER II

DOCUMENTATION AND DUTIES OF THE PARTIES RELATING TO THE CARRIAGE OF PASSENGERS, BAGGAGE AND CARGO

Article 3

PASSENGERS AND BAGGAGE

1. In respect of carriage of passengers, an individual or collective document of carriage shall be delivered containing:

(a) an indication of the places of departure and destination;

(b) if the places of departure and destination are within the territory of a single State Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place.

2. Any other means which preserves the information indicated in paragraph 1 may be substituted for the delivery of the document referred to in that paragraph. If any such other means is used, the carrier shall offer to deliver to the passenger a written statement of the information so preserved.

3. The carrier shall deliver to the passenger a baggage identification tag for each piece of checked baggage.

4. The passenger shall be given written notice to the effect that where this Convention is applicable it governs and may limit the liability of carriers in respect of death or injury and for destruction or loss of, or damage to, baggage, and for delay.

5. Non-compliance with the provisions of the foregoing paragraphs shall not affect the existence or the validity of the contract of carriage, which shall, nonetheless, be subject to the rules of this Convention including those relating to limitation of liability.

Article 4

CARGO

1. In respect of the carriage of cargo, an air waybill shall be delivered.

2. Any other means which preserves a record of the carriage to be performed may be substituted for the delivery of an air waybill. If such other means are used, the carrier shall, if so requested by the consignor, deliver to the consignor a cargo receipt permitting identification of the consignment and access to the information contained in the record preserved by such other means.

Article 5

CONTENTS OF AIR WAYBILL OR CARGO RECEIPT

The air waybill or the cargo receipt shall include:

(a) an indication of the places of departure and destination;

(b) if the places of departure and destination are within the territory of a single State Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place; and

(c) an indication of the weight of the consignment.

Article 6

DOCUMENT RELATING TO THE NATURE OF THE CARGO

The consignor may be required, if necessary, to meet the formalities of customs, police and similar public authorities to deliver a document indicating the nature of the cargo. This provision creates for the carrier no duty, obligation or liability resulting therefrom.

Article 7

DESCRIPTION OF AIR WAYBILL

1. The air waybill shall be made out by the consignor in three original parts.

2. The first part shall be marked "for the carrier"; it shall be signed by the consignor. The second part shall be marked "for the consignee"; it shall be signed by the consignor and by the carrier. The third part shall be signed by the carrier who shall hand it to the consignor after the cargo has been accepted.

3. The signature of the carrier and that of the consignor may be printed or stamped.

4. If, at the request of the consignor, the carrier makes out the air waybill, the carrier shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

Article 8

DOCUMENTATION FOR MULTIPLE PACKAGES

When there is more than one package:

(a) the carrier of cargo has the right to require the consignor to make out separate air waybills;

(b) the consignor has the right to require the carrier to deliver separate cargo receipts when the other means referred to in paragraph 2 of Article 4 are used.

Article 9

NON-COMPLIANCE WITH DOCUMENTARY REQUIREMENTS

Non-compliance with the provisions of Articles 4 to 8 shall not affect the existence or the validity of the contract of carriage, which shall, nonetheless, be subject to the rules of this Convention including those relating to limitation of liability.

Article 10

RESPONSIBILITY FOR PARTICULARS OF DOCUMENTATION

1. The consignor is responsible for the correctness of the particulars and statements relating to the cargo inserted by it or on its behalf in the air waybill or furnished by it or on its behalf to the carrier for insertion in the cargo receipt or for insertion in the record preserved by the other means referred to in paragraph 2 of Article 4. The foregoing shall also apply where the person acting on behalf of the consignor is also the agent of the carrier.

2. The consignor shall indemnify the carrier against all damage suffered by it, or by any other person to whom the carrier is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements furnished by the consignor or on its behalf.

3. Subject to the provisions of paragraphs 1 and 2 of this Article, the carrier shall indemnify the consignor against all damage suffered by it, or by any other person to whom the consignor is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements inserted by the carrier or on its behalf in the cargo receipt or in the record preserved by the other means referred to in paragraph 2 of Article 4.

Article 11

EVIDENTIARY VALUE OF DOCUMENTATION

1. The air waybill or the cargo receipt is prima facie evidence of the conclusion of the contract, of the acceptance of the cargo and of the conditions of carriage mentioned therein.

2. Any statements in the air waybill or the cargo receipt relating to the weight, dimensions and packing of the cargo, as well as those relating to the number of packages, are prima facie evidence of the facts stated; those relating to the quantity, volume and condition of the cargo do not constitute evidence against the carrier except so far as they both have been, and are stated in the air waybill or the cargo receipt to have been, checked by it in the presence of the consignor, or relate to the apparent condition of the cargo.

Article 12

RIGHT OF DISPOSITION OF CARGO

1. Subject to its liability to carry out all its obligations under the contract of carriage, the consignor has the right to dispose of the cargo by withdrawing it at the airport of departure or destination, or by stopping it in the course of the journey on any landing, or by calling for it to be delivered at the place of destination or in the course of the journey to a person other than the consignee originally designated, or by requiring it to be returned to the airport of departure. The consignor must not exercise this right of disposition in such a way as to prejudice the carrier or other consignors and must reimburse any expenses occasioned by the exercise of this right.

2. If it is impossible to carry out the instructions of the consignor, the carrier must so inform the consignor forthwith.

3. If the carrier carries out the instructions of the consignor for the disposition of the cargo without requiring the production of the part of the air waybill or the cargo receipt delivered to the latter, the carrier will be liable, without prejudice to its right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air waybill or the cargo receipt.

4. The right conferred on the consignor ceases at the moment when that of the consignee begins in accordance with Article 13. Nevertheless, if the consignee declines to accept the cargo, or cannot be communicated with, the consignor resumes its right of disposition.

Article 13

DELIVERY OF THE CARGO

1. Except when the consignor has exercised its right under Article 12, the consignee is entitled, on arrival of the cargo at the place of destination, to require the carrier to deliver the cargo to it, on payment of the charges due and on complying with the conditions of carriage.

2. Unless it is otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the cargo arrives.

3. If the carrier admits the loss of the cargo, or if the cargo has not arrived at the expiration of seven days after the date on which it ought to have arrived, the consignee is entitled to enforce against the carrier the rights which flow from the contract of carriage.

Article 14

ENFORCEMENT OF THE RIGHTS OF CONSIGNOR AND CONSIGNEE

The consignor and the consignee can respectively enforce all the rights given to them by Articles 12 and 13, each in its own name, whether it is acting in its own interest or in the interests of another, provided that it carries out the obligations imposed by the contract of carriage.

Article 15

RELATIONS OF CONSIGNOR AND CONSIGNEE OR MUTUAL RELATIONS OF THIRD PARTIES

1. Articles 12, 13 and 14 do not affect either the relations of the consignor and the consignee with each other or the mutual relations of third parties, whose rights are derived either from the consignor or from the consignee.

2. The provisions of Articles 12, 13 and 14 can only be varied by express provision in the air waybill or the cargo receipt.

Article 16

FORMALITIES OF CUSTOMS, POLICE OR OTHER PUBLIC AUTHORITIES

1. The consignor must furnish such information and such documents as are necessary to meet the formalities of customs, police and any other public authorities before the cargo can be delivered to the consignee. The consignor is liable to the carrier for any damage occasioned by the absence, insufficiency or irregularity of any such information or documents, unless the damage is due to the fault of the carrier, its servants or agents.

2. The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

CHAPTER III

LIABILITY OF THE CARRIER AND EXTENT OF COMPENSATION FOR DAMAGE

Article 17

DEATH AND INJURY OF PASSENGERS – DAMAGE TO BAGGAGE

1. The carrier is liable for damage sustained in case of death or bodily injury of a passenger upon condition only that the accident which caused the death or injury took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

2. The carrier is liable for damage sustained in case of destruction or loss of, or of damage to, checked baggage upon condition only that the event which caused the destruction, loss or damage took place on board the aircraft or during any period within which the checked baggage was in the charge of the carrier. However, the carrier is not liable if and to the extent that the damage resulted from the inherent defect, quality or vice of the baggage. In the case of unchecked baggage, including personal items, the carrier is liable if the damage resulted from its fault or that of its servants or agents.

3. If the carrier admits the loss of the checked baggage, or if the checked baggage has not arrived at the expiration of 21 days after the date on which it ought to have arrived, the passenger is entitled to enforce against the carrier the rights which flow from the contract of carriage.

4. Unless otherwise specified, in this Convention the term "baggage" means both checked baggage and unchecked baggage.

Article 18

DAMAGE TO CARGO

1. The carrier is liable for damage sustained in the event of the destruction or loss of, or damage to, cargo upon condition only that the event which caused the damage so sustained took place during the carriage by air.

2. However, the carrier is not liable if and to the extent it proves that the destruction, or loss of, or damage to, the cargo resulted from one or more of the following:

(a) inherent defect, quality or vice of that cargo;

(b) defective packing of that cargo performed by a person other than the carrier or its servants or agents;

(c) an act of war or an armed conflict;

(d) an act of public authority carried out in connection with the entry, exit or transit of the cargo.

3. The carriage by air within the meaning of paragraph 1 of this Article comprises the period during which the cargo is in the charge of the carrier.

4. The period of the carriage by air does not extend to any carriage by land, by sea or by inland waterway performed outside an airport. If, however, such carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or transhipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the carriage by air. If a carrier, without the consent of the consignor, substitutes carriage by another mode of transport for the whole or part of a carriage intended by the agreement between the parties to be carriage by air, such carriage by another mode of transport is deemed to be within the period of carriage by air.

Article 19

DELAY

The carrier is liable for damage occasioned by delay in the carriage by air of passengers, baggage or cargo. Nevertheless, the carrier shall not be liable for damage occasioned by delay if it proves that it and its servants and agents took all measures that could reasonably be required to avoid the damage or that it was impossible for it or them to take such measures.

Article 20

EXONERATION

If the carrier proves that the damage was caused or contributed to by the negligence or other wrongful act or omission of the person claiming compensation, or the person from whom he or she derives his or her rights, the carrier shall be wholly or partly exonerated from its liability to the claimant to the extent that such negligence or wrongful act or omission caused or contributed to the damage. When by reason of death or injury of a passenger compensation is claimed by a person other than the passenger, the carrier shall likewise be wholly or partly exonerated from its liability to the extent that it proves that the damage was caused or contributed to by the negligence or other wrongful act or omission of that passenger. This Article applies to all the liability provisions in this Convention, including paragraph 1 of Article 21.

Article 21

COMPENSATION IN CASE OF DEATH OR INJURY OF PASSENGERS

1. For damages arising under paragraph 1 of Article 17 not exceeding 100000 Special Drawing Rights for each passenger, the carrier shall not be able to exclude or limit its liability.

2. The carrier shall not be liable for damages arising under paragraph 1 of Article 17 to the extent that they exceed for each passenger 100000 Special Drawing Rights if the carrier proves that:

(a) such damage was not due to the negligence or other wrongful act or omission of the carrier or its servants or agents; or

(b) such damage was solely due to the negligence or other wrongful act or omission of a third party.

Article 22

LIMITS OF LIABILITY IN RELATION TO DELAY, BAGGAGE AND CARGO

1. In the case of damage caused by delay as specified in Article 19 in the carriage of persons, the liability of the carrier for each passenger is limited to 4150 Special Drawing Rights.

2. In the carriage of baggage, the liability of the carrier in the case of destruction, loss, damage or delay is limited to 1000 Special Drawing Rights for each passenger unless the passenger has made, at the time when the checked baggage was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless it proves that the sum is greater than the passenger's actual interest in delivery at destination.

3. In the carriage of cargo, the liability of the carrier in the case of destruction, loss, damage or delay is limited to a sum of 17 Special Drawing Rights per kilogram, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless it proves that the sum is greater than the consignor's actual interest in delivery at destination.

4. In the case of destruction, loss, damage or delay of part of the cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier's liability is limited shall be only the total weight of the package or packages concerned. Nevertheless, when the destruction, loss, damage or delay of a part of the cargo, or of an object contained therein, affects the value of other packages covered by the same air waybill, or the same receipt or, if they were not issued, by the same record preserved by the other means referred to in paragraph 2 of Article 4, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability.

5. The foregoing provisions of paragraphs 1 and 2 of this Article shall not apply if it is proved that the damage resulted from an act or omission of the carrier, its servants or agents, done with intent to cause damage or recklessly and with knowledge that damage would probably result; provided that, in the case of such act or omission of a servant or agent, it is also proved that such servant or agent was acting within the scope of its employment.

6. The limits prescribed in Article 21 and in this Article shall not prevent the court from awarding, in accordance with its own law, in addition, the whole or part of the court costs and of the other expenses of the litigation incurred by the plaintiff, including interest. The foregoing provision shall not apply if the amount of the damages awarded, excluding court costs and other expenses of the litigation, does not exceed the sum which the carrier has offered in writing to the plaintiff within a period of six months from the date of the occurrence causing the damage, or before the commencement of the action, if that is later.

Article 23

CONVERSION OF MONETARY UNITS

1. The sums mentioned in terms of Special Drawing Right in this Convention shall be deemed to refer to the Special Drawing Right as defined by the International Monetary Fund. Conversion of the sums into national currencies shall, in case of judicial proceedings, be made according to the value of such currencies in terms of the Special Drawing Right at the date of the judgement. The value of a national currency, in terms of the Special Drawing Right, of a State Party which is a Member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund, in effect at the date of the judgement, for its operations and transactions. The value of a national currency, in terms of the Special Drawing Right, of a State Party which is not a Member of the International Monetary Fund, shall be calculated in a manner determined by that State.

2. Nevertheless, those States which are not Members of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph 1 of this Article may, at the time of ratification or accession or at any time thereafter, declare that the limit of liability of the carrier prescribed in Article 21 is fixed at a sum of 1500000 monetary units per passenger in judicial proceedings in their territories; 62500 monetary units per passenger with respect to paragraph 1 of Article 22; 15000 monetary units per passenger with respect to paragraph 2 of Article 22; and 250 monetary units per kilogram with respect to paragraph 3 of Article 22. This monetary unit corresponds to 65,5 milligrams of gold of millesimal fineness nine hundred. These sums may be converted into the national currency concerned in round figures. The conversion of these sums into national currency shall be made according to the law of the State concerned.

3. The calculation mentioned in the last sentence of paragraph 1 of this Article and the conversion method mentioned in paragraph 2 of this Article shall be made in such manner as to express in the national currency of the State Party as far as possible the same real value for the amounts in Articles 21 and 22 as would result from the application of the first three sentences of paragraph 1 of this Article. State Parties shall communicate to the depositary the manner of calculation pursuant to paragraph 1 of this Article, or the result of the conversion in paragraph 2 of this Article as the case may be, when depositing an instrument of ratification, acceptance, approval of or accession to this Convention and whenever there is a change in either.

Article 24

REVIEW OF LIMITS

1. Without prejudice to the provisions of Article 25 of this Convention and subject to paragraph 2 below, the limits of liability prescribed in Articles 21, 22 and 23 shall be reviewed by the Depositary at fiveyear intervals, the first such review to take place at the end of the fifth year following the date of entry into force of this Convention, or if the Convention does not enter into force within five years of the date it is first open for signature, within the first year of its entry into force, by reference to an inflation factor which corresponds to the accumulated rate of inflation since the previous revision or in the first instance since the date of entry into force of the Convention. The measure of the rate of inflation to be used in determining the inflation factor shall be the weighted average of the annual rates of increase or decrease in the Consumer Price Indices of the States whose currencies comprise the Special Drawing Right mentioned in paragraph 1 of Article 23.

2. If the review referred to in the preceding paragraph concludes that the inflation factor has exceeded 10 per cent. the Depositary shall notify States Parties of a revision of the limits of liability. Any such revision shall become effective six months after its notification to the States Parties. If within three months after its notification to the States Parties a majority of the States Parties register their disapproval, the revision shall not become effective and the Depositary shall refer the matter to a meeting of the States Parties. The Depositary shall immediately notify all States Parties of the coming into force of any revision.

3. Notwithstanding paragraph 1 of this Article, the procedure referred to in paragraph 2 of this Article shall be applied at any time provided that one-third of the States Parties express a desire to that effect and upon condition that the inflation factor referred to in paragraph 1 has exceeded 30 per cent since the previous revision or since the date of entry into force of this Convention if there has been no previous revision. Subsequent reviews using the procedure described in paragraph 1 of this Article will take place at five-year intervals starting at the end of the fifth year following the date of the reviews under the present paragraph.

Article 25

STIPULATION ON LIMITS

A carrier may stipulate that the contract of carriage shall be subject to higher limits of liability than those provided for in this Convention or to no limits of liability whatsoever.

Article 26

INVALIDITY OF CONTRACTUAL PROVISIONS

Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in this Convention shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Convention.

Article 27

FREEDOM TO CONTRACT

Nothing contained in this Convention shall prevent the carrier from refusing to enter into any contract of carriage, from waiving any defences available under the Convention, or from laying down conditions which do not conflict with the provisions of this Convention.

Article 28

ADVANCE PAYMENTS

In the case of aircraft accidents resulting in death or injury of passengers, the carrier shall, if required by its national law, make advance payments without delay to a natural person or persons who are entitled to claim compensation in order to meet the immediate economic needs of such persons. Such advance payments shall not constitute a recognition of liability and may be offset against any amounts subsequently paid as damages by the carrier.

Article 29

BASIS OF CLAIMS

In the carriage of passengers, baggage and cargo, any action for damages, however founded, whether under this Convention or in contract or in tort or otherwise, can only be brought subject to the conditions and such limits of liability as are set out in this Convention without prejudice to the question as to who are the persons who have the right to bring suit and what are their respective rights. In any such action, punitive, exemplary or any other non-compensatory damages shall not be recoverable.

Article 30

SERVANTS, AGENTS – AGGREGATION OF CLAIMS

1. If an action is brought against a servant or agent of the carrier arising out of damage to which the Convention relates, such servant or agent, if they prove that they acted within the scope of their employment, shall be entitled to avail themselves of the conditions and limits of liability which the carrier itself is entitled to invoke under this Convention.

2. The aggregate of the amounts recoverable from the carrier, its servants and agents, in that case, shall not exceed the said limits.

3. Save in respect of the carriage of cargo, the provisions of paragraphs 1 and 2 of this Article shall not apply if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result.

Article 31

TIMELY NOTICE OF COMPLAINTS

1. Receipt by the person entitled to delivery of checked baggage or cargo without complaint is prima facie evidence that the same has been delivered in good condition and in accordance with the document of carriage or with the record preserved by the other means referred to in paragraph 2 of Article 3 and paragraph 2 of Article 4.

2. In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within seven days from the date of receipt in the case of checked baggage and 14 days from the date of receipt in the case of cargo. In the case of delay, the complaint must be made at the latest within 21 days from the date on which the baggage or cargo have been placed at his or her disposal.

3. Every complaint must be made in writing and given or dispatched within the times aforesaid.

4. If no complaint is made within the times aforesaid, no action shall lie against the carrier, save in the case of fraud on its part.

Article 32

DEATH OF PERSON LIABLE

In the case of the death of the person liable, an action for damages lies in accordance with the terms of this Convention against those legally representing his or her estate.

Article 33

JURISDICTION

1. An action for damages must be brought, at the option of the plaintiff, in the territory of one of the States Parties, either before the court of the domicile of the carrier or of its principal place of business, or where it has a place of business through which the contract has been made or before the court at the place of destination.

2. In respect of damage resulting from the death or injury of a passenger, an action may be brought before one of the courts mentioned in paragraph 1 of this Article, or in the territory of a State Party in which at the time of the accident the passenger has his or her principal and permanent residence and to or from which the carrier operates services for the carriage of passengers by air, either on its own aircraft, or on another carrier's aircraft pursuant to a commercial agreement, and in which that carrier conducts its business of carriage of passengers by air from premises leased or owned by the carrier itself or by another carrier with which it has a commercial agreement.

3. For the purposes of paragraph 2,

(a) "commercial agreement" means an agreement, other than an agency agreement, made between carriers and relating to the provision of their joint services for carriage of passengers by air;

(b) "principal and permanent residence" means the one fixed and permanent abode of the passenger at the time of the accident. The nationality of the passenger shall not be the determining factor in this regard.

4. Questions of procedure shall be governed by the law of the court seised of the case.

Article 34

ARBITRATION

1. Subject to the provisions of this Article, the parties to the contract of carriage for cargo may stipulate that any dispute relating to the liability of the carrier under this Convention shall be settled by arbitration. Such agreement shall be in writing.

2. The arbitration proceedings shall, at the option of the claimant, take place within one of the jurisdictions referred to in Article 33.

3. The arbitrator or arbitration tribunal shall apply the provisions of this Convention.

4. The provisions of paragraphs 2 and 3 of this Article shall be deemed to be part of every arbitration clause or agreement, and any term of such clause or agreement which is inconsistent therewith shall be null and void.

Article 35

LIMITATION OF ACTIONS

1. The right to damages shall be extinguished if an action is not brought within a period of two years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.

2. The method of calculating that period shall be determined by the law of the court seised of the case.

Article 36

SUCCESSIVE CARRIAGE

1. In the case of carriage to be performed by various successive carriers and falling within the definition set out in paragraph 3 of Article 1, each carrier which accepts passengers, baggage or cargo is subject to the rules set out in this Convention and is deemed to be one of the parties to the contract of carriage in so far as the contract deals with that part of the carriage which is performed under its supervision.

2. In the case of carriage of this nature, the passenger or any person entitled to compensation in respect of him or her can take action only against the carrier which performed the carriage during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier has assumed liability for the whole journey.

3. As regards baggage or cargo, the passenger or consignor will have a right of action against the first carrier, and the passenger or consignee who is entitled to delivery will have a right of action against the last carrier, and further, each may take action against the carrier which performed the carriage during which the
destruction, loss, damage or delay took place. These carriers will be jointly and severally liable to the passenger or to the consignor or consignee.

Article 37

RIGHT OF RECOURSE AGAINST THIRD PARTIES

Nothing in this Convention shall prejudice the question whether a person liable for damage in accordance with its provisions has a right of recourse against any other person.

CHAPTER IV

COMBINED CARRIAGE

Article 38

COMBINED CARRIAGE

1. In the case of combined carriage performed partly by air and partly by any other mode of carriage, the provisions of this Convention shall, subject to paragraph 4 of Article 18, apply only to the carriage by air, provided that the carriage by air falls within the terms of Article 1.

2. Nothing in this Convention shall prevent the parties in the case of combined carriage from inserting in the document of air carriage conditions relating to other modes of carriage, provided that the provisions of this Convention are observed as regards the carriage by air.

CHAPTER V

CARRIAGE BY AIR PERFORMED BY A PERSON OTHER THAN THE CONTRACTING CARRIER

Article 39

CONTRACTING CARRIER ACTUAL CARRIER

The provisions of this Chapter apply when a person (hereinafter referred to as "the contracting carrier") as a principal makes a contract of carriage governed by this Convention with a passenger or consignor or with a person acting on behalf of the passenger or consignor, and another person (hereinafter referred to as "the actual carrier") performs, by virtue of authority from the contracting carrier, the whole or part of the carriage, but is not with respect to such part a successive carrier within the meaning of this Convention. Such authority shall be presumed in the absence of proof to the contrary. Article 40

RESPECTIVE LIABILITY OF CONTRACTING AND ACTUAL CARRIERS

If an actual carrier performs the whole or part of carriage which, according to the contract referred to in Article 39, is governed by this Convention, both the contracting carrier and the actual carrier shall, except as otherwise provided in this Chapter, be subject to the rules of this Convention, the former for the whole of the carriage contemplated in the contract, the latter solely for the carriage which it performs.

Article 41

MUTUAL LIABILITY

1. The acts and omissions of the actual carrier and of its servants and agents acting within the scope of their employment shall, in relation to the carriage performed by the actual carrier, be deemed to be also those of the contracting carrier.

2. The acts and omissions of the contracting carrier and of its servants and agents acting within the scope of their employment shall, in relation to the carriage performed by the actual carrier, be deemed to be also those of the actual carrier. Nevertheless. no such act or omission shall subject the actual carrier to liability exceeding the amounts referred to in Articles 21, 22, 23 and 24. Any special agreement under which the contracting carrier assumes obligations not imposed by this Convention or any waiver of rights or defences conferred by this Convention or any special declaration of interest in delivery at destination contemplated in Article 22 shall not affect the actual carrier unless agreed to by it.

Article 42

ADDRESSEE OF COMPLAINTS AND INSTRUCTIONS

Any complaint to be made or instruction to be given under this Convention to the carrier shall have the same effect whether addressed to the contracting carrier or to the actual carrier. Nevertheless, instructions referred to in Article 12 shall only be effective if addressed to the contracting carrier.

Article 43

SERVANTS AND AGENTS

In relation to the carriage performed by the actual carrier, any servant or agent of that carrier or of the contracting carrier shall, if they prove that they acted within the scope of their employment, be entitled to avail themselves of the conditions and limits of liability which are applicable under this Convention to the carrier whose servant or agent they are, unless it is proved that they acted in a manner that prevents the limits of liability from being invoked in accordance with this Convention.

Article 44

AGGREGATION OF DAMAGES

In relation to the carriage performed by the actual carrier, the aggregate of the amounts recoverable from that carrier and the contracting carrier, and from their servants and agents acting within the scope of their employment, shall not exceed the highest amount which could be awarded against either the contracting carrier or the actual carrier under this Convention, but none of the persons mentioned shall be liable for a sum in excess of the limit applicable to that person.

Article 45

ADDRESSEE OF CLAIMS

In relation to the carriage performed by the actual carrier, an action for damages may be brought, at the option of the plaintiff, against that carrier or the contracting carrier, or against both together or separately. If the action is brought against only one of those carriers, that carrier shall have the right to require the other carrier to be joined in the proceedings, the procedure and effects being governed by the law of the court seised of the case.

Article 46

ADDITIONAL JURISDICTION

Any action for damages contemplated in Article 45 must be brought, at the option of the plaintiff, in the territory of one of the States Parties, either before a court in which an action may be brought against the contracting carrier, as provided in Article 33, or before the court having jurisdiction at the place where the actual carrier has its domicile or its principal place of business.

Article 47

INVALIDITY OF CONTRACTUAL PROVISIONS

Any contractual provision tending to relieve the contracting carrier or the actual carrier of liability under this Chapter or to fix a lower limit than that which is applicable according to this Chapter shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Chapter.

Article 48

MUTUAL RELATIONS OF CONTRACTING AND ACTUAL CARRIERS

Except as provided in Article 45, nothing in this Chapter shall affect the rights and obligations of the carriers between themselves, including any right of recourse or indemnification.

CHAPTER VI

OTHER PROVISIONS

Article 49

MANDATORY APPLICATION

Any clause contained in the contract of carriage and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this Convention, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void.

Article 50

INSURANCE

States Parties shall require their carriers to maintain adequate insurance covering their liability under this Convention. A carrier may be required by the State Party into which it operates to furnish evidence that it maintains adequate insurance covering its liability under this Convention.

Article 51

CARRIAGE PERFORMED IN EXTRAORDINARY CIRCUMSTANCES

The provisions of Articles 3 to 5, 7 and 8 relating to the documentation of carriage shall not apply in the case of carriage performed in extraordinary circumstances outside the normal scope of a carrier's business.

Article 52

DEFINITION OF DAYS

The expression "days" when used in this Convention means calendar days, not working days.

CHAPTER VII

FINAL CLAUSES

Article 53

SIGNATURE, RATIFICATION AND ENTRY INTO FORCE

1. This Convention shall be open for signature in Montreal on 28 May 1999 by States participating in the International Conference on Air Law held at Montreal from 10 to 28 May 1999. After 28 May 1999, the Convention shall be open to all States for signature at the Headquarters of the International Civil Aviation Organization in Montreal until it enters into force in accordance with paragraph 6 of this Article.

2. This Convention shall similarly be open for signature by Regional Economic Integration Organisations. For the purpose of this Convention, a "Regional Economic Integration Organisation" means any organisation which is constituted by sovereign States of a given region which has competence in respect of certain matters governed by this Convention and has been duly authorized to sign and to ratify, accept, approve or accede to this Convention. A reference to a "State Party" or "States Parties" in this Convention, otherwise than in paragraph 2 of Article 1, paragraph 1(b) of Article 3, paragraph (b) of Article 5, Articles 23, 33, 46 and paragraph (b) of Article 57, applies equally to a Regional Economic Integration Organisation. For the purpose of Article 24, the references to "a majority of the States Parties" and "one-third of the States Parties" shall not apply to a Regional Economic Integration Organisation.

3. This Convention shall be subject to ratification by States and by Regional Economic Integration Organisations which have signed it.

4. Any State or Regional Economic Integration Organisation which does not sign this Convention may accept, approve or accede to it at any time.

5. Instruments of ratification, acceptance, approval or accession shall be deposited with the International Civil Aviation Organization, which is hereby designated the Depositary. 6. This Convention shall enter into force on the sixtieth day following the date of deposit of the thirtieth instrument of ratification, acceptance, approval or accession with the Depositary between the States which have deposited such instrument. An instrument deposited by a Regional Economic Integration Organisation shall not be counted for the purpose of this paragraph.

7. For other States and for other Regional Economic Integration Organisations, this Convention shall take effect 60 days following the date of deposit of the instrument of ratification, acceptance, approval or accession.

8. The Depositary shall promptly notify all signatories and States Parties of:

(a) each signature of this Convention and date thereof;

(b) each deposit of an instrument of ratification, acceptance, approval or accession and date thereof;

(c) the date of entry into force of this Convention;

(d) the date of the coming into force of any revision of the limits of liability established under this Convention;

(e) any denunciation under Article 54.

Article 54

DENUNCIATION

1. Any State Party may denounce this Convention by written notification to the Depositary.

2. Denunciation shall take effect 180 days following the date on which notification is received by the Depositary.

Article 55

RELATIONSHIP WITH OTHER WARSAW CONVENTION INSTRUMENTS

This Convention shall prevail over any rules which apply to international carriage by air:

1. between States Parties to this Convention by virtue of those States commonly being Party to

(a) the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Warsaw on 12 October 1929 (hereinafter called the "Warsaw Convention");

(b) the Protocol to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air Signed at Warsaw on 12 October 1929, done at The Hague on 28 September 1955 (hereinafter called The Hague Protocol);

(c) the Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air Performed by a Person Other than the Contracting Carrier, signed at Guadalajara on 18 September 1961 (hereinafter called the Guadalajara Convention);

(d) the Protocol to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air Signed at Warsaw on 12 October 1929 as Amended by the Protocol Done at The Hague on 28 September 1955 signed at Guatemala City on 8 March 1971 (hereinafter called the Guatemala City Protocol);

(e) Additional Protocol Nos 1 to 3 and Montreal Protocol No 4 to amend the Warsaw Convention as amended by The Hague Protocol or the Warsaw Convention as amended by both The Hague Protocol and the Guatemala City Protocol signed at Montreal on 25 September 1975 (hereinafter called the Montreal Protocols); or

2. within the territory of any single State Party to this Convention by virtue of that State being Party to one or more of the instruments referred to in subparagraphs (a) to (e) above.

Article 56

STATES WITH MORE THAN ONE SYSTEM OF LAW

 If a State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in this Convention, it may at the time of signature, ratification, acceptance, approval or accession declare that this Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.

2. Any such declaration shall be notified to the Depositary and shall state expressly the territorial units to which the Convention applies.

3. In relation to a State Party which has made such a declaration:

(a) references in Article 23 to "national currency" shall be construed as referring to the currency of the relevant territorial unit of that State; and (b) the reference in Article 28 to "national law" shall be construed as referring to the law of the relevant territorial unit of that State.

Article 57

RESERVATIONS

No reservation may be made to this Convention except that a State Party may at any time declare by a notification addressed to the Depositary that this Convention shall not apply to:

(a) international carriage by air performed and operated directly by that State Party for non-commercial purposes in respect to its functions and duties as a sovereign State; and/or

(b) the carriage of persons, cargo and baggage for its military authorities on aircraft registered in or leased by that State Party, the whole capacity of which has been reserved by or on behalf of such authorities.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Convention.

DONE at Montreal on the 28th day of May of the year one thousand nine hundred and ninety-nine in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic. This Convention shall remain deposited in the archives of the International Civil Aviation Organization, and certified copies thereof shall be transmitted by the Depositary to all States Parties to this Convention, as well as to all States Parties to the Warsaw Convention, The Hague Protocol, the Guadalajara Convention, the Guatemala City Protocol, and the Montreal Protocols.

DECREE No. 8,008 OF MAY 15, 2013

Promulgates the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment On Matters Specific to Aircraft Equipment, signed in Cape Town, on November 16, 2001, and the final act of the Diplomatic Conference for the Adoption of the Convention and the Protocol and the declarations that the Federative Republic of Brazil made when acceding to the Convention and the Protocol.

THE PRESIDENT OF THE REPUBLIC, using the powers conferred on him/her by art. 84, item IV, of the Constitution, and

Whereas the National Congress has approved, through the Legislative Decree No. 135, of May 26, 2011, the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment On Matters Specific to Aircraft Equipment, and the final act of the Diplomatic Conference for the Adoption of the Convention and the Protocol, and the declarations that the Federative Republic of Brazil made when adhering to the Convention and the Protocol;

Whereas the Brazilian Government deposited, with the International Institute for the Unification of Private Law – UNIDROIT, on November 30, 2011, the instrument of accession to the Convention and the Protocol, with its respective declarations, and the final act; and

Whereas the international acts under consideration shall enter into force for the Federative Republic of Brazil, in the external legal sphere, on March 1st, 2012;

DECREES:

<u>Art. 1</u>

The Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment On Matters Specific to Aircraft Equipment, the Declarations made by the Federative Republic of Brazil when acceding to these acts, and the final act of the Diplomatic Conference for the Adoption of the Convention and the Protocol, attached to this Decree, are hereby promulgated.

<u>Art. 2</u>

Acts that may result in the revision of complementary acts and adjustments which, under the terms of subitem I of the caput of art. 49 of the Constitution, entail burdensome charges or commitments to the national patrimony shall be subject to the approval of the National Congress.

<u>Art. 3</u>

This Decree takes effect on the date of its publication.

Brasília, May 15, 2013; 192nd of Independence and 125th of the Republic.

DILMA ROUSSEFF

W. MOREIRA FRANCO

ANTONIO DE AGUIAR PATRIOTA

CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT

THE STATES PARTIES TO THIS CONVEN-TION,

AWARE of the need to acquire and use mobile equipment of high value or particular economic significance and to facilitate the financing of the acquisition and use of such equipment in an efficient manner,

RECOGNISING the advantages of asset-based financing and leasing for this purpose and desiring to facilitate these types of transaction by establishing clear rules to govern them,

MINDFUL of the need to ensure that interests in such equipment are recognised and protected universally,

DESIRING to provide broad and mutual economic benefits for all interested parties,

BELIEVING that such rules must reflect the principles underlying asset-based financing and leasing and promote the autonomy of the parties necessary in these transactions,

CONSCIOUS of the need to establish a legal framework for international interests in such equipment and for that purpose to create an international registration system for their protection, TAKING INTO CONSIDERATION the objectives and principles enunciated in existing Conventions relating to such equipment,

HAVE AGREED upon the following provisions:

CHAPTER I

SPHERE OF APPLICATION AND GENERAL PROVISIONS

Article 1 - Definitions

In this Convention, except where the context otherwise requires, the following terms are employed with the meanings set out below:

(a) "agreement" means a security agreement, a title reservation agreement or a leasing agreement;

(b) "assignment" means a contract which, whether by way of security or otherwise, confers on the assignee associated rights with or without a transfer of the related international interest;

(c) "associated rights" means all rights to payment or other performance by a debtor under an agreement which are secured by or associated with the object;

(d) "commencement of the insolvency proceedings" means the time at which the insolvency proceedings are deemed to commence under the applicable insolvency law;

(e) "conditional buyer" means a buyer under a title reservation agreement;

(f) "conditional seller" means a seller under a title reservation agreement;

(g) "contract of sale" means a contract for the sale of an object by a seller to a buyer which is not an agreement as defined in (a) above;

 (h) "court" means a court of law or an administrative or arbitral tribunal established by a Contracting State;

(i) "creditor" means a chargee under a security agreement, a conditional seller under a title reservation agreement or a lessor under a leasing agreement; (j) "debtor" means a chargor under a security agreement, a conditional buyer under a title reservation agreement, a lessee under a leasing agreement or a person whose interest in an object is burdened by a registrable non-consensual right or interest;

(k) "insolvency administrator" means a person authorised to administer the reorganisation or liquidation, including one authorised on an interim basis, and includes a debtor in possession if permitted by the applicable insolvency law;

(I) "insolvency proceedings" means bankruptcy, liquidation or other collective judicial or administrative proceedings, including interim proceedings, in which the assets and affairs of the debtor are subject to control or supervision by a court for the purposes of reorganisation or liquidation;

(m) "interested persons" means:

(i) the debtor;

(ii) any person who, for the purpose of assuring performance of any of the obligations in favour of the creditor, gives or issues a suretyship or demand guarantee or a standby letter of credit or any other form of credit insurance;

(iii) any other person having rights in or over the object;

(n) "internal transaction" means a transaction of a type listed in Article 2(2)(a) to (c) where the centre of the main interests of all parties to such transaction is situated, and the relevant object located (as specified in the Protocol), in the same Contracting State at the time of the conclusion of the contract and where the interest created by the transaction has been registered in a national registry in that Contracting State which has made a declaration under Article 50(1);

(o) "international interest" means an interest held by a creditor to which Article 2 applies;

(p) "International Registry" means the international registration facilities established for the purposes of this Convention or the Protocol;

(q) "leasing agreement" means an agreement by which one person (the lessor) grants a right to possession or control of an object (with or without an option to purchase) to another person (the lessee) in return for a rental or other payment;

(r) "national interest" means an interest held by a creditor in an object and created by an internal transaction covered by a declaration under Article 50(1);

(s) "non-consensual right or interest" means a right or interest conferred under the law of a Contracting State which has made a declaration under Article 39 to secure the performance of an obligation, including an obligation to a State, State entity or an intergovernmental or private organisation;

(t) "notice of a national interest" means notice registered or to be registered in the International Registry that a national interest has been created;

(u) "object" means an object of a category to which Article 2 applies;

(v) "pre-existing right or interest" means a right or interest of any kind in or over an object created or arising before the effective date of this Convention as defined by Article 60(2)(a);

(w) "proceeds" means money or nonmoney proceeds of an object arising from the total or partial loss or physical destruction of the object or its total or partial confiscation, condemnation or requisition;

(x) "prospective assignment" means an assignment that is intended to be made in the future, upon the occurrence of a stated event, whether or not the occurrence of the event is certain;

(y) "prospective international interest" means an interest that is intended to be created or provided for in an object as an international interest in the future, upon the occurrence of a stated event (which may include the debtor's acquisition of an interest in the object), whether or not the occurrence of the event is certain;

(z) "prospective sale" means a sale which is intended to be made in the future, upon the occurrence of a stated event, whether or not the occurrence of the event is certain;

(aa) "Protocol" means, in respect of any category of object and associated rights to which this Convention applies, the Protocol in respect of that category of object and associated rights; (bb) "registered" means registered in the International Registry pursuant to Chapter V;

(cc) "registered interest" means an international interest, a registrable non-consensual right or interest or a national interest specified in a notice of a national interest registered pursuant to Chapter V;

(dd) "registrable non-consensual right or interest" means a non-consensual right or interest registrable pursuant to a declaration deposited under Article 40;

(ee) "Registrar" means, in respect of the Protocol, the person or body designated by that Protocol or appointed under Article 17(2)(b);

(ff) "regulations" means regulations made or approved by the Supervisory Authority pursuant to the Protocol;

(gg) "sale" means a transfer of ownership of an object pursuant to a contract of sale;

(hh) "secured obligation" means an obligation secured by a security interest;

(ii) "security agreement" means an agreement by which a chargor grants or agrees to grant to a chargee an interest (including an ownership interest) in or over an object to secure the performance of any existing or future obligation of the chargor or a third person;

(jj) "security interest" means an interest created by a security agreement;

(kk) "Supervisory Authority" means, in respect of the Protocol, the Supervisory Authority referred to in Article 17(1);

(II) "title reservation agreement" means an agreement for the sale of an object on terms that ownership does not pass until fulfilment of the condition or conditions stated in the agreement;

(mm) "unregistered interest" means a consensual interest or non-consensual right or interest (other than an interest to which Article 39 applies) which has not been registered, whether or not it is registrable under this Convention; and

nn) "writing" means a record of information (including information communicated by teletransmission) which is in tangible or other form and is capable of being reproduced in tangible form on a subsequent occasion and which indicates by reasonable means a person's approval of the record.

<u>Article 2 – The international</u> <u>interest</u>

1. This Convention provides for the constitution and effects of an international interest in certain categories of mobile equipment and associated rights.

2. For the purposes of this Convention, an international interest in mobile equipment is an interest, constituted under Article 7, in a uniquely identifiable object of a category of such objects listed in paragraph 3 and designated in the Protocol:

(a) granted by the chargor under a security agreement;

(b) vested in a person who is the conditional seller under a title reservation agreement; or

(c) vested in a person who is the lessor under a leasing agreement.

An interest falling within sub-paragraph (a) does not also fall within sub-paragraph (b) or (c).

3. The categories referred to in the preceding paragraphs are:

(a) airframes, aircraft engines and helicopters;

(b) railway rolling stock; and

(c) space assets.

4. The applicable law determines whether an interest to which paragraph 2 applies falls within subparagraph (a), (b) or (c) of that paragraph.

5. An international interest in an object extends to proceeds of that object.

Article 3 - Sphere of application

1. This Convention applies when, at the time of the conclusion of the agreement creating or providing for the international interest, the debtor is situated in a Contracting State.

2. The fact that the creditor is situated in a non-Contracting State does not affect the applicability of this Convention.

Article 4 - Where debtor is situated

1. For the purposes of Article 3(1), the debtor is situated in any Contracting State:

(a) under the law of which it is incorporated or formed;

(b) where it has its registered office or statutory seat;

(c) where it has its centre of administration; or

(d) where it has its place of business.

2. A reference in sub-paragraph (d) of the preceding paragraph to the debtor's place of business shall, if it has more than one place of business, mean its principal place of business or, if it has no place of business, its habitual residence.

<u>Article 5 – Interpretation and</u> <u>applicable law</u>

 In the interpretation of this Convention, regard is to be had to its purposes as set forth in the preamble, to its international character and to the need to promote uniformity and predictability in its application.

2. Questions concerning matters governed by this Convention which are not expressly settled in it are to be settled in conformity with the general principles on which it is based or, in the absence of such principles, in conformity with the applicable law.

3. References to the applicable law are to the domestic rules of the law applicable by virtue of the rules of private international law of the forum State.

4. Where a State comprises several territorial units, each of which has its own rules of law in respect of the matter to be decided, and where there is no indication of the relevant territorial unit, the law of that State decides which is the territorial unit whose rules shall govern. In the absence of any such rule, the law of the territorial unit with which the case is most closely connected shall apply.

<u>Article 6 – Relationship between</u> the Convention and the Protocol

1. This Convention and the Protocol shall be read and interpreted together as a single instrument.

2. To the extent of any inconsistency between this Convention and the Protocol, the Protocol shall prevail.

CHAPTER II

CONSTITUTION OF AN INTERNATIONAL INTEREST

Article 7 – Formal requirements

An interest is constituted as an international interest under this Convention where the agreement creating or providing for the interest:

(a) is in writing;

(b) relates to an object of which the chargor, conditional seller or lessor has power to dispose;

(c) enables the object to be identified in conformity with the Protocol; and

(d) in the case of a security agreement, enables the secured obligations to be determined, but without the need to state a sum or maximum sum secured.

CHAPTER III

DEFAULT REMEDIES

Article 8 - Remedies of chargee

1. In the event of default as provided in Article 11, the chargee may, to the extent that the chargor has at any time so agreed and subject to any declaration that may be made by a Contracting State under Article 54, exercise any one or more of the following remedies:

(a) take possession or control of any object charged to it;

(b) sell or grant a lease of any such object;

(c) collect or receive any income or profits arising from the management or use of any such object.

2. The chargee may alternatively apply for a court order authorising or directing any of the acts referred to in the preceding paragraph.

3. Any remedy set out in sub-paragraph (a), (b) or (c) of paragraph 1 or by Article 13 shall be exercised in a commercially reasonable manner. A remedy shall be deemed to be exercised in a commercially reasonable manner where it is exercised in conformity with a provision of the security agreement except where such a provision is manifestly unreasonable.

4. A chargee proposing to sell or grant a lease of an object under paragraph 1 shall give reasonable prior notice in writing of the proposed sale or lease to:

(a) interested persons specified in Article 1(m)(i) and (ii); and

(b) interested persons specified in Article 1(m)(iii) who have given notice of their rights to the chargee within a reasonable time prior to the sale or lease. 5. Any sum collected or received by the chargee as a result of exercise of any of the remedies set out in paragraph 1 or 2 shall be applied towards discharge of the amount of the secured obligations.

6. Where the sums collected or received by the chargee as a result of the exercise of any remedy set out in paragraph 1 or 2 exceed the amount secured by the security interest and any reasonable costs incurred in the exercise of any such remedy, then unless otherwise ordered by the court the chargee shall distribute the surplus among holders of subsequently ranking interests which have been registered or of which the chargee has been given notice, in order of priority, and pay any remaining balance to the chargor.

<u>Article 9 – Vesting of object in</u> <u>satisfaction; redemption</u>

1. At any time after default as provided in Article 11, the chargee and all the interested persons may agree that ownership of (or any other interest of the chargor in) any object covered by the security interest shall vest in the chargee in or towards satisfaction of the secured obligations.

2. The court may on the application of the chargee order that ownership of (or any other interest of the chargor in) any object covered by the security interest shall vest in the chargee in or towards satisfaction of the secured obligations.

3. The court shall grant an application under the preceding paragraph only if the amount of the secured obligations to be satisfied by such vesting is commensurate with the value of the object after taking account of any payment to be made by the chargee to any of the interested persons.

4. At any time after default as provided in Article 11 and before sale of the charged object or the making of an order under paragraph 2, the chargor or any interested person may discharge the security interest by paying in full the amount secured, subject to any lease granted by the chargee under Article 8(1)(b) or ordered under Article 8(2). Where, after such default, the payment of the amount secured is made in full by an interested person other than the debtor, that person is subrogated to the rights of the chargee.

5. Ownership or any other interest of the chargor passing on a sale under Article 8(1)(b) or passing under paragraph 1 or 2 of this Article is free from any other interest over which the chargee's secu-

rity interest has priority under the provisions of Article 29.

<u>Article 10 – Remedies of</u> <u>conditional seller or lessor</u>

In the event of default under a title reservation agreement or under a leasing agreement as provided in Article 11, the conditional seller or the lessor, as the case may be, may:

(a) subject to any declaration that may be made by a Contracting State under Article 54, terminate the agreement and take possession or control of any object to which the agreement relates; or

(b) apply for a court order authorising or directing either of these acts.

Article 11 – Meaning of default

1. The debtor and the creditor may at any time agree in writing as to the events that constitute a default or otherwise give rise to the rights and remedies specified in Articles 8 to 10 and 13.

2. Where the debtor and the creditor have not so agreed, "default" for the purposes of Articles 8 to 10 and 13 means a default which substantially deprives the creditor of what it is entitled to expect under the agreement.

Article 12 - Additional remedies

Any additional remedies permitted by the applicable law, including any remedies agreed upon by the parties, may be exercised to the extent that they are not inconsistent with the mandatory provisions of this Chapter as set out in Article 15.

<u>Article 13 – Relief pending final</u> determination

1. Subject to any declaration that it may make under Article 55, a Contracting State shall ensure that a creditor who adduces evidence of default by the debtor may, pending final determination of its claim and to the extent that the debtor has at any time so agreed, obtain from a court speedy relief in the form of such one or more of the following orders as the creditor requests:

(a) preservation of the object and its value;

(b) possession, control or custody of the object;

(c) immobilisation of the object; and

(d) lease or, except where covered by sub-paragraphs (a) to (c), management of the object and the income therefrom.

2. In making any order under the preceding paragraph, the court may impose such terms as it considers necessary to protect the interested persons in the event that the creditor:

- (a) in implementing any order granting such relief, fails to perform any of its obligations to the debtor under this Convention or the Protocol; or
- (b) fails to establish its claim, wholly or in part, on the final determination of that claim.

3. Before making any order under paragraph 1, the court may require notice of the request to be given to any of the interested persons.

4. Nothing in this Article affects the application of Article 8(3) or limits the availability of forms of interim relief other than those set out in paragraph 1.

<u>Article 14 – Procedural</u> <u>requirements</u>

Subject to Article 54(2), any remedy provided by this Chapter shall be exercised in conformity with the procedure prescribed by the law of the place where the remedy is to be exercised.

Article 15 - Derogation

In their relations with each other, any two or more of the parties referred to in this Chapter may at any time, by agreement in writing, derogate from or vary the effect of any of the preceding provisions of this Chapter except Articles 8(3) to (6), 9(3) and (4), 13(2) and 14.

CHAPTER IV

THE INTERNATIONAL REGISTRATION SYSTEM

<u>Article 16 – The International</u> <u>Registry</u>

1. An International Registry shall be established for registrations of:

- (a) international interests, prospective international interests and registrable non-consensual rights and interests;
- (b) assignments and prospective assignments of international interests;

(c) acquisitions of international interests by legal or contractual subrogations under the applicable law;

(d) notices of national interests; and

(e) subordinations of interests referred to in any of the preceding subparagraphs.

2. Different international registries may be established for different categories of object and associated rights.

3. For the purposes of this Chapter and Chapter V, the term "registration" includes, where appropriate, an amendment, extension or discharge of a registration.

Article 17 – The Supervisory Authority and the Registrar

1. There shall be a Supervisory Authority as provided by the Protocol.

2. The Supervisory Authority shall:

(a) establish or provide for the establishment of the International Registry;

(b) except as otherwise provided by the Protocol, appoint and dismiss the Registrar;

(c) ensure that any rights required for the continued effective operation of the International Registry in the event of a change of Registrar will vest in or be assignable to the new Registrar;

(d) after consultation with the Contracting States, make or approve and ensure the publication of regulations pursuant to the Protocol dealing with the operation of the International Registry;

(e) establish administrative procedures through which complaints concerning the operation of the International Registry can be made to the Supervisory Authority;

(f) supervise the Registrar and the operation of the International Registry;

(g) at the request of the Registrar, provide such guidance to the Registrar as the Supervisory Authority thinks fit;

(h) set and periodically review the structure of fees to be charged for the services and facilities of the International Registry;

(i) do all things necessary to ensure that an efficient notice-based elec-

tronic registration system exists to implement the objectives of this Convention and the Protocol; and

(j) report periodically to Contracting States concerning the discharge of its obligations under this Convention and the Protocol.

3. The Supervisory Authority may enter into any agreement requisite for the performance of its functions, including any agreement referred to in Article 27(3).

 The Supervisory Authority shall own all proprietary rights in the data bases and archives of the International Registry.

5. The Registrar shall ensure the efficient operation of the International Registry and perform the functions assigned to it by this Convention, the Protocol and the regulations.

CHAPTER V

OTHER MATTERS RELATING TO REGISTRATION

<u>Article 18 – Registration</u> requirements

1. The Protocol and regulations shall specify the requirements, including the criteria for the identification of the object:

(a) for effecting a registration (which shall include provision for prior electronic transmission of any consent from any person whose consent is required under Article 20);

(b) for making searches and issuing search certificates, and, subject thereto;

(c) for ensuring the confidentiality of information and documents of the International Registry other than information and documents relating to a registration.

2. The Registrar shall not be under a duty to enquire whether a consent to registration under Article 20 has in fact been given or is valid.

3. Where an interest registered as a prospective international interest becomes an international interest, no further registration shall be required provided that the registration information is sufficient for a registration of an international interest.

4. The Registrar shall arrange for registrations to be entered into the International Registry data base and made searchable in chronological order of receipt, and the file shall record the date and time of receipt.

5. The Protocol may provide that a Contracting State may designate an entity or entities in its territory as the entry point or entry points through which the information required for registration shall or may be transmitted to the International Registry. A Contracting State making such a designation may specify the requirements, if any, to be satisfied before such information is transmitted to the International Registry.

<u>Article 19 – Validity and time of</u> registration

1. A registration shall be valid only if made in conformity with Article 20.

2. A registration, if valid, shall be complete upon entry of the required information into the International Registry data base so as to be searchable.

3. A registration shall be searchable for the purposes of the preceding paragraph at the time when:

(a) the International Registry has assigned to it a sequentially ordered file number; and

(b) the registration information, including the file number, is stored in durable form and may be accessed at the International Registry.

4. If an interest first registered as a prospective international interest becomes an international interest, that international interest shall be treated as registered from the time of registration of the prospective international interest provided that the registration was still current immediately before the international interest was constituted as provided by Article 7.

5. The preceding paragraph applies with necessary modifications to the registration of a prospective assignment of an international interest.

6. A registration shall be searchable in the International Registry data base according to the criteria prescribed by the Protocol.

Article 20 - Consent to registration

1. An international interest, a prospective international interest or an assignment or prospective assignment of an international interest may be registered, and any such registration amended or extended prior to its expiry, by either party with the consent in writing of the other.

2. The subordination of an international interest to another international interest may be registered by or with the consent in writing at any time of the person whose interest has been subordinated.

3. A registration may be discharged by or with the consent in writing of the party in whose favour it was made.

4. The acquisition of an international interest by legal or contractual subrogation may be registered by the subrogee.

5. A registrable non-consensual right or interest may be registered by the holder thereof.

6. A notice of a national interest may be registered by the holder thereof.

Article 21 - Duration of registration

Registration of an international interest remains effective until discharged or until expiry of the period specified in the registration.

Article 22 - Searches

1. Any person may, in the manner prescribed by the Protocol and regulations, make or request a search of the International Registry by electronic means concerning interests or prospective international interests registered therein.

2. Upon receipt of a request therefor, the Registrar, in the manner prescribed by the Protocol and regulations, shall issue a registry search certificate by electronic means with respect to any object:

(a) stating all registered information relating thereto, together with a statement indicating the date and time of registration of such information; or

(b) stating that there is no information in the International Registry relating thereto.

3. A search certificate issued under the preceding paragraph shall indicate that the creditor named in the registration information has acquired or intends to acquire an international interest in the object but shall not indicate whether what is registered is an international interest or a prospective international interest, even if this is ascertainable from the relevant registration information.

<u>Article 23 – List of declarations and</u> <u>declared non-consensual rights or</u> <u>interests</u>

The Registrar shall maintain a list of declarations, withdrawals of declaration and of the categories of nonconsensual right or interest communicated to the Registrar by the Depositary as having been declared by Contracting States in conformity with Articles 39 and 40 and the date of each such declaration or withdrawal of declaration. Such list shall be recorded and searchable in the name of the declaring State and shall be made available as provided in the Protocol and regulations to any person requesting it.

<u>Article 24 – Evidentiary value of</u> <u>certificates</u>

A document in the form prescribed by the regulations which purports to be a certificate issued by the International Registry is prima facie proof:

(a) that it has been so issued; and

(b) of the facts recited in it, including the date and time of a registration.

<u>Article 25 – Discharge of</u> registration

1. Where the obligations secured by a registered security interest or the obligations giving rise to a registered nonconsensual right or interest have been discharged, or where the conditions of transfer of title under a registered title reservation agreement have been fulfilled, the holder of such interest shall, without undue delay, procure the discharge of the registration after written demand by the debtor delivered to or received at its address stated in the registration.

2. Where a prospective international interest or a prospective assignment of an international interest has been registered, the intending creditor or intending assignee shall, without undue delay, procure the discharge of the registration after written demand by the intending debtor or assignor which is delivered to or received at its address stated in the registration before the intending creditor or assignee has given value or incurred a commitment to give value.

3. Where the obligations secured by a national interest specified in a registered notice of a national interest have been discharged, the holder of such interest shall, without undue delay, procure the discharge of the registration after writ-

ten demand by the debtor delivered to or received at its address stated in the registration.

4. Where a registration ought not to have been made or is incorrect, the person in whose favour the registration was made shall, without undue delay, procure its discharge or amendment after written demand by the debtor delivered to or received at its address stated in the registration.

<u>Article 26 – Access to the</u> international registration facilities

No person shall be denied access to the registration and search facilities of the International Registry on any ground other than its failure to comply with the procedures prescribed by this Chapter.

CHAPTER VI

PRIVILEGES AND IMMUNITIES OF THE SUPERVISORY AUTHORITY AND THE REGISTRAR

<u>Article 27 – Legal personality;</u> <u>immunity</u>

1. The Supervisory Authority shall have international legal personality where not already possessing such personality.

2. The Supervisory Authority and its officers and employees shall enjoy such immunity from legal or administrative process as is specified in the Protocol.

3. (a) The Supervisory Authority shall enjoy exemption from taxes and such other privileges as may be provided by agreement with the host State.

(b) For the purposes of this paragraph, "host State" means the State in which the Supervisory Authority is situated.

4. The assets, documents, data bases and archives of the International Registry shall be inviolable and immune from seizure or other legal or administrative process.

5. For the purposes of any claim against the Registrar under Article 28(1) or Article 44, the claimant shall be entitled to access to such information and documents as are necessary to enable the claimant to pursue its claim.

6. The Supervisory Authority may waive the inviolability and immunity conferred by paragraph 4.

CHAPTER VII

LIABILITY OF THE REGISTRAR

Article 28 – Liability and financial assurances

1. The Registrar shall be liable for compensatory damages for loss suffered by a person directly resulting from an error or omission of the Registrar and its officers and employees or from a malfunction of the international registration system except where the malfunction is caused by an event of an inevitable and irresistible nature, which could not be prevented by using the best practices in current use in the field of electronic registry design and operation, including those related to back-up and systems security and networking.

2. The Registrar shall not be liable under the preceding paragraph for factual inaccuracy of registration information received by the Registrar or transmitted by the Registrar in the form in which it received that information nor for acts or circumstances for which the Registrar and its officers and employees are not responsible and arising prior to receipt of registration information at the International Registry.

3. Compensation under paragraph 1 may be reduced to the extent that the person who suffered the damage caused or contributed to that damage.

4. The Registrar shall procure insurance or a financial guarantee covering the liability referred to in this Article to the extent determined by the Supervisory Authority, in accordance with the Protocol.

CHAPTER VIII

EFFECTS OF AN INTERNATIONAL INTEREST AS AGAINST THIRD PARTIES

<u>Article 29 – Priority of competing</u> interests

1. A registered interest has priority over any other interest subsequently registered and over an unregistered interest.

2. The priority of the first-mentioned interest under the preceding paragraph applies:

(a) even if the first-mentioned interest was acquired or registered with actual knowledge of the other interest; and (b) even as regards value given by the holder of the first-mentioned interest with such knowledge.

3. The buyer of an object acquires its interest in it:

(a) subject to an interest registered at the time of its acquisition of that interest; and

(b) free from an unregistered interest even if it has actual knowledge of such an interest.

4. The conditional buyer or lessee acquires its interest in or right over that object:

(a) subject to an interest registered prior to the registration of the international interest held by its conditional seller or lessor; and

(b) free from an interest not so registered at that time even if it has actual knowledge of that interest.

5. The priority of competing interests or rights under this Article may be varied by agreement between the holders of those interests, but an assignee of a subordinated interest is not bound by an agreement to subordinate that interest unless at the time of the assignment a subordination had been registered relating to that agreement.

6. Any priority given by this Article to an interest in an object extends to proceeds.

7. This Convention:

(a) does not affect the rights of a person in an item, other than an object, held prior to its installation on an object if under the applicable law those rights continue to exist after the installation; and

(b) does not prevent the creation of rights in an item, other than an object, which has previously been installed on an object where under the applicable law those rights are created.

Article 30 – Effects of insolvency

1. In insolvency proceedings against the debtor an international interest is effective if prior to the commencement of the insolvency proceedings that interest was registered in conformity with this Convention.

2. Nothing in this Article impairs the effectiveness of an international interest in the insolvency proceedings where that interest is effective under the applicable law.

3. Nothing in this Article affects:

(a) any rules of law applicable in insolvency proceedings relating to the avoidance of a transaction as a preference or a transfer in fraud of creditors; or

(b) any rules of procedure relating to the enforcement of rights to property which is under the control or supervision of the insolvency administrator.

CHAPTER IX

ASSIGNMENTS OF ASSOCIATED RIGHTS AND INTERNATIONAL INTERESTS; RIGHTS OF SUBROGATION

Article 31 – Effects of assignment

1. Except as otherwise agreed by the parties, an assignment of associated rights made in conformity with Article 32 also transfers to the assignee:

(a) the related international interest; and

(b) all the interests and priorities of the assignor under this Convention.

2. Nothing in this Convention prevents a partial assignment of the assignor's associated rights. In the case of such a partial assignment the assignor and assignee may agree as to their respective rights concerning the related international interest assigned under the preceding paragraph but not so as adversely to affect the debtor without its consent.

3. Subject to paragraph 4, the applicable law shall determine the defences and rights of set-off available to the debtor against the assignee.

4. The debtor may at any time by agreement in writing waive all or any of the defences and rights of set-off referred to in the preceding paragraph other than defences arising from fraudulent acts on the part of the assignee.

5. In the case of an assignment by way of security, the assigned associated rights revest in the assignor, to the extent that they are still subsisting, when the obligations secured by the assignment have been discharged.

<u>Article 32 – Formal requirements of</u> <u>assignment</u>

1. An assignment of associated rights transfers the related international interest only if it:

(a) is in writing;

(b) enables the associated rights to be identified under the contract from which they arise; and

(c) in the case of an assignment by way of security, enables the obligations secured by the assignment to be determined in accordance with the Protocol but without the need to state a sum or maximum sum secured.

2. An assignment of an international interest created or provided for by a security agreement is not valid unless some or all related associated rights also are assigned.

3. This Convention does not apply to an assignment of associated rights which is not effective to transfer the related international interest.

<u>Article 33 – Debtor's duty to</u> <u>assignee</u>

1. To the extent that associated rights and the related international interest have been transferred in accordance with Articles 31 and 32, the debtor in relation to those rights and that interest is bound by the assignment and has a duty to make payment or give other performance to the assignee, if but only if:

(a) the debtor has been given notice of the assignment in writing by or with the authority of the assignor; and

(b) the notice identifies the associated rights.

2. Irrespective of any other ground on which payment or performance by the debtor discharges the latter from liability, payment or performance shall be effective for this purpose if made in accordance with the preceding paragraph.

3. Nothing in this Article shall affect the priority of competing assignments.

<u>Article 34 – Default remedies in</u> respect of assignment by way of security

In the event of default by the assignor under the assignment of associated rights and the related international interest made by way of security, Articles 8, 9 and 11 to 14 apply in the relations between the assignor and the assignee (and, in relation to associated rights, apply in so far as those provisions are capable of application to intangible property) as if references: (a) to the secured obligation and the security interest were references to the obligation secured by the assignment of the associated rights and the related international interest and the security interest created by that assignment;

(b) to the chargee or creditor and chargor or debtor were references to the assignee and assignor;

(c) to the holder of the international interest were references to the assignee; and

(d) to the object were references to the assigned associated rights and the related international interest.

<u>Article 35 – Priority of competing</u> <u>assignments</u>

1. Where there are competing assignments of associated rights and at least one of the assignments includes the related international interest and is registered, the provisions of Article 29 apply as if the references to a registered interest were references to an assignment of the associated rights and the related registered interest and as if references to a registered or unregistered interest were references to a registered or unregistered assignment.

2. Article 30 applies to an assignment of associated rights as if the references to an international interest were references to an assignment of the associated rights and the related international interest.

Article 36 – Assignee's priority with respect to associated rights

1. The assignee of associated rights and the related international interest whose assignment has been registered only has priority under Article 35(1) over another assignee of the associated rights:

(a) if the contract under which the associated rights arise states that they are secured by or associated with the object; and

(b) to the extent that the associated rights are related to an object.

2. For the purposes of sub-paragraph (b) of the preceding paragraph, associated rights are related to an object only to the extent that they consist of rights to payment or performance that relate to:

(a) a sum advanced and utilised for the purchase of the object;

(b) a sum advanced and utilised for the purchase of another object in which the assignor held another international interest if the assignor transferred that interest to the assignee and the assignment has been registered;

(c) the price payable for the object;

(d) the rentals payable in respect of the object; or

(e) other obligations arising from a transaction referred to in any of the preceding subparagraphs.

3. In all other cases, the priority of the competing assignments of the associated rights shall be determined by the applicable law.

Article 37 – Effects of assignor's insolvency

The provisions of Article 30 apply to insolvency proceedings against the assignor as if references to the debtor were references to the assignor.

Article 38 – Subrogation

1. Subject to paragraph 2, nothing in this Convention affects the acquisition of associated rights and the related international interest by legal or contractual subrogation under the applicable law.

2. The priority between any interest within the preceding paragraph and a competing interest may be varied by agreement in writing between the holders of the respective interests but an assignee of a subordinated interest is not bound by an agreement to subordinate that interest unless at the time of the assignment a subordination had been registered relating to that agreement.

CHAPTER X

RIGHTS OR INTERESTS SUBJECT TO DECLARATIONS BY CONTRACTING STATES

<u>Article 39 – Rights having priority</u> <u>without registration</u>

1. A Contracting State may at any time, in a declaration deposited with the Depositary of the Protocol declare, generally or specifically:

(a) those categories of non-consensual right or interest (other than a right or interest to which Article 40 applies) which under that State's law have priority over an interest in an object equivalent to that of the holder of a registered international interest and which shall have priority over a registered international interest, whether in or outside insolvency proceedings; and

(b) that nothing in this Convention shall affect the right of a State or State entity, intergovernmental organisation or other private provider of public services to arrest or detain an object under the laws of that State for payment of amounts owed to such entity, organisation or provider directly relating to those services in respect of that object or another object.

2. A declaration made under the preceding paragraph may be expressed to cover categories that are created after the deposit of that declaration.

3. A non-consensual right or interest has priority over an international interest if and only if the former is of a category covered by a declaration deposited prior to the registration of the international interest.

4. Notwithstanding the preceding paragraph, a Contracting State may, at the time of ratification, acceptance, approval of, or accession to the Protocol, declare that a right or interest of a category covered by a declaration made under subparagraph (a) of paragraph 1 shall have priority over an international interest registered prior to the date of such ratification, acceptance, approval or accession.

<u>Article 40 – Registrable non-</u> consensual rights or interests

A Contracting State may at any time in a declaration deposited with the Depositary of the Protocol list the categories of non-consensual right or interest which shall be registrable under this Convention as regards any category of object as if the right or interest were an international interest and shall be regulated accordingly. Such a declaration may be modified from time to time.

CHAPTER XI

APPLICATION OF THE CONVENTION TO SALES

<u>Article 41 – Sale and prospective</u> <u>sale</u>

This Convention shall apply to the sale or prospective sale of an object as provided for in the Protocol with any modifications therein.

CHAPTER XII

JURISDICTION

Article 42 - Choice of forum

1. Subject to Articles 43 and 44, the courts of a Contracting State chosen by the parties to a transaction have jurisdiction in respect of any claim brought under this Convention, whether or not the chosen forum has a connection with the parties or the transaction. Such jurisdiction shall be exclusive unless otherwise agreed between the parties.

 Any such agreement shall be in writing or otherwise concluded in accordance with the formal requirements of the law of the chosen forum.

<u>Article 43 – Jurisdiction under</u> <u>Article 13</u>

1. The courts of a Contracting State chosen by the parties and the courts of the Contracting State on the territory of which the object is situated have jurisdiction to grant relief under Article 13(1)(a), (b), (c) and Article 13(4) in respect of that object.

2. Jurisdiction to grant relief under Article 13(1)(d) or other interim relief by virtue of Article 13(4) may be exercised either:

(a) by the courts chosen by the parties; or

(b) by the courts of a Contracting State on the territory of which the debtor is situated, being relief which, by the terms of the order granting it, is enforceable only in the territory of that Contracting State.

3. A court has jurisdiction under the preceding paragraphs even if the final determination of the claim referred to in Article 13(1) will or may take place in a court of another Contracting State or by arbitration.

<u>Article 44 – Jurisdiction to make</u> <u>orders against the Registrar</u>

1. The courts of the place in which the Registrar has its centre of administration shall have exclusive jurisdiction to award damages or make orders against the Registrar.

2. Where a person fails to respond to a demand made under Article 25 and that person has ceased to exist or cannot be found for the purpose of enabling an order to be made against it requiring it to procure discharge of the registration, the courts referred to in the preceding paragraph shall have exclusive jurisdiction, on the application of the debtor or intending debtor, to make an order directed to the Registrar requiring the Registrar to discharge the registration.

3. Where a person fails to comply with an order of a court having jurisdiction under this Convention or, in the case of a national interest, an order of a court of competent jurisdiction requiring that person to procure the amendment or discharge of a registration, the courts referred to in paragraph 1 may direct the Registrar to take such steps as will give effect to that order.

4. Except as otherwise provided by the preceding paragraphs, no court may make orders or give judgments or rulings against or purporting to bind the Registrar.

<u>Article 45 – Jurisdiction in respect</u> of insolvency proceedings

The provisions of this Chapter are not applicable to insolvency proceedings.

CHAPTER XIII

RELATIONSHIP WITH OTHER CONVENTIONS

Article 45 bis – Relationship with the United Nations Convention on the Assignment of Receivables in International Trade

This Convention shall prevail over the United Nations Convention on the Assignment of Receivables in International Trade, opened for signature in New York on 12 December 2001, as it relates to the assignment of receivables which are associated rights related to international interests in aircraft objects, railway rolling stock and space assets.

<u>Article 46 – Relationship with</u> <u>the UNIDROIT Convention on</u> <u>International Financial Leasing</u>

The Protocol may determine the relationship between this Convention and the UNIDROIT Convention on International Financial Leasing, signed at Ottawa on 28 May 1988.

CHAPTER XIV

FINAL PROVISIONS

<u>Article 47 – Signature, ratification,</u> acceptance, approval or accession

1. This Convention shall be open for signature in Cape Town on 16 November 2001 by States participating in the Diplomatic Conference to Adopt a Mobile Equipment Convention and an Aircraft Protocol held at Cape Town from 29 October to 16 November 2001. After 16 November 2001, the Convention shall be open to all States for signature at the Headquarters of the International Institute for the Unification of Private Law (UNIDROIT) in Rome until it enters into force in accordance with Article 49.

2. This Convention shall be subject to ratification, acceptance or approval by States which have signed it.

3. Any State which does not sign this Convention may accede to it at any time.

4. Ratification, acceptance, approval or accession is effected by the deposit of a formal instrument to that effect with the Depositary.

<u>Article 48 – Regional Economic</u> <u>Integration Organisations</u>

1. A Regional Economic Integration Organisation which is constituted by sovereign States and has competence over certain matters governed by this Convention may similarly sign, accept, approve or accede to this Convention. The Regional Economic Integration Organisation shall in that case have the rights and obligations of a Contracting State, to the extent that that Organisation has competence over matters governed by this Convention. Where the number of Contracting States is relevant in this Convention, the Regional Economic Integration Organisation shall not count as a Contracting State in addition to its Member States which are Contracting States.

2. The Regional Economic Integration Organisation shall, at the time of signature, acceptance, approval or accession, make a declaration to the Depositary specifying the matters governed by this Convention in respect of which competence has been transferred to that Organisation by its Member States. The Regional Economic Integration Organisation shall promptly notify the Depositary of any changes to the distribution of competence, including new transfers of competence, specified in the declaration under this paragraph.

3. Any reference to a "Contracting State" or "Contracting States" or "State Party" or "States Parties" in this Convention applies equally to a Regional Economic Integration Organisation where the context so requires.

Article 49 - Entry into force

1. This Convention enters into force on the first day of the month following the expiration of three months after the date of the deposit of the third instrument of ratification, acceptance, approval or accession but only as regards a category of objects to which a Protocol applies:

(a) as from the time of entry into force of that Protocol;

(b) subject to the terms of that Protocol; and

(c) as between States Parties to this Convention and that Protocol.

2. For other States this Convention enters into force on the first day of the month following the expiration of three months after the date of the deposit of their instrument of ratification, acceptance, approval or accession but only as regards a category of objects to which a Protocol applies and subject, in relation to such Protocol, to the requirements of sub-paragraphs (a), (b) and (c) of the preceding paragraph.

Article 50 - Internal transactions

1. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to the Protocol, declare that this Convention shall not apply to a transaction which is an internal transaction in relation to that State with regard to all types of objects or some of them.

2. Notwithstanding the preceding paragraph, the provisions of Articles 8(4), 9(1), 16, Chapter V, Article 29, and any provisions of this Convention relating to registered interests shall apply to an internal transaction.

3. Where notice of a national interest has been registered in the International

Registry, the priority of the holder of that interest under Article 29 shall not be affected by the fact that such interest has become vested in another person by assignment or subrogation under the applicable law.

Article 51 - Future Protocols

1. The Depositary may create working groups, in co-operation with such relevant non-governmental organisations as the Depositary considers appropriate, to assess the feasibility of extending the application of this Convention, through one or more Protocols, to objects of any category of high-value mobile equipment, other than a category referred to in Article 2(3), each member of which is uniquely identifiable, and associated rights relating to such objects.

2. The Depositary shall communicate the text of any preliminary draft Protocol relating to a category of objects prepared by such a working group to all States Parties to this Convention, all member States of the Depositary, member States of the United Nations which are not members of the Depositary and the relevant intergovernmental organisations, and shall invite such States and organisations to participate in intergovernmental negotiations for the completion of a draft Protocol on the basis of such a preliminary draft Protocol.

3. The Depositary shall also communicate the text of any preliminary draft Protocol prepared by such a working group to such relevant non-governmental organisations as the Depositary considers appropriate. Such non-governmental organisations shall be invited promptly to submit comments on the text of the preliminary draft Protocol to the Depositary and to participate as observers in the preparation of a draft Protocol.

4. When the competent bodies of the Depositary adjudge such a draft Protocol ripe for adoption, the Depositary shall convene a diplomatic conference for its adoption.

5. Once such a Protocol has been adopted, subject to paragraph 6, this Convention shall apply to the category of objects covered thereby.

6. Article 45 bis of this Convention applies to such a Protocol only if specifically provided for in that Protocol.

Article 52 - Territorial units

1. If a Contracting State has territorial units in which different systems of law

are applicable in relation to the matters dealt with in this Convention, it may, at the time of ratification, acceptance, approval or accession, declare that this Convention is to extend to all its territorial units or only to one or more of them and may modify its declaration by submitting another declaration at any time.

2. Any such declaration shall state expressly the territorial units to which this Convention applies.

3. If a Contracting State has not made any declaration under paragraph 1, this Convention shall apply to all territorial units of that State.

4. Where a Contracting State extends this Convention to one or more of its territorial units, declarations permitted under this Convention may be made in respect of each such territorial unit, and the declarations made in respect of one territorial unit may be different from those made in respect of another territorial unit.

5. If by virtue of a declaration under paragraph 1, this Convention extends to one or more territorial units of a Contracting State:

(a) the debtor is considered to be situated in a Contracting State only if it is incorporated or formed under a law in force in a territorial unit to which this Convention applies or if it has its registered office or statutory seat, centre of administration, place of business or habitual residence in a territorial unit to which this Convention applies;

(b) any reference to the location of the object in a Contracting State refers to the location of the object in a territorial unit to which this Convention applies; and

(c) any reference to the administrative authorities in that Contracting State shall be construed as referring to the administrative authorities having jurisdiction in a territorial unit to which this Convention applies.

<u>Article 53 – Determination of</u> <u>courts</u>

A Contracting State may, at the time of ratification, acceptance, approval of, or accession to the Protocol, declare the relevant "court" or "courts" for the purposes of Article 1 and Chapter XII of this Convention.

<u>Article 54 – Declarations regarding</u> remedies

 A Contracting State may, at the time of ratification, acceptance, approval of, or accession to the Protocol, declare that while the charged object is situated within, or controlled from its territory the chargee shall not grant a lease of the object in that territory.

2. A Contracting State shall, at the time of ratification, acceptance, approval of, or accession to the Protocol, declare whether or not any remedy available to the creditor under any provision of this Convention which is not there expressed to require application to the court may be exercised only with leave of the court.

<u>Article 55 – Declarations regarding</u> relief pending final determination

A Contracting State may, at the time of ratification, acceptance, approval of, or accession to the Protocol, declare that it will not apply the provisions of Article 13 or Article 43, or both, wholly or in part. The declaration shall specify under which conditions the relevant Article will be applied, in case it will be applied partly, or otherwise which other forms of interim relief will be applied.

<u>Article 56 – Reservations and</u> <u>declarations</u>

1. No reservations may be made to this Convention but declarations authorised by Articles 39, 40, 50, 52, 53, 54, 55, 57, 58 and 60 may be made in accordance with these provisions.

2. Any declaration or subsequent declaration or any withdrawal of a declaration made under this Convention shall be notified in writing to the Depositary.

<u>Article 57 – Subsequent</u> <u>declarations</u>

1. A State Party may make a subsequent declaration, other than a declaration authorised under Article 60, at any time after the date on which this Convention has entered into force for it, by notifying the Depositary to that effect.

2. Any such subsequent declaration shall take effect on the first day of the month following the expiration of six months after the date of receipt of the notification by the Depositary. Where a longer period for that declaration to take effect is specified in the notification, it shall take effect upon the expiration of such longer period after receipt of the notification by the Depositary.

3. Notwithstanding the previous paragraphs, this Convention shall continue to apply, as if no such subsequent declarations had been made, in respect of all rights and interests arising prior to the effective date of any such subsequent declaration.

<u>Article 58 – Withdrawal of</u> <u>declarations</u>

1. Any State Party having made a declaration under this Convention, other than a declaration authorised under Article 60, may withdraw it at any time by notifying the Depositary. Such withdrawal is to take effect on the first day of the month following the expiration of six months after the date of receipt of the notification by the Depositary.

2. Notwithstanding the previous paragraph, this Convention shall continue to apply, as if no such withdrawal of declaration had been made, in respect of all rights and interests arising prior to the effective date of any such withdrawal.

Article 59 - Denunciations

1. Any State Party may denounce this Convention by notification in writing to the Depositary.

2. Any such denunciation shall take effect on the first day of the month following the expiration of twelve months after the date on which notification is received by the Depositary.

3. Notwithstanding the previous paragraphs, this Convention shall continue to apply, as if no such denunciation had been made, in respect of all rights and interests arising prior to the effective date of any such denunciation.

Article 60 - Transitional provisions

1. Unless otherwise declared by a Contracting State at any time, the Convention does not apply to a pre-existing right or interest, which retains the priority it enjoyed under the applicable law before the effective date of this Convention.

2. For the purposes of Article 1(v) and of determining priority under this Convention:

(a) "effective date of this Convention" means in relation to a debtor the time when this Convention enters into force or the time when the State in which the debtor is situated becomes a Contracting State, whichever is the later; and

(b) the debtor is situated in a State where it has its centre of administration or, if it has no centre of administration, its place of business or, if it has more than one place of business, its principal place of business or, if it has no place of business, its habitual residence.

3. A Contracting State may in its declaration under paragraph 1 specify a date, not earlier than three years after the date on which the declaration becomes effective, when this Convention and the Protocol will become applicable, for the purpose of determining priority, including the protection of any existing priority, to pre-existing rights or interests arising under an agreement made at a time when the debtor was situated in a State referred to in sub-paragraph (b) of the preceding paragraph but only to the extent and in the manner specified in its declaration.

<u>Article 61 – Review Conferences,</u> amendments and related matters

1. The Depositary shall prepare reports yearly or at such other time as the circumstances may require for the States Parties as to the manner in which the international regimen established in this Convention has operated in practice. In preparing such reports, the Depositary shall take into account the reports of the Supervisory Authority concerning the functioning of the international registration system.

2. At the request of not less than twentyfive per cent of the States Parties, Review Conferences of States Parties shall be convened from time to time by the Depositary, in consultation with the Supervisory Authority, to consider:

 (a) the practical operation of this Convention and its effectiveness in facilitating the asset-based financing and leasing of the objects covered by its terms;

(b) the judicial interpretation given to, and the application made of the terms of this Convention and the regulations;

(c) the functioning of the international registration system, the performance of the Registrar and its oversight by the Supervisory Authority, taking into account the reports of the Supervisory Authority; and (d) whether any modifications to this Convention or the arrangements relating to the International Registry are desirable.

3. Subject to paragraph 4, any amendment to this Convention shall be approved by at least a two-thirds majority of States Parties participating in the Conference referred to in the preceding paragraph and shall then enter into force in respect of States which have ratified, accepted or approved such amendment when ratified, accepted, or approved by three States in accordance with the provisions of Article 49 relating to its entry into force.

4. Where the proposed amendment to this Convention is intended to apply to more than one category of equipment, such amendment shall also be approved by at least a two-thirds majority of States Parties to each Protocol that are participating in the Conference referred to in paragraph 2.

Article 62 – Depositary and its functions

1. Instruments of ratification, acceptance, approval or accession shall be deposited with the International Institute for the Unification of Private Law (UNIDROIT), which is hereby designated the Depositary.

2. The Depositary shall:

(a) inform all Contracting States of:

(i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;

(ii) the date of entry into force of this Convention;

(iii) each declaration made in accordance with this Convention, together with the date thereof;

(iv) the withdrawal or amendment of any declaration, together with the date thereof; and

(v) the notification of any denunciation of this Convention together with the date thereof and the date on which it takes effect;

(b) transmit certified true copies of this Convention to all Contracting States;

(c) provide the Supervisory Authority and the Registrar with a copy of each instrument of ratification, acceptance, approval or accession, together with the date of deposit thereof, of each declaration or withdrawal or amendment of a declaration and of each notification of denunciation, together with the date of notification thereof, so that the information contained therein is easily and fully available; and

(d) perform such other functions customary for depositaries.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorised, have signed this Convention.

DONE at Cape Town, this sixteenth day of November, two thousand and one, in a single original in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic, such authenticity to take effect upon verification by the Joint Secretariat of the Conference under the authority of the President of the Conference within ninety days hereof as to the conformity of the texts with one another.

PROTOCOL

TO THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT ON MATTERS SPECIFIC TO AIRCRAFT EQUIPMENT

THE STATES PARTIES TO THIS PROTOCOL,

CONSIDERING it necessary to implement the Convention on International Interests in Mobile Equipment (hereinafter referred to as "the Convention") as it relates to aircraft equipment, in the light of the purposes set out in the preamble to the Convention,

MINDFUL of the need to adapt the Convention to meet the particular requirements of aircraft finance and to extend the sphere of application of the Convention to include contracts of sale of aircraft equipment,

MINDFUL of the principles and objectives of the Convention on International Civil Aviation, signed at Chicago on 7 December 1944,

HAVE AGREED upon the following provisions relating to aircraft equipment:

CHAPTER I

SPHERE OF APPLICATION AND GENERAL PROVISIONS

Article I – Defined terms

1. In this Protocol, except where the context otherwise requires, terms used in it have the meanings set out in the Convention.

2. In this Protocol the following terms are employed with the meanings set out below:

(a) "aircraft" means aircraft as defined for the purposes of the Chicago Convention which are either airframes with aircraft engines installed thereon or helicopters;

(b) "aircraft engines" means aircraft engines (other than those used in military, customs or police services) powered by jet propulsion or turbine or piston technology and:

(i) in the case of jet propulsion aircraft engines, have at least 1750 lb of thrust or its equivalent; and

(ii) in the case of turbine-powered or piston-powered aircraft engines, have at least 550 rated take-off shaft horsepower or its equivalent, together with all modules and other installed, incorporated or attached accessories, parts and equipment and all data, manuals and records relating thereto;

(c) "aircraft objects" means airframes, aircraft engines and helicopters;

(d) "aircraft register" means a register maintained by a State or a common mark registering authority for the purposes of the Chicago Convention;

(e) "airframes" means airframes (other than those used in military, customs or police services) that, when appropriate aircraft engines are installed thereon, are type certified by the competent aviation authority to transport:

(i) at least eight (8) persons including crew; or

(ii) goods in excess of 2750 kilograms, together with all installed, incorporated or attached accessories, parts and equipment (other than aircraft engines), and all data, manuals and records relating thereto;

(f) "authorised party" means the party referred to in Article XIII(3); (g) "Chicago Convention" means the Convention on International Civil Aviation, signed at Chicago on 7 December 1944, as amended, and its Annexes;

(h) "common mark registering authority" means the authority maintaining a register in accordance with Article 77 of the Chicago Convention as implemented by the Resolution adopted on 14 December 1967 by the Council of the International Civil Aviation Organization on nationality and registration of aircraft operated by international operating agencies;

(i) "de-registration of the aircraft" means deletion or removal of the registration of the aircraft from its aircraft register in accordance with the Chicago Convention;

(j) "guarantee contract" means a contract entered into by a person as guarantor;

(k) "guarantor" means a person who, for the purpose of assuring performance of any obligations in favour of a creditor secured by a security agreement or under an agreement, gives or issues a suretyship or demand guarantee or a standby letter of credit or any other form of credit insurance;

(I) "helicopters" means heavier-thanair machines (other than those used in military, customs or police services) supported in flight chiefly by the reactions of the air on one or more power-driven rotors on substantially vertical axes and which are type certified by the competent aviation authority to transport:

(i) at least five (5) persons including crew; or

(ii) goods in excess of 450 kilograms,

together with all installed, incorporated or attached accessories, parts and equipment (including rotors), and all data, manuals and records relating thereto;

(m) "insolvency-related event" means:

(i) the commencement of the insolvency proceedings; or

(ii) the declared intention to suspend or actual suspension of payments by the debtor where the creditor's right to institute insolvency proceedings against the debtor or to exercise remedies under the Convention is prevented or suspended by law or State action;

(n) "primary insolvency jurisdiction" means the Contracting State in which the centre of the debtor's main interests is situated, which for this purpose shall be deemed to be the place of the debtor's statutory seat or, if there is none, the place where the debtor is incorporated or formed, unless proved otherwise;

(o) "registry authority" means the national authority or the common mark registering authority, maintaining an aircraft register in a Contracting State and responsible for the registration and de-registration of an aircraft in accordance with the Chicago Convention; and

(p) "State of registry" means, in respect of an aircraft, the State on the national register of which an aircraft is entered or the State of location of the common mark registering authority maintaining the aircraft register.

Article II – Application of

<u>Convention as regards aircraft</u> <u>objects</u>

1. The Convention shall apply in relation to aircraft objects as provided by the terms of this Protocol.

2. The Convention and this Protocol shall be known as the Convention on International Interests in Mobile Equipment as applied to aircraft objects.

<u>Article III – Application of</u> <u>Convention to sales</u>

The following provisions of the Convention apply as if references to an agreement creating or providing for an international interest were references to a contract of sale and as if references to an international interest, a prospective international interest, the debtor and the creditor were references to a sale, a prospective sale, the seller and the buyer respectively:

Articles 3 and 4;

Article 16(1)(a);

Article 19(4);

Article 20(1) (as regards registration of a contract of sale or a prospective sale);

Article 25(2) (as regards a prospective sale); and

Article 30.

In addition, the general provisions of Article 1, Article 5, Chapters IV to VII, Article 29 (other than Article 29(3) which is replaced by Article XIV(1) and (2)), Chapter X, Chapter XII (other than Article 43), Chapter XIII and Chapter XIV (other than Article 60) shall apply to contracts of sale and prospective sales.

Article IV - Sphere of application

1. Without prejudice to Article 3(1) of the Convention, the Convention shall also apply in relation to a helicopter, or to an airframe pertaining to an aircraft, registered in an aircraft register of a Contracting State which is the State of registry, and where such registration is made pursuant to an agreement for registration of the aircraft it is deemed to have been effected at the time of the agreement.

2. For the purposes of the definition of "internal transaction" in Article 1 of the Convention:

(a) an airframe is located in the State of registry of the aircraft of which it is a part;

(b) an aircraft engine is located in the State of registry of the aircraft on which it is installed or, if it is not installed on an aircraft, where it is physically located; and

(c) a helicopter is located in its State of registry, at the time of the conclusion of the agreement creating or providing for the interest.

3. The parties may, by agreement in writing, exclude the application of Article XI and, in their relations with each other, derogate from or vary the effect of any of the provisions of this Protocol except Article IX (2)-(4).

<u>Article V – Formalities, effects and</u> registration of contracts of sale

1. For the purposes of this Protocol, a contract of sale is one which:

(a) is in writing;

(b) relates to an aircraft object of which the seller has power to dispose; and

(c) enables the aircraft object to be identified in conformity with this Protocol.

2. A contract of sale transfers the interest of the seller in the aircraft object to the buyer according to its terms.

3. Registration of a contract of sale remains effective indefinitely. Registration of a prospective sale remains effective unless discharged or until expiry of the period, if any, specified in the registration.

<u>Article VI – Representative</u> <u>capacities</u>

A person may enter into an agreement or a sale, and register an international interest in, or a sale of, an aircraft object, in an agency, trust or other representative capacity. In such case, that person is entitled to assert rights and interests under the Convention.

<u>Article VII – Description of aircraft</u> <u>objects</u>

A description of an aircraft object that contains its manufacturer's serial number, the name of the manufacturer and its model designation is necessary and sufficient to identify the object for the purposes of Article 7(c) of the Convention and Article V(1)(c) of this Protocol.

Article VIII - Choice of law

1. This Article applies only where a Contracting State has made a declaration pursuant to Article XXX(1).

2. The parties to an agreement, or a contract of sale, or a related guarantee contract or subordination agreement may agree on the law which is to govern their contractual rights and obligations, wholly or in part.

3. Unless otherwise agreed, the reference in the preceding paragraph to the law chosen by the parties is to the domestic rules of law of the designated State or, where that State comprises several territorial units, to the domestic law of the designated territorial unit.

CHAPTER II

DEFAULT REMEDIES, PRIORITIES AND ASSIGNMENTS

<u>Article IX – Modification of default</u> remedies provisions

1. In addition to the remedies specified in Chapter III of the Convention, the creditor may, to the extent that the debtor has at any time so agreed and in the circumstances specified in that Chapter:

(a) procure the de-registration of the aircraft; and

(b) procure the export and physical transfer of the aircraft object from the territory in which it is situated.

2. The creditor shall not exercise the remedies specified in the preceding paragraph without the prior consent in writing of the holder of any registered interest ranking in priority to that of the creditor.

3. Article 8(3) of the Convention shall not apply to aircraft objects. Any remedy given by the Convention in relation to an aircraft object shall be exercised in a commercially reasonable manner. A remedy shall be deemed to be exercised in a commercially reasonable manner where it is exercised in conformity with a provision of the agreement except where such a provision is manifestly unreasonable.

4. A chargee giving ten or more working days' prior written notice of a proposed sale or lease to interested persons shall be deemed to satisfy the requirement of providing "reasonable prior notice" specified in Article 8(4) of the Convention. The foregoing shall not prevent a chargee and a chargor or a guarantor from agreeing to a longer period of prior notice.

5. The registry authority in a Contracting State shall, subject to any applicable safety laws and regulations, honour a request for de-registration and export if:

(a) the request is properly submitted by the authorised party under a recorded irrevocable deregistration and export request authorisation; and

(b) the authorised party certifies to the registry authority, if required by that authority, that all registered interests ranking in priority to that of the creditor in whose favour the authorisation has been issued have been discharged or that the holders of such interests have consented to the de-registration and export.

6. A chargee proposing to procure the de-registration and export of an aircraft under paragraph 1 otherwise than pursuant to a court order shall give reasonable prior notice in writing of the proposed deregistration and export to:

(a) interested persons specified in Article 1(m)(i) and (ii) of the Convention; and

(b) interested persons specified in Article 1(m)(iii) of the Convention who have given notice of their rights to the chargee within a reasonable time prior to the de-registration and export. <u>Article X – Modification of</u> provisions regarding relief pending final determination

1. This Article applies only where a Contracting State has made a declaration under Article XXX(2) and to the extent stated in such declaration.

2. For the purposes of Article 13(1) of the Convention, "speedy" in the context of obtaining relief means within such number of working days from the date of filing of the application for relief as is specified in a declaration made by the Contracting State in which the application is made.

3. Article 13(1) of the Convention applies with the following being added immediately after sub-paragraph (d):

"(e) if at any time the debtor and the creditor specifically agree, sale and application of proceeds therefrom",

and Article 43(2) applies with the insertion after the words "Article 13(1)(d)" of the words "and (e)".

4. Ownership or any other interest of the debtor passing on a sale under the preceding paragraph is free from any other interest over which the creditor's international interest has priority under the provisions of Article 29 of the Convention.

5. The creditor and the debtor or any other interested person may agree in writing to exclude the application of Article 13(2) of the Convention.

6. With regard to the remedies in Article IX(1):

(a) they shall be made available by the registry authority and other administrative authorities, as applicable, in a Contracting State no later than five working days after the creditor notifies such authorities that the relief specified in Article IX(1) is granted or, in the case of relief granted by a foreign court, recognised by a court of that Contracting State, and that the creditor is entitled to procure those remedies in accordance with the Convention; and

(b) the applicable authorities shall expeditiously co-operate with and assist the creditor in the exercise of such remedies in conformity with the applicable aviation safety laws and regulations.

7. Paragraphs 2 and 6 shall not affect any applicable aviation safety laws and regulations.

Article XI - Remedies on insolvency

1. This Article applies only where a Contracting State that is the primary insolvency jurisdiction has made a declaration pursuant to Article XXX(3).

ALTERNATIVE A

2. Upon the occurrence of an insolvencyrelated event, the insolvency administrator or the debtor, as applicable, shall, subject to paragraph 7, give possession of the aircraft object to the creditor no later than the earlier of:

(a) the end of the waiting period; and

(b) the date on which the creditor would be entitled to possession of the aircraft object if this Article did not apply.

3. For the purposes of this Article, the "waiting period" shall be the period specified in a declaration of the Contracting State which is the primary insolvency jurisdiction.

4. References in this Article to the "insolvency administrator" shall be to that person in its official, not in its personal, capacity.

5. Unless and until the creditor is given the opportunity to take possession under paragraph 2:

(a) the insolvency administrator or the debtor, as applicable, shall preserve the aircraft object and maintain it and its value in accordance with the agreement; and

(b) the creditor shall be entitled to apply for any other forms of interim relief available under the applicable law.

6. Sub-paragraph (a) of the preceding paragraph shall not preclude the use of the aircraft object under arrangements designed to preserve the aircraft object and maintain it and its value.

7. The insolvency administrator or the debtor, as applicable, may retain possession of the aircraft object where, by the time specified in paragraph 2, it has cured all defaults other than a default constituted by the opening of insolvency proceedings and has agreed to perform all future obligations under the agreement. A second waiting period shall not apply in respect of a default in the performance of such future obligations.

8. With regard to the remedies in Article IX(1):

(a) they shall be made available by the registry authority and the admin-

istrative authorities in a Contracting State, as applicable, no later than five working days after the date on which the creditor notifies such authorities that it is entitled to procure those remedies in accordance with the Convention; and

(b) the applicable authorities shall expeditiously co-operate with and assist the creditor in the exercise of such remedies in conformity with the applicable aviation safety laws and regulations.

9. No exercise of remedies permitted by the Convention or this Protocol may be prevented or delayed after the date specified in paragraph 2.

10. No obligations of the debtor under the agreement may be modified without the consent of the creditor.

11. Nothing in the preceding paragraph shall be construed to affect the authority, if any, of the insolvency administrator under the applicable law to terminate the agreement.

12. No rights or interests, except for non-consensual rights or interests of a category covered by a declaration pursuant to Article 39(1), shall have priority in insolvency proceedings over registered interests.

13. The Convention as modified by Article IX of this Protocol shall apply to the exercise of any remedies under this Article.

ALTERNATIVE B

2. Upon the occurrence of an insolvencyrelated event, the insolvency administrator or the debtor, as applicable, upon the request of the creditor, shall give notice to the creditor within the time specified in a declaration of a Contracting State pursuant to Article XXX(3) whether it will:

(a) cure all defaults other than a default constituted by the opening of insolvency proceedings and agree to perform all future obligations, under the agreement and related transaction documents; or

(b) give the creditor the opportunity to take possession of the aircraft object, in accordance with the applicable law.

3. The applicable law referred to in subparagraph (b) of the preceding paragraph may permit the court to require the taking of any additional step or the provision of any additional guarantee. 4. The creditor shall provide evidence of its claims and proof that its international interest has been registered.

5. If the insolvency administrator or the debtor, as applicable, does not give notice in conformity with paragraph 2, or when the insolvency administrator or the debtor has declared that it will give the creditor the opportunity to take possession of the aircraft object but fails to do so, the court may permit the creditor to take possession of the aircraft object upon such terms as the court may order and may require the taking of any additional step or the provision of any additional guarantee.

6. The aircraft object shall not be sold pending a decision by a court regarding the claim and the international interest.

Article XII – Insolvency assistance

1. This Article applies only where a Contracting State has made a declaration pursuant to Article XXX(1).

2. The courts of a Contracting State in which an aircraft object is situated shall, in accordance with the law of the Contracting State, co-operate to the maximum extent possible with foreign courts and foreign insolvency administrators in carrying out the provisions of Article XI.

<u>Article XIII – De-registration and</u> export request authorisation

1. This Article applies only where a Contracting State has made a declaration pursuant to Article XXX(1).

2. Where the debtor has issued an irrevocable de-registration and export request authorisation substantially in the form annexed to this Protocol and has submitted such authorisation for recordation to the registry authority, that authorisation shall be so recorded.

3. The person in whose favour the authorisation has been issued (the "authorised party") or its certified designee shall be the sole person entitled to exercise the remedies specified in Article IX(1) and may do so only in accordance with the authorisation and applicable aviation safety laws and regulations. Such authorisation may not be revoked by the debtor without the consent in writing of the authorised party. The registry authority shall remove an authorisation from the registry at the request of the authorised party. 4. The registry authority and other administrative authorities in Contracting States shall expeditiously co-operate with and assist the authorised party in the exercise of the remedies specified in Article IX.

<u>Article XIV – Modification of priority</u> provisions

1. A buyer of an aircraft object under a registered sale acquires its interest in that object free from an interest subsequently registered and from an unregistered interest, even if the buyer has actual knowledge of the unregistered interest.

2. A buyer of an aircraft object acquires its interest in that object subject to an interest registered at the time of its acquisition.

3. Ownership of or another right or interest in an aircraft engine shall not be affected by its installation on or removal from an aircraft.

4. Article 29(7) of the Convention applies to an item, other than an object, installed on an airframe, aircraft engine or helicopter.

<u>Article XV – Modification of</u> <u>assignment provisions</u>

Article 33(1) of the Convention applies as if the following were added immediately after sub-paragraph (b):

"and (c) the debtor has consented in writing, whether or not the consent is given in advance of the assignment or identifies the assignee."

<u>Article XVI – Debtor provisions</u>

1. In the absence of a default within the meaning of Article 11 of the Convention, the debtor shall be entitled to the quiet possession and use of the object in accordance with the agreement as against:

(a) its creditor and the holder of any interest from which the debtor takes free pursuant to Article 29(4) of the Convention or, in the capacity of buyer, Article XIV(1) of this Protocol, unless and to the extent that the debtor has otherwise agreed; and

(b) the holder of any interest to which the debtor's right or interest is subject pursuant to Article 29(4) of the Convention or, in the capacity of buyer, Article XIV(2) of this Protocol, but only to the extent, if any, that such holder has agreed. 2. Nothing in the Convention or this Protocol affects the liability of a creditor for any breach of the agreement under the applicable law in so far as that agreement relates to an aircraft object.

CHAPTER III

REGISTRY PROVISIONS RELATING TO INTERNATIONAL INTERESTS IN AIRCRAFT OBJECTS

<u>Article XVII – The Supervisory</u> <u>Authority and the Registrar</u>

1. The Supervisory Authority shall be the international entity designated by a Resolution adopted by the Diplomatic Conference to Adopt a Mobile Equipment Convention and an Aircraft Protocol.

2. Where the international entity referred to in the preceding paragraph is not able and willing to act as Supervisory Authority, a Conference of Signatory and Contracting States shall be convened to designate another Supervisory Authority.

3. The Supervisory Authority and its officers and employees shall enjoy such immunity from legal and administrative process as is provided under the rules applicable to them as an international entity or otherwise.

4. The Supervisory Authority may establish a commission of experts, from among persons nominated by Signatory and Contracting States and having the necessary qualifications and experience, and entrust it with the task of assisting the Supervisory Authority in the discharge of its functions.

5. The first Registrar shall operate the International Registry for a period of five years from the date of entry into force of this Protocol. Thereafter, the Registrar shall be appointed or reappointed at regular five-yearly intervals by the Supervisory Authority.

Article XVIII - First regulations

The first regulations shall be made by the Supervisory Authority so as to take effect upon the entry into force of this Protocol.

<u>Article XIX – Designated entry</u> points

1. Subject to paragraph 2, a Contracting State may at any time designate an entity or entities in its territory as the entry point or entry points through which there shall or may be transmitted to the International Registry information required for registration other than registration of a notice of a national interest or a right or interest under Article 40 in either case arising under the laws of another State.

2. A designation made under the preceding paragraph may permit, but not compel, use of a designated entry point or entry points for information required for registrations in respect of aircraft engines.

<u>Article XX – Additional</u> <u>modifications to Registry</u> <u>provisions</u>

1. For the purposes of Article 19(6) of the Convention, the search criteria for an aircraft object shall be the name of its manufacturer, its manufacturer's serial number and its model designation, supplemented as necessary to ensure uniqueness. Such supplementary information shall be specified in the regulations.

2. For the purposes of Article 25(2) of the Convention and in the circumstances there described, the holder of a registered prospective international interest or a registered prospective assignment of an international interest or the person in whose favour a prospective sale has been registered shall take such steps as are within its power to procure the discharge of the registration no later than five working days after the receipt of the demand described in such paragraph.

3. The fees referred to in Article 17(2)(h) of the Convention shall be determined so as to recover the reasonable costs of establishing, operating and regulating the International Registry and the reasonable costs of the Supervisory Authority associated with the performance of the functions, exercise of the powers, and discharge of the duties contemplated by Article 17(2) of the Convention.

4. The centralised functions of the International Registry shall be operated and administered by the Registrar on a twenty-four hour basis. The various entry points shall be operated at least during working hours in their respective territories.

5. The amount of the insurance or financial guarantee referred to in Article 28(4) of the Convention shall, in respect of each event, not be less than the maximum value of an aircraft object as determined by the Supervisory Authority. 6. Nothing in the Convention shall preclude the Registrar from procuring insurance or a financial guarantee covering events for which the Registrar is not liable under Article 28 of the Convention.

CHAPTER IV

JURISDICTION

<u>Article XXI – Modification of</u> jurisdiction provisions

For the purposes of Article 43 of the Convention and subject to Article 42 of the Convention, a court of a Contracting State also has jurisdiction where the object is a helicopter, or an airframe pertaining to an aircraft, for which that State is the State of registry.

<u>Article XXII – Waivers of sovereign</u> <u>immunity</u>

1. Subject to paragraph 2, a waiver of sovereign immunity from jurisdiction of the courts specified in Article 42 or Article 43 of the Convention or relating to enforcement of rights and interests relating to an aircraft object under the Convention shall be binding and, if the other conditions to such jurisdiction or enforcement have been satisfied, shall be effective to confer jurisdiction and permit enforcement, as the case may be.

2. A waiver under the preceding paragraph must be in writing and contain a description of the aircraft object.

CHAPTER V

RELATIONSHIP WITH OTHER CONVENTIONS

<u>Article XXIII – Relationship with the</u> <u>Convention on the International</u> <u>Recognition of Rights in Aircraft</u>

The Convention shall, for a Contracting State that is a party to the Convention on the International Recognition of Rights in Aircraft, signed at Geneva on 19 June 1948, supersede that Convention as it relates to aircraft, as defined in this Protocol, and to aircraft objects. However, with respect to rights or interests not covered or affected by the present Convention, the Geneva Convention shall not be superseded. Article XXIV – Relationship with the Convention for the Unification of Certain Rules Relating to the Precautionary Attachment of Aircraft

1. The Convention shall, for a Contracting State that is a Party to the Convention for the Unification of Certain Rules Relating to the Precautionary Attachment of Aircraft, signed at Rome on 29 May 1933, supersede that Convention as it relates to aircraft, as defined in this Protocol.

2. A Contracting State Party to the above Convention may declare, at the time of ratification, acceptance, approval of, or accession to this Protocol, that it will not apply this Article.

Article XXV – Relationship with the UNIDROIT Convention on International Financial Leasing

The Convention shall supersede the UNIDROIT Convention on International Financial Leasing, signed at Ottawa on 28 May 1988, as it relates to aircraft objects.

CHAPTER VI

FINAL PROVISIONS

Article XXVI – Signature,

ratification, acceptance, approval or accession

1. This Protocol shall be open for signature in Cape Town on 16 November 2001 by States participating in the Diplomatic Conference to Adopt a Mobile Equipment Convention and an Aircraft Protocol held at Cape Town from 29 October to 16 November 2001. After 16 November 2001, this Protocol shall be open to all States for signature at the Headquarters of the International Institute for the Unification of Private Law (UNIDROIT) in Rome until it enters into force in accordance with Article XXVIII.

2. This Protocol shall be subject to ratification, acceptance or approval by States which have signed it.

3. Any State which does not sign this Protocol may accede to it at any time.

4. Ratification, acceptance, approval or accession is effected by the deposit of a formal instrument to that effect with the Depositary.

5. A State may not become a Party to this Protocol unless it is or becomes also a Party to the Convention.

ARTICLE XXVII – REGIONAL ECONOMIC INTEGRATION ORGANISATIONS

1. A Regional Economic Integration Organisation which is constituted by sovereign States and has competence over certain matters governed by this Protocol may similarly sign, accept, approve or accede to this Protocol. The Regional Economic Integration Organisation shall in that case have the rights and obligations of a Contracting State, to the extent that that Organisation has competence over matters governed by this Protocol. Where the number of Contracting States is relevant in this Protocol, the Regional Economic Integration Organisation shall not count as a Contracting State in addition to its Member States which are Contracting States.

2. The Regional Economic Integration Organisation shall, at the time of signature, acceptance, approval or accession, make a declaration to the Depositary specifying the matters governed by this Protocol in respect of which competence has been transferred to that Organisation by its Member States. The Regional Economic Integration Organisation shall promptly notify the Depositary of any changes to the distribution of competence, including new transfers of competence, specified in the declaration under this paragraph.

3. Any reference to a "Contracting State" or "Contracting States" or "State Party" or "States Parties" in this Protocol applies equally to a Regional Economic Integration Organisation where the context so requires.

Article XXVIII - Entry into force

1. This Protocol enters into force on the first day of the month following the expiration of three months after the date of the deposit of the eighth instrument of ratification, acceptance, approval or accession, between the States which have deposited such instruments.

2. For other States this Protocol enters into force on the first day of the month following the expiration of three months after the date of the deposit of its instrument of ratification, acceptance, approval or accession.

Article XXIX - Territorial units

1. If a Contracting State has territorial units in which different systems of law are applicable in relation to the matters dealt with in this Protocol, it may, at the time of ratification, acceptance, approval or accession, declare that this Protocol is to extend to all its territorial units or only to one or more of them and may modify its declaration by submitting another declaration at any time.

2. Any such declaration shall state expressly the territorial units to which this Protocol applies.

3. If a Contracting State has not made any declaration under paragraph 1, this Protocol shall apply to all territorial units of that State.

4. Where a Contracting State extends this Protocol to one or more of its territorial units, declarations permitted under this Protocol may be made in respect of each such territorial unit, and the declarations made in respect of one territorial unit may be different from those made in respect of another territorial unit.

5. If by virtue of a declaration under paragraph 1, this Protocol extends to one or more territorial units of a Contracting State:

(a) the debtor is considered to be situated in a Contracting State only if it is incorporated or formed under a law in force in a territorial unit to which the Convention and this Protocol apply or if it has its registered office or statutory seat, centre of administration, place of business or habitual residence in a territorial unit to which the Convention and this Protocol apply;

(b) any reference to the location of the object in a Contracting State refers to the location of the object in a territorial unit to which the Convention and this Protocol apply; and

(c) any reference to the administrative authorities in that Contracting State shall be construed as referring to the administrative authorities having jurisdiction in a territorial unit to which the Convention and this Protocol apply and any reference to the national register or to the registry authority in that Contracting State shall be construed as referring to the aircraft register in force or to the registry authority having jurisdiction in the territorial unit or units to which the Convention and this Protocol apply.

<u>Article XXX – Declarations relating</u> to certain provisions

1. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to this Protocol, declare that it will apply any one or more of Articles VIII, XII and XIII of this Protocol. 2. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to this Protocol, declare that it will apply Article X of this Protocol, wholly or in part. If it so declares with respect to Article X(2), it shall specify the time-period required thereby.

3. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to this Protocol, declare that it will apply the entirety of Alternative A, or the entirety of Alternative B of Article XI and, if so, shall specify the types of insolvency proceeding, if any, to which it will apply Alternative A and the types of insolvency proceeding, if any, to which it will apply Alternative B. A Contracting State making a declaration pursuant to this paragraph shall specify the timeperiod required by Article XI.

4. The courts of Contracting States shall apply Article XI in conformity with the declaration made by the Contracting State which is the primary insolvency jurisdiction.

5. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to this Protocol, declare that it will not apply the provisions of Article XXI, wholly or in part. The declaration shall specify under which conditions the relevant Article will be applied, in case it will be applied partly, or otherwise which other forms of interim relief will be applied.

<u>Article XXXI – Declarations under</u> <u>the Convention</u>

Declarations made under the Convention, including those made under Articles 39, 40, 50, 53, 54, 55, 57, 58 and 60 of the Convention, shall be deemed to have also been made under this Protocol unless stated otherwise.

<u>Article XXXII – Reservations and</u> <u>declarations</u>

1. No reservations may be made to this Protocol but declarations authorised by Articles XXIV, XXIX, XXX, XXXI, XXXIII and XXXIV may be made in accordance with these provisions.

2. Any declaration or subsequent declaration or any withdrawal of a declaration made under this Protocol shall be notified in writing to the Depositary.

Article XXXIII – Subsequent declarations

1. A State Party may make a subsequent declaration, other than a declaration made in accordance with Article XXXI under Article 60 of the Convention, at any time after the date on which this Protocol has entered into force for it, by notifying the Depositary to that effect.

2. Any such subsequent declaration shall take effect on the first day of the month following the expiration of six months after the date of receipt of the notification by the Depositary. Where a longer period for that declaration to take effect is specified in the notification, it shall take effect upon the expiration of such longer period after receipt of the notification by the Depositary.

3. Notwithstanding the previous paragraphs, this Protocol shall continue to apply, as if no such subsequent declarations had been made, in respect of all rights and interests arising prior to the effective date of any such subsequent declaration.

<u>Article XXXIV – Withdrawal of</u> <u>declarations</u>

1. Any State Party having made a declaration under this Protocol, other than a declaration made in accordance with Article XXXI under Article 60 of the Convention, may withdraw it at any time by notifying the Depositary. Such withdrawal is to take effect on the first day of the month following the expiration of six months after the date of receipt of the notification by the Depositary.

2. Notwithstanding the previous paragraph, this Protocol shall continue to apply, as if no such withdrawal of declaration had been made, in respect of all rights and interests arising prior to the effective date of any such withdrawal.

Article XXXV - Denunciations

1. Any State Party may denounce this Protocol by notification in writing to the Depositary.

2. Any such denunciation shall take effect on the first day of the month following the expiration of twelve months after the date of receipt of the notification by the Depositary.

3. Notwithstanding the previous paragraphs, this Protocol shall continue to apply, as if no such denunciation had been made, in respect of all rights and interests arising prior to the effective date of any such denunciation.

<u>Article XXXVI – Review</u> <u>Conferences, amendments and</u> related matters

1. The Depositary, in consultation with the Supervisory Authority, shall prepare reports yearly, or at such other time as the circumstances may require, for the States Parties as to the manner in which the international regime established in the Convention as amended by this Protocol has operated in practice. In preparing such reports, the Depositary shall take into account the reports of the Supervisory Authority concerning the functioning of the international registration system.

2. At the request of not less than twentyfive per cent of the States Parties, Review Conferences of the States Parties shall be convened from time to time by the Depositary, in consultation with the Supervisory Authority, to consider:

(a) the practical operation of the Convention as amended by this Protocol and its effectiveness in facilitating the asset-based financing and leasing of the objects covered by its terms;

(b) the judicial interpretation given to, and the application made of the terms of this Protocol and the regulations;

(c) the functioning of the international registration system, the performance of the Registrar and its oversight by the Supervisory Authority, taking into account the reports of the Supervisory Authority; and

(d) whether any modifications to this Protocol or the arrangements relating to the International Registry are desirable.

3. Any amendment to this Protocol shall be approved by at least a two-thirds majority of States Parties participating in the Conference referred to in the preceding paragraph and shall then enter into force in respect of States which have ratified, accepted or approved such amendment when it has been ratified, accepted or approved by eight States in accordance with the provisions of Article XXVIII relating to its entry into force.

<u>Article XXXVII – Depositary and its</u> <u>functions</u>

1. Instruments of ratification, acceptance, approval or accession shall be deposited with the International Institute for the Unification of Private Law (UNIDROIT), which is hereby designated the Depositary.

2. The Depositary shall:

(a) inform all Contracting States of:

(i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;

(ii) the date of entry into force of this Protocol;

(iii) each declaration made in accordance with this Protocol, together with the date thereof;

(iv) the withdrawal or amendment of any declaration, together with the date thereof; and

(v) the notification of any denunciation of this Protocol together with the date thereof and the date on which it takes effect;

(b) transmit certified true copies of this Protocol to all Contracting States;

(c) provide the Supervisory Authority and the Registrar with a copy of each instrument of ratification, acceptance, approval or accession, together with the date of deposit thereof, of each declaration or withdrawal or amendment of a declaration and of each notification of denunciation, together with the date of notification thereof, so that the information contained therein is easily and fully available; and

d) perform such other functions customary for depositaries.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorised, have signed this Protocol.

DONE at Cape Town, this sixteenth day of November, two thousand and one, in a single original in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic, such authenticity to take effect upon verification by the Joint Secretariat of the Conference under the authority of the President of the Conference within ninety days hereof as to the conformity of the texts with one another.

FINAL ACT OF THE DIPLOMATIC CONFERENCE TO ADOPT A MOBILE EQUIPMENT CONVENTION AND AN AIRCRAFT PROTOCOL HELD UNDER THE JOINT AUSPICES OF THE INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW AND THE INTERNATIONAL CIVIL AVIATION ORGANIZATION AT CAPE TOWN FROM 29 OCTOBER TO 16 NOVEMBER 2001

The Plenipotentiaries at the Diplomatic Conference to Adopt a Mobile Equipment Convention and an Aircraft Protocol, held under the joint auspices of the International Institute for the Unification of Private Law and the International Civil Aviation Organization, met at Cape Town, at the invitation of the Government of the Republic of South Africa, from 29 October to 16 November 2001 for the purpose of considering the draft Convention on International Interests in Mobile Equipment and the draft Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment, prepared by three Joint Sessions of a Committee of Governmental Experts of the International Institute for the Unification of Private Law and a Legal Sub-Committee of the International Civil Aviation Organization, as well as by the Legal Committee of the International Civil Aviation Organization.

The Governments of the following fiftynine States were represented at the Conference and presented credentials in due and proper form:

[THE TABLE OF COUNTRIES REPRESENTED AT THE CONFERENCE AND THE LISTS OF ORGANIZATIONS AND COMMITTEES, INDICATED IN THE FINAL ACT, HAVE BEEN DELETED FROM THE PRESENT VERSION].

Following its deliberations, the Conference adopted the texts of the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment.

The said Convention and Protocol have been opened for signature at Cape Town this day.

The texts of the said Convention and Protocol are subject to verification by the Joint Secretariat of the Conference under the authority of the President of the Conference within a period of ninety days from the date hereof as to the linguistic changes required to bring the texts in the different languages into conformity with one another.

The Conference furthermore adopted by consensus the following Resolutions:

RESOLUTION NO. 1

RELATING TO THE CONSOLIDATED TEXT OF THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT AND THE PROTOCOL TO THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT ON MATTERS SPECIFIC TO AIRCRAFT EQUIPMENT

MINDFUL of the objectives of the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment;

DESIROUS of facilitating the application and implementation of the Convention and the Protocol;

TAKING INTO ACCOUNT Article 6, paragraph 1 of the Convention, which states that the Convention and the Protocol shall be read and interpreted together as a single instrument;

HAVING AGREED to entrust the Joint Secretariat of the Conference, namely the Secretariats of the International Institute for the Unification of Private Law (UNIDROIT) and of the International Civil Aviation Organization (ICAO), with the drawing up of a consolidated text to facilitate the implementation of the rules contained in the Convention and the Protocol in a user-friendly manner;

THE CONFERENCE:

HEREBY TAKES NOTE OF the Consolidated Text of the Convention on International Interests in Mobile Equipment and the Protocol thereto on Matters specific to Aircraft Equipment as set out in the Attachment to this Resolution.

RESOLUTION NO. 2

RELATING TO THE ESTABLISHMENT OF THE SUPERVISORY AUTHORITY AND THE INTERNATIONAL REGISTRY FOR AIRCRAFT OBJECTS

THE CONFERENCE,

HAVING ADOPTED the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment;

HAVING REGARD to Article XVII, paragraph 1 of the Protocol;

CONSCIOUS of the need to undertake preparatory work regarding the establishment of the International Registry in order to ensure that it is operational by the time the Convention and the Protocol enter into force;

CONSIDERING that the Council of the International Civil Aviation Organization (ICAO), following a recommendation made by the 31st Session of its Legal Committee, decided during its 161st Session to accept, in principle, the role of Supervisory Authority of the International Registry for the purpose of the Protocol, and to defer further decisions on this matter until after the Diplomatic Conference;

RESOLVES:

TO INVITE ICAO to accept the functions of Supervisory Authority upon the entry into force of the Convention and the Protocol;

TO INVITE ICAO to establish a Commission of Experts consisting of not more than 15 members appointed by the ICAO Council from among persons nominated by the Signatory and Contracting States to the Convention and to the Protocol, having the necessary qualifications and experience, with the task of assisting the Supervisory Authority, upon the entry into force of the Convention and the Protocol;

TO SET UP, pending the entry into force of the Convention and the Protocol, a Preparatory Commission to act with full authority as Provisional Supervisory Authority for the establishment of the International Registry, under the guidance and supervision of the ICAO Council. Such Preparatory Commission shall be composed of persons, having the necessary gualifications and experience, nominated by the following States: Argentina, Brazil, Canada, China, Cuba, Egypt, France, Germany, India, Ireland, Kenya, Nigeria, Russian Federation, Senegal, Singapore, Switzerland, South Africa, Tonga, United Arab Emirates, and United States.

TO DIRECT the Preparatory Commission to carry out, under the guidance and supervision of the ICAO Council, the following functions:

(1) to ensure that the international registration system be set up, in ac-

cordance with an objective, transparent and fair selection process, and that it become ready to be operated with a target date of one year from the adoption of the Convention and the Protocol, and at the latest by the time of the entry into force of the Convention and the Protocol;

(2) to ensure the necessary liaison and co-ordination with private industry which will be users of the International Registry; and

(3) to work on such other matters relating to the International Registry as may be required with a view to ensuring the establishment of the International Registry.

TO URGE the States participating in the Conference and interested private parties to make available, at the earliest possible date, the necessary startup funding on a voluntary basis for the tasks of the Preparatory Commission and of ICAO, required under the two preceding resolving clauses, and to entrust ICAO with the task of administering such funds.

RESOLUTION NO. 3

PURSUANT TO ARTICLE 2(3)(B) AND (C) OF THE CONVENTION

THE CONFERENCE,

HAVING ADOPTED, in Article 2(3)(b) and (c) of the Convention, provisions contemplating the adoption of Protocols on Matters specific to Railway Rolling Stock and Space Assets;

CONSIDERING that such Protocols will be applied together with the terms of the Convention and are expected also to include analogous provisions to those contained in the Aircraft Protocol;

CONSIDERING that considerable progress has already been made in relation to the development of such Protocols and such progress has been welcomed by the Conference;

CONSIDERING that the completion of such Protocols is to be expected to confer significant benefits on the international community as a whole, in particular for developing States; and

CONSIDERING IT DESIRABLE to involve as wide a range of States as possible in the process for the adoption of such Protocols and to keep the costs of such adoption to a reasonable minimum;

RESOLVES:

TO INVITE the negotiating States to work towards expeditious adoption of the draft Protocols under preparation in respect of those objects falling within Article 2(3)(b) and (c);

TO INVITE the International Institute for the Unification of Private Law (UNIDROIT) to use its good offices to facilitate such objective;

TO INVITE UNIDROIT to give all Member States of UNIDROIT and Member States of the United Nations which are not members of UNIDROIT an opportunity to participate in the negotiation and adoption of such Protocols in a cost-effective manner; and

TO INVITE the competent bodies of UNIDROIT to consider favourably the implementation of an expedited procedure for the adoption of such Protocols, and in particular to consider the diplomatic Conference required for their adoption being as short as possible consistently with the need for States to give such Protocol proper consideration.

RESOLUTION NO. 4

RELATING TO TECHNICAL ASSISTANCE WITH REGARD TO THE IMPLEMENTATION AND THE USE OF THE INTERNATIONAL REGISTRY

THE CONFERENCE,

MINDFUL of the objectives of the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on Matters specific to Aircraft Equipment;

DESIROUS of facilitating the implementation of the Convention and the Protocol as well as the prompt implementation and use of the International Registry;

RESOLVES:

TO ENCOURAGE all negotiating States, international Organisations, as well as private parties, such as the aviation and financial industries, to assist the developing negotiating States in any appropriate way, including facilities and knowhow necessary to use the International Registry, so as to allow them to benefit from the Convention and the Protocol as early as possible.

RESOLUTION No. 5

RELATING TO THE OFFICIAL COMMENTARY ON THE CONVENTION AND AIRCRAFT PROTOCOL

THE CONFERENCE,

HAVING ADOPTED the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment;

CONSCIOUS of the need for an official commentary on these texts as an aid for those called upon to work with these documents;

RECOGNISING the increasing use of commentaries of this type in the context of modern, technical commercial law instruments; and

MINDFUL that the Explanatory Report and Commentary (DCME-IP/2) provides a sound starting point for the further development of this official commentary;

RESOLVES:

TO REQUEST the preparation of a draft official commentary on these texts by the Chairman of the Drafting Committee, in close co-operation with the ICAO and UNIDROIT Secretariats, and in co-ordination with the Chairman of the Commission of the Whole, the Chairman of the Final Clauses Committee and interested members of the Drafting Committee and observers that participated in its work;

TO REQUEST that such draft be circulated by the two Secretariats to all negotiating States and participating observers as soon as practicable after the conclusion of the Conference inviting comments thereon; and

TO REQUEST that a revised final version of the official commentary be transmitted by the two Secretariats to all negotiating States and participating observers as soon as practicable after the conclusion of the Conference.

ANNEX TO THE INSTRUMENT OF ACCESSION TO THE CAPE TOWN CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT CONTAINING DECLARATIONS MADE BY THE FEDERATIVE REPUBLIC OF BRAZIL WITH RESPECT TO THE CONVENTION

(i) Declaration to Article 39, paragraph 1, a

The Federative Republic of Brazil declares that:

all categories of non-conventional rights or interests which under the Laws of the Federative Republic of Brazil have or will in the future have priority over an interest in an object equivalent to that of the holder of a registered international interest shall have priority over a registered international interest, whether in insolvency proceedings or not.

(ii) Declaration to Article 39, paragraph 1, b

no provision of the Convention shall affect the right of the Federative Republic of Brazil or any of its entities, of any intergovernmental Organization of which the Federative Republic of Brazil is a Member State, or of any other private provider of public services in the Federative Republic of Brazil, to sequester or retain an object under the laws of the State, for the payment of amounts due to such entity, Organization or provider, directly related to the services provided in connection with that good.

(iii) Declaration to Article 39, paragraph 4

a right or interest of a category covered by a declaration made under Article 39, paragraph 1, a, shall have priority over an international interest registered prior to the date of deposit of its instrument of accession.

(iv) Declaration to Article 53

The Federative Republic of Brazil declares that all the competent courts of the Federative Republic of Brazil, as determined in accordance with the laws and rules of judicial organization of the Federative Republic of Brazil, are the competent courts for the purposes of Article 1 and Chapter XII of the Convention.

(v) Declaration to Article 54, paragraph 2

The Federative Republic of Brazil declares that all remedies available to the creditor under any provision of the Convention or the Protocol may only be taken by means of the authorization of the Judiciary, except the remedy provided for in Article XIII of the Protocol, which shall be exercised without judicial authorization.

ANNEX TO THE INSTRUMENT OF ACCESSION TO THE PROTOCOL TO THE CAPE TOWN CONVENTION ON MATTERS SPECIFIC TO AIRCRAFT EQUIPMENT CONTAINING DECLARATIONS MADE BY BRAZIL IN RESPECT OF THE PROTOCOL

(vi) Declaration to Article XXX, paragraph 1, concerning Article VIII

The Federative Republic of Brazil declares that it will apply Article VIII.

(vii) Declaration to Article XXX, paragraph 2 concerning Article X providing for its full application

The Federative Republic of Brazil declares that it will apply Article X in full and that the number of business days to be used for purposes of the deadlines established in Article X, paragraph 2 will be, with respect to the precautionary measures specified in Article 13, paragraph 1, a, b, c, d and e, of the Convention (preservation of the aeronautical good and its value; possession, control or custody of the aeronautical good; immobilization of the aeronautical good; lease or management of the aeronautical good and the income therefrom; sale and application of the proceeds of sale) shall be ten (10) calendar days for judicial proceedings relating to the exercise of the precautionary measures provided for in Article 13, paragraph 1, a to c, and thirty (30) calendar days for judicial proceedings relating to the exercise of the precautionary measures provided for in Article 13, paragraph 1, d and e.

(viii) Declaration to Article XXX, paragraph 3, concerning Article XI The Federative Republic of Brazil declares that it will apply Article XI, Alternative A, in full to all cases of insolvency proceedings, and that the stay period for purposes of Article XI, paragraph 3, of this Alternative will be thirty (30) calendar days.

(ix) Declaration to Article XXX, paragraph 1, regarding Article XII

The Federative Republic of Brazil declares that it will apply Article XII.

(x) Declaration to Article XXX, paragraph 1, on Article XIII

The Federative Republic of Brazil declares that it will apply Article XIII.

(xi) Declaration to Article XIX, paragraph 1, providing for the designation of mandatory entry points for the transmission of aircraft cellsand helicopter registration information for optional use for the transmission of engine registration information to the International Registry.

The Federative Republic of Brazil declares that:

(a) the National Civil Aviation Agency of the Federative Republic of Brazil, through the Brazilian Aeronautical Registry, shall be the entry point from which information concerning international transactions related to aircraft cells belonging to civil aircraft, helicopters or civil aircraft registered in the Federative Republic of Brazil shall be transmitted – and in the case of engines may be transmitted – to the International Registry; and

(b) the requirements related to the Registry, provided for in the Brazilian Aeronautical Code and the Brazilian Aeronautical Regulation, must be fully complied prior to the transmission of any information from the Brazilian Aeronautical Registry to the International Registry.

NATIONAL CIVIL AVIATION AGENCY – RESOLUTION No. 309 OF MARCH 18, 2014

Regulates the application of the Cape Town Convention and its Protocol Relating to Matters Specific to Aircraft Equipment

THE BOARD OF DIRECTORS OF THE NA-TIONAL CIVIL AVIATION AGENCY – ANAC, in the exercise of the powers granted thereto in arts. 11, item V, of Law 11,182, of September 27, 2005, in view of the provisions of art. 8, items XVIII and XLVI, of the same Law, in Legislative Decree No. 135, of May 26, 2011, and Executive Decree No. 8,008, of May 15, 2013, and considering what is stated in process No. 60800.250514/2011-81, deliberated and approved in the Deliberative Meeting of the Board of Directors held on March 18, 2014,

RESOLVES:

<u>Art. 1</u>

Establish the Brazilian Aeronautical Registry – RAB as the authorizing entry point (Authorizing Entry Point – AEP) for transmission of information to the International Registry, in accordance with the provisions of the Regulations and Procedures for the International Registry.

<u>Art. 2</u>

To approve, under the terms of this Resolution, the rules and procedures for the application of the Cape Town Convention and its Protocol Relating to Matters Specific to Aircraft Equipment by RAB.

<u>Art. 3</u>

To assign to RAB, managed by the Technical Management of the Brazilian Aeronautical Registry of the Superintendency of Airworthiness – GTRAB/SAR, the competence to establish the administrative procedures with the purpose of applying this Resolution and its procedures.

CHAPTER I

OF THE INTERNATIONAL GUARANTEE ON AERONAUTICAL GOODS

<u>Art. 4</u>

This Resolution applies to international interests on aeronautical goods constituted as of May 15, 2013.

<u>Art. 5</u>

An international interest in movable equipment is constituted on aircraft hulls, aircraft and helicopters engines – aeronautical goods – of civil use, except for customs or police, bearing the serial number given by the manufacturer, the name of the manufacturer and the model designation, and is

I – conferred by a collateral provider in a contract constituting an in rem guarantee;

II – held by a conditional seller in a contract of sale with reserve of ownership; or

II – held by a conditional seller in a purchase and sale agreement with reserve of ownership; or

III – held by a lessor in a financial lease or operating lease agreement.

(Wording given by Resolution No. 597, of November 25, 2020)

CHAPTER II

REGISTRATION

<u>Art. 6</u>

The mortgage creditors, lessors and sellers with reserve of ownership and others interested parties in registering international interests on aeronautical goods registered in Brazil must register, before RAB, the legal representatives who may receive the Authorization Code for Transmission of Information to the International Registry.

Sole Paragraph. For the purposes of registration, the applicant must present: I – notarized power of attorney granting specific powers and, if foreign, issued in the language of the country of origin of the interested party, duly consularized, with a sworn translation;

II – copy of the identity card; (Wording given by Resolution No. 597, of November 25, 2020)

III - proof of enrollment in the Individual Tax Number; and

IV - proof of residence.

<u>Art. 7</u>

The applicant, after being registered, must sign the Procurement Form with ANAC of the Authorization Code for Transmission of Information to the International Registry and send it electronically to RAB with the duly notarized signature, by authenticity or by resemblance.

Sole paragraph. The Procurement Form with ANAC of the Authorization Code from ANAC for the Transmission of Information to the International Registry will support the provision of any requests for information forwarded, especially by Brazilian authorities, judicial or not.

<u>Art. 8</u>

The applicant that obtains from RAB an Authorization Code for the Transmission of Information to the International Registry in order to register international interests at the International Registry is personally responsible for the registration, being prohibited the transfer of said code.

Sole Paragraph. In previously justified cases of impossibility of using the Authorization Code for Transmission of Information to the International Registry by the applicant, RAB may authorize its transfer to another legal representative registered for that purpose, under the terms of the civil legislation in force.

CHAPTER III

AUTHORIZATION CODE FOR TRANSMISSION OF INFORMATION TO THE INTERNATIONAL REGISTRY

<u>Art. 9</u>

RAB will only provide the Authorization Code for Transmission of Information to the International Registry when the aeronautical good in respect of which the international interest has been constituted at the International Registry:

 I – is registered in Brazil or is in the process of obtaining registration in Brazil, that means, has registration marks;

II – is included in the list attached to the Procurement Form with ANAC of the Authorization Code for Transmission of Information to the International Registry, which will list the aeronautical goods within the specifications of the Protocol and that are certified in Brazil by ANAC, except those exempt from certification.

CHAPTER IV

REQUIREMENTS FOR THE PROVISION OF THE AUTHORIZATION CODE FOR TRANSMISSION OF INFORMATION TO THE INTERNATIONAL REGISTRY

<u>Art. 10</u>

RAB will only grant the Authorization Code for Transmission of Information to the International Registry if it verifies:

I - the existence of regular registration by the applicant; and

II – the correct completion of the form, with respect to the marking of the mandatory items, evidenced in the document itself.

<u>Art. 11</u>

(Revoked by Resolution No. 597, of November 25, 2020)

CHAPTER V

THE APPLICANT'S RESPONSIBILITY

<u>Art. 12</u>

The Procurement Form with ANAC of the Authorization Code for Transmission of Information to the International Registry shall contain 4 (four) statements that must be filled out by the applicant, who shall be responsible for the information transmitted to the International Registry:

I – "I declare to be civilly and criminally responsible for the full compliance, prior to the use of the Authorization Code for Transmission of Information to the International Registry, of the requirements related to the Brazilian Aeronautical Registry, provided for in the Brazilian legislation for civil aviation."

II – "I declare to be civilly and criminally responsible for the truth and authenticity of all the information that I will electronically enter in the International Registry after being granted the Authorization Code for Transmission of Information to the International Registry by the Brazilian Aeronautical Registry (Authorizing Entry Point), as well as being aware that the possession of valid written consent of the other party is required to effect the registration(s), in accordance with Article 20 of the Cape Town Convention.";

III – " I declare to be civilly and criminally responsible for using exclusively and lawfully the Authorization Code for Transmission of Information to the International Registry granted by the Brazilian Aeronautical Registry to enter international interests in the International Registry, under the terms of Art. 8, caput, of ANAC Resolution No. 309, of March 18, 2014."; and

IV – "I declare to be civilly and criminally responsible for not transfering, for free or burdensome, the Authorization Code for Transmission of Information to the International Registry obtained from the Brazilian Aeronautical Registry, unless expressly authorized according to the sole paragraph of Art. 8 of ANAC Resolution No. 309, of March 18, 2014, under penalty of no longer obtaining authorization codes for this purpose, under the terms of Art. 13 of said Resolution.".

CHAPTER VI

SANCTIONS

<u>Art. 13</u>

The applicant will not be able to obtain new Authorization Codes for Transmission of Information to the International Registry for a period of 6 (six) months in case of transfer to a third party, preregistered or not, for free or burdensome, an Authorization Code for Transmission of Information to the to the International Registry validly obtained before RAB, except as provided in Art. 6, sole paragraph, of this Resolution.

CHAPTER VII

COSTS

<u>Art. 14</u>

The costs of the registration process of international interests at the International Registry will be borne by the applicant.

Sole Paragraph. RAB will not be responsible for any costs related to the process of registration of international interests at the International Registry.

CHAPTER VIII

CANCELLATION OF REGISTRATION AND APPLICATION FOR EXPORT

<u>Art. 15</u>

The debtor may issue an irrevocable authorization for de-registration and request for export in favor of the creditor holding a collateral or the person entitled by him/her for this purpose, along the lines of the Form attached to the Protocol Related to Matters Specific to Aircraft Equipment, which will be registered in the RAB, under the terms of Article XIII of the Protocol.

§ 1 Once the authorization for de-registration and export request is registered, it cannot be revoked by the debtor without the consent of the creditor.

§ 2 Only irrevocable authorizations for de-registration and export requests issued after May 15, 2013, may be entered and registered before RAB. <u>Art. 16</u>

The irrevocable authorization for the deregistration and export request must be presented to RAB, accompanied by: (Wording given by Resolution No. 597, of November 25, 2020)

I - request, preferably standardized;

II - collection of the TFAC;

III – a sworn public translation, whenever in a foreign language; and

IV – acknowledgement of the signatories' signatures, accompanied by the respective proof of powers.

Sole paragraph. The titles and documents signed abroad must be notarized. Except when exempted by bilateral agreement, titles and documents executed abroad must also be consularized.

<u>Art. 17</u>

The creditor holding the collateral, or the person authorized by him/her for this purpose, must notify RAB that he/she is authorized to obtain the de-registration and export request when they are to be carried out.

§ 1 The notification referred to in the caput must be filed before RAB in writing, with the signature of the declarant notarized, identifying the aeronautical goods and the country to which it will be exported.

§ 2 The creditor holding the collateral or the person entitled by him/her for this purpose shall certify to RAB that all registered interests that have priority over theirs have been cancelled or that the holders of these interests have consented to the de-registration and to the export.

§ 3 RAB will make available, within a maximum period of 5 (five) working days, as of the date of the protocol notification, the de-registration requested as described in the caput of this article.

§4 Once the de-registration is requested, there will be no request for suspension of its processing, with the exception of the right to abandon cancellation within the period established by ANAC.

(Included by Resolution No. 597, of November 25, 2020)

§ 5 The de-registration will be processed independently from the export request of the aeronautical good. (Included by Resolution No. 597, of November 25, 2020)

<u>Art. 18.</u>

ANAC will cooperate with the use of the measures of de-registration and export request, pursuant to Paragraph 4 of Article XIII of the Protocol Relating to Matters Specific to Aeronautical Equipment, exempting the creditor holding a collateral or a person entitled by him/her for this purpose to represent:

 I – the original Certificates of Registration and of Airworthiness of the aeronautical good;

II – the Export Airworthiness Certificate, issued by ANAC itself, as long as it is needless at the time of registration in the country of destination, as declared by the applicant; and

III – proof of non-debt related to airport fees and fines for infractions of the Brazilian Aeronautical Code.

<u>Art. 19</u>

This Resolution takes effect on the date of its publication.

MARCELO PACHECO DOS GUARANYS

Director-President

DECREE No. 7,030 OF DECEMBER 14, 2009

Promulgates the Vienna Convention on the Law of Treaties, concluded on May 23, 1969, with reservations to Articles 25 and 66.

THE PRESIDENT OF THE REPUBLIC, using the powers conferred on him/her by art. 84, item IV, of the Constitution, and

Whereas the National Congress approved, through the Legislative Decree No. 496 of July 17, 2009, the Vienna Convention on the Law of Treaties, concluded on May 23, 1969, with reservation on Articles 25 and 66;

Whereas the Brazilian Government deposited the instrument of ratification of said Convention with the Secretary-General of the United Nations on September 25, 2009;

DECREES:

<u>Art. 1</u>

The Vienna Convention on the Law of Treaties, concluded on May 23, 1969, with reservation on Articles 25 and 66, annexed by copy to the present Decree, shall be executed and complied with as fully as contained therein.

<u>Art. 2</u>

Any acts that may result in the revision of said Convention or that entail burdensome charges or commitments to the national patrimony are subject to the approval of the National Congress, under the terms of art. 49, item I, of the Constitution.

<u>Art. 3</u>

This Decree takes effect on the date of its publication.

Brasília, December 14, 2009; 188th of the Independence and 121st of the Republic.

LUIZ INÁCIO LULA DA SILVA

ANTONIO DE AGUIAR PATRIOTA

VIENNA CONVENTION ON THE LAW OF TREATIES

The States Parties to the present Convention,

Considering the fundamental role of treaties in the history of international relations,

Recognizing the ever-increasing importance of treaties as a source of international law and as a means of developing peaceful cooperation among nations, whatever their constitutional and social systems,

Noting that the principles of free consent and of good faith and the pacta sunt servanda rule are universally recognized,

Affirming that disputes concerning treaties, like other international disputes, should be settled by peaceful means and in conformity with the principles of justice and international law,

Recalling the determination of the peoples of the United Nations to establish conditions under which justice and respect for the obligations arising from treaties can be maintained,

Having in mind the principles of international law embodied in the Charter of the United Nations, such as the principles of the equal rights and self-determination of peoples, of the sovereign equality and independence of all States, of non-interference in the domestic affairs of States, of the prohibition of the threat or use of force and of universal respect for, and observance of, human rights and fundamental freedoms for all,

Believing that the codification and progressive development of the law of treaties achieved in the present Convention will promote the purposes of the United Nations set forth in the Charter, namely, the maintenance of international peace and security, the development of friendly relations and the achievement of cooperation among nations,

Affirming that the rules of customary international law will continue to govern questions not regulated by the provisions of the present Convention,

Have agreed as follows:

PARTI

INTRODUCTION

<u>Article 1</u>

SCOPE OF THE PRESENT CONVENTION

The present Convention applies to treaties between States.

Article 2

USE OF TERMS

1. For the purposes of the present Convention:

(a) "treaty" means an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation;

(b) "ratification", "acceptance", "approval" and "accession" mean in each case the international act so named whereby a State establishes on the international plane its consent to be bound by a treaty;

(c) "full powers" means a document emanating from the competent authority of a State designating a person or persons to represent the State for negotiating, adopting or authenticating the text of a treaty, for expressing the consent of the State to be bound by a treaty, or for accomplishing any other act with respect to a treaty;

(d) "reservation" means a unilateral statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State;

(e) "negotiating State" means a State which took part in the drawing up and adoption of the text of the treaty;

(f) "contracting State" means a State which has consented to be bound by the treaty, whether or not the treaty has entered into force; (g) "party" means a State which has consented to be bound by the treaty and for which the treaty is in force;

(h) "third State" means a State not a party to the treaty;

(i) "international organization" means an intergovernmental organization.

2. The provisions of paragraph 1 regarding the use of terms in the present Convention are without prejudice to the use of those terms or to the meanings which may be given to them in the internal law of any State.

Article 3

INTERNATIONAL AGREEMENTS NOT WITHIN THE SCOPE OF THE PRESENT CONVENTION

The fact that the present Convention does not apply to international agreements concluded between States and other subjects of international law or between such other subjects of international law, or to international agreements not in written form, shall not affect:

(a) the legal force of such agreements;

(b) the application to them of any of the rules set forth in the present Convention to which they would be subject under international law independently of the Convention;

(c) the application of the Convention to the relations of States as between themselves under international agreements to which other subjects of international law are also parties.

Article 4

NON-RETROACTIVITY OF THE PRESENT CONVENTION

Without prejudice to the application of any rules set forth in the present Convention to which treaties would be subject under international law independently of the Convention, the Convention applies only to treaties which are concluded by States after the entry into force of the present Convention with regard to such States.

Article 5

TREATIES CONSTITUTING INTERNATIONAL ORGANIZATIONS AND TREATIES ADOPTED WITHIN AN INTERNATIONAL ORGANIZATION

The present Convention applies to any treaty which is the constituent instrument of an international organization and to any treaty adopted within an international organization without prejudice to any relevant rules of the organization.

PART II

CONCLUSION AND ENTRY INTO FORCE **OF TREATIES**

SECTION 1

CONCLUSION OF TREATIES

Article 6

CAPACITY OF STATES TO CONCLUDE TREATIES

Every State possesses capacity to conclude treaties.

Article 7

FULL POWERS

1. A person is considered as representing a State for the purpose of adopting or authenticating the text of a treaty or for the purpose of expressing the consent of the State to be bound by a treaty if:

(a) he produces appropriate full powers; or

(b) it appears from the practice of the States concerned or from other circumstances that their intention was to consider that person as representing the State for such purposes and to dispense with full powers.

2. In virtue of their functions and without having to produce full powers, the following are considered as representing their State:

(a) Heads of State, Heads of Government and Ministers for Foreign Affairs, for the purpose of performing all acts relating to the conclusion of a treaty;

(b) heads of diplomatic missions, for the purpose of adopting the text of a treaty between the accrediting State and the State to which they are accredited:

(c) representatives accredited by States to an international conference or to an international organization or one of its organs, for the purpose of adopting the text of a treaty in that conference, organization or organ.

Article 8

SUBSEQUENT CONFIRMATION OF AN ACT PERFORMED WITHOUT AUTHORIZATION

An act relating to the conclusion of a treaty performed by a person who cannot be considered under article 7 as authorized to represent a State for that purpose is without legal effect unless afterwards confirmed by that State.

Article 9

ADOPTION OF THE TEXT

1. The adoption of the text of a treaty takes place by the consent of all the States participating in its drawing up except as provided in paragraph 2.

2. The adoption of the text of a treaty at an international conference takes place by the vote of two thirds of the States present and voting, unless by the same majority they shall decide to apply a different rule

Article 10

AUTHENTICATION OF THE TEXT

The text of a treaty is established as authentic and definitive:

(a) by such procedure as may be provided for in the text or agreed upon by the States participating in its drawing up; or

(b) failing such procedure, by the signature, signature ad referendum or initialling by the representatives of those States of the text of the treaty or of the Final Act of a conference incorporating the text.

Article 11

MEANS OF EXPRESSING CONSENT TO BE BOUND BY A TREATY

The consent of a State to be bound by a treaty may be expressed by signature, exchange of instruments constituting a treaty, ratification, acceptance, approval or accession, or by any other means if so agreed.

Article 12

CONSENT TO BE BOUND BY A TREATY EXPRESSED BY SIGNATURE

1. The consent of a State to be bound by a treaty is expressed by the signature of its representative when:

(a) the treaty provides that signature shall have that effect;

(b) it is otherwise established that the negotiating States were agreed that signature should have that effect; or

(c) the intention of the State to give that effect to the signature appears from the full powers of its representative or was expressed during the negotiation.

2. For the purposes of paragraph 1:

 (a) the initialling of a text constitutes a signature of the treaty when it is established that the negotiating States so agreed;

(b) the signature ad referendum of a treaty by a representative, if confirmed by his State, constitutes a full signature of the treaty.

Article 13

CONSENT TO BE BOUND BY A TREATY EXPRESSED BY AN EXCHANGE OF INSTRUMENTS CONSTITUTING A TREATY

The consent of States to be bound by a treaty constituted by instruments exchanged between them is expressed by that exchange when:

(a) the instruments provide that their exchange shall have that effect; or

(b) it is otherwise established that those States were agreed that the exchange of instruments should have that effect.

Article 14

CONSENT TO BE BOUND BY A TREATY EXPRESSED BY RATIFICATION, ACCEPTANCE OR APPROVAL

1. The consent of a State to be bound by a treaty is expressed by ratification when:

(a) the treaty provides for such consent to be expressed by means of ratification;

(b) it is otherwise established that the negotiating States were agreed that ratification should be required;

(c) the representative of the State has signed the treaty subject to ratification; or

(d) the intention of the State to sign the treaty subject to ratification appears from the full powers of its representative or was expressed during the negotiation.

2. The consent of a State to be bound by a treaty is expressed by acceptance or approval under conditions similar to those which apply to ratification.

Article 15

CONSENT TO BE BOUND BY A TREATY EXPRESSED BY ACCESSION

The consent of a State to be bound by a treaty is expressed by accession when:

(a) the treaty provides that such consent may be expressed by that State by means of accession;

(b) it is otherwise established that the negotiating States were agreed that such consent may be expressed by that State by means of accession; or

(c) all the parties have subsequently agreed that such consent may be expressed by that State by means of accession.

Article 16

EXCHANGE OR DEPOSIT OF INSTRUMENTS OF RATIFICATION, ACCEPTANCE, APPROVAL OR ACCESSION

Unless the treaty otherwise provides, instruments of ratification, acceptance, approval or accession establish the consent of a State to be bound by a treaty upon:

(a) their exchange between the contracting States;

(b) their deposit with the depositary; or

(c) their notification to the contracting States or to the depositary, if so agreed.

Article 17

CONSENT TO BE BOUND BY PART OF A TREATY AND CHOICE OF DIFFERING PROVISIONS

1. Without prejudice to articles 19 to 23, the consent of a State to be bound by part of a treaty is effective only if the treaty so permits or the other contracting States so agree.

2. The consent of a State to be bound by a treaty which permits a choice between differing provisions is effective only if it is

made clear to which of the provisions the consent relates.

Article 18

OBLIGATION NOT TO DEFEAT THE OBJECT AND PURPOSE OF A TREATY PRIOR TO ITS ENTRY INTO FORCE

A State is obliged to refrain from acts which would defeat the object and purpose of a treaty when:

(a) it has signed the treaty or has exchanged instruments constituting the treaty subject to ratification, acceptance or approval, until it shall have made its intention clear not to become a party to the treaty; or

(b) it has expressed its consent to be bound by the treaty, pending the entry into force of the treaty and provided that such entry into force is not unduly delayed.

SECTION 2

RESERVATIONS

Article 19

FORMULATION OF RESERVATIONS

A State may, when signing, ratifying, accepting, approving or acceding to a treaty, formulate a reservation unless:

(a) the reservation is prohibited by the treaty;

(b) the treaty provides that only specified reservations, which do not include the reservation in question, may be made; or

(c) in cases not failing under subparagraphs (a) and (b), the reservation is incompatible with the object and purpose of the treaty.

Article 20

ACCEPTANCE OF AND OBJECTION TO RESERVATIONS

1. A reservation expressly authorized by a treaty does not require any subsequent acceptance by the other contracting States unless the treaty so provides.

2. When it appears from the limited number of the negotiating States and the object and purpose of a treaty that the application of the treaty in its entirety between all the parties is an essential condition of the consent of each one to be bound by the treaty, a reservation requires acceptance by all the parties. 3. When a treaty is a constituent instrument of an international organization and unless it otherwise provides, a reservation requires the acceptance of the competent organ of that organization.

4. In cases not falling under the preceding paragraphs and unless the treaty otherwise provides:

(a) acceptance by another contracting State of a reservation constitutes the reserving State a party to the treaty in relation to that other State if or when the treaty is in force for those States;

(b) an objection by another contracting State to a reservation does not preclude the entry into force of the treaty as between the objecting and reserving States unless a contrary intention is definitely expressed by the objecting State;

(c) an act expressing a State's consent to be bound by the treaty and containing a reservation is effective as soon as at least one other contracting State has accepted the reservation.

5. For the purposes of paragraphs 2 and 4 and unless the treaty otherwise provides, a reservation is considered to have been accepted by a State if it shall have raised no objection to the reservation by the end of a period of twelve months after it was notified of the reservation or by the date on which it expressed its consent to be bound by the treaty, whichever is later.

Article 21

LEGAL EFFECTS OF RESERVATIONS AND OF OBJECTIONS TO RESERVATIONS

1. A reservation established with regard to another party in accordance with articles 19, 20 and 23:

(a) modifies for the reserving State in its relations with that other party the provisions of the treaty to which the reservation relates to the extent of the reservation; and

(b) modifies those provisions to the same extent for that other party in its relations with the reserving State.

2. The reservation does not modify the provisions of the treaty for the other parties to the treaty inter se.

3. When a State objecting to a reservation has not opposed the entry into force of the treaty between itself and the reserving State, the provisions to which the reservation relates do not apply as between the two States to the extent of the reservation.

<u>Article 22</u>

WITHDRAWAL OF RESERVATIONS AND OF OBJECTIONS TO RESERVATIONS

1. Unless the treaty otherwise provides, a reservation may be withdrawn at any time and the consent of a State which has accepted the reservation is not required for its withdrawal.

2. Unless the treaty otherwise provides, an objection to a reservation may be withdrawn at any time.

3. Unless the treaty otherwise provides, or it is otherwise agreed:

(a) the withdrawal of a reservation becomes operative in relation to another contracting State only when notice of it has been received by that State;

(b) the withdrawal of an objection to a reservation becomes operative only when notice of it has been received by the State which formulated the reservation.

Article 23

PROCEDURE REGARDING RESERVATIONS

1. A reservation, an express acceptance of a reservation and an objection to a reservation must be formulated in writing and communicated to the contracting States and other States entitled to become parties to the treaty.

2. If formulated when signing the treaty subject to ratification, acceptance or approval, a reservation must be formally confirmed by the reserving State when expressing its consent to be bound by the treaty. In such a case the reservation shall be considered as having been made on the date of its confirmation.

3. An express acceptance of, or an objection to, a reservation made previously to confirmation of the reservation does not itself require confirmation.

4. The withdrawal of a reservation or of an objection to a reservation must be formulated in writing.

SECTION 3

ENTRY INTO FORCE AND PROVISIONAL APPLICATION OF TREATIES

Article 24

ENTRY INTO FORCE

1. A treaty enters into force in such manner and upon such date as it may provide or as the negotiating States may agree.

2. Failing any such provision or agreement, a treaty enters into force as soon as consent to be bound by the treaty has been established for all the negotiating States.

3. When the consent of a State to be bound by a treaty is established on a date after the treaty has come into force, the treaty enters into force for that State on that date, unless the treaty otherwise provides.

4. The provisions of a treaty regulating the authentication of its text, the establishment of the consent of States to be bound by the treaty, the manner or date of its entry into force, reservations, the functions of the depositary and other matters arising necessarily before the entry into force of the treaty apply from the time of the adoption of its text.

Article 25

PROVISIONAL APPLICATION

1. A treaty or a part of a treaty is applied provisionally pending its entry into force if:

(a) the treaty itself so provides; or

(b) the negotiating States have in some other manner so agreed.

2. Unless the treaty otherwise provides or the negotiating States have otherwise agreed, the provisional application of a treaty or a part of a treaty with respect to a State shall be terminated if that State notifies the other States between which the treaty is being applied provisionally of its intention not to become a party to the treaty.

PART III

OBSERVANCE, APPLICATION AND INTERPRETATION OF TREATIES

SECTION 1

OBSERVANCE OF TREATIES

Article 26

"PACTA SUNT SERVANDA"

Every treaty in force is binding upon the parties to it and must be performed by them in good faith.

Article 27

INTERNAL LAW AND OBSERVANCE OF TREATIES

A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty. This rule is without prejudice to article 46.

SECTION 2

APPLICATION OF TREATIES

Article 28

NON-RETROACTIVITY OF TREATIES

Unless a different intention appears from the treaty or is otherwise established, its provisions do not bind a party in relation to any act or fact which took place or any situation which ceased to exist before the date of the entry into force of the treaty with respect to that party.

Article 29

TERRITORIAL SCOPE OF TREATIES

Unless a different intention appears from the treaty or is otherwise established, a treaty is binding upon each party in respect of its entire territory.

Article 30

APPLICATION OF SUCCESSIVE TREATIES RELATING TO THE SAME SUBJECT MATTER

1. Subject to Article 103 of the Charter of the United Nations, the rights and obligations of States Parties to successive treaties relating to the same subject matter shall be determined in accordance with the following paragraphs.

2. When a treaty specifies that it is subject to, or that it is not to be considered as incompatible with, an earlier or later treaty, the provisions of that other treaty prevail.

3. When all the parties to the earlier treaty are parties also to the later treaty but the earlier treaty is not terminated or suspended in operation under article 59, the earlier treaty applies only to the extent that its provisions are compatible with those of the later treaty.

4. When the parties to the later treaty do not include all the parties to the earlier one:

(a) as between States Parties to both treaties the same rule applies as in paragraph 3;

(b) as between a State party to both treaties and a State party to only one of the treaties, the treaty to which both States are parties governs their mutual rights and obligations.

5. Paragraph 4 is without prejudice to article 41, or to any question of the termination or suspension of the operation of a treaty under article 60 or to any question of responsibility which may arise for a State from the conclusion or application of a treaty the provisions of which are incompatible with its obligations towards another State under another treaty.

SECTION 3

INTERPRETATION OF TREATIES

Article 31

GENERAL RULE OF INTERPRETATION

1. A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.

2. The context for the purpose of the interpretation of a treaty shall comprise, in addition to the text, including its preamble and annexes:

(a) any agreement relating to the treaty which was made between all the parties in connection with the conclusion of the treaty;

(b) any instrument which was made by one or more parties in connection with the conclusion of the treaty and accepted by the other parties as an instrument related to the treaty.

3. There shall be taken into account, together with the context:

(a) any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions;

(b) any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation;

(c) any relevant rules of international law applicable in the relations between the parties.

4. A special meaning shall be given to a term if it is established that the parties so intended.

Article 32

SUPPLEMENTARY MEANS OF INTERPRETATION

Recourse may be had to supplementary means of interpretation, including the preparatory work of the treaty and the circumstances of its conclusion, in order to confirm the meaning resulting from the application of article 31, or to determine the meaning when the interpretation according to article 31:

(a) leaves the meaning ambiguous or obscure; or

(b) leads to a result which is manifestly absurd or unreasonable.

Article 33

INTERPRETATION OF TREATIES AUTHENTICATED IN TWO OR MORE LANGUAGES

1. When a treaty has been authenticated in two or more languages, the text is equally authoritative in each language, unless the treaty provides or the parties agree that, in case of divergence, a particular text shall prevail.

2. A version of the treaty in a language other than one of those in which the text was authenticated shall be considered an authentic text only if the treaty so provides or the parties so agree.

3. The terms of the treaty are presumed to have the same meaning in each authentic text.

4. Except where a particular text prevails in accordance with paragraph 1, when a comparison of the authentic texts discloses a difference of meaning which the application of articles 31 and 32 does not remove, the meaning which best reconciles the texts, having regard to the object and purpose of the treaty, shall be adopted.

SECTION 4

TREATIES AND THIRD STATES

Article 34

GENERAL RULE REGARDING THIRD STATES

A treaty does not create either obligations or rights for a third State without its consent.

Article 35

TREATIES PROVIDING FOR OBLIGATIONS FOR THIRD STATES

An obligation arises for a third State from a provision of a treaty if the parties to the treaty intend the provision to be the means of establishing the obligation and the third State expressly accepts that obligation in writing.

Article 36

TREATIES PROVIDING FOR RIGHTS FOR THIRD STATES

1. A right arises for a third State from a provision of a treaty if the parties to the treaty intend the provision to accord that right either to the third State, or to a group of States to which it belongs, or to all States, and the third State assents thereto. Its assent shall be presumed so long as the contrary is not indicated, unless the treaty otherwise provides.

2. A State exercising a right in accordance with paragraph 1 shall comply with the conditions for its exercise provided for in the treaty or established in conformity with the treaty.

Article 37

REVOCATION OR MODIFICATION OF OBLIGATIONS OR RIGHTS OF THIRD STATES

1. When an obligation has arisen for a third State in conformity with article 35, the obligation may be revoked or modified only with the consent of the parties to the treaty and of the third State, unless it is established that they had otherwise agreed.

2. When a right has arisen for a third State in conformity with article 36, the right may not be revoked or modified by the parties if it is established that the right was intended not to be revocable or subject to modification without the consent of the third State.

Article 38

RULES IN A TREATY BECOMING BINDING ON THIRD STATES THROUGH INTERNATIONAL CUSTOM

Nothing in articles 34 to 37 precludes a rule set forth in a treaty from becoming binding upon a third State as a customary rule of international law, recognized as such.

PART IV

AMENDMENT AND MODIFICATION OF TREATIES

Article 39

GENERAL RULE REGARDING THE AMENDMENT OF TREATIES

A treaty may be amended by agreement between the parties. The rules laid down in Part II apply to such an agreement except insofar as the treaty may otherwise provide.

Article 40

AMENDMENT OF MULTILATERAL TREATIES

1. Unless the treaty otherwise provides, the amendment of multilateral treaties shall be governed by the following paragraphs.

2. Any proposal to amend a multilateral treaty as between all the parties must be notified to all the contracting States, each one of which shall have the right to take part in:

(a) the decision as to the action to be taken in regard to such proposal;

(b) the negotiation and conclusion of any agreement for the amendment of the treaty.

3. Every State entitled to become a party to the treaty shall also be entitled to become a party to the treaty as amended.

4. The amending agreement does not bind any State already a party to the treaty which does not become a party to the amending agreement; article 30, paragraph 4 (b), applies in relation to such State.

5. Any State which becomes a party to the treaty after the entry into force of the amending agreement shall, failing an expression of a different intention by that State:

(a) be considered as a party to the treaty as amended; and

(b) be considered as a party to the unamended treaty in relation to any party to the treaty not bound by the amending agreement.

Article 41

AGREEMENTS TO MODIFY MULTILATERAL TREATIES BETWEEN CERTAIN OF THE PARTIES ONLY

1. Two or more of the parties to a multilateral treaty may conclude an agreement to modify the treaty as between themselves alone if:

(a) the possibility of such a modification is provided for by the treaty; or

(b) the modification in question is not prohibited by the treaty and:

 (i) does not affect the enjoyment by the other parties of their rights under the treaty or the performance of their obligations;

(ii) does not relate to a provision, derogation from which is incompatible with the effective execution of the object and purpose of the treaty as a whole.

2. Unless in a case falling under paragraph 1 (a) the treaty otherwise provides, the parties in question shall notify the other parties of their intention to conclude the agreement and of the modification to the treaty for which it provides.

PART V

INVALIDITY, TERMINATION AND SUSPENSION OF THE OPERATION OF TREATIES

SECTION 1

GENERAL PROVISIONS

Article 42

VALIDITY AND CONTINUANCE IN FORCE OF TREATIES

1. The validity of a treaty or of the consent of a State to be bound by a treaty may be impeached only through the application of the present Convention. 2. The termination of a treaty, its denunciation or the withdrawal of a party, may take place only as a result of the application of the provisions of the treaty or of the present Convention. The same rule applies to suspension of the operation of a treaty.

Article 43

OBLIGATIONS IMPOSED BY INTERNATIONAL LAW INDEPENDENTLY OF A TREATY

The invalidity, termination or denunciation of a treaty, the withdrawal of a party from it, or the suspension of its operation, as a result of the application of the present Convention or of the provisions of the treaty, shall not in any way impair the duty of any State to fulfil any obligation embodied in the treaty to which it would be subject under international law independently of the treaty.

Article 44

SEPARABILITY OF TREATY PROVISIONS

1. A right of a party, provided for in a treaty or arising under article 56, to denounce, withdraw from or suspend the operation of the treaty may be exercised only with respect to the whole treaty unless the treaty otherwise provides or the parties otherwise agree.

2. A ground for invalidating, terminating, withdrawing from or suspending the operation of a treaty recognized in the present Convention may be invoked only with respect to the whole treaty except as provided in the following paragraphs or in article 60.

3. If the ground relates solely to particular clauses, it may be invoked only with respect to those clauses where:

(a) the said clauses are separable from the remainder of the treaty with regard to their application;

(b) it appears from the treaty or is otherwise established that acceptance of those clauses was not an essential basis of the consent of the other party or parties to be bound by the treaty as a whole; and

(c) continued performance of the remainder of the treaty would not be unjust.

4. In cases falling under articles 49 and 50, the State entitled to invoke the fraud or corruption may do so with respect either to the whole treaty or, subject to paragraph 3, to the particular clauses alone.

5. In cases falling under articles 51, 52 and 53, no separation of the provisions of the treaty is permitted.

Article 45

LOSS OF A RIGHT TO INVOKE A GROUND FOR INVALIDATING, TERMINATING, WITHDRAWING FROM OR SUSPENDING THE OPERATION OF A TREATY

A State may no longer invoke a ground for invalidating, terminating, withdrawing from or suspending the operation of a treaty under articles 46 to 50 or articles 60 and 62 if, after becoming aware of the facts:

(a) it shall have expressly agreed that the treaty is valid or remains in force or continues in operation, as the case may be; or

(b) it must by reason of its conduct be considered as having acquiesced in the validity of the treaty or in its maintenance in force or in operation, as the case may be.

SECTION 2

INVALIDITY OF TREATIES

Article 46

PROVISIONS OF INTERNAL LAW REGARDING COMPETENCE TO CONCLUDE TREATIES

1. A State may not invoke the fact that its consent to be bound by a treaty has been expressed in violation of a provision of its internal law regarding competence to conclude treaties as invalidating its consent unless that violation was manifest and concerned a rule of its internal law of fundamental importance.

2. A violation is manifest if it would be objectively evident to any State conducting itself in the matter in accordance with normal practice and in good faith.

Article 47

SPECIFIC RESTRICTIONS ON AUTHORITY TO EXPRESS THE CONSENT OF A STATE

If the authority of a representative to express the consent of a State to be bound by a particular treaty has been made subject to a specific restriction, his omission to observe that restriction may not

be invoked as invalidating the consent expressed by him unless the restriction was notified to the other negotiating States prior to his expressing such consent.

Article 48

ERROR

1. A State may invoke an error in a treaty as invalidating its consent to be bound by the treaty if the error relates to a fact or situation which was assumed by that State to exist at the time when the treaty was concluded and formed an essential basis of its consent to be bound by the treaty.

2. Paragraph 1 shall not apply if the State in question contributed by its own conduct to the error or if the circumstances were such as to put that State on notice of a possible error.

3. An error relating only to the wording of the text of a treaty does not affect its validity; article 79 then applies.

Article 49

FRAUD

If a State has been induced to conclude a treaty by the fraudulent conduct of another negotiating State, the State may invoke the fraud as invalidating its consent to be bound by the treaty.

Article 50

CORRUPTION OF A REPRESENTATIVE OF A STATE

If the expression of a State's consent to be bound by a treaty has been procured through the corruption of its representative directly or indirectly by another negotiating State, the State may invoke such corruption as invalidating its consent to be bound by the treaty.

Article 51

COERCION OF A REPRESENTATIVE OF A STATE

The expression of a State's consent to be bound by a treaty which has been procured by the coercion of its representative through acts or threats directed against him shall be without any legal effect.

Article 52

COERCION OF A STATE BY THE THREAT OR USE OF FORCE

A treaty is void if its conclusion has been procured by the threat or use of force in violation of the principles of international law embodied in the Charter of the United Nations.

Article 53

TREATIES CONFLICTING WITH A PEREMPTORY NORM OF GENERAL INTERNATIONAL LAW ("JUS COGENS")

A treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law. For the purposes of the present Convention, a peremptory norm of general international law is a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character.

SECTION 3

TERMINATION AND SUSPENSION OF THE OPERATION OF TREATIES

Article 54

TERMINATION OF OR WITHDRAWAL FROM A TREATY UNDER ITS PROVISIONS OR BY CONSENT OF THE PARTIES

The termination of a treaty or the withdrawal of a party may take place:

(a) in conformity with the provisions of the treaty; or

(b) at any time by consent of all the parties after consultation with the other contracting States.

Article 55

REDUCTION OF THE PARTIES TO A MULTILATERAL TREATY BELOW THE NUMBER NECESSARY FOR ITS ENTRY INTO FORCE

Unless the treaty otherwise provides, a multilateral treaty does not terminate by reason only of the fact that the number of the parties falls below the number necessary for its entry into force.

Article 56

DENUNCIATION OF OR WITHDRAWAL FROM A TREATY CONTAINING NO PROVISION REGARDING TERMINATION, DENUNCIATION OR WITHDRAWAL

 A treaty which contains no provision regarding its termination and which does not provide for denunciation or withdrawal is not subject to denunciation or withdrawal unless:

(a) it is established that the parties intended to admit the possibility of denunciation or withdrawal; or

(b) a right of denunciation or withdrawal may be implied by the nature of the treaty.

2. A party shall give not less than twelve months' notice of its intention to denounce or withdraw from a treaty under paragraph 1.

Article 57

SUSPENSION OF THE OPERATION OF A TREATY UNDER ITS PROVISIONS OR BY CONSENT OF THE PARTIES

The operation of a treaty in regard to all the parties or to a particular party may be suspended:

(a) in conformity with the provisions of the treaty; or

(b) at any time by consent of all the parties after consultation with the other contracting States.

Article 58

SUSPENSION OF THE OPERATION OF A MULTILATERAL TREATY BY AGREEMENT BETWEEN CERTAIN OF THE PARTIES ONLY

1. Two or more parties to a multilateral treaty may conclude an agreement to suspend the operation of provisions of the treaty, temporarily and as between themselves alone, if:

(a) the possibility of such a suspension is provided for by the treaty; or

(b) the suspension in question is not prohibited by the treaty and:

 (i) does not affect the enjoyment by the other parties of their rights under the treaty or the performance of their obligations;

(ii) is not incompatible with the object and purpose of the treaty.

2. Unless in a case falling under paragraph 1 (a) the treaty otherwise provides, the parties in question shall notify the other parties of their intention to conclude the agreement and of those provisions of the treaty the operation of which they intend to suspend.

Article 59

TERMINATION OR SUSPENSION OF THE OPERATION OF A TREATY IMPLIED BY CONCLUSION OF A LATER TREATY

1. A treaty shall be considered as terminated if all the parties to it conclude a later treaty relating to the same subject matter and:

(a) it appears from the later treaty or is otherwise established that the parties intended that the matter should be governed by that treaty; or

(b) the provisions of the later treaty are so far incompatible with those of the earlier one that the two treaties are not capable of being applied at the same time.

2. The earlier treaty shall be considered as only suspended in operation if it appears from the later treaty or is otherwise established that such was the intention of the parties.

Article 60

TERMINATION OR SUSPENSION OF THE OPERATION OF A TREATY AS A CONSEQUENCE OF ITS BREACH

1. A material breach of a bilateral treaty by one of the parties entitles the other to invoke the breach as a ground for terminating the treaty or suspending its operation in whole or in part.

2. A material breach of a multilateral treaty by one of the parties entitles:

(a) the other parties by unanimous agreement to suspend the operation of the treaty in whole or in part or to terminate it either:

(i) in the relations between themselves and the defaulting State; or

(ii) as between all the parties;

(b) a party specially affected by the breach to invoke it as a ground for suspending the operation of the treaty in whole or in part in the relations between itself and the defaulting State;
(c) any party other than the defaulting State to invoke the breach as a ground for suspending the operation of the treaty in whole or in part with respect to itself if the treaty is of such a character that a material breach of its provisions by one party radically changes the position of every party with respect to the further performance of its obligations under the treaty.

3. A material breach of a treaty, for the purposes of this article, consists in:

(a) a repudiation of the treaty not sanctioned by the present Convention; or

(b) the violation of a provision essential to the accomplishment of the object or purpose of the treaty.

4. The foregoing paragraphs are without prejudice to any provision in the treaty applicable in the event of a breach.

5. Paragraphs 1 to 3 do not apply to provisions relating to the protection of the human person contained in treaties of a humanitarian character, in particular to provisions prohibiting any form of reprisals against persons protected by such treaties.

Article 61

SUPERVENING IMPOSSIBILITY OF PERFORMANCE

1. A party may invoke the impossibility of performing a treaty as a ground for terminating or withdrawing from it if the impossibility results from the permanent disappearance or destruction of an object indispensable for the execution of the treaty. If the impossibility is temporary, it may be invoked only as a ground for suspending the operation of the treaty.

2. Impossibility of performance may not be invoked by a party as a ground for terminating, withdrawing from or suspending the operation of a treaty if the impossibility is the result of a breach by that party either of an obligation under the treaty or of any other international obligation owed to any other party to the treaty.

Article 62

FUNDAMENTAL CHANGE OF CIRCUMSTANCES

1. A fundamental change of circumstances which has occurred with regard to those existing at the time of the conclusion of a treaty, and which was not foreseen by the parties, may not be invoked as a ground for terminating or withdrawing from the treaty unless: (a) the existence of those circumstances constituted an essential basis of the consent of the parties to be bound by the treaty; and

(b) the effect of the change is radically to transform the extent of obligations still to be performed under the treaty.

2. A fundamental change of circumstances may not be invoked as a ground for terminating or withdrawing from a treaty:

(a) if the treaty establishes a boundary; or

(b) if the fundamental change is the result of a breach by the party invoking it either of an obligation under the treaty or of any other international obligation owed to any other party to the treaty.

3. If, under the foregoing paragraphs, a party may invoke a fundamental change of circumstances as a ground for terminating or withdrawing from a treaty it may also invoke the change as a ground for suspending the operation of the treaty.

Article 63

SEVERANCE OF DIPLOMATIC OR CONSULAR RELATIONS

The severance of diplomatic or consular relations between parties to a treaty does not affect the legal relations established between them by the treaty except insofar as the existence of diplomatic or consular relations is indispensable for the application of the treaty.

Article 64

EMERGENCE OF A NEW PEREMPTORY NORM OF GENERAL INTERNATIONAL LAW ("JUS COGENS")

If a new peremptory norm of general international law emerges, any existing treaty which is in conflict with that norm becomes void and terminates.

SECTION 4

PROCEDURE

Article 65

PROCEDURE TO BE FOLLOWED WITH RESPECT TO INVALIDITY, TERMINATION, WITHDRAWAL FROM OR SUSPENSION OF THE OPERATION OF A TREATY

1. A party which, under the provisions of the present Convention, invokes either

a defect in its consent to be bound by a treaty or a ground for impeaching the validity of a treaty, terminating it, withdrawing from it or suspending its operation, must notify the other parties of its claim. The notification shall indicate the measure proposed to be taken with respect to the treaty and the reasons therefor.

2. If, after the expiry of a period which, except in cases of special urgency, shall not be less than three months after the receipt of the notification, no party has raised any objection, the party making the notification may carry out in the manner provided in article 67 the measure which it has proposed.

3. If, however, objection has been raised by any other party, the parties shall seek a solution through the means indicated in Article 33 of the Charter of the United Nations.

4. Nothing in the foregoing paragraphs shall affect the rights or obligations of the parties under any provisions in force binding the parties with regard to the settlement of disputes.

5. Without prejudice to article 45, the fact that a State has not previously made the notification prescribed in paragraph 1 shall not prevent it from making such notification in answer to another party claiming performance of the treaty or alleging its violation.

Article 66

PROCEDURES FOR JUDICIAL SETTLEMENT, ARBITRATION AND CONCILIATION

If, under paragraph 3 of article 65, no solution has been reached within a period of 12 months following the date on which the objection was raised, the following procedures shall be followed:

(a) any one of the parties to a dispute concerning the application or the interpretation of article 53 or 64 may, by a written application, submit it to the International Court of Justice for a decision unless the parties by common consent agree to submit the dispute to arbitration;

(b) any one of the parties to a dispute concerning the application or the interpretation of any of the other articles in part V of the present Convention may set in motion the procedure specified in the Annex to the Convention by submitting a request to that effect to the Secretary-General of the United Nations.

Article 67

INSTRUMENTS FOR DECLARING INVALID, TERMINATING, WITHDRAWING FROM OR SUSPENDING THE OPERATION OF A TREATY

1. The notification provided for under article 65, paragraph 1, must be made in writing.

2. Any act of declaring invalid, terminating, withdrawing from or suspending the operation of a treaty pursuant to the provisions of the treaty or of paragraphs 2 or 3 of article 65 shall be carried out through an instrument communicated to the other parties. If the instrument is not signed by the Head of State, Head of Government or Minister for Foreign Affairs, the representative of the State communicating it may be called upon to produce full powers.

Article 68

REVOCATION OF NOTIFICATIONS AND INSTRUMENTS PROVIDED FOR IN ARTICLES 65 AND 67

A notification or instrument provided for in article 65 or 67 may be revoked at any time before it takes effect.

SECTION 5

CONSEQUENCES OF THE INVALIDITY, TERMINATION OR SUSPENSION OF THE OPERATION OF A TREATY

Article 69

CONSEQUENCES OF THE INVALIDITY OF A TREATY

1. A treaty the invalidity of which is established under the present Convention is void. The provisions of a void treaty have no legal force.

2. If acts have nevertheless been performed in reliance on such a treaty:

(a) each party may require any other party to establish as far as possible in their mutual relations the position that would have existed if the acts had not been performed;

(b) acts performed in good faith before the invalidity was invoked are not rendered unlawful by reason only of the invalidity of the treaty.

3. In cases falling under article 49, 50, 51 or 52, paragraph 2 does not apply with respect to the party to which the fraud,

the act of corruption or the coercion is imputable.

4. In the case of the invalidity of a particular State's consent to be bound by a multilateral treaty, the foregoing rules apply in the relations between that State and the parties to the treaty.

Article 70

CONSEQUENCES OF THE TERMINATION OF A TREATY

1. Unless the treaty otherwise provides or the parties otherwise agree, the termination of a treaty under its provisions or in accordance with the present Convention:

(a) releases the parties from any obligation further to perform the treaty;

(b) does not affect any right, obligation or legal situation of the parties created through the execution of the treaty prior to its termination.

2. If a State denounces or withdraws from a multilateral treaty, paragraph 1 applies in the relations between that State and each of the other parties to the treaty from the date when such denunciation or withdrawal takes effect.

Article 71

CONSEQUENCES OF THE INVALIDITY OF A TREATY WHICH CONFLICTS WITH A PEREMPTORY NORM OF GENERAL INTERNATIONAL LAW

1. In the case of a treaty which is void under article 53 the parties shall:

(a) eliminate as far as possible the consequences of any act performed in reliance on any provision which conflicts with the peremptory norm of general international law; and

(b) bring their mutual relations into conformity with the peremptory norm of general international law.

2. In the case of a treaty which becomes void and terminates under article 64, the termination of the treaty:

(a) releases the parties from any obligation further to perform the treaty;

(b) does not affect any right, obligation or legal situation of the parties created through the execution of the treaty prior to its termination, provided that those rights, obligations or situations may thereafter be maintained only to the extent that their maintenance is not in itself in conflict with the new peremptory norm of general international law.

Article 72

CONSEQUENCES OF THE SUSPENSION OF THE OPERATION OF A TREATY

1. Unless the treaty otherwise provides or the parties otherwise agree, the suspension of the operation of a treaty under its provisions or in accordance with the present Convention:

(a) releases the parties between which the operation of the treaty is suspended from the obligation to perform the treaty in their mutual relations during the period of the suspension;

(b) does not otherwise affect the legal relations between the parties established by the treaty.

2. During the period of the suspension the parties shall refrain from acts tending to obstruct the resumption of the operation of the treaty.

PART VI

MISCELLANEOUS PROVISIONS

Article 73

CASES OF STATE SUCCESSION, STATE RESPONSIBILITY AND OUTBREAK OF HOSTILITIES

The provisions of the present Convention shall not prejudge any question that may arise in regard to a treaty from a succession of States or from the international responsibility of a State or from the outbreak of hostilities between States.

Article 74

DIPLOMATIC AND CONSULAR RELATIONS AND THE CONCLUSION OF TREATIES

The severance or absence of diplomatic or consular relations between two or more States does not prevent the conclusion of treaties between those States. The conclusion of a treaty does not in itself affect the situation in regard to diplomatic or consular relations.

Article 75

CASE OF AN AGGRESSOR STATE

The provisions of the present Convention are without prejudice to any obligation in relation to a treaty which may arise for an aggressor State in consequence of measures taken in conformity with the Charter of the United Nations with reference to that State's aggression.

PART VII

DEPOSITARIES, NOTIFICATIONS, CORRECTIONS AND REGISTRATION

Article 76

DEPOSITARIES OF TREATIES

1. The designation of the depositary of a treaty may be made by the negotiating States, either in the treaty itself or in some other manner. The depositary may be one or more States, an international organization or the chief administrative officer of the organization.

2. The functions of the depositary of a treaty are international in character and the depositary is under an obligation to act impartially in their performance. In particular, the fact that a treaty has not entered into force between certain of the parties or that a difference has appeared between a State and a depositary with regard to the performance of the latter's functions shall not affect that obligation.

Article 77

FUNCTIONS OF DEPOSITARIES

1. The functions of a depositary, unless otherwise provided in the treaty or agreed by the contracting States, comprise in particular:

(a) keeping custody of the original text of the treaty and of any full powers delivered to the depositary;

(b) preparing certified copies of the original text and preparing any further text of the treaty in such additional languages as may be required by the treaty and transmitting them to the parties and to the States entitled to become parties to the treaty;

(c) receiving any signatures to the treaty and receiving and keeping custody of any instruments, notifications and communications relating to it;

(d) examining whether the signature or any instrument, notification or communication relating to the treaty is in due and proper form and, if need be, bringing the matter to the attention of the State in question;

(e) informing the parties and the States entitled to become parties to the treaty of acts, notifications and communications relating to the treaty;

(f) informing the States entitled to become parties to the treaty when the number of signatures or of instruments of ratification, acceptance, approval or accession required for the entry into force of the treaty has been received or deposited;

(g) registering the treaty with the Secretariat of the United Nations;

(h) performing the functions specified in other provisions of the present Convention.

2. In the event of any difference appearing between a State and the depositary as to the performance of the latter's functions, the depositary shall bring the question to the attention of the signatory States and the contracting States or, where appropriate, of the competent organ of the international organization concerned.

Article 78

NOTIFICATIONS AND COMMUNICATIONS

Except as the treaty or the present Convention otherwise provide, any notification or communication to be made by any State under the present Convention shall:

(a) if there is no depositary, be transmitted direct to the States for which it is intended, or if there is a depositary, to the latter;

(b) be considered as having been made by the State in question only upon its receipt by the State to which it was transmitted or, as the case may be, upon its receipt by the depositary;

(c) if transmitted to a depositary, be considered as received by the State for which it was intended only when the latter State has been informed by the depositary in accordance with article 77, paragraph 1 (e).

Article 79

CORRECTION OF ERRORS IN TEXTS OR IN CERTIFIED COPIES OF TREATIES

1. Where, after the authentication of the text of a treaty, the signatory States and

the contracting States are agreed that it contains an error, the error shall, unless they decide upon some other means of correction, be corrected:

(a) by having the appropriate correction made in the text and causing the correction to be initialled by duly authorized representatives;

(b) by executing or exchanging an instrument or instruments setting out the correction which it has been agreed to make; or

(c) by executing a corrected text of the whole treaty by the same procedure as in the case of the original text.

2. Where the treaty is one for which there is a depositary, the latter shall notify the signatory States and the contracting States of the error and of the proposal to correct it and shall specify an appropriate time-limit within which objection to the proposed correction may be raised. If, on the expiry of the time-limit:

(a) no objection has been raised, the depositary shall make and initial the correction in the text and shall execute a procès-verbal of the rectification of the text and communicate a copy of it to the parties and to the States entitled to become parties to the treaty;

(b) an objection has been raised, the depositary shall communicate the objection to the signatory States and to the contracting States.

3. The rules in paragraphs I and 2 apply also where the text has been authenticated in two or more languages and it appears that there is a lack of concordance which the signatory States and the contracting States agree should be corrected.

4. The corrected text replaces the defective text ab initio, unless the signatory States and the contracting States otherwise decide.

5. The correction of the text of a treaty that has been registered shall be notified to the Secretariat of the United Nations.

6. Where an error is discovered in a certified copy of a treaty, the depositary shall execute a procès-verbal specifying the rectification and communicate a copy of it to the signatory States and to the contracting States.

Article 80

REGISTRATION AND PUBLICATION OF TREATIES

1. Treaties shall, after their entry into force, be transmitted to the Secretariat of the United Nations for registration or filing and recording, as the case may be, and for publication.

2. The designation of a depositary shall constitute authorization for it to perform the acts specified in the preceding paragraph.

PART VIII FINAL PROVISIONS

Article 81

SIGNATURE

The present Convention shall be open for signature by all States Members of the United Nations or of any of the specialized agencies or of the International Atomic Energy Agency or parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a party to the Convention, as follows: until 30 November 1969, at the Federal Ministry for Foreign Affairs of the Republic of Austria, and subsequently, until 30 April 1970, at United Nations Headquarters, New York.

Article 82

RATIFICATION

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 83

ACCESSION

The present Convention shall remain open for accession by any State belonging to any of the categories mentioned in article 81. The instruments of accession shall be deposited with the SecretaryGeneral of the United Nations.

Article 84

ENTRY INTO FORCE

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the thirty-fifth instrument of ratification or accession. 2. For each State ratifying or acceding to the Convention after the deposit of the thirty-fifth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 85

AUTHENTIC TEXTS

The original of the present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

DONE at Vienna this twenty-third day of May, one thousand nine hundred and sixty-nine.

ANNEX

1. A list of conciliators consisting of qualified jurists shall be drawn up and maintained by the Secretary-General of the United Nations. To this end, every State which is a Member of the United Nations or a party to the present Convention shall be invited to nominate two conciliators. and the names of the persons so nominated shall constitute the list. The term of a conciliator, including that of any conciliator nominated to fill a casual vacancy, shall be five years and may be renewed. A conciliator whose term expires shall continue to fulfil any function for which he shall have been chosen under the following paragraph.

2. When a request has been made to the Secretary-General under article 66, the Secretary-General shall bring the dispute before a conciliation commission constituted as follows:

The State or States constituting one of the parties to the dispute shall appoint:

(a) one conciliator of the nationality of that State or of one of those States, who may or may not be chosen from the list referred to in paragraph 1; and

(b) one conciliator not of the nationality of that State or of any of those States, who shall be chosen from the list.

The State or States constituting the other party to the dispute shall appoint two conciliators in the same way. The four conciliators chosen by the parties shall be appointed within sixty days following the date on which the Secretary-General receives the request.

The four conciliators shall, within sixty days following the date of the last of their own appointments, appoint a fifth conciliator chosen from the list, who shall be chairman.

If the appointment of the chairman or of any of the other conciliators has not been made within the period prescribed above for such appointment, it shall be made by the Secretary-General within sixty days following the expiry of that period. The appointment of the chairman may be made by the Secretary-General either from the list or from the membership of the International Law Commission.

Any of the periods within which appointments must be made may be extended by agreement between the parties to the dispute.

Any vacancy shall be filled in the manner prescribed for the initial appointment.

3. The Conciliation Commission shall decide its own procedure. The Commission, with the consent of the parties to the dispute, may invite any party to the treaty to submit to it its views orally or in writing. Decisions and recommendations of the Commission shall be made by a majority vote of the five members.

4. The Commission may draw the attention of the parties to the dispute to any measures which might facilitate an amicable settlement.

5. The Commission shall hear the parties, examine the claims and objections, and make proposals to the parties with a view to reaching an amicable settlement of the dispute.

6. The Commission shall report within twelve months of its constitution. Its report shall be deposited with the Secretary-General and transmitted to the parties to the dispute. The report of the Commission, including any conclusions stated therein regarding the facts or questions of law, shall not be binding upon the parties and it shall have no other character than that of recommendations submitted for the consideration of the parties in order to facilitate an amicable settlement of the dispute.

7. The Secretary-General shall provide the Commission with such assistance and facilities as it may require. The expenses of the Commission shall be borne by the United Nations.

GENERAL RULES

LAW No. 7,565 OF DECEMBER 19, 1986

Provides for the Brazilian Aeronautical Code.

I, THE PRESIDENT OF THE REPUBLIC, make it hereby known that the National Congress decrees and I approve the following Law:

TITLE I

INTRODUCTION

CHAPTER I

GENERAL PROVISIONS

<u>Art. 1</u>

Aeronautical Law is regulated by Treaties, Conventions and International Acts to which Brazil is a party, by this Code and by supplementary legislation.

§1 The Treaties, Conventions and International Acts, entered into by delegation of the Executive Branch and approved by the National Congress, are effective as of the date set forth therein for that purpose, after the filing or exchange of the respective ratifications, and may, by express clause, authorize the provisional application of its provisions by the aeronautical authorities, within the limits of their powers, as from the execution thereof (articles 14, 204 to 214).

§2 This Code applies to nationals and foreigners, throughout the National Territory, as well as abroad, as far as its extraterritoriality is admitted.

§3 Supplementary legislation comprises the regulation provided for in this Code, special laws, decrees and rules on aeronautical matters (article 12).

<u>Art. 2</u>

For the purposes of this Code, competent aeronautical authorities are those of the Ministry of Air Force, according to the attributions defined in the respective regulations.

CHAPTER II

PROVISIONS OF PRIVATE INTERNATIONAL LAW

<u>Art. 3</u>

The following are considered located in the territory of the State of their nationality:

I – military aircraft, as well as civil aircraft owned by or at service of the State, directly used by the State (article 107, §§ 1 and 3);

II – aircraft of another kind, when at sea or in a region that does not belong to any State.

Sole paragraph. Except in the case of being at the service of the State, as indicated in item I of this article, extraterritoriality does not prevail in relation to a private aircraft, which is considered to be subject to the law of the State where it is located.

<u>Art. 4</u>

Acts that, originating from an aircraft, have an effect in Brazil, are governed by its laws, even though initiated in a foreign territory.

<u>Art. 5</u>

Acts that, originating from an aircraft, begin in the National Territory, are governed by Brazilian laws, with due regard to the laws of the State in which they produce effect.

<u>Art. 6</u>

Royal rights and private order privileges on aircraft are governed by the law of their nationality.

<u>Art. 7</u>

The legal security measures are regulated by the law of the country where the aircraft is located.

<u>Art. 8</u>

Damages are regulated by Brazilian law when the cargo is intended to Brazil or is transported under the customs transit regime (article 244, §6).

<u>Art. 9</u>

Assistance, rescue and collision are governed by the law of the place where they occur (articles 23, §2, 49 to 65).

Sole paragraph. When at least one of the aircraft involved is Brazilian, Brazilian law applies to assistance, rescue and collision occurring in a region not submitted to any State.

<u>Art. 10</u>

In the matter of air transport, no provisions of foreign law, clauses provided for in contract, air ticket, air waybill and other documents will be valid if they:

I – exclude jurisdiction in the place of destination;

II – aim at discharging the carrier from liability, when this Code does not admit it;

III – establish limits of liability lower than those established in this Code (articles 246, 257, 260, 262, 269 and 277),

TITLE II AIR SPACE AND ITS USE FOR AERONAUTICAL PURPOSES

CHAPTER I

BRAZILIAN AIRSPACE

<u>Art. 11</u>

Brazil exercises complete and exclusive sovereignty over the airspace above its territory and territorial sea.

<u>Art. 12</u>

Except for the specific duties, established by law, the following matters are subject to the rules (article 1, §3), guidelines, coordination, control and inspection of the Ministry of Air Force:

- I air navigation;
- ll air traffic;

IV - the aircraft;

V - the crew;

VI – services, directly or indirectly related to the flight.

<u>Art. 13</u>

The aeronautical authority may detain the aircraft in flight in airspace (article 18) or landing in Brazilian territory (articles 303 to 311), when, in the event of flagrant disregard for aeronautical law standards (articles 1 and 12), of air traffic (articles 14, 16, § 3, 17), or to the conditions established in the respective authorizations (articles 14, §§ 1, 3 and 4, 15, §§ 1 and 2, 19, sole paragraph, 21, 22), it jeopardizes air navigation or air traffic safety, public order, internal or external peace.

CHAPTER II

AIR TRAFFIC

<u>Art. 14</u>

The provisions established in the Treaties, Conventions and International Acts to which Brazil is a party (article 1, paragraph 1), in this Code (article 1, paragraph 2) and in supplementary legislation (article 1, § 3) are to be complied with in the aircraft traffic in Brazilian airspace.

§1 No military or civil aircraft at the service of a foreign State and directly used by it (Article 3, I) may, without authorization, fly on Brazilian airspace or land in the underlying territory.

§2 Aircraft engaged in private air services (articles 177 to 179) are entitled to free traffic, with prior information about the planned flight (article 14, § 4).

§3 The entry and traffic, in the Brazilian airspace, of an aircraft engaged in public air services (article 175) depend on authorization, even if provided for in a bilateral agreement (articles 203 to 213).

§4 The use of Brazilian airspace, by any aircraft, is subject to the established rules and conditions, as well as to the tariffs for the use of communications and aid to en route air navigation (article 23).

§5 Aircraft belonging to aeroclubs are exempt from the tariffs provided for in the previous paragraph.

§6 The operation of military aircraft will be subject to the provisions on protection of flight and air traffic, except when on a war mission or training in a specific area.

<u>Art. 15</u>

For the sake of air navigation security or in the public interest, it is possible to establish zones in which air traffic is prohibited or restricted, to establish routes of entry or exit, to suspend all or part of the traffic, as well as the use of a certain aircraft, or certain air services.

§1 The practice of aerial sports such as ballooning, volleyball, flying wings and the like, as well as training flights, will be carried out in areas delimited by the aeronautical authority.

§2 The use of air sports vehicles for economic purposes, such as advertising, is subject to the rules of specialized public air services (article 201).

<u>Art. 16</u>

No one will be able to oppose, due to the property right on the surface, the overflight of an aircraft, whenever it is carried out in accordance with the current rules.

§1 In the event of an emergency or forced landing, the owner or possessor of the ground space cannot oppose the removal or departure of the aircraft, provided that it is given a guarantee of damage repair.

§2 The lack of guarantee authorizes the sequestration of the aircraft and its retention until it becomes effective.

§3 The launching of things, on board an aircraft, will depend on prior permission from the aeronautical authority, except in case of emergency, and the Captain must proceed in accordance with the provisions in article 171 of this Code.

§4 The damage resulting from overflight, emergency landing, throwing objects or dumping may give rise to liability.

<u>Art. 17</u>

It is forbidden to carry out acrobatic or evolution flights with any aircraft that may constitute a danger to the occupants of the device, to air traffic, to facilities or people on the surface.

Sole paragraph. Excluded from the prohibition are trial, production and demonstration flights when performed by the manufacturer or by special units, with due regard to the rules established by the aeronautical authority.

<u>Art. 18</u>

The Aircraft Captain who receives an order to land from the flight control body must immediately fly the aircraft to the indicated airport and land it there.

§1 If technical reasons, at the Captain's discretion, prevent it from doing so at the indicated airport, the controlling agency should be asked to determine an alternate airport that offers better safety conditions.

§2 In the event of manifest non-compliance with the order received, the aeronautical authority may request the necessary means to intercept or detain the aircraft.

§3 In the event of the previous paragraph, after landing, the crew will receive a notice of infraction and the aircraft will be seized (articles 13 and 303 to 311).

§4 The aeronautical authority that, in excess of its attributions and without relevant reasons, issues the order referred to in the caput of this article, will answer for the excess committed, and the suspension penalty will be applied for a term that will vary from 30 (thirty) to 90 (ninety) days, convertible into a fine.

<u>Art. 19</u>

Except for reasons of force majeure, aircraft may only take off or land at an airport whose characteristics allow for their operations.

Sole paragraph. Landings and take-offs must be carried out, in accordance with established procedures, aiming at traffic, airport and neighboring facilities safety, as well as the safety and welfare of the population that, in some way, may be affected by its operations.

<u>Art. 20</u>

Except for special permission, no aircraft may fly on Brazilian airspace, land in or take off from the underlying territory, unless it has:

I – nationality and registration marks, and be provided with the respective registration and airworthiness certificates (articles 109 to 114);

 II – navigation, communications and rescue equipment, instruments, charts and manuals necessary for flight, landing and take-off safety;

III – qualified crew, licensed and carrying the respective certificates, Logbook (article 84, sole paragraph) passenger list, load manifest or list of mailbags that it eventually carries.

Sole paragraph. The aeronautical authority may, by regulation, establish the con-

III – the aeronautical infrastructure;

ditions for experimental flights, carried out by the aircraft manufacturer, as well as for ferry flights.

<u>Art. 21</u>

Except with special authorization from a competent body, no aircraft may carry explosives, ammunition, firearms, war material, equipment for aerial survey or prospecting, or any other objects or substances considered dangerous to public, the aircraft itself or its occupants safety.

Sole paragraph. The carrying of photographic, cinematographic, electronic or nuclear devices on board an aircraft may be prevented when the safety of air navigation or the public interest so requires.

CHAPTER III

ENTRY AND EXIT OF THE BRAZILIAN AIRSPACE

<u>Art. 22</u>

Every aircraft from abroad will make the first landing or the last take-off at an international airport, respectively.

Sole paragraph. The list of international airports will be published by the aeronautical authority, and their names may only be modified by federal law, when there is a technical need for this change.

<u>Art. 23</u>

The entry into Brazilian airspace or the landing, in the underlying territory, of a military or civil aircraft at the service of a foreign State will be subject to the established conditions (article 14, §1).

§1 The foreign aircraft, authorized to transit on Brazilian airspace, without landing in the underlying territory, must follow the determined route (article 14, §§ 1, 2, 3 and 4).

§2 The aeronautical authority may establish exceptions to the entry regime for foreign aircraft, in the case of search, assistance and rescue operations or flights for health or humanitarian reasons.

<u>Art. 24</u>

The airports located on the border line of the Brazilian territory may be authorized to serve regional traffic, between neighboring countries, with common or shared aeronautical infrastructure services.

Sole paragraph. Brazilian aircraft may be authorized to use airports located in neighboring countries, on the border line to the National Territory, with common or shared aeronautical infrastructure services.

TITLE III

AERONAUTICAL INFRASTRUCTURE

CHAPTER I

GENERAL PROVISIONS

<u>Art. 25</u>

Aeronautical infrastructure is the set of bodies, facilities or ground structures to support air navigation, to promote safety, regularity and efficiency thereto, comprising:

I - the airport system (articles 26 to 46);

II – the flight protection system (articles 47 to 65);

III – the flight security system (articles 66 to 71);

IV - the Brazilian Aeronautical Registration system (articles 72 to 85);

V – the aviation accident prevention and investigation system (articles 86 to 93);

VI – the air transport facilitation, security and coordination system (articles 94 to 96);

VII – the system for qualifying and training personnel for air navigation and aeronautical infrastructure (articles 97 to 100);

VIII – the aeronautical industry system (article 101);

IX – the ancillary services system (articles 102 to 104);

X – the aeronautical infrastructure coordination system (article 105).

§1 The installation and operation of any aeronautical infrastructure services, inside or outside the civil airport, will always depend on prior authorization from the aeronautical authority, which will supervise them, with due regard to the legal provisions that regulate the activities of other Ministries or state agencies involved in the area.

§2 For the purposes of this article, a system is the set of bodies and elements related to each other for a specific purpose, or for an interest of coordination, technical and normative guidance, without implying hierarchical subordination.

CHAPTER II

AIRPORT SYSTEM

SECTION I

AIRPORTS

<u>Art. 26</u>

The airport system consists of a set of Brazilian airports, with all landing tracks, taxi runways, aircraft parking lots, air cargo terminal, passenger terminal and the respective facilities.

Sole paragraph. Facilities are: daytime and nighttime beaconing; patio lighting; specialized fire service and medical emergency removal service; pre-boarding area, air conditioning, buses, boarding bridge, baggage conveyor belt system, passenger carts, disembarkation bridges, passenger ascending-descending escalator system, closed circuit television guidance, semi-automatic message announcement system, sound system, flight information system, general air conditioning, places for public services, places for commercial support, medical service, specialized water rescue service and others, whose implantation is authorized or determined by the aeronautical authority.

<u>Art. 27</u>

Airport is all area intended for landing, take-off and movement of aircraft.

<u>Art. 28</u>

Airports are classified into civil and military.

§1 Civil airport is intended for the use of civil aircraft.

§2 Military airport is intended for the use of military aircraft.

§3 Civil airports may be used by military aircraft, and military airports may be used by civil aircraft, subject to the requirements established by the aeronautical authority.

<u>Art. 29</u>

Civil airports are classified as public and private.

<u>Art. 30</u>

No civil airport can be used without being properly registered.

§1 Public and private airports will be open to traffic through approval and registration process, respectively. §2 Private airports may only be used with permission by their owner, commercial exploitation being prohibited.

<u>Art. 31</u>

The following are considered:

 I – Airports: public airports, provided with premises and facilities to support aircraft operations and loading and unloading of people and cargo;

II – Helipads: the airports intended exclusively for helicopters;

III – Heliports: the public heliports, provided with premises and facilities to support helicopter operations and loading and unloading of people and cargo.

<u>Art. 32</u>

Airports and heliports will be classified by administrative act that will determine the characteristics of each class.

Sole paragraph. Airports intended for domestic or foreign aircraft to perform international services, whether scheduled or non-scheduled, will be classified as international airports (article 22).

<u>Art. 33</u>

At public airports that are the headquarters of a Military Air Unit, the limits of jurisdiction of civil and military authorities, regarding their respective administration, will be defined in special regulations.

SECTION II

CONSTRUCTION AND USE OF AIRPORTS

<u>Art. 34</u>

No airport may be built without prior authorization from the aeronautical authority.

Art. 35

Private airports will be built, maintained and operated by their owners, abiding by the instructions, rules and plans of the aeronautical authority (article 30).

<u>Art. 36</u>

Public airports will be built, maintained and operated:

I - directly, by the Federal Government;

II – by specialized companies of the Indirect Federal Administration or its subsidiaries, bound by the Ministry of Air Force; III – through an agreement with the State or Local Governments;

IV – by concession or authorization.

§1 In order to ensure uniformity of treatment across the country, construction, management and operation are subject to the rules, instructions, coordination and control of the aeronautical authority, except as provided in Art. 36-A. (Wording given by Law No. 13,097, of 2015)

§2 The operation and exploitation of airports and heliports, as well as their ancillary services, constitute a monopoly activity of the Federal Government, throughout the National Territory, or of the entities of the Indirect Federal Administration referred to in this article, within the areas defined in the administrative acts that attribute properties, rents, facilities and services to them.

§3 It is incumbent upon the Federal Government or the Indirect Administration entities referred to in this article, to establish the administrative organization of the airports or heliports, operated by them, indicating the person responsible for their administration and operation, establishing their duties and determining the areas and services subordinated thereto.

§4 The person in charge of the administration, in order to achieve and maintain the good operational quality of the airport, will coordinate the activities of public agencies that, by legal provision, must operate there.

§5 Public airports, as long as their specific purpose is maintained by the Federal Government, constitute autonomous universities and assets, independent from the owner of the domain of the properties where they are located (article 38).

<u>Art. 36-A</u>

The civil aviation authority may issue specific regulations for public airports located in the Legal Amazon area, adapting its operations to local conditions, with a view to fostering regional development, social integration, serving isolated communities, access to health and support for security operations. (Wording given by Law No. 13,097, of 2015)

<u>Art. 37</u>

Public airports may be used by any aircraft, regardless of ownership or nationality, subject to the burden of use, unless, for operational or safety reasons, there is a restriction of use by certain types of aircraft or air services. Sole paragraph. Usage prices will be fixed in tables approved by the aeronautical authority, in view of the facilities made available to aircraft, passengers or cargo, and the operational cost of the airport.

SECTION III

AIRPORT ASSETS

<u>Art. 38</u>

Airports are universal, equivalent to federal public properties, as long as their specific purpose is maintained, although the Federal Government is not the owner of all the properties in which they are located.

§1 The States, Municipalities, Indirect Administration entities or individuals may contribute with real estate or properties for the construction of airports, through the creation of autonomous assets that will be considered as universality.

§2 In case the Federal Government may deactivate the airport as it becomes unnecessary, the use of the properties referred to in the previous paragraph will be returned to the owner, with the respective accessions.

<u>Art. 38-A</u>

The airport operator will be able to remove aircraft, equipment and other properties left in the airport areas whenever they restrict the operation, increase the capacity or the regular operation of the airport or cause health or environmental risks. (Included by Law No. 13,319, 2016)

§1 The provisions in the caput apply also to aircraft, equipment and other assets included in the bankruptcy estate, upon notice to the competent court. (Included by Law No. 13,319, 2016)

§2 Expenditure incurred with the actions provided for in this article will be reimbursed by the owners of the properties and, in the event of bankruptcy, will constitute post-petition claims payable by the bankrupty estate. (Included by Law No. 13,319, 2016)

SECTION IV

USE OF AIRPORT AREAS

<u>Art. 39</u>

Airports comprise areas intended for:

- I their own administration;
- II aircraft landing, take-off, maneuver and parking;

III – handling and moving of passengers, luggage and cargo;

IV – air services concessionaires or permit holders;

V - the air cargo terminal;

VI – public bodies that, by law, must operate at international airports;

VII – the user public and parking of their vehicles;

VIII – the ancillary services of the airport or the user public;

IX – appropriate airport trade.

<u>Art. 40</u>

The use of airport areas by public air service concessionaires or permit holders is exempted from the public bidding system for their dispatch, office, workshop and warehouse facilities, or for shelter, repair and supply of aircraft.

§1 The agreement of use will be drawn up and signed by the parties in a specific book, which may be mechanically registered in loose pages.

§2 The agreement of use for the construction of permanent improvements must have a term that allows the amortization of the capital invested.

§3 In the event of the previous paragraph, if the airport administration needs the area before the term has expired, the user will be entitled to compensation corresponding to the unpaid capital.

§4 In any event, the improvements will be incorporated into the property and, after the end of the term, they will be returned, together with the areas, without any indemnity, except as provided in the previous paragraph.

§5 The provisions of this article and respective paragraphs apply to ancillary services permit holders.

<u>Art. 41</u>

The operation of business establishments in the airport areas referred to in article 39, IX, requires authorization from the aeronautical authority, at the exclusion of any other authority, and must be provided on an uninterrupted 24 (twenty-four)-hour basis every day, unless as otherwise determined otherwise by the airport administration.

Sole paragraph. The use of airport areas in the case of this article is subject to prior bidding, in compliance with regulations issued by the Executive Branch. <u>Art. 42</u>

The use of airport areas does not apply to urban lease laws.

SECTION V

PROTECTION ZONES

<u>Art. 43</u>

Properties located in the neighboring areas of airports and air navigation assistance facilities are subject to special restrictions.

Sole paragraph. The restrictions referred to in this article are related to the use of properties in relation to buildings, facilities, agricultural crops and objects of a permanent or temporary nature, and anything else that may hinder aircraft operations or cause interference with radio navigation aid signals or hinder the visibility of visual aids.

<u>Art. 44</u>

The restrictions mentioned in the previous article are those specified by the aeronautical authority, upon approval of the following plans, which will be valid, respectively, for each type of aid to air navigation:

I – Basic Airport Protection Zone Plan;

II - Noise Zoning Plan;

III – Basic Helipad Protection Zone Plan;

IV – Protection Zone and Aid to Air Navigation Plans.

§1 In accordance with the conveniences and peculiarities of flight protection, specific plans may be applied to each airport, subject to the requirements of the Basic Plans, as applicable.

§2 The Basic Airport Protection Zone Plan, the Basic Noise Zoning Plan, the Helipad Protection Zone Plan and the Protection Zone and Air Navigation Aid Plans will be approved by an act of the President of the Republic.

§3 Specific Plans for Airport Protection Zones and Specific Noise Zoning Plans will be approved by an act of the Minister of Air Force and transmitted to those administrations in charge of enforcing the restrictions.

§4 The Public Administrations shall cause zoning of land use, in the areas neighboring the airports, to be compatible with the special restrictions set forth in the Basic and Specific Plans. §5 The special restrictions established apply to any property, whether private or public.

§6 Responsibility for the installation, operation and maintenance of obstacles signaling equipment will be incumbent on the owner, the holder of the useful domain or the possessor of the property referred to in art. 43. (Included by Law No. 13,133, 2015)

§7 Failure to comply with the provisions in §6 will give rise to application of daily penalty for breaching the rules of this Code, pursuant to Art. 289, without prejudice to the installation, maintenance or repair of the signaling equipment by the competent authority, at the violator's expenses.

<u>Art. 45</u>

The aeronautical authority may embargo the works or construction of any nature that violate the Basic or Specific Plans of each airport, or demand the elimination of obstacles raised in disagreement with those plans, after their publication, at the violator's account and risk, the latter not being entitled to claim any compensation.

<u>Art. 46</u>

When the established restrictions impose demolition of obstacles raised before the publication of Basic or Specific Plans, the owner will be entitled to compensation.

CHAPTER III

FLIGHT PROTECTION SYSTEM

SECTION I

VARIOUS FLIGHT PROTECTION ACTIVITIES

<u>Art. 47</u>

The Flight Protection System aims at regularity, safety and efficiency of air traffic flow, covering the following activities:

I – air traffic control;

II – aeronautical telecommunications and aid to air navigation;

III - aeronautical meteorology;

IV – cartography and aeronautical information;

V - search and rescue;

VI - in-flight inspection;

VII – coordination and inspection of specific technical education;

VIII – supervising the manufacture, repair, maintenance and distribution of ground equipment to aid air navigation.

<u>Art. 48</u>

The aeronautical telecommunications service is classified into:

I - aeronautical fixed;

II - aeronautical furniture;

III - aeronautical radio navigation;

IV - aeronautical broadcasting;

V – aeronautical mobile by satellite;

VI – aeronautical radio navigation by satellite.

Sole paragraph. The aeronautical telecommunications service may be operated:

a) directly by the Ministry of Air Force;

b) upon authorization, by a specialized entity of the Federal Indirect Administration, linked to that Ministry, or by individual or legal entities engaged in air transport activities, in relation to private aeronautical telecommunications stations.

SECTION II

SEARCH, ASSISTANCE AND RESCUE COORDINATION

<u>Art. 49</u>

Flight Protection Activities include the coordination of search, assistance and rescue operations.

<u>Art. 50</u>

The Captain of the aircraft is required to provide assistance to anyone in danger of life at sea, in the air or on the ground, provided that he/she can do so without danger to the aircraft, its crew, its passengers or other people.

<u>Art. 51</u>

Every Captain of a ship, at sea, and any person, on the ground, is required, as long as he/she/she can do it without risk to himself/herself or others, to provide assistance to those who are in danger of life, as a result of an aircraft crash or damage.

<u>Art. 52</u>

Assistance may consist of simple information.

<u>Art. 53</u>

The obligation to provide assistance, whenever possible, falls on aircraft in flight or ready to depart.

<u>Art. 54</u>

In the absence of other resources, the Ministry of Air Force body in charge of coordinating search and rescue operations, may, at its discretion, assign to any specific aircraft, either in flight or ready to take off, a specific mission in these operations.

<u>Art. 55</u>

The obligation of assistance ceases as long as the person under such obligation is aware that the assistance was provided by someone else or when he/she/ she is released by the competent body of the Ministry of Air Force referred to in the previous article.

<u>Art. 56</u>

Captain's failure to provide assistance discharges the owner or operator of the aircraft from liability, unless they have determined not to provide assistance.

<u>Art. 57</u>

Any successful assistance or rescue provided will be entitled to compensation corresponding to the work and the efficiency of the act, on the following bases:

I – first, the following will be considered:

a) the success achieved, the efforts, the risks and the merit of those who provided assistance;

 b) the danger undergone by the rescued aircraft, its passengers, its crew and its cargo;

c) time spent, expenses and losses incurred taking into account the assistant's special situation.

II – second, the value of things recovered.

§ 1 There will be no compensation:

a) if the aid is refused or if no successful result is achieved

b) where the rescue is provided by a public aircraft.

§2 The owner or shipowner retains the right to take advantage of abandonment, or the limitation of liability set forth in the laws and conventions in force.

<u>Art. 58</u>

Anyone who, due to recklessness, negligence or violation, causes unnecessary use of search and rescue resources will be required to indemnify the Federal Government for the expenses arising from this use, even if there was no danger to life or request for help.

<u>Art. 59</u>

Once voluntary assistance has been provided, the person who provided it will only be entitled to compensation if he/she/ she obtains a successful result, saving people or concurring to save them.

<u>Art. 60</u>

It is up to the owner or operator to indemnify those who provide assistance to passengers or crew members of their aircraft.

<u>Art. 61</u>

If the assistance is provided by several aircraft, boats, vehicles or people involving several interested parties, the compensation will be jointly awarded by the Court, and apportioned according to the criteria established in this article.

§1 Interested parties must assert their rights to compensation within 6 (six) months, counted from the day of the assistance.

§2 After the period has elapsed, the apportionment will proceed.

§3 Interested parties that allowed the term established in §1 to elapse without asserting their rights or notifying the obligor parties, may not exercise them except on amounts that have not been apportioned.

<u>Art. 62</u>

The compensation will not exceed the value of the recovered assets at the end of the rescue operations.

<u>Art. 63</u>

Payment of compensation will be mandatory for anyone using an aircraft without the consent of its owner or operator.

Sole paragraph. Once the negligence of the owner or operator is proven, they will

be jointly and severally liable for the compensation.

<u>Art. 64</u>

Compensation may be reduced or eliminated if it is proven that:

 I – the claimants concurred voluntarily or by negligence to worsen the situation of people or properties to be rescued;

II – if they have been proven to have stolen or become accomplices in theft, loss or fraudulent acts.

<u>Art. 65</u>

The owner or operator of the aircraft that provided assistance may retain the cargo until the corresponding fee for assistance or rescue is paid, upon agreement with the owner or the insurer.

CHAPTER IV

FLIGHT SAFETY SYSTEM

SECTION I

FLIGHT SAFETY REGULATIONS AND REQUIREMENTS

<u>Art. 66</u>

The aeronautical authority is responsible for promoting flight safety, and must establish the minimum safety standards:

 I – related to projects, materials, labor, construction and performance of aircraft, engines, propellers and other aeronautical components; and

II – related to inspection, maintenance at all levels, repairs and operation of aircraft, engines, propellers and other aeronautical components.

§1 The minimum standards will be established in Brazilian Aeronautical Homologation Regulations, to become effective as from their publication date.

§2 The standards may vary due to the type or allocation of the aeronautical product.

<u>Art. 67</u>

Only aircraft, engines, propellers and other aeronautical components that comply with the standards and requirements provided for in the Regulations referred to in the previous article may be used, except for the operation of experimental aircraft. §1 The aeronautical authority may, exceptionally, allow the use of components not yet approved, as long as flight safety is not endangered.

§2 An experimental aircraft is considered to be manufactured or assembled by an amateur builder, allowing the use of materials referred to in the previous paragraph in its construction.

§3 It is incumbent upon the aeronautical authority to regulate the construction, operation and issuance of an Experimental Brand Certificate and an Experimental Flight Authorization Certificate for aircraft built by amateurs.

SECTION II

HOMOLOGATION CERTIFICATES

<u>Art. 68</u>

The aeronautical authority will issue a type approval certificate for aircraft, engines, propellers and other aeronautical products that meet the restrictions and requirements of the Regulations.

§1 Anyone so interested can apply for the certificate referred to in this article, subject to regulatory procedures.

§2 The issuance of an aircraft type approval certificate is essential to obtain the airworthiness certificate.

§3 The provisions in this article and its §§ 1 and 2 apply to imported aeronautical products, which must receive the corresponding certificate in Brazil.

<u>Art. 69</u>

The aeronautical authority will issue the certificates of company approval for the manufacture of aeronautical products, provided that the respective manufacturing and control system ensures that every unit manufactured will meet the approved project.

Sole paragraph. Anyone interested in manufacturing aeronautical products, of a type already certified, must apply for a company approval certificate, in the form of the respective Regulation.

<u>Art. 70</u>

The aeronautical authority will issue certificates of homologation of a company intended to perform overhaul, repair and maintenance services for aircraft, engines, propellers and other aeronautical products.

§1 Any aeronautical product maintenance workshop must have the certificate referred to in this article, following the regulatory procedure.

§2 Every aircraft exploiter or operator must perform or have performed the maintenance of aircraft, engines, propellers and other components, in order to preserve the safety conditions of the approved project.

§3 The aeronautical authority will cancel the certificate of airworthiness if it finds a lack of maintenance.

§4 The maintenance, within the limit of up to 100 (one hundred) hours, of the aircraft belonging to those aeroclubs that do not have their own approved workshop, as well as of the aircraft mentioned in §4, of article 107, may be performed by an engineer licensed by the Ministry of Air Force.

<u>Art. 71</u>

The homologation certificates, provided for in this Section, may be amended, modified, suspended or revoked whenever flight safety or the public interest so requires.

Sole paragraph. Except in case of emergency, the interested party will be notified in order to remedy any irregularity found within the period assigned.

CHAPTER V

BRAZILIAN AERONAUTICAL REGISTRATION SYSTEM

SECTION I

THE BRAZILIAN AERONAUTICAL REGISTRY

<u>Art. 72</u>

The Brazilian Aeronautical Registry will be public, unique and centralized, aiming to have, in relation to the aircraft, the functions of:

I – issuing registration, airworthiness and nationality certificates for aircraft subject to Brazilian law;

II – recognizing the acquisition of the domain in the transfer by act between living parties and the real rights of enjoyment and guarantee, when dealing with a matter regulated by this Code;

III – ensuring the authenticity, unchangeability and maintenance of registered and filed documents;

IV - promoting general registration.

61 It is mandatory to provide a certificate of what appears in the Registry.

§2 The Brazilian Aeronautical Registry will be regulated by the Executive Branch.

<u>Art. 73</u>

Registration will only be allowed for:

I – public deeds, including those drawn up at Brazilian consulates;

II - private documents, with public faith, signed by the parties and witnesses;

III – authentic acts of foreign countries, made in accordance with local laws, legalized and translated, in accordance with the law, as well as judgments handed down by foreign courts after ratification by the Supreme Federal Court;

IV – letters of judgment, deeds of distribution, certificates and warrants extracted from court proceedings.

<u>Art. 74</u>

The following acts will be performed in the Brazilian Aeronautical Registry:

I – the registration of the aircraft, in its own book, at the occasion of the first registration in the country, using the elements contained in the title presented and the previous registration, if any;

II – registration:

 a) of deeds, instruments or documents in which the domain or the other real rights over the aircraft are established, recognized, transferred, modified or terminated;

 b) documents relating to abandonment, loss, extinction or essential change of the aircraft;

c) acts or contracts for exploitation and use, as well as forfeiture, sequestration, attachment and seizure of aircraft.

III – the annotation on the registration and respective certificate of the amendments that may be registered, as well as the exploration, use or guarantee contracts;

IV – the authentication of a Logbook of a Brazilian aircraft;

V – annotation of aeronautical uses and practices that do not violate the law, public order and good habits.

<u>Art. 75</u>

The registration may be canceled, upon written request from the owner, whenever the aircraft or engines are not recorded, and with the written consent of the respective fiduciary creditor, mortgagee or other creditor on whose behalf there is a real encumbrance.

Sole paragraph. No Brazilian aircraft can be transferred abroad if it is the subject matter of a guarantee, except with the express agreement by the creditor.

<u>Art. 76</u>

The registration fee will be paid by the interested party, in accordance with rules approved by the Ministry of Air Force.

SECTION II

AIRCRAFT REGISTRATION PROCEDURE

<u>Art. 77</u>

All deeds submitted for registration will be assigned a number upon the Filing, subject to the order of entry.

<u>Art. 78</u>

The order number will determine the priority of the deed, and, the latter, the preference of the rights depending on the registration.

<u>Art. 79</u>

A private deed submitted in a single copy will be filed with the Brazilian Aeronautical Registry, which will provide the certificate to the interested party.

<u>Art. 80</u>

Once the deed has been filed, the registrations will be performed, with priority being given to deeds filed under a lower order number.

<u>Art. 81</u>

Upon the Filing, the requirement made by the aeronautical authority will be noted, on the margin of the annotation.

Sole paragraph. If the interested party has an objection, the process will be decided by the competent body of the Ministry of Air Force, through an appeal to the superior aeronautical authority.

<u>Art. 82</u>

The effects of the registration will automatically cease if, after 30 (thirty) days of its Filing, the deed has not been registered due to failure of the interested party to comply with legal requirements.

<u>Art. 83</u>

In case of exchange, annotations will be made in the corresponding registrations, under a single order number in the Filing.

<u>Art. 84</u>

The Logbook will be presented to the Brazilian Aeronautical Registry for certification of the statements of opening, closing and number of pages.

Sole paragraph. The Logbook must be bound and its pages numbered, containing on the first and last pages, respectively, the opening and closing statements with the number of its pages, duly certified by the Brazilian Aeronautical Registry.

<u>Art. 85</u>

The Brazilian Aeronautical Registry will entry on its own book, ex officio or at the request of the interested class association, the aeronautical customs and practices that do not contravene the law or good customs, after the legal bodies of the Ministry of Air Force have issued their opinion.

CHAPTER VI

(WORDING GIVEN BY LAW NO. 12,970, OF 2014)

AERONAUTICAL ACCIDENT INVESTIGATION AND PREVENTION SYSTEM – SIPAER

SECTION I

SIPAER INVESTIGATION

<u>Art. 86</u>

The Aeronautical Accident Investigation and Prevention System is responsible for planning, guiding, coordinating, controlling and performing the investigation and prevention activities in connection with Aeronautical accidents.

61 (Vetoed).

§2 The investigation of any other accidents related to the aeronautical infrastructure, as long as it does not involve aircraft, is not covered by the specific duties of the Aeronautical Accident Investigation Commission.

63 (Vetoed).

64 (Vetoed).

65 (Vetoed).

§6 (Vetoed).

<u>Art. 86-A</u>

The investigation of aeronautical accidents and incidents has the sole objective of preventing other accidents and incidents by identifying the factors that have contributed, directly or indirectly, to the occurrence and issuing operational safety recommendations. (Included by Law No. 12,970, of 2014)

Sole paragraph. Operational safety recommendations may be issued at any stage of the investigation. (Included by Law No. 12,970, of 2014)

<u>Art. 87</u>

Prevention of aeronautical accidents is the responsibility of all persons, whether natural or legal, involved with the manufacture, maintenance, operation and circulation of aircraft, as well as aeronautical infrastructure support activities in the Brazilian territory.

<u>Art. 88</u>

Anyone who becomes aware of any aviation accident or the existence of aircraft remains or waste has the duty to report it to the nearest public authority and as quickly as possible.

Sole paragraph. The public authority that becomes aware of the fact or intervenes thereon, should immediately communicate it, under penalty of liability for negligence, to the aeronautical authority closest to the accident.

<u>Art. 88-A</u>

The Aeronautical Accident Prevention and Investigation System investigation – SIPAER will encompass practices, techniques, processes, procedures and methods used to identify acts, conditions or circumstances that, individually or jointly, pose a risk to the integrity of people, aircraft and other assets, solely for the prevention of aeronautical accidents, aeronautical incidents and ground events. (Included by Law No. 12,970, of 2014)

§1 The SIPAER investigation should consider facts, assumptions and previously known precedents in the identification of possible factors contributing to the occurrence or worsening of the consequences of aircraft accidents, incidents and aeronautical ground occurrences. (Included by Law No. 12,970, of 2014)

§2 The SIPAER investigating authority may decide not to proceed with the SI-PAER investigation or stop it, if already under way, in those cases where a malicious wrongful act relating to the accident causality is found and the investigation serves no purpose for preventing new aeronautical accidents or incidents, without prejudice to the communication to the competent police authority. (Included by Law No. 12,970, of 2014)

<u>Art. 88-B</u>

The Sipaer investigation of a particular accident, aeronautical incident or ground occurrence should be carried out independently from any other investigations on the same event, with the participation therein of any person who is participating or has participated in the first investigation being prohibited. (Included by Law No. 12,970, of 2014)

<u>Art. 88-C</u>

The Sipaer investigation will not prevent the establishment nor supply the need for further investigations, including for the purpose of prevention, and, because it aims at preserving human lives, through the security of air transport, it will take precedence over the procedures, concomitant or not, of other investigations regarding access to and storage of items of interest to the investigation. (Included by Law No. 12,970, of 2014)

<u>Art. 88-D</u>

If, in the course of the Sipaer investigation, evidence of crime is found, related or not to the chain of events of the accident, communication thereof should be made to the competent police authority.

<u>Art. 88-E</u>

Upon request from the police or judicial authority, the Sipaer investigating authority will make specialists available for the necessary examinations for investigations on the aeronautical accident with civil aircraft, provided that: (Included by Law No. 12,970, of 2014)

I – there is not, in the staff of the requesting body, trained technician or appropriate equipment for the required exams; (Included by Law No. 12,970, of 2014)

II – the requesting authority informs the tests to be carried out; (Included by Law No. 12,970, of 2014)

III – a trained technician and appropriate equipment for the required examinations exist in the staff of the Sipaer investigating authority; and (Included by Law No. 12,970, of 2014)

IV – the requesting entity defrays all expenses arising from the request. (Included by Law No. 12,970, of 2014)

Sole paragraph. The personnel made available by the Sipaer investigating authority may not have participated in the Sipaer investigation of the same accident. (Included by Law No. 12,970, of 2014)

SECTION II

SIPAER'S INCUMBENCY FOR INVESTIGTION

(INCLUDED BY LAW NO. 12,970, OF 2014)

<u>Art. 88-F</u>

The investigation of an accident with an Armed Force aircraft will be conducted by the respective Military Command and, in the case of foreign military aircraft, by the Aeronautical Command or in accordance with current agreements. (Included by Law No. 12,970, of 2014)

Sole paragraph. (VETOED). (Included by Law No. 12,970, of 2014)

<u>Art. 88-G</u>

The Sipaer investigation of a civil aircraft accident will be conducted by the Sipaer investigating authority, which will decide on the composition of the Sipaer investigation commission, which will be chaired by a qualified professional with a valid Sipaer credential. (Included by Law No. 12,970, of 2014)

§1 The SIPAER investigating authority will order the competent bodies and entities, with precedence over other requests, the reports, records of examinations, including autopsies, and copies of other documents relevant to the SIPAER investigation. (Included by Law No. 12,970, of 2014)

§2 The Sipaer investigation commission, within the limits established by the Sipaer investigation authority, will be assured access to the crashed aircraft, its wreckage and the things that were carried by it, as well as dependencies, equipment, documents and any other elements necessary for the investigation, wherever they are. (Included by Law No. 12,970, of 2014)

§3 The responsibility for the failure to comply with the provisions of §6 1 and 2 of this article shall be determined by administrative disciplinary process, if no crime results from the fact. (Included by Law No. 12,970, of 2014)

§4 In urgent cases, search and seizure by the judicial representative body of the Federal Government will be carried out, with enforcement of Law n ° 5869 of January 11, 1973 – Code of Civil Procedure. (Included by Law No. 12,970, of 2014)

§5 In the event of an aeronautical accident, an aeronautical incident or the occurrence of ground with a civil aircraft, the Sipaer investigating authority will have priority on boarding Brazilian civil aircraft used in public air transport. (Included by Law No. 12,970, of 2014)

§6 In order to provide speed to SIPAER investigation, the expected priority in §5 of this article shall be exercised against presentation of the credential issued by the SIPAER investigating authority at the airport of departure to the representative of the requested company. (Included by Law No. 12,970, of 2014)

<u>Art. 88-H</u>

The Sipaer investigation of aviation accidents will be concluded upon the issuance of the final report, a document that represents the opinion of the Sipaer investigating authority on the factors possibly contributing to a particular aviation accident and presents recommendations solely for the sake of the operational safety of the air activity. (Included by Law No. 12,970, of 2014)

Sole paragraph. The final Armed Force aircraft accident report will be approved by the commander of the respective Military Command. (Included by Law No. 12,970, of 2014)

SECTION III

PROFESSIONAL SECRECY AND INFORMATION PROTECTION

(INCLUDED BY LAW NO. 12,970, OF 2014)

<u>Art. 88-I</u>

Sipaer sources are: (Included by Law No. 12,970, of 2014)

I – recordings of communications between air traffic control agencies and their transcripts; (Included by Law No. 12,970, of 2014)

II – recordings of the cockpit conversations and their transcriptions; (Included by Law No. 12,970, of 2014)

III – data from voluntary occurrence notification systems; (Included by Law No. 12,970, of 2014)

IV – recordings of communications between the aircraft and the air traffic control agencies and their transcripts; (Included by Law No. 12,970, of 2014)

V – recordings of flight data and graphs and parameters extracted or transcribed or extracted and transcribed; (Included by Law No. 12,970, of 2014)

VI – data from automatic and manual data collection systems; and (Included by Law No. 12,970, of 2014)

VII – other records used in Sipaer activities, including those of investigation. (Included by Law No. 12,970, of 2014)

§1 To the benefit of the SIPAER investigation, SIPAER investigating authority takes precedence in access and custody of the sources mentioned in the caput. (Included by Law No. 12,970, of 2014)

§2 The source of information referred to in item III of the caput and the analysis and conclusions of the SIPAER investigation will not be used for evidentiary purposes in any judicial and administrative proceedings and will only be provided upon judicial request, pursuant to art. 88-K of this Law. (Included by Law No. 12,970, of 2014)

§3 Any and all information provided for the benefit of SIPAER investigation and other Sipaer-related activities will be spontaneous and based on the legal guarantee of their exclusive use for prevention. (Included by Law No. 12,970, of 2014)

§4 Save if to the benefit of SIPAER investigation and other prevention activities, the SIPAER professional will be forbidden to disclose his/her sources and their contents, under penalty of application of the provisions in art. 207 of Legislative Decree no. 3689 of October 3, 1941 – Code of Criminal Procedure, and art. 406 of Law no 5.869, of January 11, 1973 – Code of Civil Procedure. (Included by Law No. 12,970, of 2014)

<u>Art. 88-J</u>

Sipaer sources and information that are allowed to be used in an investigation or in a judicial or administrative proceeding will be protected by procedural confidentiality. (Included by Law No. 12,970, of 2014)

<u>Art. 88-K</u>

For Sipaer sources to be used as evidence, in those cases permitted by this Law, the Court will decide after hearing the judicial representative of the Sipaer authority, who must provide his/her opinion within 72 (seventy-two) hours. (Included by Law No. 12,970, of 2014)

<u>Art. 88-L</u>

The Sipaer authority, or whoever it delegates, may decide on the advisability of disclosing, without prejudice to accident prevention and legal provisions, information regarding the ongoing Sipaer investigations and the respective Sipaer sources. (Included by Law No. 12,970, of 2014)

SECTION IV

ACCESS TO AIRCRAFT WRECKAGE

(INCLUDED BY LAW NO. 12,970, OF 2014)

<u>Art. 88-M</u>

A civil aircraft involved in an accident, aeronautical incident or ground occurrence may be interdicted by the Sipaer investigating authority, with due regard to the following: (Included by Law No. 12,970, of 2014)

I – the interdiction notice will be signed by the Sipaer investigating authority and, if possible, by the air operator or his/her representative; (Included by Law No. 12,970, of 2014)

II – upon authorization by the Sipaer investigating authority, the interdicted aircraft may operate for maintenance purposes; and (Included by Law No. 12,970, of 2014)

III – the operator will remain responsible for the performance of any obligations that affect the aircraft. (Included by Law No. 12,970, of 2014)

<u>Art. 88-N</u>

Except for the purpose of saving lives, preserving the safety of people or preserving evidence, no crashed aircraft, its wreckage or things carried by it may be searched or removed, except with the authorization of the Sipaer investigating authority, which will have the safekeeping of items of interest for the investigation until their release under the terms of this Law. (Included by Law No. 12,970, of 2014)

<u>Art. 88-0</u>

The competent police authority must isolate and preserve the location of the air accident or incident, including the crashed aircraft and its wreckage, for the collection of evidence, until the aircraft or the wreckage is released by both the aeronautical authorities and any responsible criminal investigators responsible for the respective investigations. (Included by Law No. 12,970, of 2014)

<u>Art. 88-P</u>

In coordination with the Sipaer investigating authority, other bodies, including the civil aviation authority and the judicial police, will be assured access to the crashed aircraft, its wreckage or things that were carried by it, with the possibility of handling or retaining any objects of the accident with the consent of the Sipaer investigating authority. (Included by Law No. 12,970, of 2014)

<u>Art. 88-Q</u>

The duty to remove aircraft involved in an accident, debris and transported goods, anywhere, will be incumbent upon the operator of the aircraft, who will bear the resulting expenses. (Included by Law No. 12,970, of 2014)

§1 In public airports, if the operator does not timely provide the removal of the aircraft or its wreckage, it will be up to the airport administration to do it, charging the operator for the expenses. (Included by Law No. 12,970, of 2014)

§2 With a view to environmental protection, safety, health and the preservation of public and private property, the operator of the crashed aircraft shall arrange and pay for the cleaning of the premises, property and the wreckage where, due to its location and status, it cannot be removed. (Included by Law No. 12,970, of 2014)

§3 Sale of wreckage, parts, components and engines will be prohibited before they have been released by the Sipaer investigating authority and, if any, by the person responsible for the police investigation, after compliance with other legal and regulatory requirements. (Included by Law No. 12,970, of 2014)

<u>Art. 88-R</u>

Those interested in the custody of the wreckage must qualify before the Sipaer investigating authority, from the beginning of the Sipaer investigation until 90 (ninety) days after its conclusion, by means of a request to the judge of the case, who will decide on its suitability and interest. (Included by Law No. 12,970, of 2014)

§1 If more than one interested party qualifies as provided for in the caput hereof, the wreckage will be forwarded to the first qualifying party, and all reported competent courts being notified of the custody decision, by means of official communication from the SIPAER investigating authority. (Included by Law No. 12,970, of 2014)

§2 The costs of transporting the wreckage will be borne by the interested party, who must provide transportation within 90 (ninety) days of being granted the custody, and if this period has expired, the next interested party, in the order of preference, will be called. (Included by Law No. 12,970, of 2014)

§3 After the qualified interested parties have been exhausted, without carrying out the removal of the wreckage within the period specified in §2, or if no interested is qualified, the owner of the crashed aircraft, registered in the Brazilian Aeronautic Registry, will be notified by letter with return receipt, to proceed, within 90 (ninety) days of the notice, to the removal of the wreckage. (Included by Law No. 12,970, of 2014)

§4 In case the owner is not found, the letter with return receipt is refused or returned without signature of the notified party or his/her legal representative, the SIPAER investigating authority shall publish a notice on the official press and on the official website of the agency on the Internet, establishing a period of 90 (ninety) days for the owner to proceed with the removal of the wreckage, under his/her burden and responsibility. (Included by Law No. 12,970, of 2014)

§5 After the deadlines for removal of the wreckage by the owner have expired in accordance with §§ 1 to 4, the items may be used for instruction or destroyed by the SIPAER investigating authority, and in the latter case, waste may be disposed of as scrap. (Included by Law No. 12,970, of 2014)

§6 The date of entry of the court request in the protocol of the SIPAER investigating authority will be considered for verifying compliance with the deadline for expressions of interest and the order of preference. (Included by Law No. 12,970, of 2014)

<u>Art. 89</u>

(Repealed by Law No. 12,970, of 2014)

<u>Art. 90</u>

Whenever the airport emergency services are called to provide assistance, the cost of the resulting expenses will be compensated by the operator of the rescued aircraft.

<u>Art. 91</u>

(Repealed by Law No. 12,970, of 2014)

Sole paragraph. (Repealed by Law No. 12,970, of 2014)

<u>Art. 92</u>

(Repealed by Law No. 12,970, of 2014)

Sole paragraph. (Repealed by Law No. 12,970, of 2014)

<u>Art. 93</u>

Mail carried by a crashed aircraft must be delivered, as soon as possible, to the entity responsible for the postal service, which will make the necessary communication to the nearest customs authority, in the case of international postal shipments.

CHAPTER VII

FACILITATION SYSTEM, CIVIL AVIATION SECURITY AND AIR TRANSPORT COORDINATION

SECTION I

AIR TRANSPORT FACILITATION

<u>Art. 94</u>

The air transport facilitation system, linked to the Ministry of Air Force, aims at studying the relevant standards and recommendations of the International Civil Aviation Organization – ICAO and propose to the interested bodies the appropriate measures to implement them in the country, evaluating the results and suggesting the necessary changes to improve air services.

SECTION II

CIVIL AVIATION SECURITY

<u>Art. 95</u>

The Executive Branch must establish and regulate a committee that has the following objectives: (Wording given by Law No. 14.047, of 2020)

 I – advise government agencies on security policy and criteria; and (Included by Law No. 14,047, of 2020)

II – promote coordination between: (Included by Law No. 14,047, of 2020)

a) passenger control services; (Included by Law No. 14,047, of 2020)

b) airport administration; (Included by Law No. 14,047, of 2020)

c) police activities; (Included by Law No. 14,047, of 2020)

d) air transport companies; and (Included by Law No. 14,047, of 2020)

e) ancillary service companies. (Included by Law No. 14,047, of 2020)

61 (Repealed). (Wording given by Law No. 14,047, of 2020)

 $\S2$ – It is also incumbent upon the committee referred to in the caput of this article to propose guidelines aimed at preventing and addressing threats and acts against civil aviation and related facilities. (Wording given by Law No. 14,047, of 2020)

SECTION III

CIVIL AIR TRANSPORT COORDINATION

<u>Art. 96</u>

The Executive Branch will regulate the civil air transport coordination system body in order to:

I – propose measures aimed at:

a) ensuring the harmonious development of air transport, within the context of specific technical and economic-financial programs;

b) monitor and supervise the execution of these programs.

II – consider, from the technicalaeronautical and economic-financial aspects, the requests for import and export of civil aircraft and to propose instructions for fostering the national aerospace industry.

CHAPTER VIII

PERSONNEL FORMATION AND TRAINING SYSTEM

SECTION I

AEROCLUBS

<u>Art. 97</u>

Aeroclub is any civil entity with its own assets and administration, with local and regional services, whose main objectives are the teaching and practice of civil aviation, tourism and sports in all its modalities, being able to fulfill emergency missions or those of notorious interest to the community.

§1 The air services provided by aeroclubs include the activities of:

I - teaching and training of flight personnel;

II – teaching and training of aeronautical infrastructure personnel;

III - recreation and sports.

§2 Aeroclubs and other related entities, once authorized to operate, are considered to be of public utility.

SECTION II

FORMATION AND TRAINING OF CIVIL AVIATION PERSONNEL

<u>Art. 98</u>

Aeroclubs, aviation or related activity schools or courses (article 15, §§ 1 and 2) may only operate with prior authorization from the aeronautical authority.

§1 The entities referred to in this article, after being authorized to operate, are considered to be of public utility.

§2 The formation and training of Armed Forces personnel will be established in special legislation.

<u>Art. 99</u>

The entities referred to in the previous article may only operate with the prior authorization of the Ministry of Air Force.

Sole paragraph. The Executive Branch will issue regulations establishing the requirements and conditions for the authorization and operation of these entities, as well as for the registration of the respective instructors, approval of courses, issuing and validity of certificates of completion of courses and related issues.

SECTION III

FORMATION AND TRAINING OF AERONAUTICAL INFRASTRUCTURE PERSONNEL

<u>Art. 100</u>

The programs for the development of education and training of civilian personnel linked to the aeronautical infrastructure comprise the training, improvement and specialization of technicians for all elements immediately or not immediately essential to air navigation, including the manufacture, overhaul and maintenance of aeronautical products or relating to protection (omission from the Official Gazette).

Sole paragraph. The aeronautical authority is responsible for issuing a license or certificate of air traffic controllers and other professionals from the various sectors of activities related to air navigation and aeronautical infrastructure.

CHAPTER IX

AERONAUTICAL INDUSTRY SYSTEM

<u>Art. 101</u>

The aeronautical industry, consisting of companies that manufacture, overhaul, repair and maintain aeronautical products or those related to flight protection, requires registration and approval (articles 66 to 71).

CHAPTER X

ANCILLARY SERVICES

<u>Art. 102</u>

Ancillary services are:

I – air cargo agencies, ramp or runway services at airports and those related to hotels at airports;

II – other services related to air navigation or aeronautical infrastructure, established in regulations by the aeronautical authority.

61 (Vetoed).

§2 Agreements between national and foreign companies will be allowed, so that each one operates in its respective country, with due regard to its specific legislation.

<u>Art. 103</u>

Customs control services at international airports will be performed in accordance with specific law.

<u>Art. 104</u>

All equipment and ground services used to service aircraft, passengers, baggage and cargo are the responsibility of carriers or independent providers of ancillary services.

CHAPTER XI

AERONAUTICAL INFRASTRUCTURE COORDINATION SYSTEM

<u>Art. 105</u>

A body or Commission may be installed with the purpose of:

 I – promoting the integrated planning of the aeronautical infrastructure and its harmonization with the country's economic and financial possibilities;

II – coordinating the various systems or subsystems;

III – studying and proposing appropriate measures for the harmonic functioning of the various systems or subsystems;

IV – coordinating the various registrations and approvals required by law.

TITLE IV AIRCRAFT

CHAPTER I

GENERAL PROVISIONS

<u>Art. 106</u>

An aircraft is considered to be any device that is maneuverable in flight, which can support itself and circulate in the airspace, through aerodynamic reactions, able to transport people or things.

Sole paragraph. The aircraft is a movable property and can be registered for the purposes of nationality, registration, airworthiness (articles 72, I, 109 and 114), transfer by act between living parties (articles 72, II and 115, IV), creation of mortgage (articles 72, II and 138), advertising (articles 72, III and 117) and general registration (article 72, V).

<u>Art. 107</u>

Aircraft are classified into civil and military.

§1 Military aircraft are considered to be those belonging to eh Armed Forces, as well as those required under the law, for military missions (Article 3, I).

§2 Civil aircraft include public aircraft and private aircraft.

§3 Public aircraft are those intended for Government service, including those required by law; all others are private aircraft.

64 (Repealed by Law No. 12,887, 2013)

 $\S5$ Unless otherwise provided, the provisions of this Code do not apply to military aircraft, regulated by special legislation (article 14, \S 6).

CHAPTER II

NATIONALITY, REGISTRATION AND AIRWORTHINESS

SECTION I

NATIONALITY AND REGISTRATION

<u>Art. 108</u>

An aircraft is considered to be of the nationality of the State in which it is registered.

<u>Art. 109</u>

The Brazilian Aeronautical Registry, upon registration of an aircraft, after its technical inspection, will assign the nationality and registration marks identifying the aircraft.

§1 The registration grants Brazilian nationality to the aircraft and replaces the previous registration, without prejudice to the legal acts previously performed.

62 The respective registration and nationality and airworthiness certificates will be issued.

<u>Art. 110</u>

The registration of an aircraft already registered in another State can be made by the new acquirer, upon proof of transfer of ownership; or by the operator, with the express consent of the domain owner.

Sole paragraph. The owner's consent can be declared, by means of a special mandate, in a clause of the respective aircraft use contract, or in a separate document.

<u>Art. 111</u>

Registration will be provisional when:

I – made by the operator, user, lessee, promissory buyer or by whom, being the possessor, does not have the ownership, but has the express mandate or consent from the aircraft domain owner;

II – the seller reserves, for itself, the ownership of the aircraft until the full payment of the price or until the fulfillment of a certain condition, but expressly consents that the buyer makes the registration.

§1 The occurrence of the resolutive condition, established in the contract, results in the cancellation of the registration, while the discharge or the occurrence of a suspensive condition authorizes the definitive registration.

§2 The term purchase and sale contract, provided that the seller does not reserve the property for itself, entails definitive registration.

<u>Art. 112</u>

Nationality and registration marks will be canceled:

I – at the request of the owner or operator when he/she must register the aircraft in another State, provided that there is no legal prohibition (Article 75 and Sole Paragraph);

II – ex officio when registered in another country;

III - when the aircraft is abandoned or perished.

Art. 113

The registrations in the Brazilian Aeronautical Registry will be annotated in the aircraft's registration certificate.

SECTION II

AIRWORTHINESS CERTIFICATE

<u>Art. 114</u>

No aircraft may be authorized to fly without the prior issuance of the corresponding certificate of airworthiness, which will only be valid during the stipulated period and as long as the mandatory conditions mentioned therein are complied with (articles 20 and 68, § 2).

§1 The requirements, conditions and evidence necessary for obtaining or renewing the certificate are established in regulations, as well as the term of validity and cases of suspension or revocation.

§2 Foreign airworthiness certificates that meet the requirements set forth in the regulation referred to in the previous paragraph, and internationally accepted conditions, may be validated.

CHAPTER III

AIRCRAFT OWNERSHIP AND OPERATION

SECTION I

AIRCRAFT OWNERSHIP

<u>Art. 115</u>

Aircraft ownership is acquired:

I - by construction;

II - by adverse possession;

III – by hereditary right;

IV – by registering the transfer title in the Brazilian Aeronautical Registry;

V – by legal transfer (articles 145 and 190).

§1 Engines, equipment and internal facilities are always included in the transfer of an aircraft, unless otherwise expressly provided.

§2 The translational titles of aircraft ownership, by act between members, do not transfer their domain, but from the date on which they register with the Brazilian Aeronautical Registry.

Art. 116

The owner of the aircraft is considered to be the natural or legal person who has:

I - built it, on his/her own;

II - ordered to build it, under contract;

III – acquired it by adverse possession, for holding it as its own, based on fair title and good faith, without interruption or opposition for 5 (five) years;

IV - acquired it by hereditary right;

V – registered it in its name with the Brazilian Aeronautical Registry, pursuant to a public or private, judicial or extrajudicial instrument (article 115, IV).

§1 The name of the person to whom, in the title of acquisition, the ownership of the aircraft is transferred must be included in the registration and enrollment. §2 If the registration and enrollment are carried out by a holder who is not the owner of the aircraft, the name of the owner and the record of his/her express mandate or consent must be included.

<u>Art. 117</u>

For advertising and continuity purposes, the following will also be registered in the Brazilian Aeronautical Registry:

I – purchases and awards in public auctions;

II – decrees of divorce, nullity or annulment of marriage when there are aircraft in the respective shares;

III – decrees of termination of condominium;

IV – decrees of dissolution or liquidation of companies, in which there are aircraft to be shared;

V – judgments that, in probate proceedings, lists and sharing of properties, award aircraft in payment of inheritance debts;

 VI – decrees or acts of award, as well as formal or sharing certificates in legitimate or testamentary succession;

VII – the declaratory sentences of adverse possession.

<u>Art. 118</u>

Construction projects, when on account of the manufacturer itself, or construction contracts when on account of whoever may be hired it, will be registered with the Brazilian Aeronautical Register.

§1 In the case of a mortgage of an aircraft under construction under contract, the respective construction contract and the mortgage will be registered at the same time.

§2 In the case of a mortgage of an aircraft under construction on behalf of the manufacturer, the construction project and the respective mortgage are registered in the same act.

§3 When there is no mortgage of an aircraft under construction, the project built at the time of the request for registration will be registered.

<u>Art. 119</u>

Aircraft in process of approval, those intended for research and development for purposes of approval and those produced by amateurs are subject to the issuing of experimental flight authorization and experimental brand certificates (Articles 17, Sole Paragraph, and 67, §1).

<u>Art. 120</u>

Aircraft ownership is forfeited due to disposal, resignation, abandonment, perishing, condemnation and the termination causes provided for by law.

§1 The aircraft or part thereof is abandoned when it is not possible to determine its legitimate origin or when the owner himself expressly declares to abandon it.

§2 The aircraft is considered perished when the impossibility of its recovery is verified or after more than 180 (one hundred and eighty) days have elapsed from the date on which the last official news was received.

§3 If the abandonment or perishing of the aircraft is verified in an administrative inquiry, the respective registration will be canceled ex officio.

<u>Art. 121</u>

A contract aiming at the transfer of aircraft ownership or creation of a security interest thereon may be drawn up in a public or private instrument.

Sole paragraph. In the case of a contract executed abroad, the provisions in article 73, item III, apply.

SECTION II

AIRCRAFT OPERATION AND OPERATOR

<u>Art. 122</u>

The operation of the aircraft occurs when a natural person or legal entity, whether being the owner or not, legitimately uses it on their own, with or without profit.

<u>Art. 123</u>

An aircraft exploiter or operator is considered to be:

I – the legal entity that was granted the concession for scheduled public transport services or the authorization of non-scheduled public transport services, specialized services or air taxi;

II - the owner of the aircraft or whoever uses it directly or through its agents, in the case of private air services;

III – the charterer who reserved the technical conduction of the aircraft, the direction and authority over the crew;

IV – the lessee who acquired the technical conduction of the leased aircraft and the authority over the crew.

<u>Art. 124</u>

When the name of the operator is registered in the Brazilian Aeronautical Registry, under any use agreement, the owner of the aircraft is excluded from the liability inherent in its operation.

§1 The owner of the aircraft will be considered as the operator thereof, except as otherwise proven, if its name is not included in the Brazilian Aeronautical Registry.

§2 Upon being proved, in the case of the previous paragraph, that there was an operator, although without having his/her name registered in the Brazilian Aeronautical Registry, there will be joint and several liability of the operator and the owner for any infraction or damage resulting from the operation of the aircraft.

CHAPTER IV

AIRCRAFT CONTRACTS

SECTION I

AIRCRAFT CONSTRUCTION CONTRACT

<u>Art. 125</u>

The aircraft construction contract must be registered with the Brazilian Aeronautical Registry.

Sole paragraph. The contract referred to in the caput of this article must be submitted to inspection by the Ministry of Air Force, which will establish the construction rules and conditions.

<u>Art. 126</u>

The contractor who ordered the construction of the aircraft, once its contract is registered with the Brazilian Aeronautical Registry, originally acquires ownership of the aircraft, being able to dispose of it and retake possession thereof from anyone who unfairly possesses it.

SECTION II

LEASE

<u>Art. 127</u>

Lease occurs when one of the parties undertakes to grant to the other, for a limited time, the use and enjoyment of the aircraft or its engines, subject to a certain fee.

<u>Art. 128</u>

The lease agreement must be made by public or private instrument, with the signatures of two witnesses, and registered with the Brazilian Aeronautical Registry.

<u>Art. 129</u>

The lessor is under the obligation:

I – to deliver the aircraft or engine to the lessee, at the agreed time and place, with the necessary flight documentation, in conditions to serve the use for which one or the other is intended, and to keep them in that conditions, for the term of the agreement, unless as otherwise expressly provided;

II – to guarantee, during the term of the agreement, the peaceful use of the aircraft or the engine.

Sole paragraph. The lessor may also undertake to deliver the equipped and manned aircraft, provided that the direction and technical conduction are the responsibility of the lessee.

<u>Art. 130</u>

The lessee is under the obligation:

 I - to use the leased property for the agreed purpose and take care of it as if it were its property;

II – to timely pay the rent, within the agreed terms, place and conditions;

III – to return the leased property to the lessor, in the condition in which it received the same, except for the natural wear and tear resulting from regular use.

Art. 131

Assignment of the lease and sublease may not be carried out unless by written contract, with the express consent of the lessor and registration with the Brazilian Aeronautical Registry.

Art. 132

Failure to register the lease or sublease agreement entails that the lessor, lessee and sub-lessee, if any, are responsible for the damages and losses caused by the aircraft.

SECTION III

CHARTERING

<u>Art. 133</u>

Chartering takes place when one of the parties, called the charterer, commits itself to the other, called the lessee, upon payment by the latter, for the charter, to make one or more pre-established trips or for a certain period of time, the charterer reserving to itself the control over the crew and the technical conduction of the aircraft.

<u>Art. 134</u>

The contract will be by public or private instrument, and registration with the Brazilian Aeronautical Registry is permitted (articles 123 and 124).

<u>Art. 135</u>

The charterer is under the obligation to:

I – to make an equipped and manned aircraft available to the lessee, with the necessary documents and in a state of airworthiness;

II – to make the agreed trips or to keep the aircraft at the lessee's disposal, during the agreed time.

<u>Art. 136</u>

The lessee is under the obligation:

I – to limit the use of the aircraft to the use for which it was contracted and according to the conditions of the contract;

II - to pay for the charter at the agreed place, time and conditions.

SECTION IV

AIRCRAFT LEASING

<u>Art. 137</u>

The commercial lease must be registered with the Brazilian Aeronautical Registry, by means of a public or private instrument with the following elements:

I - description of the aircraft with its respective value;

II – term of the contract, value of each periodic installment, or the criterion for its determination, date and place of payments;

III - purchase option or contractual renewal clause, as the lessee's option; IV – indication of the location, where the aircraft must be registered during the term of the contract.

§1 In the case of aircraft from abroad, consent must be expressly given to the effect that the aircraft be registered with the Brazilian Aeronautical Registry with the cancellation of the previous registration, if any.

§2 The usual terms and conditions for international leasing transactions may be accepted in the respective contracts, provided that it does not contain any clause contrary to the Brazilian Constitution or the provisions of this Code.

CHAPTER V

AIRCRAFT MORTGAGE AND FIDUCIARY SALE

SECTION I

CONVENTIONAL MORTGAGE

<u>Art. 138</u>

Aircraft, engines, parts and accessories of aircraft, including those under construction, may be mortgaged.

§1 Any aircraft that is provisionally registered and enrolled cannot be mortgaged until the final registration is made, except if such registration is intended as guarantee of the contract based on which the provisional registration was made.

§2 The reference to the aircraft, without reservation, includes all the equipment, engines, facilities and accessories, contained in the respective registration and airworthiness certificates.

§3 In the case of applying to engines, they must be registered and identified in the Brazilian Aeronautical Registry, upon the registration of the mortgage, the latter to produce its effects even if said engines are equipping an aircraft that is mortgaged with a different creditor, except if a clause allowing engine rotation is provided for in the respective contracts.

§4 Upon completion of the construction, the mortgage will extend to the aircraft if it falls on all components; but it will continue to encumber, only, the individual engines and equipment, if the guarantee applies only to them.

§5 During the contract term, the creditor may inspect the condition of the assets the subject matter of the mortgage.

<u>Art. 139</u>

Only the party entitled to dispose of the aircraft will be able to mortgage it and only an aircraft that can be disposed of can be granted in mortgage.

<u>Art. 140</u>

An aircraft owned in common by 2 (two) or more owners can only be granted on a mortgage with the express consent of all the co-owners.

<u>Art. 141</u>

The mortgage will be created by the registration of the contract with the Brazilian Aeronautical Registry and with the annotation in the respective registration certificate.

<u>Art. 142</u>

The mortgage contract must contain:

I – the name and address of the parties thereto;

II – the amount of the guaranteed debt, the respective interest and other legal fees, the term and place of payment;

III – the aircraft nationality and registration marks, as well as the serial numbers of its component parts;

IV – insurance that guarantees the mortgage.

§1 When the aircraft is under construction, the instrument must contain a description of compliance with the contract, as well as the manufacturing stage, if the mortgage falls on all components; or the identification of the individual parts and accessories, if the guarantee so applies.

§2 In the case of a mortgage contract carried out abroad, the indications provided for in article 73, item III, must be complied with.

<u>Art. 143</u>

Air mortgage credit prevails over any other, with the exception of those resulting from:

I – legal expenses, labor claims, tax claims and airport charge claims;

II – expenses for assistance provided; expenses incurred by the aircraft captain, in the performance of his/her duties, when indispensable for the continuation of the trip; and expenses incurred with the maintenance of the aircraft. Sole paragraph. Preference will be exercised:

a) in the event of loss or damage to the aircraft, on the insurance value;

 b) in the case of destruction or disability, on the value of the materials recovered or the compensation received from third parties;

c) in the case of condemnation, on the amount of the indemnity.

SECTION II

LEGAL MORTGAGE

<u>Art. 144</u>

The legal mortgage of the aircraft, parts and equipment purchased abroad under guarantee, surety or any other collateral of from the National Treasury or its financial agents will be given in favor of the Federal Government.

<u>Art. 145</u>

The assets mentioned in the previous article will be awarded to the Federal Government, if requested by the Federal Court, upon proof of:

 I – bankruptcy, insolvency, judicial or extrajudicial liquidation, before the payment of the debt guaranteed by the National Treasury or its financial agents is completed;

 ${\rm II}$ – the occurrence of the facts provided for in article 189, I and II of this Code.

<u>Art. 146</u>

The debt that has to be paid by the Federal Government or its financial agents, whether overdue or falling due, will be charged to the buyer or bankruptcy estate for the amounts spent at the time of payment.

§1 The conversion of foreign currency, if applicable, will be carried out at the exchange rate of the day, with due regard to the pertinent supplementary legislation.

§2 The value of the aircraft awarded to the Federal Government will be that of the date of said award.

§3 The value of the aircraft awarded to the Federal Government will be deducted from the credit amount provided for in this article, and the balance will be charged.

64 If the value of the aircraft is greater than the amounts spent or to be spent,

by the Federal Government or its financial agents, the latter may sell these aircraft at auction for the value of the appraisal.

§5 The amounts spent or to be spent will be paid out of the price reached, and the balance will be deposited, as the case may be, in favor of the bankruptcy estate or liquidator.

§6 If a bid greater than or equal to the appraisal is not obtained at the first auction, a new conditional auction will be held on the same day for the highest price.

§7 If the price obtained at the auction is not higher than the Federal Government's claim, it may elect to award the contract in its favor.

<u>Art. 147</u>

Registration with the Brazilian Aeronautical Register will be made ex officio of:

I – the legal mortgage;

II – the award referred to in articles 145, 146, 67 and 190 of this Code.

Sole paragraph. The legal acts mentioned in this article will produce effects even if not timely registered.

SECTION III

FIDUCIARY SALE

<u>Art. 148</u>

The fiduciary sale in guarantee transfers to the creditor the resolvable domain and indirect possession of the aircraft or its equipment, regardless of the respective transmission, whereby the debtor becomes the direct owner and trustee with all the responsibilities and charges incumbent on him/her according to the civil and criminal law.

Art. 149

Fiduciary sale in guarantee of aircraft or its engines must be made by public or private instrument, which will contain:

I – the amount of the debt, the interest rate, the commissions, the collection of which is permitted, the criminal clause and the stipulation of the monetary adjustment, if any, with the exact indication of the applicable rates;

II – the due date and the place of payment;

III - the description of the aircraft or its engines, with the indications con-

tained in the registration and the respective certificates of registration and airworthiness.

§1 In the case of fiduciary sale of aircraft under construction or its components, the instrument will contain the description according to the respective contract and its stage of construction.

§2 In the case of the previous paragraph, the fiduciary domain will be transferred, upon registration, over the component parts, and will be extended to the built aircraft, regardless of subsequent formality.

<u>Art. 150</u>

Fiduciary sale is only valid and effective after registration with the Brazilian Aeronautical Registry.

<u>Art. 151</u>

In the event of default on the guaranteed obligation, the fiduciary creditor may dispose of the property subject matter of the guarantee to third parties and use the respective proceeds for payment of its credit and the expenses arising from the collection, delivering the balance to the debtor, if any.

§1 If the price is not enough to pay the credit and expenses, the debtor will continue to be liable for the payment of the balance.

§2 In case of debtor>s bankruptcy, liquidation or insolvency, the creditor is guaranteed the right to demand the return of the fiduciarily sold asset.

§3 The fiduciary owner or creditor may proceed with the search and judicial seizure of the fiduciarily sold asset, in view of the default or default of the creditor.

<u>Art. 152</u>

In the event of bankruptcy, insolvency, judicial or extrajudicial liquidation of the buyer or importer, without paying the debt to the seller, and the National Treasury or its financial agents having to pay it, the Federal Government will be entitled to receive the amount spent with the respective expenses and legal fees, after deduction of the value of the aircraft, parts and equipment that were subject matter of the guarantee, proceeding in accordance with the provisions related to the legal mortgage (articles 144 and 145).

CHAPTER VI

AIRCRAFT SEQUESTRATION, ATTACHMENT AND SEIZURE

SECTION I

AIRCRAFT SEQUESTRATION

<u>Art. 153</u>

No aircraft used in public air services (article 175) may be sequestrated.

Sole paragraph. The prohibition extends to aircraft that operate non-scheduled transportation services, when they are ready to depart and on the course of their travels.

<u>Art. 154</u>

Sequestration is allowed:

- I in the event of dispossession of the aircraft by illegal means;
- II in case of damage to private property caused by the aircraft making a forced landing there.

Sole paragraph. In the event of item II, sequestration will not be admitted if there is sufficient security deposit to cover the damage caused.

SECTION II

AIRCRAFT ATTACHMENT OR SEIZURE

<u>Art. 155</u>

Whenever an attachment or seizure falls on an aircraft or its engines, it must be registered with the Brazilian Aeronautical Register.

§1 In the event of judicial or administrative attachment or seizure of aircraft, or their engines, intended for the public scheduled air transport service, the judicial or administrative authority shall determine the measure, without interrupting the service.

§2 The custody or storage of a seized or otherwise judicially attached aircraft will be carried out in accordance with the provisions of articles 312 to 315 of this Code.

TITLE V CREW

CHAPTER I CREW COMPOSITION

<u>Art. 156</u>

Crew members are duly qualified persons who work on board aircraft.

§1 The remunerated work on aircraft, whether domestic or foreign, when operated by a Brazilian company in exchange format, is privately incumbent on holders of specific licenses issued by the Brazilian civil aviation authority and reserved for native and naturalized Brazilians. (Wording given by Law No. 13,319, of 2016)

§2 The non-remunerated work on board a private air service aircraft (article 177) can be performed by qualified crew members, regardless of their nationality.

§3 In the international air service, foreign flight attendants may be employed, provided that the number does not exceed 1/3 (one third) of the flight attendants on board the same aircraft.

<u>Art. 157</u>

As long as the admission of Brazilian crew members to public air services in a given country is guaranteed, a bilateral reciprocity agreement should be promoted.

Art. 158

At the discretion of the aeronautical authority, foreign instructors may be admitted as crew members, provisionally, in the absence of Brazilian crew members.

Sole paragraph. The term of the contract for foreign instructors, referred to in this article, cannot exceed 6 (six) months.

<u>Art. 159</u>

With due regard to the pertinent regulations and in accordance with the operational requirements, the crew will be made up of holders of a flight license and certificates of physical capacity and technical qualification, which accredit them to the exercise of the respective functions.

CHAPTER II

LICENSES AND CERTIFICATES

<u>Art. 160</u>

The crew member license and certificates of technical qualification and physical capacity will be granted by the aeronautical authority, in the form of specific regulations.

Sole paragraph. The license will be permanent and the certificates will be valid for the period established therein, and may be revalidated.

<u>Art. 161</u>

The validity of the license and of the certificate of technical qualification of foreigners will be regulated by Brazilian law, when there is no international convention or act in force in Brazil and in the State that issued them.

Sole paragraph. The provision in the caput of this article applies to a Brazilian holder of a license or certificate obtained in another country.

<u>Art. 162</u>

After the validity of the certificate of technical qualification or physical capacity has expired, the license holder will be prevented from exercising the function specified therein.

<u>Art. 163</u>

Whenever the license holder presents a compromising indication of his/her technical aptitude or of the physical conditions established in the specific regulation, he/she may be subjected to new technical examinations or physical capacity, even if the respective certificates are valid.

Sole paragraph. Appeals may be filed by the interested parties to the specialized technical commission or the medical board against the results of the examinations specified above.

<u>Art. 164</u>

Any of the certificates referred to in the previous articles may be revoked by the aeronautical authority if it is proven, in an administrative process or in a health examination, that the respective holder does not have professional incumbency or is not qualified to perform the functions specified in his/her license. Sole paragraph. In the case of this article, the provisions of the sole paragraph of article 163 apply.

CHAPTER III

AIRCRAFT CAPTAIN

<u>Art. 165</u>

Every aircraft will have on board a Captain, a member of the crew, designated by the owner or operator and who will be his/her agent during the trip.

Sole paragraph. The name of the Captain and the other crew members will appear in the Logbook.

<u>Art. 166</u>

The Captain is responsible for the operation and safety of the aircraft.

§1 The Captain will also be responsible for the safekeeping of valuables, goods, checked baggage and mail, provided that the owner or operator is in a position to verify the quantity and condition thereof.

§2 The other crew members are technically and disciplinarily subordinated to the Captain of the aircraft.

§3 During the voyage, the Captain is responsible, with regard to the crew, for the compliance with professional regulations regarding:

- I working hours limit;
- II flight limits;
- III rest intervals;
- IV food supply.

<u>Art. 167</u>

The Captain exercises authority inherent to the function from the moment he/she presents himself for the flight until the moment he/she delivers the aircraft, after the trip is completed.

Sole paragraph. In the event of a forced landing, the Captain's authority remains until the competent authorities take responsibility for the aircraft, people and things carried therein.

<u>Art. 168</u>

During the period of time provided for in Article 167, the Captain exercises authority over persons and things on board the aircraft and may:

- I disembark any of them, as long as
- it endangers good order, discipline,

puts the safety of the aircraft or the people and goods on board at risk;

II – take the necessary measures to protect the aircraft and the people or goods transported therein;

III – discard the cargo or part thereof, when this is essential to flight safety (article 16, § 3).

Sole paragraph. The Captain and the operator of the aircraft will not be responsible for damages or consequences resulting from the adoption of the disciplinary measures provided for in this article, without excessive power.

<u>Art. 169</u>

The Captain may, under his/her responsibility, postpone or suspend the departure of the aircraft, when he/she deems it essential to flight safety.

<u>Art. 170</u>

The Captain may delegate the duties assigned to him/her to another member of the crew, except for those related to flight safety.

<u>Art. 171</u>

The decisions made by the Captain in the form of articles 167, 168, 169 and 215, Sole paragraph, including in the event of dumping (article 16, §3), will be recorded in the Logbook and, after the trip, immediately communicated to the aeronautic authority.

Sole paragraph. In case the cargo is subject to customs control, the dumping will be communicated to the nearest tax authority.

<u>Art. 172</u>

The Logbook, in addition to mentioning the nationality and registration marks, the names of the owner and the operator, must indicate for each flight the date, nature of the flight (private air transport, scheduled or non-scheduled air transport), the names of the crew members, place and time of departure and arrival, incidents and observations, including on flight protection infrastructure that are of interest to security in general.

Sole paragraph. The Logbook referred to in the caput of this article must be signed by the Captain, who is responsible for the entries, including also the total flight hours and journey times.

<u>Art. 173</u>

The Captain will proceed to register, in the Logbook, the births and deaths that occur during the trip, and will extract a copy thereof for the purposes of law.

Sole paragraph. In the event of a sudden illness or death of people, the Captain will arrange, on the first stop, for the presence of doctors or the local police authority, so that the appropriate measures can be taken.

TITLE VI AIR SERVICES

CHAPTER I INTRODUCTION

<u>Art. 174</u>

Air services include private air services (articles 177 to 179) and public air services (articles 180 to 221).

<u>Art. 175</u>

Public air services include specialized public air services and public air transport services for passengers, cargo or mail, whether scheduled or non-scheduled, domestic or international.

§1 The legal relationship between the Federal Government and the business owner who operates public air services is guided by the rules established in this Code and supplementary legislation and by the conditions of the respective concession or authorization.

§2 The legal relationship between the business owner and the user or beneficiary of the services is contractual, governed by the respective rules provided for in this Code and supplementary legislation, and, in the case of international public transport, by the provisions in the relevant Treaties and Conventions (articles 1, §1; 203 to 213).

§3 In the public air services contract, the business owner, whether an individual or legal entity, owner or operator of the aircraft, undertakes, in his/her own name, to perform certain air services, in return for remuneration, applying the provisions in articles 222 to 245 in the case of scheduled air transport.

<u>Art. 176</u>

The air transport of mailbags can be done, with equal treatment, by all scheduled air transport companies, on their lines, taking into account the convenience of schedules, or by special charter.

§1 In the transport of postal consignments, the carrier is only responsible for the Postal Administration in accordance with the provisions applicable to the relations between them.

§2 Except as provided in the preceding paragraph, the provisions of this Code do not apply to the transportation of postal items.

CHAPTER II

PRIVATE AIR SERVICES

<u>Art. 177</u>

Private air services are those performed, without remuneration, to the benefit of the operator itself (Article 123, II) comprising air activities:

I – for recreational or sports purposes;

II – for transportation reserved for the aircraft owner or operator;

III – for specialized air services, performed to the exclusive benefit of the aircraft owner or operator.

<u>Art. 178</u>

Owners or operators of aircraft intended for private air services, for non-commercial purposes, do not need authorization for their air activities (Article 14, § 2).

§1 Aircraft and operators must comply with the respective technical requirements and with all the provisions on air navigation and flight safety, as well as taking out regular insurance against damage to people or properties on the ground and to technical personnel on board.

§2 The aircraft referred to in this article will not be able to perform public transport air services (article 267, §2).

<u>Art. 179</u>

Individuals or legal entities that, for their sole and exclusive benefit, engage themselves in the formation or training of their technical personnel, may do so with the consent of the aeronautical authority.

CHAPTER III

PUBLIC AIR SERVICES

SECTION I

CONCESSION OR AUTHORIZATION FOR PUBLIC AIR SERVICES

<u>Art. 180</u>

The operation of public air services will always require the prior concession, in the case of scheduled air transport, or authorization in the case of non-scheduled air transport or specialized services.

<u>Art. 181</u>

The concession or authorization will only be granted to legal entities organized under Brazilian laws, with headquarters and management in the country. (Wording given by Law n^{o} 13,842, of 2019)

I – (repealed); (Wording given by Law n° 13,842, of 2019)

ll – (repealed); (Wording given by Law n° 13,842, of 2019)

III – (repelaled). (Wording given by Law n° 13,842, of 2019)

G1 (Repealed). (Wording given by Law $n^{\rm o}$ 13,842, of 2019)

 ${\rm G2}$ (Repealed). (Wording given by Law ${\rm n^o}$ 13,842, of 2019)

 ${\it G3}$ (Repealed). (Wording given by Law n^o 13,842, of 2019)

64 (Repealed). (Wording given by Law n° 13,842, of 2019)

<u>Art. 182</u>

(Repealed by Provisional Measure No. 863, 2018)

<u>Art. 183</u>

Concessions or authorizations will be regulated by the Executive Branch and can only be assigned or transferred with the consent of the competent authority.

SECTION II

APPROVAL OF ACTS OF INCORPORATION AND THEIR AMENDMENTS

<u>Art. 184</u>

(Repealed by Law No. 13,842, of 2019)

Art. 185

(Repealed by Law No. 13,842, of 2019)

<u>Art. 186</u>

(Repealed by Law No. 13,842, of 2019)

SECTION III

INTERVENTION, LIQUIDATION AND BANKRUPTCY OF A PUBLIC AIR SERVICES CONCESSIONAIRE

<u>Art. 187</u>

Companies that, by their acts of incorporation, have the purpose of operating air services of any nature or aeronautical infrastructure may not file for composition with creditors [Brazilian "concordata"].

<u>Art. 188</u>

The Executive Branch may intervene in concessionaires or authorized companies, whose operational, financial or economic situation endangers the continuity of the services, the efficiency or the safety of air transport.

§1 The intervention will aim at restoring the normality of the services and will last as long as necessary to achieve the objective.

§2 In the event of being determined, by technical expertise, before or after the intervention, that it is impossible to restore the normality of services:

 I – extrajudicial liquidation will be determined where, upon realization of the asset, at least half of the credits can be settled;

II – bankruptcy will be required where the asset is not sufficient to settle at least half of the credits, or where there are well-substantiated signs of bankruptcy crimes.

<u>Art. 189</u>

In addition to those provided for by law, the following constitute privileged credits of the Federal Government in the processes of liquidation or bankruptcy of an airline:

I – the amount spent by the Federal Government to finance or pay for aircraft and aeronautical products purchased by the air transport company;

II – the amount for which the Federal Government is liable, even in installments, to pay for aircraft and aeronautical products, imported by the air transport company.

<u>Art. 190</u>

In the liquidation or bankruptcy of an air transport company, the Federal Government will be awarded, on account and up to the limit of its credit, the aircraft and aeronautical products acquired before the commencement of the proceedings:

I – with the Federal Government's financial contribution, guarantee, surety or any other guarantee thereof or of its financial agents;

II – paid in whole or in part by the Federal Government or for whose payment it will be held responsible after the commencement of the proceeding.

§1 The award referred to in this article will be determined by the Federal Court, upon proof, by the Federal Government, of the occurrence of the events provided for in items I and II of this article.

§2 The amount corresponding to the value of the goods referred to in this article will be deducted from the amount of the Union>s credit, in the executive collection process, brought by the Federal Government against the debtor, or administratively, if there is no judicial proceeding.

<u>Art. 191</u>

Upon regular or early termination of the company's activities, the Federal Government will have the right to purchase, in whole or in part, the aircraft, parts and equipment, workshops and aeronautical facilities, at market value.

SECTION IV

CONTROL AND INSPECTION OF PUBLIC AIR SERVICES

<u>Art. 192</u>

The agreements between operators of scheduled air transport services, which involve a consortium, pool, connection, consolidation or merger of services or interests, will require prior approval by the aeronautical authority.

<u>Art. 193</u>

Scheduled air transport services will be subject to the rules established by the Government to prevent ruinous competition and ensure its best economic performance, and the aeronautical authority may, at any time, modify frequencies, routes, schedules and service tariffs, and any other conditions of the concession or authorization.

<u>Art. 194</u>

The rules and conditions for operating non-scheduled air services (articles 217 to 221) will be set by the aeronautical authority, in order to avoid competition between these services and those of scheduled air transport, and may be changed whenever necessary to jointly ensure better economic performance of air services.

Sole paragraph. The aeronautical authority may require prior approval of contracts or agreements signed by business owners of specialized services (article 201), of scheduled or non-scheduled air transport service, and operators of private or sports services (articles 15, §2 and 178, §2), between themselves, or with third parties.

<u>Art. 195</u>

Ancillary services will be regulated in accordance with the provisions of articles 102 to 104.

<u>Art. 196</u>

Every person, whether natural or legal, who operates air services, must have adequate maintenance and operating technical structures, either owned or outsourced, duly approved by the aeronautical authority.

Sole paragraph. The operator of the aircraft, through its structure of operations, must, at any time, provide the Flight Protection System bodies (articles 47 to 65) with information related to the flight or location of the aircraft.

<u>Art. 197</u>

Inspection will be carried out by personnel accredited by the aeronautical authority.

Sole paragraph. Surveillance and inspection of aircraft, air services, workshops, aerospace entities and airport facilities, as well as proficiency examinations for and of aviation employees, are inspection duties.

<u>Art. 198</u>

In addition to the bookkeeping required by the legislation in force, all companies that operate air services must maintain specific bookkeeping, which will abide by a uniform chart of accounts, established by the aeronautical authority.

Sole paragraph. Revenue and expense for related or subsidiary activities may not be recorded in the air services accounting.

<u>Art. 199</u>

The aeronautical authority may, when deemed necessary, have the accounts of companies that operate air services and their books, records and documents examined.

<u>Art. 200</u>

Every domestic or foreign public air transport service company will abide by the tariffs approved by the aeronautical authority.

Sole paragraph. In non-scheduled international transport, the aeronautical authority may require that the price of transport be subject to prior approval.

CHAPTER IV

SPECIALIZED AIR SERVICES

<u>Art. 201</u>

Specialized air services cover the air activities of:

 I – aerial photography, aerial photogrammetry, aerial cinematography, air topography;

II – prospecting, exploitation or detection of elements of the soil or subsoil, the sea, the underwater platform, the surface of the waters or their depths;

III - aerial advertising of any nature;

IV – promotion or protection of agriculture in general;

V – sanitation, investigation or technical or scientific experimentation;

VI - teaching and training of flight personnel;

VII – artificial provocation of rain or climate change;

VIII – any paid modality, other than public transport.

<u>Art. 202</u>

Air services whose purpose is to protect or foster the development of agriculture in any of its aspects, through the use of fertilizers, seeding, pest control, application of insecticides, herbicides, defoliators, water settlement, combat against field and forest fires and any other approved technical and scientific applications will be governed by special regulations.

CHAPTER V

SCHEDULED AIR TRANSPORT

SECTION I

INTERNATIONAL SCHEDULED AIR TRANSPORT

<u>Art. 203</u>

International public air transport services can be performed by domestic or foreign companies.

Sole paragraph. The operation of these services will be subject to:

a) the provisions in bilateral treaties or agreements in force with the respective States and Brazil;

b) failing these, to the provisions of this Code.

DESIGNATION OF BRAZILIAN COMPANIES

<u>Art. 204</u>

The Brazilian Government will designate companies for international air transport services.

§1 It is the responsibility of the company or designated companies to obtain the operating authorization, with the countries where they intend to operate.

§2 The designation referred to in this article will be made with the objective of ensuring the best economic performance in the international market, stimulating receptive tourism, contributing to greater political, economic and cultural exchange.

DESIGNATION AND AUTHORIZATION OF FOREIGN COMPANIES

<u>Art. 205</u>

To operate in Brazil, the foreign air transport company must:

- I be designated by the Government of the respective country;
- II obtain authorization to operate in Brazil (articles 206 to 211);
- III obtain authorization to operate air services (articles 212 and 213).

Sole paragraph. The designation is an act from Government to Government, through diplomatic channels, while requests for authorization, referred to in items II and III of this article, are acts of the designated company itself.

AUTHORIZATION FOR OPERATION

Art. 206

The application for authorization to operate in the country will be accompanied by the following documents:

 I – proof that the company is organized according to the law of its country;

II – the entire content of its bylaws or equivalent organizational document;

III – list of shareholders or holders of its capital, indicating, where applicable, the name, profession and domicile of each one and the number of shares or quotas, according to the nature of the company;

IV – copy of the minutes of the meeting or of the legal instrument that decided on the operation in Brazil and determined the capital allocated to operations in the Brazilian territory;

V – latest balance sheet legally published in the country of origin;

VI – instrument of appointment of the legal representative in Brazil, which must include powers to accept the conditions under which authorization is given (article 207).

<u>Art. 207</u>

The conditions that the Federal Government deems appropriate to establish in defense of national interests will be included in the acceptance agreement signed by the applicant company and will be part of the authorization decree.

Sole paragraph. A copy of the official agency that published the decree and all the documents that substantiate it will be filed with the Commerce Registry of the location where the company's main place of business will be located, together with proof of deposit, in cash, of the part of the capital allocated to operations in Brazil.

<u>Art. 208</u>

Foreign companies authorized to operate in the country are required to have a permanent representative in Brazil, with full powers to deal with any matters and resolve them definitively, including for the purpose of being sued and receiving service of process on behalf of the company.

Sole paragraph. In the event of bankruptcy decreed outside the country, the representative's powers will continue until another is appointed, and the company's assets and values will not be released for transfer abroad, until the creditors domiciled in Brazil are paid.

<u>Art. 209</u>

Any changes made by the foreign company in its bylaws or articles of incorporation will require approval by the Federal Government to take effect in Brazil.

<u>Art. 210</u>

The authorization to the foreign company to operate in Brazil, as mentioned in article 206, may be revoked:

I - in case of bankruptcy;

II – if the services are suspended, by the company itself, for a period exceeding 6 (six) months;

III – in the cases provided for in the authorization decree or in the respective Bilateral Agreement;

IV – in the cases provided for by law (article 298).

<u>Art. 211</u>

The replacement of the foreign company that ceases to operate in Brazil will depend on proof, before the aeronautical authority, of the fulfillment of the obligations to which it was subject in the country, unless they are undertaken by the new designated company.

AUTHORIZATION TO OPERATE

Art. 212

The foreign company, designated by the government of its country and authorized to operate in Brazil, must obtain authorization to definitively begin international air services, presenting to the aeronautical authority:

a) the operational and technical plans, in the form of the relevant regulation;

b) the airfares that it intends to apply between points of call in Brazil and the other stops of its service abroad;

c) the schedule it intends to fulfill.

<u>Art. 213</u>

Any modification involving equipment, schedule, frequency and stopovers in the National Territory, as well as the temporary or definitive suspension of services and the re-establishment of authorized stopovers, will depend on the authorization from the aeronautical authority, if not otherwise established in a Bilateral Agreement.

Sole paragraph. The modifications referred to in this article will be submitted to the aeronautical authority with the necessary advance.

AUTHORIZATION OF A FOREIGN COMPANY AGENCY THAT DOES NOT OPERATE AIR SERVICES IN BRAZIL

<u>Art. 214</u>

Foreign air transport companies that do not operate in Brazil will not be able to operate in the National Territory or keep an agency, branch, management, representation or office here, unless they have obtained authorization for selling air tickets or cargo transport, granted by a competent authority.

§1 The authorization referred to in this article will be subject to the rules and conditions established by the Ministry of Air Force.

§2 No authorization will be granted to a company whose country of origin does not guarantee reciprocity of treatment to Brazilian counterparties.

§3 The representative, agent, director, manager or attorney shall have the same powers as referred to in article 208 of this Code.

SECTION II

DOMESTIC TRANSPORT

<u>Art. 215</u>

All transport in which the starting, intermediate and destination points are located in the National Territory is considered domestic and is governed by this Code.

Sole paragraph. Transport will not lose such character if, for reasons of force majeure, the aircraft makes a stopover in a foreign territory, while its starting and destination points are located in the Brazilian territory.

Art. 216

Domestic public air transport services are reserved for Brazilian legal entities.

CHAPTER VI

NON-SCHEDULED AIR TRANSPORT SERVICES

<u>Art. 217</u>

For the provision of non-scheduled air services for the transportation of passengers, cargo or mail, an authorization from the Executive Branch is required, which will be non-transferable and may be extended for a period of 5 (five) years, renewable for the same period.

<u>Art. 218</u>

In addition to Brazilian nationality, the person interested in obtaining the operating authorization, must indicate the airports and ancillary facilities that it intends to use, proving:

I – its economic and financial capacity;

II – the economic viability of the service it intends to exploit;

III – that it has adequate aircraft, qualified technical personnel and technical maintenance structures, whether owned or outsourced;

IV – that it has taken out the mandatory insurance.

<u>Art. 219</u>

In addition to the operating authorization, referred to in articles 217 and 218, non-scheduled air transport services between points located in the country, or between points in the national territory and another point in a foreign country, are subject to the corresponding permission.

<u>Art. 220</u>

Air taxi services are a non-scheduled public transport mode of passenger or cargo, with remuneration agreed to between the user and the carrier, under the supervision of the Ministry of Air Force, and aiming to provide immediate service, regardless of time, route or stopovers.

<u>Art. 221</u>

Individuals or legal entities, authorized to carry out activities to promote civil or sports aviation, as well as crew training, may not perform public air transport services, with or without remuneration (articles 267, §2; 178, §2 And 179).

TITLE VII

AIR TRANSPORT CONTRACT

CHAPTER I

GENERAL PROVISIONS

<u>Art. 222</u>

Under the air transport contract, the business owner is required to transport passengers, luggage, cargo, parcels or mail, by aircraft, against payment.

Sole paragraph. The business owner, as a carrier, can be a natural or legal person, owner or operator of the aircraft.

<u>Art. 223</u>

It is considered that there is only one transport contract, when agreed upon in a single legal act, by means of one or more tickets, even if executed successively by more than one carrier.

<u>Art. 224</u>

In the case of combined transport, the provisions of this Code apply to the aircraft.

<u>Art. 225</u>

A carrier is deemed to be the one who performs all or part of the transport, presumably authorized by the contractual carrier and not to be confused with him/ her or the successive carrier.

<u>Art. 226</u>

The lack, irregularity or loss of the air ticket, baggage note or bill of lading does not affect the existence and effectiveness of the respective contract.

CHAPTER II

PASSENGER TRANSPORT CONTRACT

SECTION I

AIR TICKET

<u>Art. 227</u>

When transporting people, the carrier is required to deliver the respective individual or collective air ticket, which must indicate the place and date of issue, the points of departure and destination, as well as the name of the carriers.

<u>Art. 228</u>

The air ticket will be valid for 1 (one) year from the date of issue.

<u>Art. 229</u>

The passenger is entitled to a refund of the amount already paid for the air ticket if the carrier cancels the trip.

<u>Art. 230</u>

In the event of a departure delay of more than 4 (four) hours, the carrier will arrange for the passenger to board on a flight that offers equivalent service to the same destination, if any, or will immediately refund the ticket value, if the passenger so prefers.

<u>Art. 231</u>

When transportation is interrupted or delayed at a stopover airport for a period exceeding 4 (four) hours, whatever the reason may be, the passenger may elect either to endorse the ticket or to obtain immediate refund of the price.

Sole paragraph. All expenses resulting from the interruption or delay of the trip, including transportation of any kind, meals and lodging, will be borne by the contractual carrier, without prejudice to civil liability.

<u>Art. 232</u>

The transported person must comply with the legal rules set forth in the air ticket or posted at the sight of the users, refraining from an act that causes discomfort or loss to passengers, damages the aircraft, prevents or hinders the normal performance of the service.

<u>Art. 233</u>

The performance of the passenger air transport contract includes boarding and disembarking operations, in addition to those carried out on board the aircraft.

§1 A boarding operation is considered to have been carried out since when the passenger, already checked-in at the airport, crosses the limit of the area intended for the general public and enters the respective aircraft, covering the path done on foot, by mechanical means or with the use of vehicles.

§2 The disembarkation operation begins with the passenger leaving the aircraft and ends at the point of intersection of the internal area of the airport and the area open to the general public.

SECTION II

BAGGAGE NOTE

<u>Art. 234</u>

In the baggage transport contract, the carrier is required to deliver the corresponding individual or collective note to the passenger, in 2 (two) copies, indicating the place and date of issue, points of departure and destination, ticket number, quantity, weight and declared value of the volumes.

§1 The performance of the contract begins with the delivery of the respective note to the passenger and ends with the receipt of the luggage.

§2 The carrier may check the contents of the packages whenever there is a value declared by the passenger.

§3 In addition to checked baggage, passengers are permitted to carry personal items, such as hand luggage.

 $\S4$ The receipt of the luggage, without protest, is a presumption of its good condition.

§5 The protest shall proceed, in the event of damage or delay, in the manner determined in the section relating to the cargo contract.

CHAPTER III

AIR CARGO TRANSPORT CONTRACT

<u>Art. 235</u>

In the air cargo transportation contract, the respective receipt will be issued, with the following indications:

I - the place and date of issue;

II – the points of departure and destination;

III - the name and address of the shipper;

IV - the name and address of the carrier;

V – the name and address of the recipient;

VI - the nature of the cargo;

VII – the number, packaging, marks and numbering of the volumes;

VIII – weight, quantity and volume or size;

IX – the price of the goods, when the cargo is shipped against payment at

the time of delivery, and, eventually, the amount of the expenses;

X - the declared value, if any;

XI – the number of copies of the air waybill;

XII – the documents delivered to the carrier to accompany the air waybill;

XIII – the transportation term, within which the carrier must deliver the cargo at the destination, and the recipient or shipper to withdraw it.

<u>Art. 236</u>

The air waybill will be issued in 3 (three) original copies and delivered by the shipper with the cargo.

§1 The 1st copy, with the indication «carrier's copy», will be signed by the shipper.

§2 The 2nd copy, with the indication «recipient's copy», will be signed by the shipper and the carrier and will accompany the cargo.

§3 The 3rd copy will be signed by the carrier and delivered by it to the shipper, after acceptance of the cargo.

<u>Art. 237</u>

If the carrier, at the shipper's request, issues the air waybill, it will be considered as having done it on its account and behalf, unless otherwise proven.

<u>Art. 238</u>

When there is more than one volume, the carrier may require different air waybills from the shipper.

<u>Art. 239</u>

Without prejudice to criminal liability, the shipper is responsible for the accuracy of the indications and declarations contained in the air waybill and for the damage that, as a result of its irregular or inaccurate or incomplete statements or indications, the carrier or anyone else suffers.

<u>Art. 240</u>

The air waybill makes the conclusion of the contract, the receipt of the cargo and the conditions of transportation presumed to have occurred, until otherwise proven.

<u>Art. 241</u>

The declarations contained in the air waybill, regarding weight, dimensions, cargo conditioning and number of packages, are presumed to be true until otherwise proven; those referring to the quantity, volume, value and status of the cargo will only constitute proof against the carrier, if it verifies its accuracy, which should be stated in the air waybill.

<u>Art. 242</u>

The carrier will refuse load unaccompanied of the required documents or whose transportation and marketing are not allowed.

<u>Art. 243</u>

When the cargo arrives at the destination, the carrier must notify the recipient so that it can be withdrawn within 15 (fifteen) days from the notice, unless another deadline is established in the notice.

§1 If the recipient is not found or does not remove the cargo within the period stated in the notice, the carrier will notify the shipper to withdraw it within 15 (fifteen) days from the notice, under penalty of the cargo being considered abandoned.

§2 After the period stipulated in the last notice has elapsed, without the cargo having been removed, the carrier will deliver it to the public warehouse at the shipper's expense and risk, or, at its discretion, to the auctioneer, to proceed with the sale at a public auction and deposit the net proceeds of the auction at Banco do Brasil S/A, at the disposal of the owner, after deduction of freight, insurance and sales charges.

§3 In the event that the cargo is subject to customs control, the dumping referred to in §1 of this article shall be immediately communicated to the tax authority with jurisdiction over the cargo destination airport.

<u>Art. 244</u>

Any cargo received by the recipient without protest is presumed to have been delivered in good condition and in accordance with the transport document.

§1 The protest will be made subject to a proviso entered in the transport document or any written communication sent to the carrier.

62 The protest for damage will be made within 7 (seven) days from receipt.

§3 The protest for delay will be made within 15 (fifteen) days from the date on which the cargo has been made available to the recipient.

§4 In the absence of a protest, any action will only be admitted if founded on carrier's willful misconduct.

§5 In case of successive carrier or de facto carrier, the protest will be forwarded to those responsible (articles 259 and 266).

§6 The damage or average and the loss of cargo imported or in customs transit will be determined in accordance with specific legislation (article 8).

<u>Art. 245</u>

The performance of the air cargo transportation contract begins with the receipt of the cargo and continues for as long as it is under the carrier's responsibility, whether at the airport, on board the aircraft or anywhere, in the case of forced landing, until the final delivery.

Sole paragraph. The period of performance of air transport does not include land, sea or river transport, carried out outside the airport, unless they have been made to carry out loading, delivery, transshipment or transfer of cargo (article 263).

TITLE VIII

CIVIL LIABILITY

CHAPTER I

CONTRACTUAL LIABILITY

SECTION I

GENERAL PROVISIONS

Art. 246

The carrier's liability (articles 123, 124 and 222, sole paragraph), for damages occurring during the performance of the transport contract (articles 233, 234, § 1, 245), is subject to the limits established in this Title (articles 257, 260, 262, 269 and 277).

<u>Art. 247</u>

Any clause aimed at discharging the carrier from liability or establishing a limit of indemnity lower than that provided for in this Chapter is null, but the nullity of the clause does not entail nullity of the contract, which will continue to be governed by this Code (article 10).

<u>Art. 248</u>

The indemnity limits provided for in this Chapter do not apply if it is proved that the damage resulted from willful misconduct or serious fault of the carrier or its agents.

§1 For the purposes of this article, willful misconduct or serious fault occurs when the carrier or its agents wanted the result or assumed the risk of producing it.

§2 The claimant must prove, in the case of willful misconduct or serious fault of the agents, that they acted in the exercise of their duties.

§3 The final and non-appealable judgment of the Criminal Court that decided on the existence of the willful or guilty act and its authorship, will be sufficient proof.

<u>Art. 249</u>

Legal fees and expenses will not be counted within the limits established in this Chapter.

<u>Art. 250</u>

The responsible person who pays the indemnity is exempted in relation to whoever receives it (articles 253 and 281, sole paragraph).

Sole paragraph. The discussion between the one who paid and the others responsible for the payment is excepted.

<u>Art. 251</u>

In determining the carrier's liability for damage to persons, cargo, equipment or facilities placed on board the aircraft, the limits of the provisions of this Chapter apply, if there are no other limitations in the contract.

Art. 251-A

The indemnity for non-property damages due to failure to perform the transport contract is subject to the demonstration of the actual occurrence of the damage and its extension by the passenger or by the shipper or cargo recipient. (Included by Law No. 14.034, 2020).

SECTION II

EXTRAJUDICIAL PROCEDURE

<u>Art. 252</u>

Within 30 (thirty) days, from the dates provided for in article 317, I, II, III and IV, of this Code, the interested party must

file its claim to receive the respective indemnity.

<u>Art. 253</u>

Within 30 (thirty) days following the end of the period provided for in the previous article, the person responsible must effect the respective payments to the claimants out of its own fund or with the proceeds from the insurance (article 250).

<u>Art. 254</u>

For those fail to timely file a claim or whose process is depending on compliance, by the interested party, with legal requirements, the payment referred to in the previous article must occur within 30 (thirty) days after the satisfaction thereof.

<u>Art. 255</u>

After the period referred to in articles 253 and 254 has expired, if the person responsible or the insurer has not made the payment, the interested party may request, in court, by summary proceedings (article 275, II, letter e, of the CPC), the remediation of the damage.

SECTION III

LIABILITY FOR DAMAGE TO PASSENGER

Art. 256

The carrier is liable for the damage arising from:

I – death or injury to a passenger, caused by an accident that occurred during the performance of the air transport contract, on board an aircraft or in the course of boarding and disembarking operations;

II – delay in the contracted air transportation.

§1 The carrier will not be responsible:

a) (repealed); (Wording given by Law No. 14,034, of 2020)

b) (repealed). (Wording given by Law No. 14,034, of 2020)

I – in the case of item I of the caput of this article, if the death or injury results exclusively from the passenger's health condition, or if the accident results from his/her exclusive fault; (Included by Law No. 14,034, 2020).

 ${\rm II}$ – in the case of item ${\rm II}$ of the caput of this article, if it proves that, due to unforeseeable circumstances or

force majeure, it was impossible to adopt necessary, sufficient and adequate measures to avoid the damage. (Included by Law No. 14,034, 2020). Taking effect

§2 The carrier's liability extends:

a) to its crew, directors and employees who travel in the crashed aircraft, without prejudice to any indemnity for occupational accidents;

b) to non-paying passengers, who travel on a complimentary basis.

§3 The occurrence of one (1) or more of the following events, provided they are unforeseen, unpredictable and unavoidable, constitutes an Act of God or force majeure, for the purposes of section II of §1 of this article: (Included by Law No. 14,034, 2020).

I – restrictions on landing or take-off resulting from adverse weather conditions imposed by an airspace control system body; (Included by Law No. 14,034, 2020).

II – restrictions on landing or take-off due to unavailability of the airport infrastructure; (Included by Law No. 14,034, 2020).

III – restrictions on flight, landing or take-off resulting from determinations of the civil aviation authority or any other authority or body of the Public Administration, which will be held responsible; (Included by Law No. 14,034, 2020).

IV – decree of a pandemic or publication of government acts resulting therefrom, with a view to preventing or restricting air transport or airport activities. (Included by Law No. 14,034, 2020).

§4 The provision set forth in item II of §1 of this article does not discharge the carrier from offering material assistance to the passenger, as well as from offering alternatives for reimbursement of the amount paid for the ticket and for any services ancillary to the transport contract, of lodging or re-performance of the service by another mode of transport, including in the event of delay and interruption of the flight for a period exceeding 4 (four) hours as referred to in arts. 230 and 231 of this Law. (Included by Law No. 14,034, of 2020).

<u>Art. 257</u>

The carrier's liability, in relation to each passenger and crew member, is limited, in

the case of death or injury, to the amount corresponding, on the payment date, to 3,500 (three thousand and five hundred) National Treasury Bonds – OTN, and, in the case of delayed transportation, 150 (one hundred and fifty) National Treasury Bonds – OTN.

§1 A higher limit may be fixed by means of an accessory covenant between the carrier and the passenger.

§2 In an indemnity that is fixed by way of income, the capital for its constitution may not exceed the highest amount provided for in this article.

<u>Art. 258</u>

In the case of successive transports, the passenger or his/her successor will only be entitled to commence and action against the carrier that has performed the transport in the course of which the accident or delay occurred.

Sole paragraph. The provisions of this article do not apply if, by express stipulation, the first carrier undertakes responsibility for the entire route of the contracted transport.

<u>Art. 259</u>

Where air transport is contracted with one carrier and performed by another, the passenger or successors may demand both the contractual carrier and the operating carrier, both of them being jointly and severally liable.

SECTION IV

LIABILITY FOR DAMAGE TO BAGGAGE

<u>Art. 260</u>

The carrier's liability for damage resulting from the destruction, loss or damage to the baggage checked or kept in the passenger's hands, which occurred during the performance of the air transport contract, is limited to the amount corresponding to 150 (one hundred and fifty) National Treasury Bonds – OTN, at the time of payment, in relation to each passenger.

<u>Art. 261</u>

Where applicable, the provisions in the section related to liability for damage to air cargo (articles 262 to 266) apply.

SECTION V

LIABILITY FOR DAMAGE TO CARGO

<u>Art. 262</u>

In the event of delay, loss, destruction or damage to cargo, which occurred during the performance of the air transport contract, the carrier's liability is limited to the amount corresponding to 3 (three) National Treasury Bonds – OTN per kilo, except for special declaration of value made by the shipper and upon payment of a supplementary fee, if applicable (articles 239, 241 and 244).

Art. 263

When another means of transport is used for the performance of the air transport contract, and there is doubt about where the damage occurred, the carrier's liability will be governed by this Code (article 245 and Sole Paragraph).

<u>Art. 264</u>

The carrier will not be responsible if it proves:

I – that the delay in delivering the cargo was caused by the occurrence of 1 (one) or more of the events provided for in §3 of art. 256 of this Law; (Wording amended by Law No. 14,034, 2020) Production of effects

II – that the loss, destruction or damage resulted exclusively from one or more of the following facts:

a) the nature or defect of the goods themselves;

b) defective cargo packaging, made by a person or his/her agents;

c) act of war or armed conflict;

d) act of public authority regarding the cargo.

Art. 265

Unless the damage reaches the value of all the volumes, comprised in the air waybill, only the weight of the lost, destroyed, damaged or delayed volumes will be considered for indemnity purposes.

<u>Art. 266</u>

The shipper may bring an action against the first carrier and against the person who carried out the transport, during which the damage occurred, and the recipient against the latter and the last carrier. Sole paragraph. There is joint and several liability between the carriers responsible for the shipper and the recipient, respectively.

CHAPTER II

LIABILITY FOR DAMAGE IN FREE AIR SERVICES

<u>Art. 267</u>

When there is no transportation contract (articles 222 to 245), civil liability for damages incurred during the performance of air services will abide by the following:

I – in the private air service (articles 177 to 179), the aircraft owner is liable for damages to the technical personnel on board and to the people and goods on the ground, within the limits provided, respectively, in articles 257 and 269 of this Code, and must take out the corresponding insurance (article 178, §§ 1 and 2);

II – in the free transport carried out by a public air transport company, the provisions of article 256, paragraph 2, of this Code are to be complied with;

III – in the free transport carried out by the National Postal Service, there will be no indemnity for damages to the person or baggage on board, unless there is proof of guilt or intent of the air operators.

§1 In the case of item III of this article, if guilt is proven, the indemnity is subject to the limits provided for in the previous Chapter, and in the case of fraud, said limits do not prevail.

§2 In relation to passengers transported in violation of §2 of article 178 and article 221, the limits of this Code do not prevail.

CHAPTER III

LIABILITY TO THIRD PARTIES ON THE GROUND

<u>Art. 268</u>

The operator is responsible for damages to third parties on the ground, caused directly by an aircraft in flight, or a maneuver, as well as by a person or thing that has fallen or projected from it.

§1 The operator's liability prevails when the aircraft is flown by its agents, even if they are exceed their duties. 62 The operator is exempt from liability if it proves that:

I - there is no direct cause and effect relation between the damage and the facts mentioned;

II – it resulted only from the passage of the aircraft through the airspace, with due compliance with the air traffic rules;

III – the aircraft was operated by a third party, neither appointed nor dependent, who evaded the reasonable surveillance exercised on the aircraft;

 $\ensuremath{\mathsf{IV}}\xspace$ – there was exclusive fault by the injured party.

§3 The aircraft is considered to be in flight from the moment the driving force is applied to take off until the moment when the landing operation ends.

§4 In the case of an aircraft lighter than air, glider or flying wing, it is considered in flight from the moment when it detaches from the ground until the moment on which it returns to the ground.

§5 An aircraft that is being moved or towed in airport areas is considered to be maneuvering.

<u>Art. 269</u>

The operator's liability will be limited:

I – for aircraft with a maximum weight of 1,000 kg (one thousand kilograms), to the amount corresponding to 3,500 (three thousand and five hundred) OTN – National Treasury Bonds;

II - for aircraft weighting more than 1,000 kg (one thousand kilograms), to the amount corresponding to 3,500 (three thousand five hundred) OTN
National Treasury Bonds, plus 1/10 (one tenth) of the value of each OTN
National Treasury Bond per kilogram that exceeds 1,000 (thousand).

Sole paragraph. The aircraft weight is understood to be that authorized for take-off by the airworthiness certificate or equivalent document.

<u>Art. 270</u>

The air operator will pay the claiming injured party 30% (thirty percent) of the maximum amount, which it will be liable to pay, under the terms of the previous article, within 60 (sixty) days from the occurrence of the fact (articles 252 and 253).

§1 The operator who has filed an action to exempt itself from liability under the

allegation of predominant or exclusive guilt of the injured party is exempt from the obligation to make payment.

§2 The balance of 70% (seventy percent) will be apportioned among all claiming injured parties, when, after 90 (ninety) days have elapsed, no claim or action to repair damage is pending (articles 254 and 255).

<u>Art. 271</u>

When the total amount of the indemnities for damages exceeds the limit of liability established in this Chapter, the following rules will apply:

I – if there are only personal injuries or only material damages, the indemnities will be reduced proportionally to the respective amounts;

II – in the event of personal injuries and material damages, half of the amount corresponding to the maximum indemnity limit will be used to cover each type of damage; if there is a balance, it will be used to supplement indemnities that could not be paid in full.

<u>Art. 272</u>

The provisions of this Chapter will have no effect on the limit of liability when:

I – the damage results from willful misconduct or serious fault of the operator or its agents;

II – the damage is caused by the aircraft on the ground and with its engines are stopped;

III – the damage is caused to third parties on the ground, by anyone who is illegally or illegitimately operating the aircraft.

CHAPTER IV

RESPONSIBILITY FOR COLLISION

<u>Art. 273</u>

Damages caused by the collision of 2 (two) or more aircraft, either in flight or maneuvering on the ground, and those caused to people or things on board, by another aircraft in flight, are considered to result from collision.

<u>Art. 274</u>

The responsibility for repairing the damage resulting from the collision rests with the operator or owner of the causing aircraft, whether he/she uses it personally or as a representative.

<u>Art. 275</u>

In a collision where there is concurrent guilt, the responsibility of the operators is joint, but proportional to the seriousness of the fault.

Sole paragraph. As proportionality cannot be determined, each operator is liable in equal parts.

<u>Art. 276</u>

The following are collision damages, subject to compensation:

 I – those caused to people and things on board the aircraft involved;

II - those suffered by the collided aircraft;

III – the losses resulting from the deprivation of use of the collided aircraft;

IV – the damages caused to third parties, on the ground.

Sole paragraph. Reimbursement of damages includes expenses, including legal expenses, undertaken by the operator of the collided aircraft, as a result of the harmful event.

<u>Art. 277</u>

The indemnity for damages caused as a result of the collision will not exceed:

 I – the limits set in articles 257, 260 and 262, relating to people and things on board, increased to double;

II – the limits set in article 269, referring to third parties on the ground, increased to double;

III – the value of repairs and replacements of crashed aircraft parts, if recoverable, or of their real value immediately prior to the event, if inconvenient or impossible to recover;

IV – the tenth of the real value of the collided aircraft immediately before the event, due to the deprivation of its normal use.

<u>Art. 278</u>

The indemnity limits established in the previous article will not prevail:

I – if the collision results from specific operator's or its agents' willful misconduct or serious fault;

II – if the operator of the aircraft causing the collision has concurred, by itself or by its agents, for the event, through an action or omission that violates the air traffic rules in force;

III – if the collision is the result of unlawful possession or improper use of the aircraft, without negligence by the operator or his/her agents, who, in this case, will be exempt from liability.

<u>Art. 279</u>

The operator of each aircraft will be responsible, under the conditions and limits provided for in this Code, for damages caused:

I – by the collision of 2 (two) or more aircraft;

II – for 2 (two) or more aircraft, jointly or separately.

Sole paragraph. The person who suffers damages, or its beneficiaries, will be entitled to indemnity, up to the sum of the limits corresponding to each of the aircraft, but no operator will be responsible for a sum that exceeds the limits applicable to their aircraft, unless their liability is unlimited, if it has been proven that the damage was caused by willful misconduct or serious fault (§ 1 of article 248).

CHAPTER V

RESPONSIBILITY OF THE AIRCRAFT MANUFACTURER AND AERONAUTICAL INFRASTRUCTURE ENTITIES

<u>Art. 280</u>

The limits established in articles 257, 260, 262, 269 and 277 apply, as the case may be, to possible liability:

I – of the Brazilian aeronautical product manufacturer, in relation to the fault for damages resulting from manufacturing defects;

II – of the airport administration or the Public Administration, in infrastructure services, due to the fault of its operators, in accidents that cause damage to passengers or things.

CHAPTER VI

LIABILITY GUARANTEE

<u>Art. 281</u>

Every operator is required to take out insurance to guarantee possible indemnity for future risks in relation to:

I – the damages provided for in this Title, with the limits of civil liability established therein (articles 257, 260, 262, 269 and 277) or contracted (§ 1 of article 257 and sole paragraph of article 262);

II – non-paying crew and travelers, for this purpose, equivalent to passengers (article 256, § 2);

III – technical personnel on board and persons and goods on the ground, in private air services (article 178, § 2, and article 267, I);

IV - the value of the aircraft.

Sole paragraph. The receipt of insurance proceeds exempts the carrier from liability (article 250).

<u>Art. 282</u>

The foreign air operator will be required, for the eventual repair of damages to people or property in the airspace or in the Brazilian territory:

a) to deliver guarantees equal or equivalent to those required for Brazilian aircraft;

b) to comply with the rules established in International Conventions or Agreements, where applicable.

<u>Art. 283</u>

The issuance or revalidation of the airworthiness certificate will only occur upon proof of insurance, which will be recorded with the Brazilian Aeronautical Registry and respective certificates.

Sole paragraph. The validity of the certificate may be suspended at any time, if it is proven that the guarantee has ceased to exist.

<u>Art. 284</u>

Mandatory insurance, whose expiration occurs after the flight has started, is considered to be extended until its end.

<u>Art. 285</u>

Under penalty of nullity of the clause, in life insurance or accident insurance poli-

cies, there can be no exclusion of risks resulting from air transport.

Sole paragraph. In the case of air transport, life insurance or accident insurance policies may not contain clauses that present higher rates or surcharges than those charged for ground transport.

<u>Art. 286</u>

Whoever has the right to repair the damage may exercise, within the limits of the indemnification that it is entitled, it own right over the guarantee provided by the person responsible (articles 250 and 281, Sole paragraph).

CHAPTER VII

CIVIL LIABILITY IN INTERNATIONAL AIR TRANSPORT

<u>Art. 287</u>

For the purpose of limiting civil liability in international air transport, the amounts established in the International Conventions to which Brazil is a party will be converted into national currency, in accordance with regulations issued by the Executive Branch.

TITLE IX

VIOLATIONS AND ADMINISTRATIVE MEASURES

CHAPTER I

COMPETENT ADMINISTRATIVE BODIES

Art. 288

The Executive Branch will create a body for the purpose of investigating and assessing the violations provided for in this Code and in the supplementary legislation, especially those relating to transportation tariffs and conditions, as well as knowledge of the respective resources.

§1 The jurisdiction, organization and functioning of the body to be created, as well as the procedure of the respective processes, will be set out in a regulation.

§2 The jurisdiction referred to in this article does not include violations subject to tax legislation.

CHAPTER II

ADMINISTRATIVE MEASURES

<u>Art. 289</u>

Upon breach of the provisions of this Code or supplementary legislation, the aeronautical authority may take the following administrative measures:

l – fine;

II – suspension of certificates, licenses, concessions or authorizations;

III - revocation of certificates, licenses, concessions or authorizations;

IV – detention, interdiction or seizure of aircraft, or of the transported material;

V – intervention in concessionaires or authorized companies.

Art. 290

The aeronautical authority may request the assistance of the police force to obtain the arrest of the alleged violators or of the aircraft that endangers public safety, persons or things, within the limits of this Code.

<u>Art. 291</u>

Whenever the occurrence of a violation provided for in this Code or in the supplementary legislation is verified, the aeronautical authority will issue the respective report of violation, submitting it to the competent authority or body for the investigation, judgment or appropriate administrative action.

§1 When the violation constitutes a crime, the authority will immediately bring the fact to the attention of the competent police or judicial authority.

§2 In the case of a crime, in which crew members of an aircraft performing public air transport services must be detained, the aeronautical authority, concurrently with the action provided for in the preceding paragraph, shall take the measures that enable the flight to continue.

<u>Art. 292</u>

The right to full defense and appeal is ensured to whoever is a defendant in procedures established for the investigation and judgment of violations of the rules provided for in this Code and in regulatory rules.

§1 The same right will be ensured in the case of administrative measures necessary for the investigation of irregular or criminal facts.

62 The procedure will be of summary type, with suspensive effect.

Art. 293

The application of the administrative measures or penalties provided for in this Title will not impair or prevent the imposition, by other authorities, of appropriate penalties.

<u>Art. 294</u>

Those who comply with an exorbitant or improper order from the owner or operator of the aircraft, resulting in a violation of this Code, will have joint and several liability therefor.

<u>Art. 295</u>

The fine will be imposed according to the seriousness of the violation, and the suspension of any of the certificates or the authorization or permission may be added.

Art. 296

The suspension will be applied for a period not exceeding 180 (one hundred and eighty) days, which may be extended once for the same period.

<u>Art. 297</u>

The employer company will be jointly liable with its representatives, agents, employees or intermediaries, for the violations committed by them in the exercise of their respective functions.

Art. 298

A foreign airline company operating in the country will be subject to a fine and, in the event of a recurrent offense, to the suspension or revocation of the operating authorization if it fails to meet:

 I – the requirements prescribed by regularly applied laws and regulations, with regard to the operation of air transport companies;

II – the laws and regulations related to:

a) aircraft entry and exit;

b) their operation or navigation while in Brazilian territory or airspace; c) passengers entering or leaving;

d) crew or cargo;

e) dispatch;

f) immigration;

g) customs;

h) hygiene;

i) health.

III – the approved fares, itineraries, frequencies and schedules; the conditions contained in the respective authorizations; the conservation and maintenance of its flight equipment in relation to the safety and efficiency of the service; or the prohibition of embarking or disembarking a passenger or cargo on a simple transit flight;

IV – domestic legislation, in its acts and operations in Brazil, on an equal basis with national counterparties.

CHAPTER III

INFRACTIONS

<u>Art. 299</u>

A fine of (vetoed) up to 1,000 (thousand) reference values will be applied, or suspension or cancellation of any certificates of registration, qualification, concession, authorization, permission or homologation issued according to the rules of this Code, in the following cases:

I – procedure or practice, in the exercise of functions, which reveal a lack of professional incumbency for the exercise of the prerogatives of technical qualification certificates;

II – execution of air services in such a way as to endanger public order or security, or in violation of transport safety rules;

III – assignment or transfer of the concession, authorization or permission, without a license from the aeronautical authority;

 IV – transfer, directly or indirectly, of the direction or performance of the air services granted or authorized;

V – provision of inaccurate or adulterated data, information or statistics;

 VI – refusal to show books, accounting documents, information or statistics to inspection agents; VII – recurrent practice of serious infractions;

VIII – delay in payment of airport fees beyond the period established by the aeronautical authority;

IX – delay in the payment of specific prices for the use of airport areas, outside the period established in the respective instrument.

<u>Art. 300</u>

The annulment will depend on an administrative inquiry in the course of which the offender will be entitled to defense.

<u>Art. 301</u>

The suspension may be for a period of up to 180 (one hundred and eighty) days, renewable for an equal period.

<u>Art. 302</u>

The fine will be applied for the following infractions:

I – infractions related to the use of aircraft:

a) using or employing aircraft without registration;

b) using or employing aircraft with false nationality or registration marks, or without them corresponding to that stated in the Brazilian Aeronautical Registry – RAB;

c) using or employing an aircraft that does not comply with the requirements of the respective certificates or with expired certificates;

d) using or employing aircraft without the required documents or without them being in force;

e) using or employing aircraft in specialized service, without the necessary approval by the competent body;

f) using or employing aircraft to perform an activity different from that for which it is licensed;

g) using or employing aircraft with non-compliance with air traffic rules, issued by the aeronautical authority;

 h) entering aircraft into the country, or using it without overflying authorization;

 i) keeping foreign aircraft in the National Territory without authorization or without having it revalidated; j) disposing of or transferring, without authorization, foreign aircraft that are in the country on a transitional basis, except in cases of judicial execution or precautionary measure;

 k) transporting aware of the actual content, dangerous or prohibited cargo or material, or in violation of the rules that regulate the transit of materials subject to restrictions;

 launching objects or substances without a license from the aeronautical authority, except in the case of dumping;

m) transferring aircraft without a license;

 n) recovering or reconstructing a crashed aircraft, without the authorization of the competent body;

 o) flying an aircraft with excessive take-off weight or number of passengers exceeding the maximum;

p) flying with equipment for aerophotogrammetric survey, without authorization from the competent agency;

 q) transporting passengers in an inappropriate place on the aircraft;

r) flying without the required survival equipment;

s) flying by instruments with an aircraft not approved for this type of operation;

t) flying by instruments with disabled or incomplete crew;

u) performing solo flight for navigation training while a student is not yet qualified to do so;

v) operating an aircraft with a visual flight plan, when the meteorological conditions are below the minimum foreseen for this type of operation;

w) systematically operating air taxi services outside authorized areas;

x) operating unauthorized radio frequencies, capable of causing harmful interference to the aeronautical telecommunications service.

II – infractions attributable to aeronauts and aviation employees or air operators:

a) fill in documents required by the inspection with inaccurate data;

b) prevent or hinder the action of duly accredited public agents in the exercise of an official mission; c) fly an aircraft without carrying the qualification documents, the aircraft documents or the survival equipment in the required areas;

d) crew an aircraft with an expired technical qualification or physical capacity certificate, or exercise a function on board for which it is not properly licensed or whose license has expired;

e) participate in the crew composition in disagreement with the provisions of this Code and its regulations;

f) use an aircraft with a foreign crew member or allow the latter to exercise any function on board, in violation of this Code or its regulations;

g) disobey the determinations of the airport authority or provide it with false information;

h) breach the General Conditions of Carriage or the instructions on air fares;

 i) disobey air traffic regulations and standards;

j) disregard the precepts of the regulations on the exercise of the profession;

k) fail to comply with the rules on assistance and rescue;

 disobey the rules that regulate the entry, stay and departure of foreigners;

m) violate rules, standards or clauses of Conventions or international acts;

 n) violate rules and regulations that affect discipline on board an aircraft or flight safety;

 o) allow, by action or omission, the shipment of goods without dispatch, of materials without a license, or effect the dispatch in disagreement with the license, when necessary;

 p) exceed, outside the cases provided for by law, the limits of hours of work or flight;

q) operate the aircraft while intoxicated;

 r) taxiing aircraft for take-off, entering the runway without observing traffic;

s) withdraw from an aircraft with the engine running without a crew member on board; t) operate an aircraft failing to maintain standard phraseology in radiotelephone communications;

u) give flight instructions without being qualified.

III – infractions attributable to the air services concessionaire or permissionaire:

a) allow the use of aircraft without a regular status in the Brazilian Aeronautical Registry – RAB, or without complying with the restrictions of the airworthiness certificate;

b) allow an aeronaut without qualification or who, if qualified, does not have regular documentation, to make up the crew;

c) allow the exercise, in aircraft or in ground service, of personnel not duly licensed or with an expired license;

d) enter into an agreement with another concessionaire or permissionaire, or with third parties, to establish a connection, pool consortium or consolidation of services or interests, without the express consent of the aeronautical authority;

e) fail to comply with the rules and regulations related to aircraft maintenance and operation;

f) operate any type of air service for which it is not duly authorized;

g) fail to prove, when required by the competent authority, the taking out of insurance designed to guarantee their liability for any damage to passengers, crew, baggage and cargo, as well as on the ground to third parties;

 h) accept, for shipment, goods without a license from the competent authorities or in violation of the regulations governing the transit of these goods;

i) assign or transfer shares or units of its share capital, with voting rights, without the express consent of the aeronautical authority, when necessary (article 180);

j) fail to disclose the mandatory corporate acts;

k) fail to collect, in the form and within the terms of the respective regulations, the rates, fees, public prices and contributions for which it is liable;

I) refuse to display a book, document, record or information about its ser-

vices, when requested by the aeronautical inspection agents;

m) disrespect international convention or act to which it is bound;

n) fail to fulfill, without just cause, the approved schedules;

 o) breach the rules governing the exercise of the profession of aeronaut or aviation employee;

p) fail to transport passengers with a scheduled ticket or with a confirmed reservation or, in any way, breach of the transport contract;

 q) violate the approved airfares, promise or grant, directly or indirectly, a discount, rebate, bonus, utility or any advantage to users, depending on the use of their transportation services;

r) simulate as made, fully or partially, abroad, the purchase of tickets sold in the country, in order to circumvent the application of the approved fare in national currency;

s) promote any form of advertising that offers an undue advantage to the user or that provides him/her with a false or inaccurate indication about the services, inducing him/her in error as to the real value of the fare approved by the aeronautical authority;

t) exchange transportation for services or utilities, outside the permitted cases;

u) violate the General Conditions of Carriage, as well as the other rules that provide for air services;

v) fail to inform the aeronautical authority of the occurrence of an incident or accident involving aircraft under its responsibility; (Wording given by Law No. 12,970, of 2014)

w) fail to present the General Summary of economic and statistical results, the Balance Sheet and the Profit and Loss Statement within the established deadlines;

x) fail to request, within the established period, the registration of acts required by the Brazilian Aeronautical Registry;

y) fail to present, every six months, the list of shareholders;

z) fail to submit the transfer list at every six months.

IV – infractions attributable to providers of aircraft and their components maintenance, repair or distribution:

 a) fail to comply with instructions, standards or requirements established by the aeronautical authority;

b) fail to comply with the terms and conditions set forth in the homologation certificates and respective addenda;

c) modify the aircraft or component, proceeding with an alteration not foreseen by an approval body;

d) poorly perform maintenance or component distribution services, in such a manner as to endanger flight safety;

e) fail to comply with maintenance contracts or fail to fulfill the deadlines undertaken for the performance of maintenance and component distribution services;

f) perform maintenance or repair services in disagreement with the aircraft manuals, or in a crashed aircraft, without the authorization of the competent body;

g) fail to notify the competent body for homologation of aeronautical products, within the regulatory period, of any defect or malfunction that has affected the safety of any particular flight and that may be recurrent in other aircraft.

V – infractions attributable to manufacturers of aircraft and other aeronautical products:

a) fail to comply with prescriptions and requirements established by the aeronautical authority, for the approval of aeronautical products;

b) fail to comply with the terms and conditions contained in the respective approval certificates;

c) modify the approved type design, of the aircraft or other aeronautical product, without the modification having been approved by the aeronautical authority;

d) fail to notify the competent body for homologation of aeronautical products, within the regulatory period, of any defect or malfunction, accident or incident of which, in any way, it becomes aware, provided that this defect or malfunction affects flight safety flight and can be recurrent in other aircraft or aeronautical products covered by the same approved type design;

e) breach or fail to adopt, after the notification referred to in the preceding paragraph and within the period established by the competent body, measures of a corrective or remedy nature for defects and malfunctions.

VI – infractions attributable to natural or legal persons not included in the previous groups:

a) perform or use technical maintenance, modification or repair services for aircraft and its components, in a non-approved workshop;

b) perform recovery or reconstruction services on a crashed aircraft, without authorization from the competent agency;

c) perform maintenance or repair services for aircraft and its components, without authorization from the competent agency;

d) use an aircraft without being qualified to fly it;

e) perform any type of air service without being duly authorized;

f) build an airfield without a license, use an airfield without regulatory conditions of use, or fail to promote the airfield registration;

g) to implant or operate a building or any development in an area subject to special restrictions, without observing these;

h) promise or grant, directly or indirectly, any type of discount, premium, bonus, utility or advantage to purchasers of airfare or freight tickets;

 i) promote air service advertising in disagreement with the aeronautical regulations, or with a promise or artifice that misleads the public as to the real conditions of transportation and its price;

j) operate air services without concession or authorization;

 k) sell aircraft owned by it, without proper communication to the Brazilian Aeronautical Registry – RAB, or fail to update, in the RAB, the ownership of aircraft acquired;

 install or maintain an aviation school or course without authorization from the aeronautical authority;

m) the aircraft owner or operator fails to collect, in the form and within the

terms of the respective regulations, the tariffs, fees, public prices or contributions for which it is liable.

CHAPTER IV

AIRCRAFT DETENTION, INTERDICTION AND SEIZURE

<u>Art. 303</u>

The aircraft may be detained by aeronautical, tax or Federal Police authorities, in the following cases:

 I – if flying in Brazilian airspace in violation of international conventions or acts, or of authorizations for such purpose;

II - if, entering Brazilian airspace, disrespect the mandatory landing at an international airport;

III – for examining certificates and other indispensable documents;

 IV – for verification of its cargo in case of legal restriction (article 21) or forbidden carriage of equipment (Sole paragraph of article 21);

V - for the investigation of illicit acts.

§1 The aeronautical authority may employ the means it deems necessary to compel the aircraft to land at the indicated airport. (Regulation)

§2 After the legally provided coercive means are exhausted, the aircraft will be classified as hostile, being subject to destruction, in the cases of the items in the caput of this article and after authorization by the President of the Republic or authority delegated by him/her. (Included by Law No. 9,614, of 1998) (Regulation) (See Decree No. 8,265, of 2014)

§3 The authority mentioned in §1 will answer for its acts when it acts with excessive power or under an emulative spirit. (Renumbered from §2 to §3 with new wording by Law No. 9,614, of 1998) (Regulation)

<u>Art. 304</u>

When, in the case of item IV, of the previous article, the existence of prohibited material, explosives or war equipment is found, without authorization, or contrarily to the terms of the authorization granted, endangering public security or peace between Nations, the aeronautical authority may retain the material referred to in this article and release the aircraft if, by law, there is no need to seize it.
§1 If the aircraft is foreign and the cargo does not endanger public safety or peace between the Nations, the aeronautical authority may return the aircraft to the country of origin for the specified route and time, without retaining the cargo.

§2 Even though the aircraft is foreign, if the cargo endangers public safety and peace between Nations, the aeronautical authority may retain the war material and return the aircraft as provided in the previous paragraph.

<u>Art. 305</u>

The aircraft can be interdicted:

I – in the cases of article 302, I, subclauses a to n; II, subclauses c, d, g and j; III, subclauses a, e, f and g; and V, subclauses a and e;

II – during the investigation of an accident in which it is involved.

§1 Once the interdiction is made, the respective report will be prepared, signed by the authority that carried it out and by the person responsible for the aircraft.

§2 A copy of the report referred to in the previous paragraph will be delivered to the person responsible for the aircraft.

Art. 306

The interdicted aircraft will not be prevented from operating for maintenance purposes.

<u>Art. 307</u>

The aeronautical authority may interdict the aircraft, for a period not exceeding 15 (fifteen) days, upon request by the customs, police or health authority.

Sole paragraph. The request must be substantiated, in order to demonstrate a fair fear that there will be a serious and irreparable damage to the rights of the Public Authority or third parties; or that there is a danger to public order, health or institutions.

<u>Art. 308</u>

The seizure of the aircraft will take place to preserve the effectiveness of the detention or interdiction, and will consist of keeping it parked, with or without removal to a hangar, parking area, workshop or safe place (articles 155 and 309).

<u>Art. 309</u>

Aircraft seizure will only take place in compliance with a court order, except for

other seizure cases provided for in this Law.

<u>Art. 310</u>

Once the legal requirements are met, the detained, interdicted or seized aircraft will be immediately released.

<u>Art. 311</u>

In any of the cases provided for in this Chapter, the aircraft owner or operator will not be entitled to compensation.

CHAPTER V

AIRCRAFT CUSTODY AND STORAGE

<u>Art. 312</u>

In any inquiry or administrative or judicial proceeding, the custody, storage or warehousing of an aircraft shall be carried out in accordance with the provisions of this Chapter.

<u>Art. 313</u>

The operator or owner of aircraft delivered to a warehouse or the custodian of the aeronautical authority is responsible for the corresponding expenses.

§1 The provisions of this article include:

I – deposits arising from seizure;

II – sequestration and other precautionary procedural measures;

III – bankruptcy collection, whatever the administrative or judicial authority that determines it;

IV – the seizure resulting from administrative or judicial proceedings.

§2 In the case of §2 of article 303, the aircraft owner or operator will be entitled to a refund of what it has paid, plus compensatory interest and indemnities for losses and damages.

§3 In the case of the previous paragraph, a regressive action may be filed against the Public Authority whose authority has acted with excess power or under an emulative spirit.

<u>Art. 314</u>

The storage will not exceed the term of 2 (two) years.

§1 If, within the period established in this article, the delivery of the aircraft is not authorized, the aeronautical authority

may carry out the public sale for the corresponding amount, to incur expenses with the storage.

§2 In the absence of a bidder or in the event that the amount obtained from the sale is lower than the debt, the air-craft will be awarded to the Ministry of Air Force, proceeding to the respective record in the Brazilian Aeronautical Registry – RAB.

§3 The provisions of this article do not apply to warehousing arising from administrative proceedings of a fiscal nature.

<u>Art. 315</u>

Insurance must be taken out for the aircraft delivered to a warehouse, under the responsibility of the operator or owner.

TITLE X STATUTES OF LIMITATION

<u>Art. 316</u>

The action to reduce the price of an aircraft acquired with hidden defect, or to terminate the contract and recover the price paid, plus losses and damages, is barred by the statute of limitations in 6 (six) months, counted from the aircraft delivery.

<u>Art. 317</u>

The action is barred by the statute of limitations in 2 (two) years:

I – for damages caused to carried passengers, baggage or cargo, counting from the date on which the damage occurred, from the date of arrival or from the day on which the aircraft was to arrive at the destination point, or from the interruption of transport;

II – for damages caused to third parties on the ground, as from the date of occurrence of the fact;

III – for emergent damages in the event of a collision, as from the date of occurrence of the fact;

IV – to obtain compensation or indemnity for assistance and rescue, as from the date of completion of the respective services, except as provided in the paragraphs of article 61; V – to collect credits, resulting from contracts on the use of aircraft, if there is no different term in this Code, from the date they become payable;

VI – of recourse, between carriers, for the amounts paid due to damage from collision, or between operators, for the sums that one of them was required to pay, in cases of joint and several liability or fault, as from the date of actual payment;

VII – to collect credits from one air services business owner against another, resulting from the compensation of air transport tickets, as from the date they become due;

VIII – for damages caused by fault of the airport administration or the Public Administration (article 280), as from the date of occurrence of the fact;

IX – of the insured against the insurer, the term being counted from the day on which the fact occurred, whose risk was guaranteed by the insurance (article 281);

X – against the aeronautical product manufacturer, counted as from the occurrence of the indemnifiable damage.

Sole paragraph. The limitation and peremption periods, in relation to tax matters, remain governed by specific legislation.

<u>Art. 318</u>

If the interested party proves that it was not aware of the damage or the identity of the person responsible, the period will begin to run from the date on which it becomes aware, but may not exceed 3 (three) years from the event.

<u>Art. 319</u>

The administrative measures provided for in this Code expire within 2 (two) years, from the date of the occurrence of the act or fact that authorizes them, and their effects, even in the case of suspension, cannot exceed this period.

Sole paragraph. The provision in the caput of this article does not apply to the terms defined in the National Tax Code.

<u>Art. 320</u>

The intervention and extrajudicial liquidation must end within 2 (two) years.

Sole paragraph. At the end of the term of 2 (two) years, from the first act, any interested party or member of the Public Prosecutor's Office may request the immediate sale of the properties at a public auction and the apportionment of the proceeds among creditors, subject to special preferences and privileges.

<u>Art. 321</u>

The public air services operator is required to keep air transport or other air services documents for a period of 5 (five) years.

TITLE XI FINAL AND TRANSITIONAL PROVISIONS

<u>Art. 322</u>

The Ministry of Air Force is authorized to install an Air Force Judgment Board with jurisdiction to judge, within an administrative proceeding, the infractions and other matters set out in this Code, and mentioned in its article 1, (vetoed).

61 (vetoed).

62 (vetoed).

63 (vetoed).

§4 The Executive Branch, by decree, will regulate the organization and functioning of the Air Force Judgment Board.

<u>Art. 323</u>

This Code takes effect on the date of its publication.

<u>Art. 324</u>

Decree Law No. 32 of November 18, 1966, Decree-Law No. 234 of February 28, 1967, Law No. 5,448, of June 4, 1968, Law No. 5710 of 7 October 1971, Law No. 6,298, of December 15, 1975, Law No. 6,350, of July 7, 1976, Law No. 6,833, of September 30, 1980, Law No. 6,997, of June 7, 1982, and other provisions to the contrary, are hereby revoked.

Brasília, December 19, 1986. 165th year of the Independence and 98th year of the Republic.

JOSÉ SARNEY

OCTÁVIO JÚLIO MOREIRA LIMA

NATIONAL CIVIL AVIATION AGENCY – RESOLUTION No. 472 OF JUNE 6, 2018

Establishes administrative measures resulting from the exercise of inspection activities under the jurisdiction of ANAC.

THE BOARD OF DIRECTORS OF THE NA-TIONAL CIVIL AVIATION AGENCY – ANAC, in the exercise of the jurisdiction granted to it by art. 11, item V, of Law No. 11,182, of September 27, 2005, in view of the provisions of art. 8, items X and XLVI of the mentioned Law, in Title IX of Law No. 7565, of December 19, 1986, in Law No. 7565, of December 19, 1986, in Law No. No. 9784, of January 29, 1999, in the sole paragraph of art. 3 of Law No. 10,871, of May 20, 2004, and considering what is in process n° 00058.501190/2016- 98, resolved and approved at the 11th Meeting of the Deliberative Board held on May 28, 2018,

RESOLVES:

<u>Art. 1</u>

To establish, under the terms of this Resolution, the administrative measures resulting from the exercise of civil aviation and aeronautical and airport infrastructure inspection activities under the jurisdiction of ANAC.

Sole paragraph. The provisions of this Resolution do not apply to the inspection of compliance with the clauses set forth in the airport infrastructure concession contracts, to the inspection of the regulations issued to discipline them and to the administrative proceedings initiated when there are signs of violation thereof.

TITLE I INTRODUCTION

CHAPTER I DEFINITIONS

<u>Art. 2</u>

For the purposes of exercising inspection activities, the following definitions are adopted:

I – certification: set of activities within the jurisdiction of ANAC aimed at verifying and attesting that a professional, product, company or process meets the requirements established in the legislation related to civil aviation, aiming at protecting and safeguarding the public interest in accordance with the provisions of the law, in the interest of safety, and the quality of air services;

II – grant: set of activities performed by ANAC with the purpose of authorizing, delegating, allowing or granting to an interested party the prerogative of operating public service regulated by ANAC, in compliance with the conditions of safety and quality provided for in the certification processes;

III – inspection: set of activities within the jurisdiction of ANAC aimed at verifying whether the requirements applicable to activities regulated by ANAC are being fulfilled, which may be of 2 (two) types:

a) continued surveillance: inspection aimed at monitoring the performance of the granted service or of the professional, product, company and process certified by ANAC, aiming at verifying the continuance of compliance with the requirements and parameters provided for in the certification and granting processes; and

b) fiscal action: inspection aimed at the regulated entities that operate in the industry without proper certification or granting, in cases of ineffectiveness of the measures recommended in continuous surveillance measures, as well as the society protection activities;

IV – Corrective Action Plan – PAC: document presented by the regulated party, containing at least the description of the actions to be taken to correct the irregular condition, schedule for implementing the actions and the indication of the person responsible.

V – regulated party: natural or legal person who carries out an activity regulated by ANAC, whether or not having a certificate or grant;

VI – Occurrence Report – RO: it is the administrative act by which the ANAC agent describes the circumstances in

which possible violations of the civil aviation legislation were found, in order to substantiate the Sanctioning Administrative Process – PAS with the elements necessary for the decision;

VII – Clandestine Air Passenger Transport – TACA Pax: air passenger transport service performed by an individual or company, on a remunerated basis, in disagreement or without the certificate, authorization or grant, as applicable, for the performance of such service; and (Included by Resolution No. 540, dated 01/24/2020)

VIII – Clandestine Aeronautical Maintenance – MACA: maintenance service, preventive maintenance, reconstruction or alteration, of an aeronautical property or product, carried out by an individual or legal entity, without the latter having the authorization required by the relevant legislation to perform this service. (Included by Resolution No. 540, dated 01/24/2020)

CHAPTER II

INSPECTION AND ITS RESULTS

<u>Art. 3</u>

The result of the inspection will trigger the adoption of administrative action, if an infraction is found during or after the inspection.

Sole paragraph. The administrative measures dealt with in the caput of this article are classified as preventive, sanctioning and precautionary.

<u>Art. 4</u>

Decisions to apply the type of administrative measure must follow the provisions of the Compendium of Inspection Elements – CEF, which may consider criteria related to the history of administrative actions adopted by ANAC, compliance with corrective action plans and risk indicators and of regulated performance.

TITLE II PREVENTIVE ADMINISTRATIVE MEASURES

<u>Art. 5</u>

The application of preventive administrative measures does not constitute a sanction to the regulated party and aims at stimulating the return to regulatory compliance in a quick and effective manner.

CHAPTER I

TYPES OF PREVENTIVE ADMINISTRATIVE MEASURES

<u>Art. 6</u>

Preventive administrative measures are:

I – Irregular Condition Notice – ACI; and

II – Request for Repair of Irregular Condition – SRCI.

SECTION I

IRREGULAR CONDITION NOTICE

<u>Art. 7</u>

ACI can be issued when a low-impact violation is found or that does not affect the safety of air operations.

Sole paragraph. ANAC will issue the ACI by notifying the regulated entity, containing the description of the detected infraction.

SECTION II

REQUEST FOR REPAIR OF IRREGULAR CONDITION

<u>Art. 8</u>

The SRCI can be issued when an infraction is found, the correction of which must occur within a certain period.

§1 The SRCI contains the description of the detected violation.

§2 The SRCI shall provide for the term for correcting the detected violation or grant a maximum of sixty (60) days for presentation of the Corrective Actions Plan – CAP.

§3 CAP will be deemed accepted if ANAC does not provide any answer within sixty (60) days from its receipt.

§4 The regulated party must provide evidence to ANAC of the correction of the violation within the time limits set out in SRCI or CAP, under penalty of adoption of other administrative measures.

TITLE III

SANCTIONNING ADMINISTRATIVE MEASURES

CHAPTER I

TYPES OF SANCTIONNING ADMINISTRATIVE MEASURES

<u>Art. 9</u>

The following are sanctioning administrative measures:

l – fine;

II – punitive suspension of certificates, licenses, concessions or authorizations; and

III – revocation of certificates, licenses, concessions or authorizations.

CHAPTER II

SANCTIONING ADMINISTRATIVE PROCESS

SECTION I

PRELIMINARY PROVISIONS

<u>Art. 10</u>

In conducting the administrative processes covered by this Resolution, the principles of legality, publicity, purpose, motivation, reasonableness, proportionality, morality, broad defense, contradictory, legal certainty, public interest and efficiency will be complied with.

SECTION II

BRINGING OF THE SANCTIONING ADMINISTRATIVE PROCESS

<u>Art. 11</u>

If an infraction is found that justifies the adoption of a sanctioning administrative measure, an infraction notice will be drawn up for the purpose of bringing the PAS.

<u>Art. 12</u>

The infraction notice will be drawn up in the following situations:

I - presence of infraction in person; or

II – verification based on elements forming conviction about the characterization of the infraction, documentary analysis or any other investigation resulting from the inspection that points to the non-compliance with the legislation, even when it is proven through remote inspection.

<u>Art. 13</u>

If there is a connection between the facts found, 2 (two) or more PAS may be brought together in order to deliver a joint decision.

SECTION III

OCCURRENCE REPORT

<u>Art. 14</u>

The Occurrence Report must be enclosed with the elements relevant to the verification of the facts, by attaching, whenever possible: flight plans, pictures, films, written testimonies, technical reports, passenger complaints records, maintenance and flight records, inspection reports or any other relevant documents.

Sole paragraph: The Occurrence Report must be attached to the relevant PAS.

SECTION IV

NOTICE OF INFRACTION

<u>Art. 15</u>

The notice of infraction is the instrument that contains the description of the facts that will be the subject matter of investigation in the PAS.

<u>Art. 16</u>

The drawing up of the notice of infraction is the exclusive responsibility of ANAC agents in the exercise of inspection activities or other activities arising from the police power.

<u>Art. 17</u>

In the event of 2 (two) or more infractions related to the same factual context or where the proof of one may influence the proof of the other(s), a single notice of infraction will be drawn up by an individual or legal person, individually determining all the violated conduct and rules.

<u>Art. 18</u>

The notice of infraction shall contain the following elements:

I - sequential numbering;

II – identification and address of the assessed person;

III – place, date and time of issuance;

IV – objective description of the fact or act constituting the infraction subject to investigation, including date, place and, where relevant, time of occurrence;

V – indication of the legal provision and/or the supplementary legislation violated;

VI – indication of the term and place for the presentation of the defense; and

VII – identification, containing at least the registration and signature of the taxpayer.

§1 All the essential information for delimitation of the alleged offense, such as flight number, numbering of mandatory documents, identity of the passenger or employee involved in the occurrence, nationality and registration marks of the aircraft, whenever necessary for full understanding of imputation, shall be included in the objective description of the infraction.

§2 The notice of infraction shall not have its effectiveness conditioned on the signing thereof by the notified party or witnesses.

<u>Art. 19</u>

The procedural defects that are merely formal or of jurisdiction present in the notice of infraction are subject to validation at any stage of the proceeding, by an act of the authority with jurisdiction for judgment, indicating the defect and the respective correction.

§1 In the case of validation of the merely formal defects that have the potential to impair the rights of defense a new deadline for defense or appeal will be granted to the notified party, according to the procedural stage, for answer

§2 In the case of validation of procedural defects that do not have the potential to undermine the above mentioned right of defense, including jurisdiction, the dead-line referred in § 1 of this article will not be granted.

<u>Art. 20</u>

Once the existence of an irremediable defect is verified, the infraction notice must be declared null and void, with the annulment of all subsequent acts and communication of the content of the decision to the inspection authority to determine the need for the possible issuance of a new infraction notice, as long as the deadlines provided for in Law No. 9,873, of November 23, 1999 are complied with.

SECTION V

COMMUNICATION OF ACTS AND DEADLINES

<u>Art. 21</u>

The deadlines provided for in this Resolution begin to run from the date of awareness of the notice of the infraction, excluding from the counting the day of the service of process and including the due date.

Sole paragraph. The counting of deadlines begins and ends on business days, considering the deadline to be extended until the next first business day if the due date falls on a non-business day or ends before regular public assistance working hours.

<u>Art. 22</u>

The notified party will be summoned on all acts of the PAS that result in the imposition of positive or negative obligations, encumbrances, sanctions or restrictions on the exercise of rights and activities and acts of another nature, of its interest, especially on:

I - drawing up a notice of infraction;

II – the enclosure of evidentiary elements with the case records, able to influence the decision of the competent authority;

III - the validation of defects, in the form of art. 19, §1, of this resolution; and

IV – rendering of a decision.

§1 The summons on administrative decisions should contain the content of the decision rendered, deadline for answer, and the address for obtaining the process for examination, should make reference to the number of PAS and of the note of infraction that brought it.

§2 Procedural terms are suspended as from a request for examination of the case records is filed until the complete service of the claim.

§3 Once the period for answer by the notified party is elapsed, the PAS will be pursued regardless of the request having been granted.

<u>Art. 23</u>

In the case of a pecuniary sanction, the notified party should be served summons on the possibility of the debt being registered in the Unpaid Credit Information Register – CADIN of the federal public sector and in the Overdue Federal Liabilities system, after the expiration of 75 (seventy-five) days without proof of payment or of filing an appeal, counted from the service of process date.

<u>Art. 24</u>

The summons will be considered valid and made, according to the following rules:

I – by means of an electronic system, on the date the notified party became aware thereof;

II – by mail, on the date of receipt, duly stated on the Return Receipt – AR or equivalent document, issued by the postal service;

III – personally, on the date the notice is delivered to the notified party; or

IV – by public notice, on the date of its publication.

§1 Delivery of a summon to the notified party's representative or agent is valid.

§2 Absence of signature in the receipt of the summons can be substituted by a certificate issued by the server, certifying the delivery and the refusal by the notified party to sign.

§3 Summons by public notice, published in the Official Gazette, in case of unsuccessful attempts of serving summons by other means or of notified parties with undefined address, must contain:

I - identification of the notified party;

II – number of the infraction notice and the issuing unit;

III - the applicable sanction and the legal provision violated; and

IV – information on the period and place for presentation of the defense, appeal or answer.

§4 The attendance by the notified party supersedes a possible lack or irregularity of the summons.

§5 It is the interested party's responsibility to keep updated its registration information with ANAC or in the records of the PAS.

<u>Art. 25</u>

The infraction notice may be defended within 20 (twenty) days, counted from the date of service of the summons.

§1 When the instrument of defense is forwarded by the postal service, the timely answer will be calculated in relation to the posting date.

§2 The calculation mentioned in §1 of this article will be formalized by enclosing the received envelope with the PAS, in original or copy, or by an express statement in the case records by the person responsible for the evidentiary stage of the proceedings.

<u>Art. 26</u>

The defense may be filed by the interested party or by a proxy, in which case the presentation of the corresponding power of attorney and a copy of the articles of association will be mandatory, if applicable.

§1 The notified party may examine the case records of PAS, and request a copy, against payment, if applicable, of the corresponding cost.

§2 The notified party may obtain an electronic file of the case records of PAS, free of charge, by electronic mail or any other means or digital media that does not entail any cost to ANAC, upon filing of an application.

§3 In the event of forwarding an electronic file, the organizational unit in charge will certify in the case records of PAS the forwarding of the requested documentation, whose certificate will serve as proof of knowledge of the content of the information sent.

§4 The notified party is responsible for confirming the integrity of the electronic files received and informing about any faults in the documentation.

<u>Art. 27</u>

The notified party is responsible for proving the facts it has alleged and must offer such proof concurrently with the presentation of the defense.

<u>Art. 28</u>

Prior to the administrative decision rendered by the lower court, the notified party may file a request to the competent authority for summary awarding of a fine in an amount corresponding to 50% (fifty percent) of the average amount of penalty imposed on the infraction for immediate payment.

§1 The application for summary arbitration fine imply recognition of the practice of the offense and to waive the right to litigate in relation to administrative infraction.

§2 The application must be submitted on the appropriate form to be defined by the ANAC.

§3 In the case of validation with reopening of deadline for answer in accordance with art. 19 of this Resolution, the application for summary arbitration will not be used, and the notified party may submit a new application within 5 (five) days.

§4 The notified party must choose to present the defense or a request for summary arbitration of fine for each of the offenses included in the PAS; in case it does not indicate the purpose of its request, it will be presumed that it comprehends all the offenses discussed in the proceeding.

§5 In the event of presentation of defense and application for summary arbitration of fine for the same violation, either simultaneously or not, the defense will prevail, with continuity of PAS, according to an ordinary dosimetry criterion, regardless of delivery of summons to the interested party.

§6 In case the arbitration request is granted, a proper corresponding entry will be made and the notified party will be summoned to settle the fine until the due date stated in the Federal Government Payment Form – GRU, which may be issued from ANAC's webpage.

§7 After the full payment is made within the prescribed period, the PAS will be dismissed.

§8 If the fine is not fully paid within the period specified in §6 of this article, the following effects will be produced:

I – the notified person will no longer be entitled to the benefit of summary arbitration; and

II – the PAS will be forwarded to the competent authority for a trial court judgment on the application of the relevant sanctions.

<u>Art. 29</u>

After the deadline for presenting the defense has elapsed, the case records will be forwarded to the competent authority for a trial court judgment

SECTION VII

TRIAL COURT'S JUDGMENT

<u>Art. 30</u>

The PAS sent for trial court judgment must be enclosed by the following documents:

- I notice of infraction;
- II Occurrence Report;

III – proof of service of process to the notified party;

IV - defense or answer from the notified party, if any; and

V – certificate of expiry of term or filing of defense.

Sole paragraph. The absence of the documents provided for in items IV and V of the caput hereof will not prevent the PAS from proceeding.

<u>Art. 31</u>

The competent authority to render a trial court judgment may, at a time prior to the decision, determine the implementation of steps to complement the evidentiary stage of the proceedings, with a view to clarifying the matter under investigation.

Sole paragraph. If, as a result of the diligences carried out, new evidentiary elements are added to the case records, able to influence the administrative decision, the notified party will be summoned to, within a period of 20 (twenty) days, comment on the attached documentation.

<u>Art. 32</u>

The trial court judgment will contain an explicit, clear and congruent motivation, addressing the notified party's allegations, indicating the relevant legal facts and grounds, which may consist of a declaration of agreement with the grounds of previous opinions, information, decisions or proposals, which, in this case, will be an integral part of the act.

§1 In the event of performance of two (2) or more related violations, provided for in art. 17 of this Resolution, the joint verification of the facts will not imply the use of dosimetry criteria different from that established in Section IX of Chapter II of Title III of this Resolution for the imposition of sanctions.

§2 The decisions that prescribe penalties should discriminate the performance of each of the offenses committed, pursuant to the art. 37-A of this Resolution. (Wording given by Resolution No. 566, dated 06.12.2020) §3 In the event of decision of a fine sanction by the judging authority, a single credit will be entered in an amount corresponding to the sum of the fines provided for each of the offenses committed.

<u>Art. 33</u>

The competent authority to render a lower court judgment shall determine:

 I – the dismissal of the proceeding without the application of a sanction, in the event of a finding of non-occurrence of an infraction or absence of evidence to prove it;

II – the dismissal of the PAS due to the nullity of the notice of infraction, in the event of the finding of an insurmountable defect; or

III - the application of a sanction.

§1 The dismissal of the PAS for nullity of the infraction notice may give rise to the issuance of a new infraction notice, without the defects identified, to determine the occurrence, provided they comply with the deadlines set forth in Law No. 9873, 1999.

§2 After the decision is rendered, a notice of the decision will be sent to the notified party.

§3 In case of application of fine sanctions or punitive suspension, the decision and the notification of the decision must contain the value of the pecuniary penalty and/or term of the restriction of rights measure, as appropriate, taking into account the mitigating and aggravating factors provided for in this Resolution.

SECTION VIII

APPLICABLE SANCTIONS

<u>Art. 34</u>

The fine sanction will be expressed in local currency, calculated as from the intermediate value contained in the approved tables attached to this Resolution, unless there is a provision for the sanction contained in specific legislation.

Sole paragraph. If the fine is not paid within the established period, its value will be increased by interest, late payment charges and all legal consensus fees, calculated in accordance with the legislation applicable to Federal Government credits.

<u>Art. 35</u>

The sanctions of suspension or revocation, in the cases provided for in Law No. 7,565, of December 19, 1986, and in the supplementary legislation, with or without cumulation of pecuniary penalty, will be applied by the trial court, except in the cases of suspension and revocation of grants directly granted by the Executive Executive Board, which will be recommended by the trial court and applied by the Executive Board.

§1 In the application of sanction of suspension or revocation by the trial court, in case any appeal is filed, the latter will be forwarded directly to the Executive Board for random distribution.

§2 In applying sanctions of suspension or revocation the seriousness of the facts found will be considered, with due compliance with the specific rules or the following situations:

I – the existence of practices or circumstances that show a violation of the duty of loyalty and good faith that governs the relationship between the defendant and the Administration, including non-compliance with the Term of Cessation of Conduct – TCC, referred to in art. 61 of this Resolution; or

II – occurrences that indicate operation of a regulated activity without the corresponding certificates, licenses, concessions or authorizations, for which these are required.

SECTION IX

GRADING OF SANCTIONS

<u>Art. 36</u>

In the dosimetry of the application of sanctions, mitigating and aggravating circumstances will be considered.

61 Mitigating circumstances are:

I - the recognition of the infraction practice;

II – the voluntary adoption of effective measures to avoid or mitigate the consequences of the infraction before the decision is rendered; and

III – the inexistence of definitive application of sanctions in the 12 (twelve) months prior to the date of committing the infraction in judgment.

62 Aggravating circumstances are:

I - recurrence;

II – refusal to adopt measures to repair the effects of the infraction; III – obtaining, for themselves or for others, advantages resulting from the infraction;

IV – exposure to the risk of physical integrity of people or flight safety; and

V - destruction of public properties.

§3 In the event there are no causes that mitigate or aggravate the case or when they are compensated between them, the sanction should be applied in the average level of the table attached to this Resolution.

§4 Recurrence occurs when a new infraction is committed in a time period equal to or less than two (2) years from the commitment of a previous infraction of an identical nature to which the final sanction has been already applied.

§5 The application of the penalty as a result of the granting of the notified party's request for application of the arbitration criterion will be considered as definitive penalty for mitigating or aggravating purposes.

§6 For dosimetry purposes, the factual context existing at the time of the arbitration of penalty by the trial court should be considered.

<u>Art. 37</u>

The term of the punitive suspension will be calculated based on the period of 60 (sixty) days, decreased and/or increased by periods of 20 (twenty) days, respectively, for each mitigating and/or aggravating circumstance verified in the PAS, with due regard to a minimum 20 (twenty) and maximum 180 (one hundred and eighty) days, except in cases provided for in specific legislation.

SECTION IX-A

ADMINISTRATIVE INFRACTION OF A CONTINUED NATURE (INCLUDED BY RESOLUTION NO. 566, 12.06.2020)

<u>Art. 37-A</u>

An administrative infraction of a continued nature may be characterized by the practice, by the same regulated party, of more than one action or omission that constitutes an administrative infraction of an identical nature, ascertained in the same inspection opportunity. (Included by Resolution No. 566, dated 06.12.2020)

Sole paragraph. The characterization of the continuous infraction will be ruled out when the existence of a practice or circumstance that evidences violation, by the offending agent, of the duty of loyalty and good faith that governs the relationship between the taxpayer and the Administration. (Included by Resolution No. 566, dated 06.12.2020)

<u>Art. 37-B</u>

Upon the continuous nature of the infraction conduct is characterized, under the terms of art. 37-A of this Resolution, a fine will be applied, considering the average level of the table contained in the specific Resolution in force at the time of the infraction, calculated according to the following formula: (Included by Resolution No. 566, dated 06.12.2020)

Total Amount of the Fine = unitary fine amount * number of occurrences 1/f

In which the variable "f" has one of the following values:

f1 = 1.85 when no circumstance described in items I to V 2 \S ° Art. 36 of this Resolution is verified.

f2 = 1.5 when at least one of the circumstances described in items I to V 2 g° art. 36 of this Resolution is verified.

f3 = 1.15 where the circumstances described in item III and in item IV §2 of art. 36 of this Resolution are cumulatively verified.

§1 Verification of every circumstance described in items I to III of §1 of art. 36 of this Resolution will give rise to the addition of 0.15 to the value of variable "f" to be applied.

§2 Values different from f1, f2 and f3 may be defined in a Resolution that governs the subject matter of the assessment. (Included by Resolution No. 566, 12.06.2020)

SECTION X

APPEAL TO THE APPELLATE COURT

<u>Art. 38</u>

An appeal may be filed against an administrative decision that applies a financial penalty, within a period of 10 (ten) days, counted from the date of notification of the decision to the notified person, at the indicated physical or electronic address.

§1 The appeal will not have suspensive effect, except for the possibility provided for in the sole paragraph of art. 61 of Law No. 9,784, of January 29, 1999. (Wording provided by Resolution No. 497, of November 29, 2018)

§2 The appeal must mention the number of the proceeding and of the infraction notice.

§3 In the event of an appeal forwarded by the Postal Service, the timeliness thereof will be measured by the posting date.

<u>Art. 39</u>

The appeal will not be accepted when filed after the deadline.

<u>Art. 40</u>

The competent authority to render a decision on the proceeding may, at a time prior to the decision, determine the implementation of steps to supplement the evidentiary state, with a view to clarifying the matter under investigation.

Sole paragraph. If, as a result of the diligences carried out, new evidentiary elements are added to the case records, able to influence the administrative decision, the notified party will be summoned for, within 10 (ten) days, commenting on the attached documentation.

<u>Art. 41</u>

Administrative appellate decisions will be rendered by a single judge or en banc.

<u>Art. 42</u>

A single judge decision is appropriate if at least one of the following cases apply, independently:

I – if the appealed decision resulted exclusively in the application of a fine in an amount equal to or less than R\$ 10,000.00 (ten thousand reais), regardless of the number of fines dealt with in the process;

II – when the analysis deals with exclusively procedural issues;

III – in an appeal decision for denying allegation of suspicion;

IV – when the trial court judgment coincides with guidance from the ANAC Executive Board, issued in an administrative summary, regardless of the sanction applied; or

 V – when the following events are detected:

a) prescription of the punitive claim;

b) payment of the fine liability discussed in the process (supervening loss of the object due to voluntary compliance with the obligation);

c) request for withdrawal from appeal; or

d) death of the notified person.

<u>Art. 43</u>

Decisions will follow a collegiate (en banc) rite when not covered by the items of art. 42 of this Resolution and will be made by majority vote, with the presence of 3 (three) members, each of whom has a single vote.

§ 1 Collective trial sessions will be held electronically. (Included by Resolution No.631 of August 2, 2021)

§ 2 ANAC may decide to hold face-toface sessions at a pre-determined time, date, and place for cases requiring oral arguments. (Included by Resolution No. 631 of August 2, 2021)

Article 43-A.

In urgent and important situations, the rapporteur may rule on matters falling within the collective body's jurisdiction, ad referendum of the collective body. (Wording given by Resolution No. 631 dated August 2, 2021)

<u>Art. 44</u>

The following may result from the judgment of the appeal:

I - confirmation of the sanction applied;

II - change of the type of sanction applied or the amount of the fine;

III – declaration of full or partial nullity or overruling of the trial court decision; or

IV – declaration of nullity of the notice of infraction, with annulment of all subsequent acts and communication of the content of the decision to the inspection authority to determine the need for the issuance of a new notice of infraction, provided that the deadlines provided for in Law 9,873, of 1999 are met.

§1 In the cases of change in the kind of sanction for suspension or cancellation of licenses granted directly by the Executive Board, the process will be forwarded to the Executive Board for decision.

§ 2 After reading the report and before the rapporteur>s vote has been cast, the appellant or their legal representative will be permitted to make a verbal statement of up to 15 (fifteen) minutes, which will be put in writing and subsequently attached to the case record. (Redrafted by Resolution No. 631 of August 2, 2021) §2-A The participation of regulated parties in trial sessions will take place, preferably, by video conference. (Included by Resolution No. 631 of August 2, 2021)

§3 If aggravation of the penalty may result from the judgment of the appeal, the appellant will have to be notified to provide its allegations before the decision is rendered within ten (10) days.

§4 In cases where the trial court decision is declared void, the case records of the PAS will be forwarded to the original sector to render a new decision, subject to the time limits laid down in Law No. 9873, 1999.

<u>Art. 45</u>

The appellant may withdraw from the appeal at any time, except in the event that a decisions has already been rendered regarding the possibility of increasing the penalty.

SECTION XI

APPEAL TO THE EXECUTIVE BOARD

<u>Art. 46</u>

Appeal may be filed to the Executive Board, at the last administrative instance, within 10 (ten) days, when the decisions rendered by the authority with jurisdiction for judgment imply sanctions of revocation, suspension or fine in excess of the amount of R\$ 100,000.00 (one hundred thousand reais).

Sole paragraph. In the analysis of the admissibility of the appeal to the Executive Board based on the fine value criterion, the amount of fines applied in the same PAS will be considered, as defined in art. 32, §3, of this Resolution.

<u>Art. 47</u>

The admissibility of the appeal to the Executive Board will be assessed by the authority with jurisdiction for judgment, which will forward the admitted appeal to the Executive Board.

<u>Art. 48</u>

The Board's judgment of the appeal may result in:

I – confirmation of the sanction applied;

II – change in the type of sanction applied, the amount of the fine or the term of the restrictive right sanction;

III – declaration of full or partial nullity or overruling of the decision in force in the records; or IV – declaration of nullity of the infraction notice, with annulment of all subsequent acts and communication of the content of the decision to the inspection authority to determine the need for a possible issuance of a new infraction notice, as long as the deadlines provided for in Law No. 9,873 are met, 1999.

§1 If the judgment of the appeal can result in aggravation of the penalty, the appellant will have to be notified to submit its allegations before the decision is rendered within ten (10) days.

§2 The appellant may withdraw from the appeal at any time, except if a decision has already been rendered about the possibility of aggravation of the penalty.

§3 In cases where the trial court decision is declared void, the case records of the PAS will be forwarded to the sector which rendered the decision for a new decision, subject to the time limits laid down in Law No. 9873, 1999.

SECTION XII

FINAL AND NON-APPEALABLE ADMINISTRATIVE JUDGMENT

<u>Art. 49</u>

The final administrative decision handed down in the PAS is deemed to have become final and non-appealable after all the possibilities of appeal or the expiry of the respective term have been exhausted.

CHAPTER III PROCESS REVIEW

<u>Art. 50</u>

The PAS that results in a sanction may be revised, at any time, by the Executive Board, when new facts or relevant circumstances arise that may justify the inadequacy of the sanction applied.

Sole paragraph. The review of the PAS may not result in an increase in the sanction previously imposed.

<u>Art. 51</u>

The admissibility of the request for review to the Executive Board will be assessed by the authority with jurisdiction for judgment in a previous instance.

<u>Art. 52</u>

The judgment of the review request may result in:

I - confirmation of the sanction applied;

II - change in the type of sanction applied, the amount of the fine or the term of the restrictive right sanction;

III - declaration of full or partial nullity or revocation of the decision; or

IV – declaration of nullity of the infraction notice, with annulment of all subsequent acts and communication of the content of the decision to the inspection authority to determine the need for a possible issuance of a new infraction notice, as long as the deadlines provided for in Law No. 9,873 are met, 1999.

Sole paragraph. In cases where a trial court decision is declared null and void, the PAS records will be submitted to the sector that issued the decision for a new decision, respecting the deadlines set forth in Law No. 9,873, of 1999.

CHAPTER IV

FINANCIAL MANAGEMENT OF PECUNIARY SANCTIONS

<u>Art. 53</u>

When administrative litigation is terminated by imposing a financial penalty, the notified person will have a period of 30 (thirty) days to counted from the date of the summons to comply with the decision handed down.

1§ After the period provided for in the caput hereof has elapsed without compliance of the judgment and the expiration of the 75 (seventy-five) days referred to in Art. 2, 62, of Law No. 10,522, of July 19, 2002, the defaulting party will be enrolled in the CADIN register.

§2 After enrollment in the CADIN register, the PAS will be forwarded to the Office of Federal Attorney General for review and possible inclusion of the public credit on ANAC>s overdue debts system

<u>Art. 54</u>

(Repealed by Resolution No. 541, of 07.02.2020)

<u>Art. 55</u>

The Administration and Finance Superintendence – SAF is responsible for:

 I – the financial management of the amounts referring to the payment of fines; II – the inclusion, suspension and exclusion of the defaulting party from the CADIN, pursuant to Law No. 10,522, of 2002; and

III – the administrative collection of the credits whose values do not admit their liability by filing a Tax Execution Action, with due regard to the measures disciplined by the Office of General Counsel to the Federal Government for the collection of credits, such as protest and other means of satisfaction.

<u>Art. 56</u>

The payment in installments of debts resulting from fines not included in the Overdue Tax Liability may be made by the debtor in up to 60 (sixty) monthly installments, directly on the ANAC website, subject to the minimum installment amount of R\$ 200.00 (two hundred reais) for legal entities, and R\$ 50.00 (fifty reais) for individuals.

§1 The payment in installments will be formally established conditioned on the prior payment of the first installment, according to the amount of the debt and the requested deadline.

§2 The debtor is required to pay, at each month, the amount corresponding to one installment.

§3 The debt subject matter of the payment in installments will be consolidated on the date of the request.

§4 The amount of each monthly installment, at the time of the payment, will be added by interest equivalent to the reference rate of the Special Settlement and Custody System – SELIC for federal bonds, accrued on a monthly basis, calculated from the month subsequent to that of the consolidation up to the month prior to the payment, and 1% (one percent) in relation to the month in which the payment is being made.

§5 In the event of default in three (3) installments, either consecutive or not, or of one installment with all the others being paid, automatically cancels the payment in installments, without a new plan of payment in installments being forbidden.

66 Failure to comply with this article will imply denial of the request.

§7 The plan for payment in installments of fines included in the overdue tax liabilities is carried out by the Federal Regional Offices of the Attorney General, Federal Offices in the States and Federal Attorney Sectional Offices pursuant to art. 37-B, § 1, of Law 10,522, of 2002.

TITLE IV

ADMINISTRATIVE PRECAUTION MEASURES

CHAPTER I

TYPES OF ADMINISTRATIVE PRECAUTION MEASURES

<u>Art. 57</u>

Administrative precaution measures with a view to avoiding imminent risk to flight safety, the physical integrity of people, the community, public order, the continuity of the services provided or the public interest, include the following, without prejudice to others that may prove to be necessary:

 I – detention, interdiction or seizure of the aircraft and of aeronautical products for civil use, properties and material transported;

II – seizure of licenses, certificates, authorizations and records; and

III – partial or total precautionary suspension of any certificates, licenses, concessions, authorizations, operations or qualifications.

61 Partial precautionary suspension measures include, among others:

 I – prohibition on increasing the frequency of aircraft operations at public airports;

II – reduction in the frequency of aircraft operations at public airports, based on critical aircraft operations; and

III – reduction of scope in the certification of air operators and maintenance organizations.

§2 The ANAC agent performing inspection activities will be able, with justification, at any time, and without a previous statement provided by the person concerned, adopt administrative precaution measures pursuant to the terms in the caput of this article.

§3 The ANAC agent will inform his/her immediate chief about the adoption of precaution measures.

64 The precaution measures will be self-enforceable and remain valid until a

TCC is signed or corrective or mitigating measures are implemented that are sufficient to demonstrate cessation of the conduct or to restore the acceptable security level.

§5 The measures described in the sections of this article do not exclude the application of other precaution restrictions on the exercise of activities regulated by ANAC, which can be justifiably imposed in case of imminent danger.

§6 When necessary, ANAC will request the help of federal or state police force, in case of contempt or embarrassment to the performance of their duties.

<u>Art. 58</u>

After the application of a precaution measure, a notice will be sent to the person in charge, which must contain the identified infraction, its substantiation, the documents and measures necessary to revoke the measure and the identification of the person in charge and the unit responsible for the measure.

§1 In case of safeguarded party>s refusal to sign the precaution measure notice, the server's signature, accompanied by a note of the fact, will be evidence of delivery of notice to the safeguarded party.

§2 The precaution measure adopted without the presence of the safeguarded party or resulting from any document analysis or any other verification, will be notified by mail.

§3 In case of failure to send the precaution measure notice by mail, the notification will be made by public notice.

<u>Art. 59</u>

ANAC will publicly disclose those precaution measures that affect the community through disclosure in NOTAM or in the official press, as the case may be, or by other means that it deems appropriate.

<u>Art. 60</u>

The application of precaution measures by the competent authority does not preclude the application of sanctioning or preventive administrative measures to those safeguarded for possible infractions performed and is not subject to suspensive effect. (Wording given by Resolution No. 497, of 29.11.2018)

CHAPTER II CESSATION OF CONDUCT

<u>Art. 61</u>

The TCC is a document issued and signed by an operator, owner, pilot or any holder of licenses, qualifications, certificates, authorizations, permissions or concessions at ANAC as a result of conducts for which the implementation of sufficient corrective or mitigating measures does not fit to demonstrate cessation of conduct or to restore the acceptable level of safety.

§1 The TCC shall expressly include the commitment to cease and not to repeat the violation identified by the ANAC agent in an inspection activity.

§2 The filing of a TCC does not suspend the pursue of any administrative proceeding that is in course at ANAC.

§3 The issuance of the TCC by the safeguarded party does not imply admission as to a matter of fact or recognition of the wrongful conduct subject matter of administrative proceedings.

<u>Art. 62</u>

The TCC will be considered non-fulfilled with if the irregular practice is repeated within 2 (two) years from the date of execution thereof.

§1 After verifying the non-fulfillment of the TCC, the ANAC agent should adopt a new precaution measure and notify the safeguarded party, within twenty (20) days, to answer to the finding.

§2 If no answer is filed or the claims are considered without grounds, the ANAC agent will issue an opinion of nun-fulfillment, forward the same for assessment by his/her immediate chief, and start a PAS with suggestion of revocation or punitive suspension.

§3 The new precaution measure adopted will remain valid until a final and nonappealable judgment is rendered with respect to the PAS mentioned in §2 of this article.

CHAPTER III

DETENTION

<u>Art. 63</u>

Detention is the act performed by an ANAC agent that stops the aircraft, to enable inspection activity or to investigate violations.

<u>Art. 64</u>

The aircraft may be detained by ANAC agents, in the following cases:

- I for examining certificates and other indispensable documents;
- II for checking goods, materials and equipment transported;
- III to check the airworthiness condition;
- IV for investigation of illicit acts.

<u>Art. 65</u>

Once the aircraft is detained, its interdiction or seizure may be determined, if a violation is found in its use.

CHAPTER IV

INTERDICTION

<u>Art. 66</u>

The interdiction consists in the aircraft being prohibited from flying, but being allowed to move on the ground for maintenance, except for reasons of force majeure.

<u>Art. 67</u>

The aircraft may be interdicted for an indefinite period, in the cases provided for in art. 305 of Law No. 7,565, of 1986, which provides for the issuance of a notice of interdiction.

CHAPTER V

SEIZURE

<u>Art. 68</u>

Seizure of the aircraft will take place to preserve the effectiveness of the detention or interdiction, and will consist of keeping it parked, with or without removal to a hangar, parking area, workshop or safe place.

<u>Art. 69</u>

The seizure of licenses, certificates, authorizations and records consists of retaining such documents and keeping them in a safe place for investigation and for preserving the effectiveness of the suspension or interdiction.

<u>Art. 70</u>

The seizure of aeronautical products, including, but not limited to, engines, propellers, accessories, instruments, equipment and their components and parts, jointly or individually, consists of retaining such products and keeping them in a safe place, using appropriate mechanisms.

<u>Art. 71</u>

The seizure of transported materials and goods, including, but not limited to, cargo, dangerous articles, luggage, company material, consists of preventing them from boarding the aircraft or retaining them for investigation.

<u>Art. 72</u>

If it is not possible to remove the seized items, they must be kept in the custody of the responsible person determined by ANAC as a trustee.

CHAPTER VI

PROVISIONAL SUSPENSION

<u>Art. 73</u>

The provisional suspension, either partial or total, of any certificates, licenses, concessions, authorizations, operations or qualifications may be applied for the following cases, without prejudice to other measures that may prove to be necessary:

I – carrying out activities that endanger the life, the physical integrity of the pilots, passengers, people on the ground, institutions or third-party properties;

II – unauthorized public air transport or public air transport not compliance with the authorization received;

III – carrying out maintenance on equipment and parts for which it is not certified or homologated or which are in disagreement with current regulations;

IV – provision of inaccurate or adulterated data, documents, information or statistics that could endanger the safety of civil aviation;

V – unfounded refusal to display data, documents, information or statistics that could endanger the safety of civil aviation;

VI - refusal to obey the detention order;

VII – non-compliance with the order of interdiction or seizure;

VIII – use of the aircraft for an activity other than that provided for in the certificate;

IX - aircraft that presents any irregularity regarding the applicable

operating rules or that is not in safe operating condition;

X – operation of airport that offers significant risk to the operational safety or security of civil aviation against unlawful interference acts;

XI – non-compliance with procedures approved by ANAC that endangers the safety of civil aviation;

XII – non-compliance with rules and standards established by ANAC that endangers the safety of civil aviation; and

XIII – participation in an aeronautical occurrence communicated by the investigation authority that is part of the Aeronautical Accident Investigation and Prevention System – SI-PAER, in compliance with the legislation in force.

CHAPTER VII

REVOCATION OF THE PRECAUTION MEASURES

<u>Art. 74</u>

In order to apply for the revocation of the precaution measure, a substantiated request must be sent to the competent authority containing the documents that demonstrate the remediation of the subject described in the administrative act which gave rise to the precaution measure and the instruments of cessation of conduct for the applicable cases.

Sole paragraph. The revocation of a precaution measure will be issued by the holder of the organizational unit that gave cause to the restriction, delegation being admitted.

<u>Art. 75</u>

The safeguarded party will be notified of the adopted decision by official letter.

TITLE V TRANSITIONAL AND FINAL PROVISIONS

<u>Art. 76</u>

When the facts found in inspection activities may constitute evidence of a crime, ANAC will immediately bring the facts to the attention of the police authority or the Prosecution Office.

<u>Art. 77</u>

The application of the sanctions established in this Resolution does not relieve the violator from the applicable civil and criminal penalties.

<u>Art. 78</u>

The provisions of Law No. 9,784, of January 29, 1999, are subsidiarily applied to this Resolution.

<u>Art. 79</u>

If the application of an administrative measure may result in serious and immediate damage to the society, ANAC may, alternatively, propose the execution of an Instrument of a Conduct Adjustment Declaration – TAC, in order to provide the gradual return of the regulated party to the desired standards.

Sole paragraph. It is incumbent upon the Executive Board of ANAC to decide on the execution of the TAC, after the issuance of opinion by the final Superintendency(ies) with jurisdiction over the matter.

<u>Art. 80</u>

The sanctions provided for in the annexes to this Resolution will apply unless there are provisions contained in a specific resolution that regulates the subject matter of the assessment.

<u>Art. 81</u>

The payment in installments plan mentioned in art. 56 of this Resolution becomes effective on February 4, 2019. (Wording given by Resolution No. 497, of 29.11.2018)

§1 The payment in installments of fines not included as Overdue Tax Liability during the period mentioned in the caput of this article, will be made by the debtor in up to 24 (twenty four) monthly installments, directly at the ANAC website, with due regard to the minimum amount of R\$ 1,000.00 (one thousand reais) for each installment.

62 The amount of the installments and debt principal debt be restated by SELIC.

§3 A default in three (3) installments automatically cancels the payment in installments, with a new payment in installments being forbidden.

§4 The payments in installments plans implemented before the effectiveness of the act remain unchanged, renegotiation being prohibited.

<u>Art. 82</u>

This Resolution applies to all ongoing processes, without prejudice to the acts already performed and the application of the rules in force at the time of the facts, including with regard to the applicable sanctions.

Sole paragraph. The preventive administrative measures do not apply to infractions identified before the effectiveness of this Resolution.

<u>Art. 83</u>

The following are revoked:

I - the Brazilian Aeronautical Homologation Regulation 17 (RBHA 17), entitled "Civil Aviation Inspection";

II – Resolution No. 25, of April 25, 2008, published in the DOU of April 28, 2008, Section 1, pages 8 to 11;

III – Resolution No. 199, of September 13, 2011, published in the DOU of September 15, 2011, Section, pages 6 and 7;

IV – Normative Instruction No. 8, of June 6, 2008, published in the DOU of June 9, 2008, Section 1, pages 12 to 15;

V - Civil Aviation Instruction 017-1001 (IAC 017-1001), entitled "Formation of Civil Aviation Inspectors and Supervisors"; and

VI – Ordinance No. 824/DGAC, of August 3, 2004, published in the DOU of August 11, 2004, Section 1, page 17, which approved IAC 017-1001;

VII – Ordinance No. 202/DGAC, of March 6, 2006, published in the Official Gazette – DOU of March 8, 2006, Section 1, page 12, which approved RBHA 17;

<u>Art. 84</u>

This Resolution becomes effective 180 (one hundred and eighty) days after its publication.

JOSÉ RICARDO PATARO BOTELHO DE QUEIROZ

Director-President

* THE ANNEXES TO THIS RESOLUTION ARE NOT TRANSCRIBED IN THIS VERSION.

NATIONAL CIVIL AVIATION AGENCY – RESOLUTION No. 520 OF JULY 3, 2019

Regulates the electronic process within the scope of ANAC.

THE BOARD OF DIRECTORS OF THE NA-TIONAL CIVIL AVIATION AGENCY – ANAC, in the exercise of the jurisdiction conferred upon it by art. 11, item V, of Law 11.182, of September 27, 2005, in view of the provisions in Laws 9.784, of January 29, 1999, and 12.682, of July 9, 2012, in Provisional Measure 2.200-2, of August 24, 2001, and in Decree No. 8,539, of October 8, 2015,

Considering the provisions in Normative Instruction 98, of May 4, 2016, which instituted the Electronic Information System within the scope of ANAC; and

Considering what is contained in process No. 00058.038944/2018-21, discussed and approved at the 11th Deliberative Meeting of the Executive Board, held on July 2, 2019;

RESOLVES:

<u>Art. 1</u>

To approve, under the terms of the Attachment to this Resolution, the Electronic Process Regulation within the scope of the National Civil Aviation Agency – ANAC.

<u>Art. 2</u>

This Resolution becomes effective on the date of its publication.

JOSÉ RICARDO PATARO BOTELHO DE QUEIROZ

Director-President

ANNEX TO RESOLUTION NO. 520, OF JULY 3, 2019.

REGULATION OF THE ELECTRONIC PROCESS WITHIN THE SCOPE OF ANAC

CHAPTER I

DEFINITIONS

<u>Art. 1</u>

For the purposes of this Regulation:

 I – digital document: means registered information, encoded in binary digits, accessible and interpretable through a computer system, which may be:

a) nato-digital: means originally produced in electronic media; and

b) digitized: means obtained from the conversion of a non-digital document, generating a faithful representation in digital code;

 II – electronic petitioning: means sending digital documents to ANAC via Electronic Protocol, by a previously registered external user, aiming at forming a new process or being part of an existing process;

III – external user: means a natural person external to ANAC who, through prior registration, can perform procedural acts in his/her own name or as a representative of a legal entity or a natural person, through the Electronic Protocol;

IV – electronic signature: means a form of identification of external user for access to the Electronic Protocol, for authentication and for document validation, which can be:

a) digital signature, based on a digital certificate issued by a Certification Authority accredited by the Brazilian Public Key Infrastructure (ICP-Brasil); or

b) registered signature, through user login and password;

V – access level: means a form of classification of documents and processes in the Electronic Protocol, which can be:

 a) public: without access restriction, available for viewing on the Agency's Portal;

 b) restricted: access limited to the interested party and the organizational units responsible for the document or process;

VI – Organizational Unit – UORG: means any unit that is part of the organizational structure defined in the internal regulations of ANAC or a subunit defined in a specific act published by the holder of an organizational unit directly linked to the Executive Board; VII - interested:

a) natural or legal persons who start the process as holders of individual rights or interests or in the exercise of the right of representation;

b) those who, without having started the process, have rights or interests that may be affected by the decision to be made;

c) representative organizations and associations, with respect to collective rights and interests;

 d) persons or associations legally organized with regard to diffuse rights or interests;

VIII – Electronic Protocol: means a tool made available on the Agency's Portal through which ANAC and the external user can perform procedural acts; and

IX – electronic administrative process: means the one in which procedural acts are registered and made available electronically, pursuant to art. 2, III of Decree No. 8539, of October 8, 2015.

CHAPTER II GENERAL PROVISIONS

<u>Art. 2</u>

Every document sent to ANAC will be part of an electronic administrative process.

<u>Art. 3</u>

Documents filed electronically must be registered according to their appropriate level of access.

<u>Art. 4</u>

Procedural acts performed via the Electronic Protocol will be considered performed on the day and time of the respective electronic registration, according to official Brasilia time and applicable procedural legislation.

CHAPTER III ELECTRONIC SIGNATURE

<u>Art. 5</u>

The digital documents sent to ANAC will have the guarantee of integrity, authorship and authenticity through the use of an electronic signature.

§1 The electronic signature, whether digital or registered, is intended for personal non-transferable use, the holder thereof being responsible for its custody and its secrecy.

§2 The authenticity of the documents produced in the ANAC's document management system, provided they are electronically signed, can be checked on the Agency's Portal.

CHAPTER IV

ELECTRONIC PROCESS

<u>Art. 6</u>

External users must send documents to ANAC through the Electronic Protocol.

<u>Art. 7</u>

The electronic process will be generated and maintained in order to allow its efficient location and control, with due regard to the following requirements:

I – be formed in a chronological, logical and continuous manner;

II – allow the search of segregated sets of documents, except for existing physical processes that are digitized and converted into an electronic process;

III - allow linking between processes;

IV – comply with the publicity of information as a general precept and confidentiality as an exception; and

V – to have the access level of its documents individually assigned, with its expansion or limitation by ANAC being possible, with due regard to the pertinent legal provisions.

§1 The nato-digital documents sent to ANAC, pursuant to this Regulation, shall be considered as original for all legal purposes.

§2 Scanned documents sent to ANAC will be considered as simple copies.

§3 When sending the scanned document, the external user must declare the con-

dition of the matrix document, which can be an original, an administratively certified copy, a copy certified by a notary's office or a simple copy.

§4 Illegible scanned documents or those without an electronic signature may be denied by ANAC, and the user will be responsible for check this before sending the same.

§5 The content and integrity of the scanned documents sent to ANAC are the responsibility of the external user, which will be held liable for possible tampering or fraud under civil, criminal and administrative law.

§6 Challenging the integrity of the digital document by allegation of tampering or fraud will suspend the procedural deadlines in progress and will give rise to the start of the diligence to verify the document subject matter of the dispute, with full defense and adversary process being assured.

§7 ANAC may require, at its discretion, until its right to review the acts performed in the process is time-barred, the disclosure, within ten (10) days, of the original hard copy sent by the external user via Electronic Protocol.

§8 In addition to the cases provided for in §§ 6 and 7 of this article, ANAC will be able to request the submission of the original scanned documents sent to Agency whenever a regulation or law expressly so requires.

<u>Art. 8</u>

In the cases provided for in §1 of art. 14 of this Regulation, external documents received in physical support by the ANAC Protocols will be digitized and entirely inserted into the Agency's document management system, provided that:

I – documents resulting from digitization of originals or of notary-certified copy, after checking the authenticity with the use of a digital signature, will be considered an administratively certified copy;

II – documents resulting from the digitization of an administratively certified copy or of a simple copy will be considered as a simple copy;

III – after digitization and insertion in the document management system, the received hard-copy documents that are original or notary-certified copies will be returned to the interested party or, exceptionally, kept under the custody of ANAC, under the terms of the Classification Code and the Agency's Temporality Table;

IV – the received hard-copy documents that are administratively certified copies or simple copies may be discarded after their digitization and insertion in the ANAC document management system;

V – upon the impossibility or infeasibility of digitization or insertion in the document management system, the received document will be kept by ANAC and its physical processing linked to the relevant electronic process will be admitted; and

VI – when completed, the electronic processes will be subject to document management procedures, including permanent custody or elimination, according to the ANAC Classification Code and Temporality Table.

§1 The provisions of Art. 7, §§ 6, 7 and 8 of this Regulation apply to external documents received as physical support by ANAC Protocols.

§2 The provisions in this article apply to the interested parties not provided for in art. 13 of this Regulation.

CHAPTER V

GRANTING OF ACCESS TO THE RECORDS

<u>Art. 9</u>

Documents and processes over which no type of access restriction applies can be directly accessed on the Agency's Portal.

Sole paragraph. The request to have access of or make copies of documents or processes without access restriction will be granted with indication of the path for consultation on the Agency's Portal and will not suspend the deadlines for defense, filing of administrative appeals, request of reconsideration or presentation of any other answer.

<u>Art. 10</u>

The request to have access to a document or process with restricted access must be made through the Electronic Protocol.

<u>Art. 11</u>

ANAC will have a period of up to 5 (five) days, extendable for an additional 5 (five) days, counting from the request, for

granting the applicant access to a document or process with restricted access or for denying access, the applicant to be informed of the decision.

§1 In the case of a cut-off deadline for the appellant to file an answer in administrative procedures, such deadline shall be suspended as from the request of access until the decision about granting or denial is issued by ANAC.

§2 Granting of access will remain active for, at least, thirty (30) days, and may be available for longer periods, at ANAC's discretion.

CHAPTER VI EXTERNAL USER

<u>Art. 12</u>

Registration as an external user in the Electronic Protocol is a personal act, nontransferable and not subject to delegation and must be requested through an electronic form available on the Agency's Portal.

Sole paragraph. ANAC may accept registrations of external users carried out on a centralized digital identification government platform.

<u>Art. 13</u>

Registration as an external user will be mandatory as from 180 (one hundred and eighty) days after the publication of this Regulation for:

 I – natural persons, whose activities are regulated by ANAC, and their representatives;

II – natural persons representing legal entities whose activities are regulated by ANAC; and

III – natural persons who represent suppliers who have entered or intend to enter into a contract for the supply of goods or services with ANAC, except in cases where ANAC appears as a public service user.

<u>Art. 14</u>

As from the registration, all procedural acts and communications between the Agency and the external users provided for in art. 13 of this Regulation will be carried out electronically.

§1 Petitions for documents or summons by different means will not be admitted, except where the unavailability of the electronic means may cause significant harm to speeding up and filing evidence with the proceedings or incompatibility with the rules accepted by the Electronic Protocol.

§2 In case of an external user who do not register within 180 (one hundred eighty) days after publication of this Regulation, ANAC will effect the procedural communications via official press.

<u>Art. 15</u>

The registration will imply acceptance of all terms and conditions that govern the electronic process at ANAC, as provided for in this Regulation and other applicable rules, enabling the external user to:

I – file a petition electronically;

II – monitor the processes to which it has been granted external access;

III – be summoned for procedural acts or for the presentation of supplementary information or documents; and

IV – sign contracts, covenants, declarations, agreements and other similar instruments entered into with ANAC.

Sole paragraph. The registrations referred to in this article may be made through systems integrated with the Agency's document management system.

<u>Art. 16</u>

The external user is solely responsible for:

I – the preparation and correct sending of digital documents, in accordance with the requirements established by the Electronic Protocol, especially as regards the format, mandatory fields to be filled-out and file sizes;

II – verification, by means of the electronic protocol receipt, of the effective transmission of documents;

III – the periodic consultation of the Electronic Protocol, in order to check the receipt of summons;

IV – the conditions of its communication network, access to its internet provider and the configuration of the equipment used in electronic transmissions; and

V – keep its registration data in the Electronic Protocol updated.

Sole paragraph. It is the responsibility of the represented to keep the registration of their representatives in the Electronic Protocol updated.

CHAPTER VII ELECTRONIC PETITIONING

<u>Art. 17</u>

The petition will be registered in the Agency's document management system, which will provide an electronic protocol receipt.

<u>Art. 18</u>

Those physical support original documents, whose scanning is technically unfeasible, as well as the nato-digital documents in a format that is originally incompatible or of a size larger than that supported by the system must be physically sent to the ANAC Protocol within 10 (ten) days from the electronic petition that should send them, regardless of the Agency's statement.

§1 The petition referred to in the caput paragraph hereof must clearly indicate the documents to be presented later.

§2 The term provided for in the caput paragraph hereof for later presentation of the physical document shall not relieve the person concerned from meeting the relevant procedural term, which must be complied with the petitioning of the documents whose sending by electronic media is viable.

<u>Art. 19</u>

Failure to register as an external user due to failure to meet requirements, as well as any error in the transmission or reception of data not attributable to failures of the Electronic Protocol, may not be used as an excuse for non-compliance with obligations and deadlines.

<u>Art. 20</u>

The use of electronic mail or other similar instruments will not be permitted for purposes of electronic petition, except in cases where regulation or law expressly permits.

CHAPTER VIII SYSTEM AVAILABILITY

<u>Art. 21</u>

The Electronic Protocol will be available 24 (twenty-four) hours a day, except for periods of unavailability due to scheduled maintenance or for technical reasons.

§1 scheduled maintenances of the electronic protocol will be informed at least five (5) days in advance in the Agency's Portal.

§2 Unavailability of the Electronic Protocol for technical reasons will be considered to occur where:

I - it exceeds 60 (sixty) minutes, uninterrupted or not, if it occurs between 6 a.m. and 11 p.m.; and

II – it occurs between 11 p.m. and 11.59 p.m.

§3 The unavailability referred to in §2 of this article will be subsequently informed on the Agency's Portal.

§4 Failures in the transmission of data between the external equipment user and the public communication network, as well as the technical impossibility arising from failures in the user equipment or programs will not be considered as system unavailability.

<u>Art. 22</u>

The unavailability of the Electronic Protocol will be assessed by ANAC's information technology unit, which will cause it to be registered in a report of interruptions of operation to be disclosed on the proper webpage of the Agency's Portal, and must contain at least the following information:

 I – date, hour and minute of the beginning and end of the unavailability; and,

II - services that were unavailable.

CHAPTER IX DEADLINES AND ELECTRONIC COMMUNICATIONS

<u>Art. 23</u>

For all purposes, procedural acts in electronic media are considered performed on the day and time of their receipt in ANAC's document management system. §1 The time limits begin to run from the date of the official awareness, excluding beginning day and including the ending day.

§2 When the procedural act by electronic means has to be performed in a period determined in a specific rule, it will be deemed as timely performed if carried out, unless otherwise provided, until 11:59:59 p.m. of the last day of the period, always referring to Brasília (DF) official time.

§3 The state, municipal or district holidays will be considered as business days, unless if they fall on the last day of the last day of the cut-off period, in which case the interested party must verify the occurrence of the local holiday.

§4 The availability of the Electronic Protocol for technical reasons, provided in Chapter VIII of this Regulation, which occurs on the last day of the period will extend it until the next business day following the resolution of the problem.

§5 Upon the occurrence of unavailability of the Electronic Protocol for a technical reason for more than 24 (twenty four) consecutive hours, the Chief Executive Officer of the Agency may suspend the course of all procedural deadlines in an act to be published on the Agency Portal's website.

<u>Art. 24</u>

Summons to the to external users registered under this Regulation will be made served electronically and considered personal for all legal purposes.

§1 The summons will be deemed to have been delivered on the date the external user electronically accesses the corresponding document, certifying such access in the case records.

§2 The access referred to in §1 of this article will have to be made within fifteen (15) calendar days from the sending of the summons, under penalty of being considered automatically performed on the date of end of that period.

§3 In case of §1 of this article, in cases where the access is made on a non-business day, and in the case of §2, where the period ends on a non-business day, be summons will be considered to have been delivered on the next following business day.

§4 Summons that allow access to the whole process will be considered as examination and awareness of all pro-

cedural acts by the interested party for legal effects.

§5 If, due to a technical reason, it is impractical to use the electronic means for the service of the summons, the procedural acts may be performed on a physical medium, by scanning the corresponding document and inserting it into the Agency's document management system.

CHAPTER X

FINAL PROVISIONS

<u>Art. 25</u>

Service of summons by electronic means as provided for in art. 24 will only be carried out 180 (one hundred and eighty) days after the publication of this Regulation, including for ongoing administrative processes.

<u>Art. 26</u>

Cases not expressly provided for herein will be decided by the Executive Board.

NATIONAL CIVIL AVIATION AGENCY – RESOLUTION No. 599 OF DECEMBER 14, 2020

Establishes the rite of the administrative process for determination of infractions performed by the airport infrastructure concessionaires to the clauses contained in the concession contracts and their annexes, in their respective notices and annexes, as well as to the regulations issued to govern them, and for the application of the administrative measures arising therefrom.

THE COLLEGIATE BOARD OF THE NA-TIONAL CIVIL AVIATION AGENCY – ANAC, in the exercise of the powers granted to it by art. 11, item V, of Law No. 11,182, of September 27, 2005, in view of the provisions of arts. 8, items XXI, XXIV and XLVI, of the aforementioned Law, 29, items I, II and VI, and 38, of Law 8,987, of February 13, 1995, and 87 of Law 8,666, of June 21, 1993, and Law No. 9,784, of January 29, 1999, and considering what is provided for in process No. 00058.010912/2019-42, deliberated and approved at the 23rd Deliberative Meeting, held on November 24, 2020, resolves:

<u>Art. 1</u>

Establish, under the terms of this Resolution, the rite of the administrative process for the investigation of infractions performed by the airport infrastructure concessionaires to the clauses provided for in the concession contracts and their annexes, in their respective notices and annexes, as well as the regulations issued for purpose of governing them, and for the application of the administrative measures resulting therefrom.

Sole paragraph. The inspection will prioritize measures for education, guidance, monitoring, continuous improvement, prevention, coordination and regularization of conduct, transparency and cooperation.

TITLE I INTRODUCTION

CHAPTER I DEFINITIONS

<u>Art. 1</u>

For the purposes of this Resolution:

I – concessionaire: means a special purpose company responsible for the performance of an airport infrastructure concession contract signed with the National Civil Aviation Agency
ANAC, as the Granting Authority, under the regime of Law No. 8,987, of February 13, 1995;

II – inspection: means a set of activities within the jurisdiction of ANAC aimed at verifying whether the concession contracts and their annexes, their respective notices and annexes, and the regulations issued to govern them are being complied with, and may be carried out on a personal or remote basis;

III – infraction: means breach of the clauses contained in the concession contracts and their annexes, in their respective notices and annexes, or of the regulations issued to govern them; and

IV - base value of the fine:

a) in airport infrastructure concession contracts in which the amount of the penalty is fixed based on a percentage of the gross revenue earned by the concessionaire, corresponds to the result of multiplying the percentage provided for the infraction by its incidence criterion; and

b) in the other airport infrastructure concession contracts, corresponds to the maximum amount of fine provided for the infraction weighted by the nature and seriousness of the infraction, the technical nature and the service provision rules, the damages resulting from the infraction to the service and the users, due to the advantage derived by the Concessionaire due to the infraction, and the number of users reached, prior to the application of aggravating and mitigating factors, and multiplied by their incidence criterion.

CHAPTER II

INSPECTION AND ITS RESULTS

<u>Art. 3</u>

The result of the inspection will trigger the adoption of an administrative measure, if an infraction is found during or after the inspection.

Sole paragraph. The administrative measures referred to in the caput of this article are classified as preventive, sanctioning and cautionary.

TITLE II PROCEDURAL ACTS

CHAPTER I

FORM, TIME AND COMMUNICATION OF THE PROCEDURAL ACTS

<u>Art. 4</u>

The procedural acts performed within the scope of the administrative proceedings referred to in this Resolution shall comply with the provisions in Resolution No. 520, of July 3, 2019, and its Annex.

<u>Art. 5</u>

The interested party will be notified of all acts of the proceeding that result in the imposition of positive or negative obligations, encumbrances, sanctions or restrictions on the exercise of rights and activities and on acts of another nature, of interest thereto.

§1 Once the deadline for answer by the notified party has elapsed, the proceeding will be pursued regardless of compliance with the summons.

§2 The service of summons by public notice, published in the Federal Official Gazette, in the event provided for in art. 14, §2, of the Annex to Resolution No. 520, of 2019, will be considered effected on the date of its publication, and must contain:

I - identification of the notified party;

II – the number of the respective administrative proceeding;

III – the purpose for which the summon was served; and

 ${\sf IV}$ – information on the term and place in which the summon must be served.

§3 The appearance of the notified party in the proceedings will supersede any lack or irregularity of the summon, subject to the provisions of art. 24, §4, of the Annex to Resolution No. 520, 2019.

CHAPTER II

PROCEDURAL DEFECTS

<u>Art. 6</u>

The procedural defects that are of a merely formal or jurisdiction nature are subject to validation at any stage of the proceedings, by an act of the authority with jurisdiction for its performance, either for the evidentiary stage of the proceedings or for the judgment, indicating the defect and the respective correction.

§1 In the case of validation of merely formal defects that have the potential to impair the exercise by the interested party of the rights of broad defense or adversary proceedings, a new term for filing the answer will be granted, according to the procedural stage.

§2 In the case of validation of procedural defects that do not have the potential to impair the exercise by the interested party of the rights of ample defense or adversary proceedings, including those of jurisdiction, the term provided for in Paragraph 1 of this article will not be granted.

<u>Art. 7</u>

Once the existence of an irremediable defect is verified, the respective procedural act will be declared null, with the annulment of all subsequent acts that depend thereon, and the competent authority must evaluate the need for its repetition.

Sole paragraph. Nullity will not be declared:

I – if there is no loss for the Administration or for the interested parties;

II – if it does not influence on the verification of the facts or the decision; or III – if argued by an interested party who gave cause thereto or who applied for it.

TITLE III

PREVENTIVE ADMINISTRATIVE MEASURES

CHAPTER I

APPLICATION OF PREVENTIVE ADMINISTRATIVE MEASURES

<u>Art. 8</u>

The application of preventive administrative measures will not constitute a sanction to the concessionaire and aims at stimulating its return to the status of compliance in a quick and effective manner.

<u>Art. 9</u>

Preventive administrative measures may be applied when, after consideration of the impact of the conduct on the safety of the operations, the sanction abstractly imposed for the infraction, the damages, actual or potential, resulting from the infraction to the service and to the users, and the advantages, actual or potential, obtained by the Concessionaire as a result of the infraction, the infraction is considered to be of low harm.

§1 The following prevent the application of preventive administrative measures, even when the requirements provided for in this article are met:

I – the application of sanctioning administrative measures to the concessionaire for the same type of infraction in the 3 (three) years prior to the performance of the verified infraction, counted from the final and unappealable administrative decision, except when another term is fixed in the respective airport infrastructure concession contract; or

II – the application of preventive administrative measures to the concessionaire for the same type of infraction in the 12 (twelve) months prior to the performance of the verified infraction, except when another period is set by the authority with jurisdiction for inspection.

§2 Preventive administrative measures are not applicable when the fine stipu-

lated for the violation is calculated based on the amounts unduly earned by the concessionaire due to its performance.

<u>Art. 10</u>

The preventive administrative measures will be applied by the authority with jurisdiction for inspection through notice to the concessionaire, containing the description of the detected violation.

CHAPTER II

TYPES OF PREVENTIVE ADMINISTRATIVE MEASURES

<u>Art. 11</u>

Preventive administrative measures are:

I – Irregular Condition Notice – ACI; and

II – Request for Irregular Condition Repair – SRCI.

SECTION I

IRREGULAR CONDITION NOTICE

<u>Art. 12</u>

The ACI may be issued when an infraction is found that does not directly affect the adequate provision of the public service granted by the authority.

SECTION II

IRREGULAR CONDITION REPAIR REQUEST

<u>Art. 13</u>

The SRCI may be issued when an infraction is found, the correction of which must occur within a certain period.

§1 The SRCI must provide for a term for the correction of the violation or for the presentation of the Corrective Action Plan – PAC, under the terms designated by ANAC.

§2 The PAC presented by the concessionaire must contain, at least, the description of the actions to be taken to correct the irregular condition and the schedule for its implementation, without prejudice to the possibility of the authority with jurisdiction for inspection requiring other elements and information.

§3 The PAC will be considered accepted if there is no statement from ANAC within 60 (sixty) days from its receipt.

§4 The concessionaire must prove to ANAC the correction of the infraction within the deadlines established in the SRCI or PAC, under penalty of adopting other administrative measures.

§5 If there is no proof of correction of the infraction within the deadlines established in the SRCI or PAC, the default period for the purposes of applying other administrative measures will be counted from the beginning of the breach of the obligation.

TITLE IV

SANCTIONNING ADMINISTRATIVE MEASURES

CHAPTER I

TYPES OF SANCTIONNING ADMINISTRATIVE MEASURES

<u>Art. 14</u>

The penalties provided for in the concession contracts constitute sanctioning administrative measures, without prejudice to others provided for in specific legislation.

CHAPTER II

SANCTIONING ADMINISTRATIVE PROCEEDING

SECTION I

FILING OF THE SANCTIONING ADMINISTRATIVE PROCEEDING

<u>Art. 15</u>

If an infraction is found that justifies the adoption of a sanctioning administrative measure, an infraction notice will be issued for the purposes of initiating the Sanctioning Administrative Proceeding – PAS.

SECTION II

INFRACTION NOTICE

<u>Art. 16</u>

The infraction notice is the instrument that contains the description of the facts that will be the subject matter of investigation in the PAS.

<u>Art. 17</u>

The issuance of the infraction notice is the exclusive responsibility of ANAC agents in the exercise of the airport infrastructure concession contracts management and inspection activities.

<u>Art. 18</u>

In the event of 2 (two) or more infractions related to the same factual context or where the proof of one may influence the proof of the other(s), a single infraction notice will be issued by the concessionaire, individualizing all the conducts verified and regulations infringed.

<u>Art. 19</u>

The infraction notice will contain the following elements:

I - sequential numbering;

II - identification of the notified party;

III – objective description of the infraction subject to investigation, including date, place and, where relevant, time of occurrence;

IV – indication of the infringed regulation;

V - place, date and time of issue;

VI – identification and signature of the issuer; and

VII – indication of the number of the PAS brought.

Sole paragraph. The objective description of the infraction includes all the essential information for its delimitation, which can be presented in summary form in the notice of infraction, provided that its description is supplemented in an occurrence report.

SECTION III

OCCURRENCE REPORT

<u>Art. 20</u>

The occurrence report must describe the circumstances in which the infraction was found and shall be accompanied by the elements relevant to the investigation of the facts, including, whenever possible, photographs, plans and projects, filming, term testimonies, technical reports, records passenger complaints, inspection reports, correspondence or any other relevant documents.

§1 If the elements referred to in the caput of this article are already inserted in another administrative proceeding that is being pursued or have been processed at ANAC, the occurrence report may be limited to indicating its location. 62 The occurrence report must be attached to the relevant PAS.

SECTION IV

DEFENSE

<u>Art. 21</u>

A defense may be filed with respect to an infraction notice within 20 (twenty) days.

<u>Art. 22</u>

The defense may be presented by the concessionaire's legal representative or by a proxy, and a copy of its articles of incorporation and, in the second case, the corresponding power of attorney, are mandatory.

<u>Art. 23</u>

Once the defense has been received, the authority with jurisdiction for inspection:

- I will determine the annulment of the notice of infraction, in case an irremediable defect is found, with due regard to the provisions of art. 7 of this Resolution; or
- II forward the process to the authority with jurisdiction for the evidentiary stage of the proceeding, adding to the file the considerations and other elements that it deems pertinent, and validating any remedies that may be identified in the acts within its incumbency.

<u>Art. 24</u>

The concessionaire may, within the period for presenting the defense, and in substitution to the latter, acknowledge the committing of the infraction subject matter of the investigation, in which case the case records will be immediately forwarded to the judge for decision.

§1 In the event of the caput of this article, if the authority with jurisdiction for the judgment concludes that a sanctioning administrative measure of a pecuniary nature is applicable, the concessionaire will be entitled to the application of a mitigation in the percentage of 20% (twenty percent) on the base value of the fine, except when there is a contractual provision on the contrary.

§2 The mitigation referred to in §1 of this article will apply to the calculation of the amount of the penalty, together with the other mitigating and aggravating factors found in the case records, with due regard to the maximum limits of reduction and increase applicable to these circumstances, in the form of the sole paragraph of art. 32 of this Resolution.

§3 The option referred to in the caput of this article implies waiver of the right to litigate in relation to the authorship and the materiality of the offense, without prejudice to the possibility of its cumulative exercise with the prerogative provided for in art. 34 of this Resolution.

§4 In the event of art. 18 of this Resolution, the concessionaire must elect either to present the defense or to acknowledge the committing of the infraction for each of the infractions subject matter of investigation in the PAS, assuming, if it does not define the scope of its answer, the admission of all the infractions imputed.

SECTION V

FILING OF EVIDENCE

<u>Art. 25</u>

It will be up to the concessionaire to prove the facts that it has alleged, and must simultaneously submit to the defense all the elements necessary to substantiate its claims.

<u>Art. 26</u>

Once the evidentiary stage of the proceedings is closed, the concessionaire will be summoned to provide its final allegations, within a maximum period of 10 (ten) days.

SECTION VI

TRIAL COURT JUDGMENT

<u>Art. 27</u>

Prior to the trial court judgment, the PAS must be enclosed by the following documents:

I - notice of infraction;

II - occurrence report;

III – concessionaire's proof of knowledge regarding the commencement of the PAS; and

IV – defense, final allegations or other declarations by the concessionaire, if any.

<u>Art. 28</u>

The authority with jurisdiction for trial court judgment may, at any time prior to the decision, determine the implementation of steps to supplement the filing of evidence, with a view to elucidating the matter under investigation.

Sole paragraph. If, as a result of the diligences carried out, new evidentiary elements are added to the case records, able to influence the administrative decision, the concessionaire will be summoned to, within a period of 10 (ten) days, comment on the attached documentation.

<u>Art. 29</u>

Those PAS that may give rise to the risk of conflicting or contradictory decisions if decided separately will be brought together for a joint judgment, even if the situation provided for in art. 18 of this Resolution is not verified.

<u>Art. 30</u>

The trial court decision will contain an explicit, clear and congruent motivation, addressing the concessionaire's allegations, indicating the relevant facts and legal grounds, which may consist of a declaration of agreement to the grounds of previous opinions, information, decisions or proposals, which, in this case, will be an integral part of the act.

Sole paragraph. In the event of art. 18 of this Resolution, the decision must analyze the performance of each of the infractions imputed in the notice of infraction, charging, in the case of the application of more than one sanctioning administrative measure of pecuniary nature, a single credit in an amount corresponding to the sum of the fines imposed.

<u>Art. 31</u>

The authority with jurisdiction for trial court judgment shall determine:

I – the filing of the proceeding without the application of administrative sanctioning measures, in the event of finding of non-occurrence of an infraction or absence of elements that prove it, or as a result of the forfeiture of the punitive claim;

II - the filing of the PAS due to the nullity of the notice of infraction, in the event of finding of an insurmountable defect, subject to the provisions of art. 7th of this Resolution; or

III – the application of sanctioning administrative measures.

<u>Art. 32</u>

If the authority with jurisdiction for the judgment concludes that an administrative sanction of a pecuniary nature is applicable, the following will be fulfilled:

I – as mitigating circumstances:

a) the acknowledgment, within the time limit for presentation of the defense, of the committing of the infraction that is the subject matter of the investigation, which should reduce by 20% (twenty percent) the base value established for the fine, pursuant to art. 24 of this Resolution;

b) the concurrence from external agents for the default, which has an influence on the result produced, and must reduce by 15% (fifteen percent) the base value established for the fine;

c) the execution, within the period for the presentation of the defense, of spontaneous measures by the concessionaire that result in termination of the infraction and in the restoration of the offended parties' conditions, which should reduce by 20% (twenty percent) the base value established for the fine; and

d) the inexistence of infractions, as per a final and non-appealable judgment, for which the concessionaire has been sanctioned in the last 5 (five) years, and must reduce by 15% (fifteen percent) the base value established for the fine;

II - as aggravating circumstances:

a) the committing of the infraction due to fraud or bad faith, increasing the base value established for the fine by 30% (thirty percent);

b) the failure to adopt alternative or mitigating measures, within the deadline and under the terms recommended by ANAC, increasing the base value established for the fine by 20% (twenty percent);

c) the committing of the infraction to facilitate or ensure the execution, concealment, impunity or the advantage of another infraction, increasing the base value established for the fine by 30% (thirty percent); and

d) the specific recurrence of the concessionaire in committing the infraction in the last 5 (five) years, which should increase the base value established for the fine by 15% (fifteen percent). Sole paragraph. Each of the sums of the percentages attributed to the mitigating and aggravating circumstances cannot exceed the limit of 50% (fifty percent).

SECTION VII

APPEAL TO THE APPELLATE COURT

<u>Art. 33</u>

An appeal, with suspensive effect, against the trial court decision applying the sanctioning administrative measure, may be filed within 10 (ten) days.

Sole paragraph. The appeal must mention the case number and the notice of infraction.

<u>Art. 34</u>

If the trial court decision has resulted in the imposition of a fine, the concessionaire may, within the period for filing the appeal, and in substitution to the latter, acknowledge the committing of the offense under investigation and waive its right to appeal, in which case it will be entitled to a 25% (twenty five percent) reduction in its value.

§1 The option referred to in the caput of this article constitutes an irrevocable and irreversible admission of debt, and the payment of the fine resulting from the reduction provided for therein must be made within 10 (ten) days after the respective collection document is made available to the concessionaire, allowing payment in installments pursuant to art. 46 of this Resolution.

§2 If the payment is not made within the period referred to in §1 of this article, or if the payment in installments is canceled at any time, the debt collection will continue as to its original value, plus interest on arrears as provided for in the respective concession contract.

§3 In the event of art. 18 of this Resolution, the concessionaire must elect either to appeal or to acknowledge the committing of the infraction for each of the infractions for which it was sanctioned in the trial court decision, assuming, if it does not define the scope of its answer, the recognition of all infractions imputed.

<u>Art. 35</u>

The appeal will be directed to the authority with jurisdiction for trial court judgment, which may reconsider its decision in whole or in part.

§1 In the event of partial reconsideration of the decision, the appellant will be sum-

moned to inform, within 10 (ten) days, whether it is still interested in the appeal.

§2 If there is no reconsideration of the decision, or, in the case of §1 of this Resolution, if the appellant informs that he/ she continues to be interested in the appeal, the authority with whom the appeal is filed will answer regarding the acceptance of the appeal, with due regard to the provisions in art. 63 of Law No. 9,784, of January 29, 1999, and will forward it to the higher court.

<u>Art. 36</u>

The acceptance of the appeal will be assessed by the authority with jurisdiction for its hearing.

<u>Art. 37</u>

The authority with jurisdiction to judge the appeal may, at a time prior to the decision, determine the implementation of steps to complement the filing of evidence, with a view to elucidating the matter under investigation.

Sole paragraph. If, as a result of the diligences carried out, new evidentiary elements are added to the case records, able to influence the administrative decision, the concessionaire will be summoned to, within a period of 10 (ten) days, comment on the attached documentation.

<u>Art. 38</u>

The judgment of the appeal may result in:

- I confirmation of the sanctioning administrative measure applied;
- II full or partial overturning of the trial court decision; or

III – declaration of nullity of the decision or any other act of the process, subject to the provisions of art. 7 of this Resolution.

Sole paragraph. If the judgment of the appeal may result in an increase in the penalty, the appellant must be summoned to provide his/her allegations before the decision is rendered, within 10 (ten) days.

<u>Art. 39</u>

The appellant may at any time withdraw from the appeal filed, except in the event that an answer has already been provided regarding the possibility of increasing the penalty.

SECTION VIII

APPLICATION OF SANCTIONING ADMINISTRATIVE MEASURES UNDER THE ORIGINAL JURISDICTION OF THE COLLEGIATE BOARD

<u>Art. 40</u>

Having verified the occurrence of an infraction that gives rise to the adoption of sanctioning administrative measures whose application is the responsibility of the Collegiate Executive Board, the rite established in the previous sections will be fulfilled, with the following modifications:

I – after the evidentiary stage of the proceeding has been completed, the authority with jurisdiction for such stage of the proceeding will prepare a proposed decision to be submitted to the Collegiate Board, regardless of the previous opening of the deadline for the presentation of final allegations;

II – the authority with jurisdiction for the evidentiary stage of the proceeding will summon the concessionaire to, within 10 (ten) days, present final arguments or supplement its previous statement, if desired;

III – the Collegiate Executive Board may, at any time prior to the decision, determine the implementation of measures to supplement the filing of evidence, with a view to elucidating the matter under investigation, subject to the provisions of art. 28, sole paragraph, of this Resolution;

IV – the decision of the Collegiate Board will determine:

a) the dismissal of the proceeding without the application of a sanctioning administrative measure, in the event of a finding of non-occurrence of an infraction or absence of elements that prove it, or as a result of the forfeiture of the punitive claim;

b) the filing of the PAS due to the nullity of the notice of infraction, in the event of a finding of an insurmountable defect, subject to the provisions of art. 7 of this Resolution; or

c) the application of sanctioning administrative measures; and

V – no appeal may be filed against the decision of the Collegiate Executive Board, except for filing of a reconsideration request within 10 (ten) days.

CHAPTER III REVIEW OF THE CASE

<u>Art. 41</u>

The PAS that results in a sanctioning administrative measure may be revised, at any time, by the Collegiate Executive Board, upon request or ex officio, when a new fact or relevant circumstance that justifies the inadequacy of the applied sanction arises.

Sole paragraph. The review is not an appeal and its mere presentation does not suspend the enforcement of the sanctioning administrative measures imposed under the terms of this Resolution.

<u>Art. 42</u>

The acceptance of the request for review to the Collegiate Executive Board will be assessed by the authority that issued the final and unappealable administrative decision.

<u>Art. 43</u>

The judgment of the review may result in:

I – confirmation of the sanctioning administrative measure applied;

II – full or partial overturn of the final administrative decision; or

III – declaration of nullity of the final administrative decision or any other act of the process, subject to the provisions of art. 7 of this Resolution.

Sole paragraph. The review of the PAS may not result in an increase in the sanctioning administrative measure previously imposed.

CHAPTER IV

FINANCIAL MANAGEMENT OF PECUNIARY SANCTIONS

<u>Art. 44</u>

If the administrative decision results in the imposition of sanctioning administrative measures of a pecuniary nature, the concessionaire will have a period of 30 (thirty) days to comply with the decision rendered, counted from being summoned, with due regard to the provisions of art. 33 of this Resolution.

§1 In the event of the caput of this article, the concessionaire must be informed about the possibility of having the debt registered in the Informative Register of

Unpaid Credits of the Federal Public Sector – CADIN and in the Federal Overdue Tax Debts system in case, after the expiry of 75 (seventy-five) days from the summons date, there is no proof of payment or appeal, where applicable.

§2 After the administrative litigation has ended, and the term referred to in the caput of this article has elapsed, without compliance with the rendered decision, and after the period of 75 (seventy-five) days provided for in art. 2, §2, of Law No. 10,522, of July 19, 2002 has elapsed, the defaulting party will be included in the CADIN.

§3 After registration with the CADIN, the PAS will be forwarded to the Office of the Federal Attorney General for analysis and possible registration of the public credit in ANAC>s overdue debts system.

<u>Art. 45</u>

The Administration and Finance Superintendence – SAF is responsible for:

 I – the financial management of the amounts referring to the payment of fines;

II – the inclusion, suspension and exclusion of the defaulting party in CA-DIN, pursuant to Law No. 10,522, of 2002; and

III – the administrative collection of credits whose values do not admit their collection by filing a Tax Enforcement Action, with due regard to the measures governed by the Office of General Counsel to the Federal Government for the collection of credits, such as protest and other means of satisfaction.

<u>Art. 46</u>

The payment in installments of debts resulting from fines not included in the Overdue Debts register may be effected by the debtor in accordance with the applicable regulations.

TITLE V PRECAUTIONARY ADMINISTRATIVE MEASURES

<u>Art. 47</u>

Without prejudice to the application of preventive or sanctioning administrative measures, ANAC may take precautionary administrative measures in order to maintain the provision of adequate public service and to preserve the physical or equity integrity of third parties and reversible assets.

§1 The precautionary administrative measures may be reasonably adopted, for justified reason, at any time, and, in case of imminent risk, without prior statement by the interested party.

§2 The precautionary administrative measures are self-enforceable and will last until sufficient corrective or mitigating measures are implemented to demonstrate the cessation of conduct or risk to the interests provided for in the caput.

§3 The measures described in this article do not rule out the application of other precautionary restrictions on the exercise of activities regulated by ANAC, which may be imposed, for justified reason, in the event of imminent risk.

§4 When necessary, ANAC will request the assistance of a federal or state police force, in case of contempt or embarrassment in the exercise of its functions.

<u>Art. 48</u>

The concessionaire will be notified of the application of precautionary administrative measures, and the notice must contain a description of the identified infraction and the reasons that justified the application of the measure.

<u>Art. 49</u>

ANAC will disclose the precautionary administrative measures that affects the community.

<u>Art. 50</u>

The precautionary administrative measure will be revoked, ex officio or at the request of the interested party, when it is proven that it was unfounded or the cessation of the causes determining its application is demonstrated.

Sole paragraph. The request of the interested party referred to in the caput of this article will not, as a rule, have suspensive effect.

TITLE VI TRANSITIONAL AND FINAL PROVISIONS

<u>Art. 51</u>

When the facts found in inspection activities may constitute evidence of a crime, ANAC will immediately bring the facts to the attention of the police authority or the Prosecution Office.

<u>Art. 52</u>

The application of the administrative measures established in this Resolution will not relieve the violator from the applicable civil and criminal penalties.

<u>Art. 53</u>

The administrative proceedings initiated due to the non-payment by the concessionaire of contributions to the system owed by it to the Federal Government will comply, to the extent compatible, with the rite provided for in this Resolution for the application of sanctioning administrative measures, with the mitigating and aggravating circumstances, the reduction or payment in installments provided for, respectively, in arts. 32, 34 and 46 of this Resolution not being applicable to them.

<u>Art. 54</u>

The contentious administrative proceedings for termination of airport infrastructure concessions will comply, to the extent compatible, with the rite provided for in this Resolution for the application of sanctioning and precautionary administrative measures.

<u>Art. 55</u>

The provisions in Laws 8,666, of June 21, 1993, 8,987, of 1995, and 9,784, of 1999 apply to this Resolution.

<u>Art. 56</u>

The provisions contained in the airport infrastructure concession contracts, in their notices and in their respective annexes shall prevail in case of divergence between them and the provisions of this Resolution.

<u>Art. 57</u>

This Resolution applies to all ongoing proceedings, without prejudice to the acts already performed and the applica-

tion of the rules in force at the time of the facts.

Sole paragraph. The preventive administrative measures will not apply to infractions committed before the effectiveness of this Resolution.

<u>Art. 58</u>

This Resolution takes effect on February 1, 2021.

JULIANO ALCÂNTARA NOMAN

Director-President

NATIONAL CIVIL AVIATION AGENCY – ADMINISTRATIVE PRECEDENT No. 001/2019

The filing by the notified party of arguments that contradict the "recognition of the committing of the infraction" is incompatible with the application of the mitigation provided for in art. 22, §1, item I, of Resolution No. 25, of April 25, 2008, and in art. 36, §1, item I, of Resolution No. 472, of June 6, 2018, unless it is the case of an explanation of the factual context in which the infraction occurred or of pre-liminary procedural issues.

NATIONAL CIVIL AVIATION AGENCY – ADMINISTRATIVE PRECEDENT No. 002/2019

Application of an aggravating factor is not appropriate when the circumstance is inherent to the infraction.

LAW No. 11,182 OF SEPTEMBER 27, 2005

Creates the National Civil Aviation Agency - ANAC, and sets forth other provisions.

THE PRESIDENT OF THE REPUBLIC. I hereby make it known that the National Congress decrees and I sanction the following Law:

CHAPTER I NATIONAL CIVIL AVIATION AGENCY – ANAC

<u>Art. 1</u>

The National Civil Aviation Agency – ANAC is hereby created, an entity that is part of the indirect Federal Public Administration, submitted to a special autonomous regime, bound to the Ministry of Defense, for an indefinite term.

Sole paragraph. ANAC will have its headquarters and jurisdiction in the Federal District, and may open regional administrative units.

<u>Art. 2</u>

It is the responsibility of the Federal Government, through ANAC and in accordance with the policies established by the Executive and Legislative Branches, to regulate and inspect the activities of civil aviation and aeronautical and airport infrastructure.

<u>Art. 3</u>

Anac, in exercising its powers, must comply with and implement the guidelines and policies established by the federal government, especially with regard to: (Wording given by Law No. 12,462, of 2011)

 I – the representation of Brazil in international air transport conventions, agreements, treaties and acts with other countries or international civil aviation organizations;

II – the establishment of the airport infrastructure concession model, to be submitted to the President of the Republic;

III - the granting of air services;

IV – supplementation of resources for airports of strategic, economic or tourist interest; and

V – the applicability of the concession or permission in the commercial operation of air services.

<u>Art. 4</u>

The nature of special autarchy conferred upon ANAC is characterized by administrative independence, financial autonomy, absence of hierarchical subordination and fixed term of office of its officers.

<u>Art. 5</u>

ANAC will act as a civil aviation authority, being ensured, under the terms of this Law, the prerogatives necessary for the proper exercise of its jurisdiction.

<u>Art. 6</u>

In order to harmonize its institutional actions in the area of defense and promotion of competition, ANAC will enter into agreements with the bodies and entities of the Federal Government having jurisdiction on the matter.

Sole paragraph. When, in the exercise of its duties, ANAC becomes aware of a fact that constitutes or may constitute an infraction against the economic order, or that endangers the defense and promotion of competition, it shall communicate the same to the bodies and entities referred to in the caput of this article, so that they adopt the appropriate measures.

<u>Art. 7</u>

The Executive Branch will install ANAC, upon approval of its regulation and organizational structure, by decree, within 180 (one hundred and eighty) days from the publication of this Law.

Sole paragraph. The edition of the regulation will invest ANAC in the exercise of its duties.

<u>Art. 8</u>

ANAC is responsible for adopting the necessary measures to serve the public interest and for the development and promotion of civil aviation, of the aeronautical and airport infrastructure of the Country, acting with independence, legality, impersonality and publicity, having the following duties:

I - implement, within its sphere of activity, the civil aviation policy;

II – represent the Country before international civil aviation organizations, except in matters relating to the airspace control system and the aviation accident prevention and investigation system;

III – prepare reports and issue opinions on agreements, treaties, conventions and other acts related to international air transport, entered into or to be entered into with other countries or international organizations;

IV – conduct studies, establish standards, promote the implementation of international civil aviation standards and recommendations, in compliance with international agreements, treaties and conventions to which the Federative Republic of Brazil is a party;

V – negotiate the establishment of agreements and treaties on international air transport, in compliance with the CONAC guidelines;

VI – negotiate, exchange and articulate with foreign aeronautical authorities, for reciprocal validation of activities related to the flight safety system, including when they involve certification of aeronautical products, of service providers and manufacturers of aeronautical products, for aviation civil;

VII – regulate and supervise the operation of air services provided, in the Country, by foreign companies, with due regard to the international agreements, treaties and conventions to which the Federative Republic of Brazil is a party;

VIII – promote, together with the competent bodies, compliance with international acts on civil aviation ratified by the Federative Republic of Brazil;

IX – regulate the conditions and designation of a Brazilian airline to operate abroad; X – regulate and supervise air services, aeronautical products and processes, the formation and training of specialized personnel, ancillary services, civil aviation security, facilitation of air transport, qualification of crew members, pollutant emissions and aeronautical noise, reservation systems, passenger and cargo handling and other civil aviation activities;

XI – issue rules on security in the airport area and on board civil aircraft, carrying and transporting dangerous cargo, including carriage or transport of weapons, explosives, war material or any other products, substances or objects that may endanger the crew or passengers, or the aircraft itself, or even that are harmful to health;

XII – regulate and supervise the measures to be adopted by the companies providing air services, and airport infrastructure operators, to prevent the use, by their crew or technical maintenance and operation personnel or who have access to the aircraft, of narcotic or psychotropic substances, which can determine permanent or temporary physical or psychological dependence;

XIII – regulate and supervise the provision of air services;

XIV – grant, allow or authorize the operation of air services;

XV – promote the seizure of aeronautical goods and products for civil use, which are in disagreement with the specifications;

XVI – inspect civil aircraft, their components, equipment and maintenance services, in order to ensure compliance with flight safety rules;

XVII – proceed with the homologation and issue certificates, approvals and authorizations, related to the activities within the jurisdiction of the civil aviation flight safety system, as well as crew licenses and certificates of technical qualification and physical and mental capacity, with due regard to the standards and rules established by it;

XVIII – administer the Brazilian Aeronautical Registry;

XIX – regulate the authorizations for landing and take-off for civil aircraft, with due regard to the conditions of the airspace control system and the available airport infrastructure; XX – settle, administratively, conflicts of interest between providers of air services and aeronautical and airport infrastructure;

XXI – regulate and inspect the aeronautical and airport infrastructure, with the exception of activities and procedures related to the airspace control system and the aviation accident prevention and investigation system;

XXII – approve the airport master plans; (Wording given by Law No. 12,462, of 2011)

XXIII – (revoked); (Wording given by Law No. 12,462, of 2011)

XXIV – grant or authorize the operation of the airport infrastructure, in whole or in part;

XXV – establish the tariff regime for the operation of airport infrastructure, in whole or in part;

XXVI – homologate, register and record airports;

XXVII – (revoked); (Wording given by Law No. 12,462, of 2011)

XXVIII – inspect compliance with technical requirements in the construction, renovation and expansion of airports and approve their opening to traffic; (Wording given by Law No. 12,462, of 2011)

XXIX – issue rules and standards that ensure compatibility, integrated operation and interconnection of information between airports;

XXX – issue rules and establish minimum standards for flight safety, performance and efficiency, to be complied with by providers of air services and aeronautical and airport infrastructure, including as regards the equipment, materials, products and processes they use and services they provide;

XXXI – issue certificates of airworthiness;

XXXII – regulate, inspect and authorize air services provided by air clubs, schools and civil aviation courses;

XXXIII – issue, approve or recognize the certification of aeronautical products and processes for civil use, with due regard to the standards and rules established by it; XXXIV – integrate the Aeronautical Accident Investigation and Prevention System – SIPAER;

XXXV – repress violations against the legislation, including regarding users' rights, and to apply the appropriate sanctions;

XXXVI – collect, manage and apply its revenues;

XXXVII – hire personnel for a specified period, in accordance with the applicable legislation;

XXXVIII – acquire, manage and dispose of its assets;

XXXIX – submit a budget proposal to the Chief Minister of State of the Civil Aviation Secretariat of the Presidency of the Republic; (Wording given by Law No. 12,462, of 2011)

XL – prepare and send the annual report of its activities to the Civil Aviation Secretariat of the Presidency of the Republic and, through the Presidency of the Republic, to the National Congress; (Wording given by Law No. 12,462, of 2011)

XLI - approve its internal regulations;

XLII – manage the effective positions, the commissioned positions and the bonuses covered by this Law; (Wording given by Law n° 11,292, of 2006)

XLIII – decide, as a last resort, on matters within its incumbency;

XLIV – deliberate, in the administrative sphere, regarding the interpretation of the legislation, on air services and aeronautical and airport infrastructure, including omitted cases, when there is no normative guidance from the Office of General Counsel to the Federal Government;

XLV – deliberate, in the technical sphere, as to the interpretation of international standards and recommendations related to the civil aviation flight safety system, including omitted cases;

XLVI – edit and disclose the instructions and regulations necessary for the application of this Law;

XLVII – (revoked); (Wording given by Law No. 12,462, of 2011)

XLVIII – enter into technical and administrative cooperation agreements with government agencies and entities, national or foreign, with a view to decentralization and efficient inspection of the sectors of civil aviation and aeronautical and airport infrastructure; and

XLIX – contribute to the preservation of the historical heritage and the memory of civil aviation and aeronautical and airport infrastructure, in cooperation with institutions dedicated to national culture, guiding and encouraging the participation of companies in the sector.

§1 ANAC may accredit, under the terms established in a specific rule, individuals or legal entities, public or private, of notorious specialization, in accordance with internationally accepted standards for civil aviation, for issuing appraisals, opinions or reports that demonstrate compliance with requirements necessary for issuing certificates or attestations relating to the activities within its incumbency.

§2 ANAC will comply with the specific prerogatives of the Aeronautical Authority, attributed to the Aeronautical Commander, and must be previously consulted on the enactment of airspace control rules and procedures that have economic or operational repercussions in the provision of air and aeronautical and airport infrastructure services.

§3 In the case of a shared airport, an airport of military interest or an airport administered by the Aeronautical Command, the exercise of the powers provided for in items XXII, XXIII, XXIV, XXVI, XXVIII and XXIX of the caput of this article will be in conjunction with the Aeronautical Command.

§4 Without prejudice to the provisions of item X of the caput of this article, the performance of air services for aerial surveying will depend on authorization issued by the Ministry of Defense.

§5 Without prejudice to the provisions in item XI of the caput of this article, authorization for the transport of explosives and war material in civil aircraft departing from or to a Brazilian airport or flying over national territory is the responsibility of the Aeronautical Command.

§6 For the purposes of this Law, the Brazilian Airspace Control System will be operated directly by the Federal Government, through the Aeronautical Command, or by an entity to which it delegates the authority.

§7 The terms aeronautical infrastructure and airport infrastructure, mentioned in this Law, refer to civilian infrastructures, the provisions of which do not apply to military infrastructures.

§8 The exercise of ANAC>s responsibilities, in the international sphere, will take place in coordination with the Ministry of Foreign Affairs.

CHAPTER II

ANAC ORGANIZATIONAL STRUCTURE

SECTION I

BASIC STRUCTURE

<u>Art. 9</u>

The Collegiate Executive Board will be Anac's highest deliberation body and will have in its structure an Attorney's Office, a General Inspector's Office, an Advisory Council and an Ombudsman, in addition to the specialized units. (Wording given by Law No. 13,848, of 2019). Validity

<u>Art. 10</u>

The Collegiate Executive Board will be made up of 1 (one) Chief Executive Officer and 4 (four) Officers, who will decide by an absolute majority, with the Chief Executive Officer having, in addition to the ordinary vote, the casting vote. (Wording given by Law No. 13,848, of 2019). Validity

§1 The Collegiate Executive Board will meet with the majority of its members. (Wording given by Law No. 13,848, of 2019). Validity

§2 (Repealed by Law No. 12,462, of 2011)

§3 The decisions of the Collegiate Board will be substantiated. (Wording given by Law No. 13,848, of 2019). Validity

§4 The deliberative sessions of the Collegiate Executive Board that are intended to settle disputes between economic agents, or between them and users of civil aviation, will be public. (Wording given by Law No. 13,848, of 2019). Validity

<u>Art. 11</u>

The Executive Board is responsible for:

I – proposing, through the Minister of State Chief of the Civil Aviation Secretariat of the Presidency of the Republic, to the President of the Republic, amendments to the Anac regulations; (Wording given by Law No. 12,462, of 2011) II – approving administrative bidding procedures;

III – granting, allowing or authorizing the provision of air services;

IV – granting or authorizing the operation of the aeronautical and airport infrastructure;

V – exercising the Agency's normative power;

 VI – approving drafts of bidding notices, ratifying awards, transferring and terminating concession and permission contracts, as per the internal regulations;

VII – approving ANAC's internal regulations;

VIII – assessing, as an appeal, the penalties imposed by ANAC; and

IX – approving the rules regarding the Agency's internal administrative procedures.

Sole paragraph. It is forbidden to the Executive Board to delegate the powers provided for in this article to any body or authority.

<u>Art. 12</u>

The members of the Collegiate Executive Board will be appointed by the President of the Republic, after approval by the Federal Senate, under the terms of item "f" of item III of art. 52 of the Federal Constitution, in compliance with Law 9,986, of July 18, 2000. (Wording given by Law No. 13,848, of 2019). Validity

<u>Art. 13</u>

The term of office of the members of the Collegiate Executive Board will be 5 (five) years, renewal being forbidden, pursuant to Law No. 9,986, of July 18, 2000. (Wording given by Law No. 13,848, of 2019). Validity

§1 The terms of office of the 1st (first) members of the Executive Board will be, respectively, 1 (one) director for 3 (three) years, 2 (two) director for 4 (four) years and 2 (two) directors for 5 (five) years, to be established in the appointment decree.

§2 In case of vacancy during the term of office, this will be completed by a successor to take office in the manner provided for in art. 12 of this Law.

<u>Art. 14</u>

The term of office of the directors will cease in case of resignation, final and non-appealable judgment, or dismissal penalty arising from disciplinary administrative proceedings.

61 (VETOED)

§2 It is the responsibility of the Minister of State Chief of the Civil Aviation Secretariat of the Presidency of the Republic to institute the disciplinary administrative process, which will be conducted by a special commission made up of stable federal civil servants, and the President of the Republic is responsible for determining preventive removal, when applicable, and render judgment. (Wording given by Law No. 12,462, of 2011)

<u>Art. 15</u>

The regulation will govern the substitution of the directors in their impediments.

<u>Art. 16</u>

The Chief Executive Officer is responsible for representing Anac, will have the hierarchical command over personnel and services, will exercise the corresponding administrative powers and chair the meetings of the Collegiate Executive Board. (Wording given by Law No. 13,848, of 2019). Validity

<u>Art. 17</u>

The judicial representation of ANAC, with procedural prerogatives of Public Treasury, will be exercised by the Attorney's Office.

<u>Art. 18</u>

(Revoked by Law No. 13,848, 2019) Validity

§1 (Repealed by Law No. 13,848, of 2019). Validity

§2 (Repealed by Law No. 13,848, of 2019). Validity

<u>Art. 19</u>

The General Inspector's Office will inspect the legality and effectiveness of the functional activities of ANAC's employees and units, suggesting the necessary corrective measures, as provided by regulation.

<u>Art. 20</u>

The ANAC Advisory Council, an institutional participation boy of the civil aviation community in the Agency, is an advisory body to the board of directors, with its organization, composition and functioning being established in a regulation.

SECTION II

EFFECTIVE AND COMMISSIONED POSITIONS AND BONUSES

<u>Art. 21</u>

The Executive Commissioned Positions – CD, Executive Board – CGE, Advisory – CA and Assistance – CAS, and the Technical Commissioned Positions – CCT are created for the exclusive exercise in ANAC, in the numbers of members set out in Table B of Annex I of this Law. (Wording given by Law n° 11,292, of 2006)

<u>Art. 22</u>

The Bonuses for Exercising a Position of Trust and Representation for the Exercise of Function are created, for exclusive benefit of Aeronautic military referred to in art. 46 of this Law, in the numbers and amounts provided for in Annex II of this Law. (Wording given by Law No. 11,292, of 2006)

Sole paragraph. The bonuses referred to in the caput of this article will be paid to those military personnel designated by the ANAC Executive Board to exercise the functions of the Executive Board, Advisory, Assistance and Technical Commissioned Positions in the ANAC structure and will be gradually extinguished in the form of §1 of art. 46 of this Law. (Included by Law No. 11,292, of 2006)

<u>Art. 23</u>

(VETOED)

<u>Art. 24</u>

In the structure of ANAC positions, the occupancy by a civil servant, of a Commissioned Position for Executive Board, Advisory, Assistance and Technical, will imply the blocking, for a military officer, of the granting of a corresponding Bonus for Exercise of Office of Public Trust. and Representation Bonus for the Exercise of Function, and vice versa.

<u>Art. 25</u>

The Technical Commissioned Positions are to be occupied exclusively by civil servants and employees of the Permanent Staff of Employees, the Specific Staff of Employees and those requested from other bodies and entities of the Public Administration. Sole paragraph. The person occupying a Commissioned Technical Position will be paid an amount added to the salary or income, according to the table in Annex I of this Law.

CHAPTER III

THE DECISION-MAKING PROCESS

<u>Art. 26</u>

ANAC's decision-making process will abide by the principles of legality, impersonality, efficiency, morality and publicity, ensuring the right to adversary proceeding and broad defense.

<u>Art. 27</u>

Initiatives or changes to normative acts that affect the rights of economic agents, including workers in the industry or users of air services, will be preceded by a public hearing called and directed by ANAC.

<u>Art. 28</u>

Except for documents and records whose disclosure may violate the Country's security, protected secret or someone's privacy, all others will remain open to public consultation.

CHAPTER IV

COMPENSATION FOR SERVICES RENDERED AND FOR THE GRANTING OF EXPLOITATION OF AIRPORT INFRASTRUCTURE

<u>Art. 29</u>

The Civil Aviation Inspection Fee – TFAC is hereby established. (Wording given by Law n° 11,292, of 2006)

§1 The triggering event of TFAC is the exercise of police power resulting from inspection, homologation and registration activities, under the terms of Law No. 7,565, of December 19, 1986 – Brazilian Aeronautical Code. (Wording given by Law n° 11,292, of 2006)

§2 TFAC taxpayers are concessionaires, holders of permits and authorizations to provide commercial air services, private air service operators, airport infrastructure operators, air cargo agencies, legal entities that operate manufacturing, maintenance, repair or overhaul activities in connection with aeronautical products and other individuals and companies that carry out activities inspected by ANAC. (Wording given by Law n° 11,292, of 2006)

§3 The TFAC values are those set out in Annex III to this Law. (Included by Law No. 11,292, of 2006)

<u>Art. 29-A</u>

TFAC not paid within the term and in the form established in the regulation will be charged with the following additions: (Included by Law No. 11,292, of 2006)

I - default interest calculated according to the legislation applicable to federal taxes;

II – late payment penalty of 20% (twenty percent), reduced to 10% (ten percent) if payment is made until the last day of the month following the maturity month; and

III – charge of 20% (twenty percent), in substitution for the award to the debtor of the attorneys' fees, calculated on the total debt recorded as Overdue Tax Liability, which will be reduced to 10% (ten percent) if the payment is made before the filing the execution proceeding.

Sole paragraph. TFAC debts may be paid in installments in accordance with the legislation applicable to federal taxes.

<u>Art. 30</u>

(VETOED)

CHAPTER V REVENUE

<u>Art. 31</u>

ANAC's revenues include:

 I – appropriations, additional and special credits and transfers that are assigned to it in the Federal Government General Budget;

II – funds from covenants, agreements or contracts entered into with federal, state and municipal bodies or entities, whether public or private companies, national or foreign, and international organizations;

III – resources from the Air Transport Fund;

IV – funds arising from fee payments;

V – proceeds from the provision of services of a contractual nature, including the provision of publications, technical material, data and information, even though for bidding purposes;

VI – proceeds from rent or sale of real or personal property;

VII – proceeds from credit transactions to be entered into, in Brazil and abroad, and income from financial transactions carried out;

VIII – donations, bequests and subsidies;

IX – occasional income; and

X - other funds allocated to it.

CHAPTER VI

FINAL AND TRANSITIONAL PROVISIONS

<u>Art. 32</u>

The assets, technical assets, obligations and rights of organizations of the Aeronautical Command are transferred to ANAC, corresponding to the activities attributed to it by this Law.

<u>Art. 33</u>

The Air Transport Fund, of an accounting nature and of interest to the national defense, created by Decree-Law No. 270, of February 28, 1967, amended by Law No. 5,989, of December 17, 1973, including its financial balance and equity existing on this date, shall be hereinafter administered by the National Civil Aviation Agency.

Sole paragraph. The Chief Executive Officer of ANAC shall hereinafter be the manager of the Air Transport Fund.

<u>Art. 33-A</u>

Until the installation of the National Civil Aviation Agency, the Director of the Civil Aviation Department will be the manager of the Air Transport Fund. (Included by Law No. 11,204, 2005)

<u>Art. 34</u>

Clause a of the sole paragraph of art. 2, item I of art. 5 and art. 11 of Law No. 6,009, of December 26, 1973, shall here-inafter read as follows:

"Art. 2.....

Sole paragraph.....

a) airport charges, approved by the National Civil Aviation Agency, for application throughout the national territory;

....."(NR)

"Art. 5.....

I – the Aeronautical Fund, in the case of airports directly managed by the Aeronautical Command; or

......"(NR)

"Art. 11. The proceeds from the collection of the fee referred to in art. 8 of this Law shall be a revenue of the Aeronautical Fund." (NR)

<u>Art. 35</u>

The Executive Branch will regulate the apportionment of the funds referred to in item I of art. 1 of Law No. 8,399, of January 7, 1992, among the bodies and entities that make up the Civil Aviation System in proportion to the costs corresponding to the activities carried out.

<u>Art. 36</u>

The Specific Personnel Board is created, made up of civil servants governed by Law No. 8,112, of December 11, 1990.

§1 The Board referred to in the caput of this article is of a temporary nature, with the positions allocated therein being extinguished, as vacancies may occur.

§2 The admission in the Board referred to in this article will be made through reallocation, being restricted to civil servants who, on December 31, 2004, were serving in the units of the Ministry of Defense whose jurisdictions were transferred to ANAC. (Wording given by Law n° 11,292, of 2006)

63 (VETOED)

§4 The Performance Bonus for Science and Technology Activity – GDACT will be due to the employees of Careers in the Science and Technology Area reallocated in the form of §2 of this article, as provided for in Provisional Measure No. 2,229-43, of September 6, 2001, as if they were serving in the bodies or entities referred to in §1 of art. 1 of Law No. 8,691, of July 28, 1993. (Included by Law No. 11,292, of 2006)

<u>Art. 37</u>

ANAC may request civil servants and employees from agencies and entities that are members of the Public Administration, on a paid basis.

§1 During the first 24 (twenty-four) months subsequent to its installation, ANAC may supplement the compensation of the requested civil servants or public employees up to the limit of the compensation of the effective position or permanent job occupied in the agency or entity of origin, when the request implies a reduction in this compensation. (Sole paragraph renumbered by Law n° 11.292, of 2006)

§2 The employees of the entities that are members of the public administration who, on the date of publication of this Law, are serving in the units of the Ministry of Defense whose jurisdictions were transferred to ANAC may remain in this condition, including in the exercise of commissioned functions, unless the employee is returned to the original entity or due to termination or expiration of the employment contract. (Included by Law No. 11,292, of 2006)

§3 The employees and servants of bodies and entities that are members of the public administration requested until the end of the term referred to in § 1 of this article may exercise commissioned functions and technical commissioned positions, unless the employee is returned to the originating entity or due to termination or expiration of the employment contract. (Included by Law No. 11,292, of 2006)

<u>Art. 38</u>

(VETOED)

Art. 38-A

The number of civil servants occupying the positions of the Specific Personnel Board, plus the requested civil servants or employees, cannot exceed the number of permanent positions. (Included by Law No. 11,292, of 2006)

<u>Art. 39</u>

Pursuant to item IX of art. 37 of the Federal Constitution, ANAC is authorized to temporarily hire the personnel essential for the implementation of its activities, for a period not exceeding 36 (thirty-six) months, counted from its installation.

61 (VETOED)

§2 Temporary contracts will be entered into for a fixed period, subject to a maximum term of 12 (twelve) months, which may be extended, provided that their term does not exceed the final term of the authorization referred to in the caput of this article.

<u>Art. 40</u>

The provisions of art. 22 of Law No. 9,986, of July 18, 2000. (Wording given by Law No. 11,314 of 2006) apply to ANAC.

<u>Art. 41</u>

Fifty (50) positions of Federal Attorney at ANAC are created, subject to the provisions of specific legislation.

<u>Art. 42</u>

After ANAC is installed, the Executive Branch is authorized to extinguish the Department of Civil Aviation – DAC and other organizations of the Aeronautical Command that have had all of their attributions transferred to ANAC, having to relocate all commissioned positions and bonuses, allocated to extinguished bodies and activities absorbed by the Agency to the Ministry of Planning, Budget and Management. (See Decree n° 8.909, of 2016). (Validity)

<u>Art. 43</u>

Once its regulation is approved, ANAC will have control over all activities, concession and permission contracts, and air service authorizations, entered into by bodies or entities of the Federal Government's direct or indirect Administration.

<u>Art. 44</u>

(VETOED)

<u>Art. 44-A</u>

The Executive Branch, on behalf of ANAC, is authorized to reallocate, assign, transfer and use the budget allocations approved in favor of the budget units of the Ministry of Defense, in the budget law in force in the financial year in which ANAC was installed, regarding the functions absorbed by ANAC, provided that the same budget classification expressed by category of programming at its lowest level is maintained, as defined in the budgetary guidelines law, including titles, descriptors, goals and objectives, as well as the respective details by budgetary sphere, groups of expenses, sources of resources, application modalities and usage identifiers. (Included by Law No. 11,292, of 2006)

<u>Art. 45</u>

The Aeronautical Command will provide the services ANAC may need, at a limited charge, for 180 (one hundred and eighty days) after its installation, with agreements to be entered into for the provision of services after this period.

<u>Art. 46</u>

Aeronautical military personnel actively serving in the Aeronautical Command bodies corresponding to the activities assigned to ANAC will start exercising their activities in ANAC, as of the date of its installation, being considered as in service of a military nature. (Wording given by Law n° 11,292, of 2006)

§1 The Aeronautical military personnel referred to in the caput of this article must return to the Air Force, within a maximum period of 60 (sixty) months, counting from that date, at the minimum rate of 20% (twenty percent) every 12 (twelve) months.

§2 The Aeronautical Command, at its discretion, may replace the military personnel in service at ANAC.

§3 The military personnel referred to in this article may only assigned to other bodies in the interest of ANAC, at the Agency's expense and with authorization of the Aeronautical Commander.

<u>Art. 47</u>

In applying this Law, the following provisions will be complied with:

I – the regulations, norms and other rules in force will be gradually replaced by regulations to be issued by ANAC, and the concessions, permissions and authorizations relevant to the provision of air services and the exploration of airport areas and facilities will continue to be governed by the current regulations, norms and rules, until new regulations are issued;

II – the concession contracts or delegation agreements, related to the administration and operation of airports, entered into by the Federal Government with direct or indirect agencies or entities of the Federal Administration, of the States, the Federal District and the Municipalities, must be adapted within 180 (one hundred and eighty) days from the date of installation of ANAC to the provisions of this Law; and

III – airport management and operation activities carried out by the Brazilian Airport Infrastructure Company – INFRAERO will now be regulated by ANAC acts.

<u>Art. 48</u>

(VETOED)

§1 Domestic air service concessionaires are assured the exploitation of any airline, upon prior registration with ANAC, with due regard exclusively to the operational capacity of each airport and the regulatory rules issued by ANAC with respect to providing adequate service.

62 (VETOED)

<u>Art. 49</u>

In the provision of scheduled air services, the air fare freedom regime will prevail.

§1 In the air fare freedom regime, concessionaires or holders of permissions may determine their own air fares, and must communicate them to ANAC, within a period defined by it.

62 (VETOED)

§3 ANAC will establish the mechanisms to ensure the inspection and advertising of air fares.

<u>Art. 50</u>

The expenses arising from the application of this Law will be borne by the ANAC Budget.

<u>Art. 51</u>

This Law comes into force on the date of its publication.

Brasília, September 27, 2005; 184th of Independence and 117th of the Republic.

LUIZ INÁCIO LULA DA SILVA

MÁRCIO THOMAZ BASTOS

JOSÉ ALENCAR GOMES DA SILVA

ANTONIO PALOCCI FILHO

PAULO BERNARDO SILVA

DILMA ROUSSEFF

* THE ANNEXES TO THIS LAW ARE NOT TRANSCRIBED IN THIS VERSION.

SUPPLEMENTARY LAW No. 97 OF JUNE 9, 1999

It provides for general rules for the organization, preparation and use of the Armed Forces.

THE PRESIDENT OF THE REPUBLIC. I hereby inform you that the National Congress decrees and I sanction the following Supplementary Law:

CHAPTER I

PRELIMINARY PROVISIONS

SECTION I

ALLOCATION AND ASSIGNMENTS

<u>Art. 1</u>

The Armed Forces, comprising Navy, Army and the Air Force, are permanent and regular national institutions, organized based on hierarchy and discipline, under the supreme authority of the President of the Republic and are intended for the defense of the Country, to guarantee the constitutional powers and, on the initiative of any of these, of law and order.

Sole paragraph. Without impairing its constitutional purposes, it is also up to the Armed Forces to fulfill the subsidiary attributions explained in this Supplementary Law.

SECTION II

ADVISING THE SUPREME COMMANDER

<u>Art. 2</u>

The President of the Republic, as Supreme Commander of the Armed Forces, is advised:

I – regarding the use of military means, by the Military Defense Council; and

II – with regard to other matters pertaining to the military area, by the Minister of State for Defense.

§1 The Military Defense Council is made up of the Commanders of the Navy, Army and Air Force and the Chair of the Joint Chiefs of Staff of the Armed Forces. (Wording given by Supplementary Law No. 136, 2010).

§2 In the situation provided for in item I of this article, the Minister of State for De-

fense will integrate the Military Defense Council as President thereof.

CHAPTER II

ORGANIZATION

SECTION I

ARMED FORCES

<u>Art. 3</u>

The Armed Forces are subordinated to the Minister of State for Defense, being provided with their own structures.

<u>Art. 3-A</u>

The Joint Chiefs of Staff of the Armed Forces, a permanent advisory body to the Minister of State for Defense, is headed by a highest rank flag officer, active or retired, appointed by the Minister of State for Defense and appointed by the President of the Republic, and will have a committee, made up of the Chiefs of Staff of the 3 (three) Forces, under the coordination of the Chair of the Joint Chiefs of Staff of the Armed Forces. (Included by Supplementary Law No. 136, 2010).

§1 If the general appointed to the post of Chair of the Joint Chiefs of Staff of the Armed Forces is on active duty, he/ she will be transferred to the paid retirement when he/she is in office. (Included by Supplementary Law No. 136, 2010).

§2 The Chair of the Joint Chiefs of Staff of the Armed Forces is guaranteed the same degree of hierarchical precedence as the Commanders and hierarchical precedence over the other generals of the 3 (three) Armed Forces. (Included by Supplementary Law No. 136, 2010).

§3 The Chair of the Joint Chiefs of Staff of the Armed Forces is guaranteed all prerogatives, rights and duties of the Active Service, including counting the length of service, while in office. (Included by Supplementary Law No. 136, 2010).

<u>Art. 4</u>

The Navy, Army and Air Force have one 1 (one) sole Commander, appointed by the Minister of State for Defense and appointed by the President of the Republic, who, within the scope of his/her duties, will exercise the direction and management of the respective Force. (Wording given by Supplementary Law No. 136, 2010).

<u>Art. 5</u>

The positions of Navy, Army and Aeronautical Commander are exclusive to generals in the highest post of the respective Force.

§1 The Commanders of the Navy, Army and Air Force are guaranteed hierarchical precedence over the other generals of the three Armed Forces.

§2 If the general appointed to the position of Captain of his/her respective Force is active, he/she will be transferred to the remunerated reserve, when he/she takes office.

§3 The Navy, Army and Aeronautical Commanders are guaranteed all prerogatives, rights and duties of the Active Service, including counting the length of service, while in service.

<u>Art. 6</u>

The Executive Branch will define the jurisdiction of the Navy, Army and Aeronautical Commanders to create, name, locate and define the duties of the organizations that make up the structures of the Armed Forces.

<u>Art. 7</u>

It is incumbent upon the Commanders of the Forces to present to the Minister of State for Defense the Selection List, prepared in accordance with the law, for promotion to the positions of generals and to propose generals for the positions whose appointment is a private incumbency thereof. (Wording given by Supplementary Law No. 136, 2010).

Sole paragraph. The Minister of State for Defense, accompanied by the Commander of each Force, will present the names to the President of the Republic, who is responsible for promoting the generals and appointing them to the positions that are within the specific incumbency of the President of the Republic.

<u>Art. 8</u>

The Navy, the Army and the Air Force are provided with military and civilian personnel, as established by law, and with the organic means necessary to comply with their constitutional purposes and subsidiary attributions.

Sole paragraph. The Armed Forces are reserved the personnel subject to incorporation, through mobilization or summons, by the Ministry of Defense, through the Navy, the Army and the Air Force, as well as the organizations so defined by law.

SECTION II

SENIOR MANAGEMENT OF THE ARMED FORCES

<u>Art. 9</u>

The Minister of State for Defense exercises the senior leadership of the Armed Forces, assisted by the Military Defense Council, a permanent advisory body, the Joint Armed Forces General Staff and other bodies, as defined by law. (Wording given by Supplementary Law No. 136, 2010).

§1 The Minister of State for Defense is responsible for implementing the White Book on National Defense, a public document, through which access to the broad context of the National Defense Strategy will be allowed, in the medium and long term perspective, which will enable monitoring the budget and multi-annual planning for the sector. (Included by Supplementary Law No. 136, 2010).

§2 The White Book on National Defense must contain strategic, budgetary, institutional and detailed material on the Armed Forces, covering the following issues: (Included by Supplementary Law No. 136, 2010).

I – strategic scenario for the 21st century; (Included by Supplementary Law No. 136, 2010).

II – national defense policy; (Included by Supplementary Law No. 136, 2010).

III - national defense strategy; (Included by Supplementary Law No. 136, 2010).

IV – modernization of the Armed Forces; (Included by Supplementary Law No. 136, 2010).

V – rationalization and adaptation of defense structures; (Included by Supplementary Law No. 136, 2010).

VI – economic support for national defense; (Included by Supplementary Law No. 136, 2010).

VII – the Armed Forces: Navy, Army and Air Force; (Included by Supplementary Law No. 136, 2010). VIII – peace and humanitarian aid operations. (Included by Supplementary Law No. 136, 2010).

§3 The Executive Branch will forward to the National Congress, in the first half of the ordinary legislative session, every 4 (four) years, starting in 2012, with the necessary updates: (Included by Supplementary Law n° 136, 2010).

I – the National Defense Policy; (Included by Supplementary Law No. 136, 2010).

II – the National Defense Strategy;
(Included by Supplementary Law No. 136, 2010).

III – the White Book on National Defense. (Included by Supplementary Law No. 136, 2010).

<u>Art. 10</u>

(Repealed by Supplementary Law No. 136, 2010).

<u>Art. 11</u>

The Joint Armed Forces General Staff is responsible for planning the joint employment of the Armed Forces and advising the Minister of State for Defense in conducting joint exercises and regarding the performance of Brazilian forces in peacekeeping operations, in addition to other duties that may be assigned to them, established by the Minister of State for Defense. (Wording given by Supplementary Law No. 136, 2010).

<u>Art. 11-A</u>

It is incumbent upon the Ministry of Defense, in addition to the other powers provided for by law, to issue the policy and guidelines for defense products used in operational activities, including armaments, ammunition, means of transport and communications, uniforms and materials for individual and collective use, delegations to the Forces being admitted. (Included by Supplementary Law No. 136, 2010).

CHAPTER III

BUDGET

<u>Art. 12</u>

The Ministry of Defense budget will include the priorities defined by the National Defense Strategy, explained in the budget guidelines law. (Wording given by Supplementary Law No. 136, 2010). §1 The Ministry of Defense budget will identify the funds allocated to the Navy, Army and Air Force.

§2 The budget proposal of the Forces will be prepared jointly with the Ministry of Defense, which will consolidate it, according to the priorities established in the National Defense Strategy, explained in the budget guidelines law. (Wording given by Supplementary Law No. 136, 2010).

§3 The Navy, Army and Air Force will manage, on an individual basis, the budget funds allocated to each of them within the Ministry of Defense budget.

CHAPTER IV

PREPARATION

<u>Art. 13</u>

For the fulfillment of the constitutional purpose of the Armed Forces, it is the responsibility of the Commanders of the Navy, Army and Air Force to prepare their operational and support bodies, in compliance with the policies established by the Minister of State for Defense.

§1 The preparation includes, among other things, the permanent activities of planning, organization and articulation, instruction and training, development of doctrine and specific research, intelligence and structuring of the Armed Forces, their logistics and mobilization. (Included by Supplementary Law 117, of 2004)

§2 In preparing the Armed Forces for the fulfillment of their constitutional purpose, operational exercises may be planned and carried out in public areas, appropriate to the nature of the operations, or in private areas assigned for that purpose. (Included by Supplementary Law 117, of 2004)

§3 The planning and performance of operational exercises may be carried out with the cooperation of public security bodies and public bodies with similar interests. (Included by Supplementary Law 117, of 2004)

<u>Art. 14</u>

The preparation of the Armed Forces is guided by the following basic parameters:

 I – permanent singular operational efficiency and in the different interdependent types of employment; II – search for increasing national autonomy, through continuous nationalization of its means, including research and development and strengthening of national industry;

III – correct use of national potential, through carefully planned mobilization.

CHAPTER V

EMPLOYMENT

<u>Art. 15</u>

The use of the Armed Forces in the defense of the Country and in the guarantee of constitutional powers, law and order, and in participation in peace operations, is the responsibility of the President of the Republic, who will determine to the Minister of State for Defense to activate operational bodies, with due compliance with the following form of subordination:

I – to the Supreme Commander, through the Minister of State for Defense, in the case of joint Commands, made of means adjudicated by the Armed Forces and, when necessary, by other bodies; (Wording given by Supplementary Law No. 136, 2010).

II – directly to the Minister of State for Defense, for training purposes, in joint operations, or on the occasion of Brazilian participation in peace operations; (Wording given by Supplementary Law No. 136, 2010).

III – directly to the respective Force Commander, with due regard for the superior direction of the Minister of State for Defense, in the case of isolated use of the means of a single Force.

§1 The President of the Republic is responsible for deciding whether to employ the Armed Forces, on his/her own initiative or in response to a request made by any of the constitutional powers, through the Presidents of the Supreme Federal Court, the Federal Senate or the House of Representatives.

§2 The Armed Forces> performance, in guaranteeing the law and order, on the initiative of any of the constitutional powers, will take place in accordance with the guidelines issued by the President of the Republic, after the instruments designated to the protection of public order and security of persons and property have been exhausted, as listed in art. 144 of the Federal Constitution. §3 The instruments listed in art. 144 of the Federal Constitution will be deemed as exhausted when, at a given moment, they are formally recognized by the respective Head of the Federal or State Executive Branch as unavailable, non-existent or insufficient for the regular performance of their constitutional mission. (Included by Supplementary Law 117, of 2004)

§4 In the event of employment under the conditions provided for in §3 of this article, after a message from the President of the Republic, the operational bodies of the Armed Forces will be activated, which will carry out, in an episodic manner, in a previously established area and for a limited time, the preventive and repressive measures necessary to ensure the result of the operations in guaranteeing law and order. (Included by Supplementary Law 117, of 2004)

§5 Once the use of the Armed Forces in guaranteeing law and order has been determined, the competent authority shall, by means of a formal act, transfer the operational control of the public security bodies necessary for the development of the actions to the authority in charge of the operations, which shall establish an operations coordination center, comprising representatives of public bodies under its operational control or with similar interests. (Included by Supplementary Law 117, of 2004)

§6 For the purposes of applying this Supplementary Law Operational, control is considered to be the power conferred on the authority in charge of the operations to assign and coordinate specific missions or tasks to be performed by members of public security bodies, in compliance with their constitutional or legal jurisdictions. (Included by Supplementary Law 117, of 2004)

§7 The military's performance in the cases provided for in arts. 13, 14, 15, 16-A, in items IV and V of art. 17, in item III of art. 17-A, in items VI and VII of art. 18, in the civil defense activities referred to in art. 16 of this Supplementary Law and in item XIV of art. 23 of Law no. 4737 of July 15, 1965 (Election Code), is considered a military activity for the purposes of art. 124 of the Federal Constitution. (Wording given by Supplementary Law No. 136, 2010).

CHAPTER VI SUPPLEMENTARY PROVISIONS

<u>Art. 16</u>

It is incumbent upon the Armed Forces, as a general subsidiary assignment, to cooperate with the national development and civil defense, in the manner determined by the President of the Republic.

Sole paragraph. For the purposes of this article, the aforementioned actions of a general nature include participation in institutional campaigns of public utility or social interest. (Included by Supplementary Law 117, of 2004)

<u>Art. 16-A</u>

It is incumbent upon the Armed Forces, in addition to other pertinent actions, also as subsidiary attributions, except for the exclusive jurisdictions of the judiciary polices, to act, through preventive and repressive actions, in the land border strip, at sea and in inland waters, regardless of possession, ownership, purpose or any encumbrance that falls on it, against cross-border and environmental crimes, alone or in coordination with other bodies of the Executive Branch, carrying out, among others, the actions of: (Included by Supplementary Law No. 136, of 2010).

I – patrolling; (Included by Supplementary Law No. 136, 2010).

II – search of people, land vehicles, vessels and aircraft; and (Included by Supplementary Law No. 136, 2010).

III – arrests in flagrante delicto. (Included by Supplementary Law No. 136, 2010).

Sole paragraph. The Armed Forces, when ensuring the personal security of national and foreign authorities in official missions, alone or in coordination with other bodies of the Executive Branch, may carry out the actions provided for in items II and III of this article. (Included by Supplementary Law No. 136, 2010).

<u>Art. 17</u>

It is incumbent upon the Navy, as private subsidiary attributions:

- I to guide and control the Merchant Navy and its related activities, with regard to national defense;
- II to provide waterway navigation security;

III - to contribute to the issuance and conduct of national policies that concern the sea;

IV – to implement and supervise compliance with laws and regulations, at sea and inland waters, in coordination with other bodies of the federal or state Executive Branch, when necessary, due to specific jurisdiction.

V – to cooperate with federal agencies, where necessary, in the repression of crimes of national or international repercussion, regarding the use of the sea, inland waters and port areas, in the form of logistical, intelligence, communications and instruction support. (Included by Supplementary Law 117, of 2004)

Sole paragraph. Due to the specificity of these attributions, it is incumbent upon the Navy Commander to deal with the matters set out in this article, being designated as "Maritime Authority", for that purpose.

<u>Art. 17-A</u>

It is incumbent upon the Army, in addition to other pertinent actions, such as private subsidiary attributions: (Included by Supplementary Law 117, of 2004)

I – to contribute to the issuance and conduction of national policies that concern Land Military Power; (Included by Supplementary Law 117, of 2004)

II – to cooperate with federal, state and municipal public agencies and, exceptionally, with private companies, in the execution of engineering works and services, with the resources coming from the requesting agency; (Included by Supplementary Law 117, of 2004)

III – to cooperate with federal agencies, when necessary, in the repression of crimes of national and international repercussion, in the national territory, in the form of logistical, intelligence, communications and instruction; (Included by Supplementary Law 117, of 2004)

IV (Repealed by Supplementary Law No. 136, 2010).

<u>Art. 18</u>

The following private subsidiary duties are incumbent on the Air Force:

I – to guide, coordinate and controlCivil Aviation activities;

II - to provide air navigation security;

III – to contribute to the issuance and conduct of the National Aerospace Policy;

IV – to establish, fit and operate, directly or through concession, the aerospace, aeronautical and airport infrastructure;

V – to operate the National Postal Service.

VI – to cooperate with federal agencies, when necessary, in the repression of crimes of national and international repercussion, regarding the use of airspace and airport areas, in the form of logistical, intelligence, communications and instruction support; (Included by Supplementary Law No. 117, of 2004)

VII - except for the exclusive jurisdiction of the judiciary police, to act, in a continuous and permanent manner, through actions to control the Brazilian airspace, against all types of illicit air traffic, with an emphasis on those involved in the trafficking of drugs, weapons, ammunition and illegal passengers, acting in combined operation with competent inspection bodies, which will be responsible for acting after the landing of aircraft involved in illicit air traffic, and, in their absence, may search people, land vehicles, vessels and aircraft, as well as make arrests in flagrante delicto. (Wording given by Supplementary Law No. 136, 2010).

Sole paragraph. Due to the specificity of these attributions, it is incumbent upon the Aeronautical Commander to deal with the matters set out in this article, being designated as 'Military Aeronautical Authority', for that purpose. (Wording given by Supplementary Law No. 136, 2010).

CHAPTER VII

TRANSITIONAL AND FINAL PROVISIONS

<u>Art. 19</u>

Until the relevant normative acts are revised, the legal references to the Ministry or the Minister of State for the Navy, Army and Air Force will be understood as the Command or Commander of these Forces, respectively, as long as they do not conflict with attributions of the Ministry or Minister of State for Defense.

<u>Art. 20</u>

The Ministries of the Navy, the Army and the Air Force will become Commands, on the occasion of the creation of the Ministry of Defense.

<u>Art. 21</u>

A Law will create the National Civil Aviation Agency, bound to the Ministry of Defense, the body in charge of the regulation and supervision of Civil Aviation and aeronautical and airport infrastructure, establishing, among other institutional matters, which of the activities and procedures referred to in items I and IV of art. 18, will be under its responsibility.

<u>Art. 22</u>

This Supplementary Law comes into force on the date of its publication.

<u>Art. 23</u>

This Supplementary Law revokes Supplementary Law No. 69 of July 23, 1991.

Brasília, June 9, 1999; 178th of the Independence and 111th of the Republic.

FERNANDO HENRIQUE CARDOSO ÉLCIO ÁLVARES
DECREE No. 3,564 OF AUGUST 17, 2000

Provides for the structure and functioning of the Civil Aviation Council – CONAC and makes other provisions.

THE PRESIDENT OF THE REPUBLIC, in the use of the powers conferred on him/ her by art. 84, items IV and VI of the Constitution, and in view of the requirements of §4 of art. 16 of Law no. 9.649 of May 27, 1998, as amended by Provisional Measure no. 2049-21 of 28 July 2000,

DECREES:

<u>Art. 1</u>

The Civil Aviation Council – CONAC is an advisory body to the President of the Republic for the issuance of the civil aviation ordering policy.

<u>Art. 2</u>

The Council is responsible for:

I – establishing guidelines for the representation of Brazil in international air transport conventions, agreements, treaties and acts with other countries or international civil aviation organizations;

 II – proposing the airport infrastructure concession model, submitting it to the President of the Republic;

III – approving the guidelines for supplementing resources for airlines and airports of strategic, economic or tourist interest;

IV – promoting coordination between flight protection activities and air regulation activities;

V – approving the general airline concession plan; and

VI – establishing the guidelines for the applicability of the concession or permission in the commercial operation of airlines.

<u>Art. 3</u>

Council members are: (Wording given by Decree No. 6,815, 2009).

I – the Minister of State for Defense; (Wording given by Decree No. 6,815, of 2009). II – the Minister of State for Foreign Affairs; (Wording given by Decree No. 6,815, of 2009).

III – the Minister of State for Finance; (Wording given by Decree No. 6,815, of 2009).

IV – the Minister of State for Industry, Foreign Trade and Services; (Wording given by Decree n° 9.000, of 2017). (Validity)

V – the Minister of State for Tourism; (Wording given by Decree No. 6,815, of 2009).

VI – the Presidential Chief of Staff; (Wording given by Decree No. 6,815, of 2009).

VII – the Minister of State for Planning, Development and Management; (Wording given by Decree n° 9.000, of 2017). (Validity)

VIII – the Minister of State for Justice and Public Security; (Wording given by Decree n° 9.000, of 2017). (Validity)

IX – the Minister of State for Infrastructure; and (Wording given by Decree n^o 9.676, of 2019). Validity

X – the Aeronautical Commander. (Included by Decree No. 6,970, 2009).

§1 The Minister of State for Infrastructure will preside over the Council, having the following responsibilities: (Wording given by Decree n° 9.676, of 2019). (Validity)

 I – call and preside over its meetings; and

II – cast his/her own and casting vote in the Council's resolutions on the proposals to be forwarded to the President of the Republic.

§2 The Council shall deliberate by means of resolutions published in the Federal Official Gazette, by majority vote, with the President having the prerogative to resolve in cases of urgency and relevant interest, ad referendum to the other members.

§3 When the Council decides ad referendum, the President shall submit the decision to the collegiate body at the first meeting that follows that resolution.

§4 The Ministers of State will be replaced in his/her impediments, by the respective Executive Secretaries of the Ministries, the Minister of State for Foreign Affairs by the Foreign Secretary-General and the Aeronautical Commander by the Chief of Staff of the Aeronautical Command. (Wording given by Decree No. 3,955, of 2001)

§5 The Council, through its President, may invite other Ministers of State to participate in CONAC meetings. (Included by Decree No. 3,955, of 2001)

<u>Art. 4</u>

The Council will establish, by resolution, the Technical Commission for Coordination of Aerial Activities, of an advisory nature, aimed at supporting its activities.

<u>Art. 5</u>

The Council may set up technical committees to analyze and issue opinions on specific matters.

<u>Art. 6</u>

The Executive Secretariat of the Council will be exercised by the National Civil Aviation Secretariat of the Ministry of Infrastructure, under the terms of the internal regulations of the collegiate body, being responsible for: (Wording given by Decree n° 9.676, of 2019). (Validity)

I - organizing the agendas of the meetings;

II – supporting the work of the technical committees; and

III – fulfilling other duties that are assigned thereto.

<u>Art. 7</u>

The internal regulations, approved by the Council, will provide for its organization, the form of assessment and resolution of the matters, as well as the functioning of the technical committees.

<u>Art. 8</u>

The Council will assess the activities carried out by the various sectors related to civil aviation in the Country, preparing an annual report on the sector and its prospects, to be sent to the President of the Republic.

<u>Art. 9</u>

The activities of the members of the Executive Board, including the technical committees that may be created, will be considered relevant public service and will not be remunerated.

<u>Art. 10</u>

Expenses related to the functioning of the Council will be charged to the budget allocations of the Ministry of Infrastructure, which will adopt the necessary measures for their inclusion in the Federal Government Budget. (Wording given by Decree No. 9.676, of 2019). (Validity)

<u>Art. 11</u>

This Decree takes effect on the date of its publication.

Brasília, August 17, 2000; 179th of the Independence and 112th of the Republic.

FERNANDO HENRIQUE CARDOSO

GERALDO MAGELA DA CRUZ QUINTÃO

PEDRO MALAN

ALCIDES LOPES TÁPIAS

PEDRO PARENTE

DECREE No. 6,834 OF APRIL 30, 2009

Approves the Regulatory Structure and the Table of Commissioned Positions in the Superior Steering and Advisory Group and the Remunerated Positions of the Aeronautical Command, of the Ministry of Defense, and makes other provisions.

THE PRESIDENT OF THE REPUBLIC, in the use of the powers conferred on him/ her by art. 84, items IV and VI, item "a", of the Constitution, and in view of the provisions of art. 50 of Law no. 10683 of May 28, 2003,

DECREES:

<u>Art. 1</u>

The Regulatory Structure and the Table of Commissioned Positions and the Remunerated Positions of the Aeronautical Command are approved, in the form of Annexes I and II to this Decree.

<u>Art. 2</u>

The following commissioned positions in the Superior Steering and Advisory Group are relocated, in the form of Annex III to this Decree:

I – from the Aeronautical Command to the Aeronautical Real Estate Financing Fund two DAS 101.3; one DAS 102.3 and four DAS 101.2; and

II – from the Aeronautical Command to the Management Secretariat of the Ministry of Planning, Budget and Management two DAS 102.4.

<u>Art. 3</u>

As a result of the provisions of art. 2, Appendix LV to Decree no. 1351, of December 28, 1994, is effective in the form of Appendix IV to this Decree.

<u>Art. 4</u>

The Internal Regulations of the Aeronautical Command will be approved by the Aeronautical Commander and published in the Federal Official Gazette.

<u>Art. 5</u>

In compliance with the provisions of art. 42 of Law No. 11,182, of September 27, 2005, the Minister of State for Defense will forward to the Presidential Chief of Staff Office, until January 31, 2010, a proposal for a decree dealing with the extinction of the Department of Civil Aviation – DAC.

<u>Art. 6</u>

This Decree takes effect on the date of its publication.

<u>Art. 7</u>

The following Decrees are hereby revoked:

I – no. 60,302, of March 6, 1967;

II - no. 73,174, of November 20, 1973;

III – no. 5,196, of August 26, 2004;

IV - no. 5,373, of February 17, 2005;

V – no. 5,657, of December 30, 2005; and

VI – no. 6,203, of August 30, 2007.

Brasília, April 30, 2009; 188th of the Independence, 121st of the Republic.

LUIZ INÁCIO LULA DA SILVA

NELSON JOBIM

JOÃO BERNARDO DE AZEVEDO BRINGEL

ANNEX I

REGULATORY STRUCTURE OF THE AERONAUTICS COMMAND

CHAPTER I NATURE AND JURISDICTION

SECTION I

AIR FORCE

<u>Art. 1</u>

The Aeronautical Command, a permanent and regular national institution, organized on the basis of hierarchy and discipline, under the supreme authority of the President of the Republic, is intended for the defense of the Country, the guarantee of constitutional powers and, on the initiative of any of these, law and order.

§1 Without impairing its constitutional purpose, the Aeronautical Command is responsible for the fulfillment of the sub-

sidiary obligations established in Supplementary Law no. 97 of June 9, 1999.

§2 The Aeronautical Command includes their military organizations, their facilities, their aircraft, their equipment and their military members, as designated in the legislation.

§3 Military organizations are the organizations of the Aeronautical Command that have their own official name, regulation, organization chart and their own private positions.

SECTION II

AERONAUTICAL COMMAND

<u>Art. 2</u>

The Aeronautical Command, an integral part of the Ministry of Defense's Regulatory Structure and directly subordinated to the Minister of State for Defense, aims at preparing the Air Force operational and support bodies for the fulfillment of their constitutional purpose and subsidiary attributions.

<u>Art. 3</u>

The Aeronautical Command is responsible for:

I – formulating the Military Aeronautical Policy;

II – proposing the constitution, organization and personnel, as well as equip and train the Brazilian Air Force;

III – formulating its Military Strategic Planning;

 ${\sf IV}$ – carrying out actions related to the defense of the Country, in the aerospace field;

V – contributing to the formulation and conduction of national policies concerning aviation, control of air space, space activities, aeronautical and space infrastructure and activities related to the constitutional purpose of the Air Force, especially those related to resources and scientific, technological and industrial development of aeronautical and space interest;

VI – operating the National Air Mail Service;

VII – implementing and supervising compliance with laws, regulations and rules of aeronautical interest, in coordination with other government agencies, when necessary, due to specific Aeronautical jurisdiction;

VIII – cooperating in the production of goods or in the performance of specialized works and services, when cooperation is of interest to the preparation of the Air Force, in the form in which it is agreed and by means of mandatory indemnity, in the case of private entities;

IX – cooperating, in its area of operation, with the government agencies responsible for controlling civil aviation activities and aeronautical infrastructure;

X – establishing, fitting and operating, directly or through concession, the aerospace, aeronautical and airport infrastructure within its incumbency;

XI – encouraging and carrying out research and development activities related to aerospace activities;

XII - contributing to the strengthening of the aerospace and defense industry;

XIII - providing air navigation security;

XIV – exercising control of the Brazilian airspace, subject to the provisions of §2, of art. 8 of Law No. 11182, of September 27, 2005; (Wording given by Decree No. 7,245, of 2010);

XV – investigating, judging, imposing penalties and adopting administrative measures for violations to the Brazilian Airspace Control System provided for in Law no. 7.565, of December 19, 1986, and supplementary legislation, including those relating to communications usage charges and aid to en route air navigation, as well as knowing the respective resources; and (Wording given by Decree n° 7.245, of 2010); and

XVI – performing other private subsidiary attributions, established in Supplementary Law n° 97, of 1999. (Included by Decree No. 7,245 of 2010).

CHAPTER II

ORGANIZATIONAL STRUCTURE

<u>Art. 4</u>

The Aeronautical Command has the following organizational structure:

I – general management body: the Air Force Chief of Staff;

II - higher advisory bodies:

a) Air Force High Command; and

b) Aeronautical Economy and Finance Superior Council;

III – bodies of direct and immediate assistance to the Aeronautical Commander:

a) Office of the Aeronautical Commander;

b) Aeronautical Officers Promotion Committee;

c) Aeronautical Social Communication Center;

d) Air Force Intelligence Center;

e) Historical-Cultural Institute of Air Force;

f) Parliamentary Advisory to the Aeronautical Commander;

g) Aeronautical Accident Investigation and Prevention Center; (Wording given by Decree No. 7,809, of 2012) (Validity)

h) Operational Safety Advisory for Airspace Control; and (Wording given by Decree No. 7,809, of 2012) (Validity)

i) Air Force Internal Control Center; (Included by Decree No. 7,809, of 2012) (Validity)

IV - sectoral management bodies:

a) General Support Command:

1. Aeronautical Logistics Center;

2. Aeronautical Infrastructure Executive Board: (Wording given by Decree No. 9077, 2017) (Validity)

2.1. Airports Commission of the Amazon Region; (Included by Decree No. 9,077, of 2017) (Validity)

3. Aeronautical and War Material Executive Board; and (Wording given by Decree n° 9,077, of 2017) (Validity) 4. Aeronautical Information Technology Executive Board; (Included by Decree No. 7,069, 2010)

b) Preparation Command: (Wording given by Decree No. 9,077, of 2017) (Validity)

1. First Air Force; (Wording given by Decree nº 9,077, of 2017) (Validity)

2. Second Air Force; (Wording given by Decree n° 9,077, of 2017) (Validity)

3. Third Air Force; (Wording given by Decree nº 9,077, of 2017) (Validity)

4. Fourth Air Force; (Wording given by Decree n° 9,077, of 2017) (Validity)

5. Fifth Air Force; (Wording given by Decree $n^{\rm o}$ 9,077, of 2017) (Validity)

6. First Regional Air Command; (Wording given by Decree n° 9,077, of 2017) (Validity)

7. Second Regional Air Command; (Wording given by Decree n° 9,077, of 2017) (Validity)

8. Third Regional Air Command; (Wording given by Decree n° 9,077, of 2017) (Validity)

9. Fourth Regional Air Command; (Wording given by Decree n° 9,077, of 2017) (Validity)

10. Fifth Regional Air Command; (Wording given by Decree n° 9,077, of 2017) (Validity)

11. Sixth Regional Air Command ; (Wording given by Decree n° 9,077, of 2017) (Validity)

12. Seventh Regional Air Command; (Wording given by Decree n° 9,077, of 2017) (Validity)

13. First Anti-Aircraft Defense Brigade; (Wording given by Decree n° 9,077, of 2017) (Validity)

14. Wing 1; (Wording given by Decree n° 9,077, of 2017) (Validity)

15. Wing 2; (Wording given by Decree n° 9,077, of 2017) (Validity)

16. Wing 3; (Included by Decree No. 9,077, of 2017) (Validity)

17. Wing 5; (Included by Decree No. 9,077, of 2017) (Validity)

18. Wing 8; (Included by Decree No. 9,077, of 2017) (Validity)

19. Wing 9; (Included by Decree No. 9,077, of 2017) (Validity)

20. Wing 10; and (Included by Decree No. 9,077, of 2017) (Validity)

21. Wing 11; (Included by Decree No. 9,077, of 2017) (Validity)

c) General Staff Command:

 Personnel Administration Executive Board; (Wording given by Decree n° 9,077, of 2017) (Validity)

2. Health Executive Board: (Wording given by Decree n° 9,077, of 2017) (Validity)

2.1. Central Air Force Hospital; and (Included by Decree No. 9,077, of 2017) (Validity)

2.2. Air Force Hospitals; (Included by Decree No. 9,077, of 2017) (Validity)

3. (Repealed by Decree No. 8909, 2016) (Validity)

3. Board of Education: (Wording given by Decree No. 9,077, of 2017) (Validity)

3.1. Air Force Academy; (Included by Decree No. 9,077, of 2017) (Validity)

3.2. Air Force Instruction and Adaptation Center; (Included by Decree No. 9,077, of 2017) (Validity)

3.3. Air Force Specialists School; (Included by Decree No. 9,077, of 2017) (Validity)

3.4. Air Cadets Preparatory School; and (Included by Decree No. 9,077, of 2017) (Validity)

3.5. Air Force University; and (Included by Decree No. 9,077, of 2017) (Valid-ity)

4. Air Force Sports Commission; (Included by Decree No. 9,077, of 2017) (Validity)

d) (Repealed by Decree No. 8909, 2016) Effective

e) Airspace Control Department:

1. Air Space Control System Implementation Committee;

2. Commission for the Coordination of the Amazon Surveillance System Project; (Wording given by Decree n° 7.245, of 2010).

3. Integrated Air Defense and Air Traffic Control Centers; and (Wording given by Decree No. 7,245, of 2010).

4. Air Force Judgment Board; (Included by Decree No. 7,245 of 2010).

f) (Repealed by Decree No. 9,077, of 2017) (Validity)

1. (Repealed by Decree No. 9,077, of 2017) (Validity)

2. (Repealed by Decree No. 9,077, of 2017) (Validity)

3. (Repealed by Decree No. 9,077, of 2017) (Validity)

4. (Repealed by Decree No. 9,077, of 2017) (Validity)

5. (Repealed by Decree No. 9,077, of 2017) (Validity)

6. (Repealed by Decree No. 9,077, of 2017) (Validity)

g) Department of Aerospace Science and Technology:

1. Coordinating Committee of the Combat Aircraft Program; and

2. Air Force and Space Institute;

h) Ministry of Aeronautical Economy, Finance and Administration: (Text provided by Decree No. 8909, 2016) Effective

1. Aeronautical Economy and Finance Management; and (Included by Decree No. 8909, 2016) Effective

2. Aeronautical Administration Management: (Wording given by Decree nº 9,077, of 2017) (Validity)

2.1. Air Force Administrative Support Center; and (Wording given by Decree n° 9.520, of 2018)

2.2. Center for Specific Acquisitions; (Included by Decree No. 9,520, of 2018)

i) Aerospace Operations Command; and (Included by Decree No. 9,077, of 2017) (Validity)

V – aeronautical military organizations; and

VI – linked entity: Aeronautical Real Estate Fund.

CHAPTER III BODIES JURISDICTION

SECTION I

GOVERNING MANAGEMENT BODY

<u>Art. 5</u>

The Aeronautical General Staff, the body responsible for planning and issuing guidelines that govern the preparation and employment of the Air Force, with a view to fulfilling the constitutional purpose of the Air Force, is responsible for:

 I - coordinating actions involving sectoral management bodies;

II – guiding, coordinating and controlling planning, budgeting and management and administrative modernization activities; and

III – planning, performing and coordinating the activities of the Aeronautical Command Inspection System;

Sole paragraph. The Aeronautical General Staff interacts with the Federal Budget and Planning System in matters pertaining to the Aeronautical Command. (Wording given by Decree n° 9,077, of 2017) (Validity)

62 (Deleted the Decree 9077, 2017) (Validity)

SECTION II

SUPERIOR ADVISORY BODIES

<u>Art. 6</u>

The Air Force High Command is the body in charge of advising the Aeronautical Commander in his/her duties of direction and management of the Force, being also in charge of assessing the matters of interest to the Aeronautical Command, prepare the lists of choices for promotion to the positions of generals of the Air Force and advise the Aeronautical Commander in matters relating to the Military Aeronautical Policy.

§1 The Air Force High Command, convened and chaired by the Aeronautical Commander, is made up of Air Force Lieutenants, when in the active service in positions of the Aeronautical Command and in the Ministry of Defense.

§2 The Aeronautical Commander may call other generals or invite civilians to participate in meetings of the High Command, either on his/her own initiative, or in response to the proposal of one of its members.

<u>Art. 7</u>

The Superior Council of Economy and Finance of the Air Force is responsible for advising the Aeronautical Commander in the preparation of economic and financial guidelines and in matters related to execution, budget, financial management, accounting and internal control. (Wording given by Decree No. 7,809, of 2012) (Validity) §1 The Superior Council of Economy and Finance of the Air Force, convened and chaired by the Aeronautical Commander, is made up of the holders of the following positions: (Wording given by Decree n^o 9,077, of 2017) (Validity)

I – Chief of Staff of the Air Force; (Included by Decree No. 9,077, of 2017) (Validity)

II – General Commanders; (Included by Decree No. 9,077, of 2017) (Validity)

III – Preparation Commander; (Included by Decree No. 9,077, of 2017) (Validity)

IV – Aerospace Operations Commander; (Included by Decree No. 9,077, of 2017) (Validity)

V – Directors-General; and (Included by Decree No. 9,077, of 2017) (Validity)

VI – Secretary of Economy, Finance and Administration of the Air Force. (Included by Decree No. 9,077, of 2017) (Validity)

§2 The Aeronautical Commander may call other generals or invite civilians to participate in meetings of the Superior Council for Economy and Finance of the Air Force, either on his/her own initiative, or in response to the proposal of one of its members.

SECTION III

BODIES OF DIRECT AND IMMEDIATE ASSISTANCE TO THE AERONAUTICAL COMMANDER

<u>Art. 8</u>

The Office of the Aeronautical Commander is responsible for advising the Commander in the study of matters submitted to his/her review and assisting him/her in his/her functional and personal representation.

Sole paragraph. (Repealed by Decree No. 9,077, of 2017) (Validity)

<u>Art. 9</u>

The Aeronautical Officers Promotions Commission is responsible for advising the Aeronautical Commander on matters relating to the promotions of Air Force officers.

<u>Art. 10</u>

The Aeronautical Social Communication Center is responsible for advising the Aeronautical Commander in matters related to the institution's social communication.

<u>Art. 11</u>

The Aeronautical Intelligence Center is responsible for providing subsidies to the Aeronautical Commander in matters related to the State, the preparation and employment of the Brazilian Air Force.

<u>Art. 12</u>

The Historical-Cultural Institute of Air Force is responsible for researching, developing, disseminating and preserving the Brazilian aeronautical memory and culture.

Sole paragraph. The Aerospace Museum is subordinated to the Historical-Cultural Institute of Air Force.

<u>Art. 13</u>

The Aeronautical Commander's Parliamentary Assistance is responsible for advising the Captain in the institutional relationship with the Legislative Branch.

<u>Art. 14</u>

The Aeronautical Accident Prevention and Investigation Center is responsible for planning, managing, controlling and executing activities related to the prevention and investigation of aeronautical accidents and advising the Aeronautical Commander on matters within its incumbency.

Sole paragraph. Aeronautical accidents are those involving the Brazilian aeronautical infrastructure, including, without limitation, military aviation, civil aviation, Brazilian civil and military air operators, Brazilian airport infrastructure, Brazilian airspace control, Brazilian aeronautical industry and all related segments.

<u>Art. 15</u>

The Operational Safety Advisory Body to the Airspace Control is responsible for advising the Aeronautical Commander in matters relating to the security of the Air Navigation Service, coordinating and controlling the inspection activities of the Air Navigation Service, with regard to operational safety, and managing the Air Navigation Service Operational Safety Monitoring Program.

<u>Art. 15-A</u>

The Air Force Internal Control Center, a sectoral unit of the Internal Control Sec-

retariat of the Ministry of Defense, is responsible for planning, directing, coordinating and performing internal control activities within the scope of the Aeronautical Command. (Included by Decree No. 7,809, of 2012) (Validity)

Sole paragraph. The Air Force Internal Control Center, as a sector unit of the Internal Control System of the federal Executive Branch, is subject to technical supervision and normative guidance by the Internal Control Secretariat of the Ministry of Defense, without prejudice to administrative subordination to the Aeronautical Commander. (Included by Decree No. 7,809, of 2012) (Validity)

SECTION IV

SECTORAL GOVERNING BODIES

<u>Art. 16</u>

The General Support Command is responsible for planning, managing and controlling activities related to the logistical support of material, assets, information technology and related services. (Wording given by Decree No. 7,069, of 2010)

61 (Repealed by Decree No. 9,077, of 2017) (Validity)

62 (Repealed by Decree No. 9,077, 2017) (Validity)

63 (Repealed by Decree No. 9,077, of 2017) (Validity)

64 (Repealed by Decree No. 9,077, of 2017) (Validity)

Sole paragraph. The General Support Command is headquartered in the city of São Paulo, State of São Paulo. (Included by Decree No. 9,520, of 2018)

<u>Art. 16-A</u>

The Aeronautical Infrastructure Executive Board is responsible for planning, managing and controlling activities related to real estate, construction, operational engineering, surface transport, fire protection, standardization, cataloging and certification of infrastructure products and engineering services at the Aeronautical Command. (Included by Decree No. 9,077, of 2017) (Validity)

Sole paragraph. The Aeronautical Infrastructure Executive Board is headquartered in the Municipality of Rio de Janeiro, State of Rio de Janeiro, and will be headed by a general in active service of the Air Force. (Included by Decree No. 9,077, of 2017) (Validity) <u>Art. 17</u>

The Preparation Command is responsible for preparing, for employment, the Air Force assets under its responsibility. (Wording given by Decree n^o 9,077, of 2017) (Validity)

61 (Repealed by Decree No. 9,077, of 2017) (Validity)

62 (Repealed by Decree No. 9,077, 2017) (Validity)

<u>Art. 17-A</u>

Wings 1, 2, 3, 5, 8, 9, 10 and 11 are responsible for coordinating and controlling the performance of the Superior Command's plans, with a view to the preparation and training of their organic means. (Included by Decree No. 9,077, of 2017) (Validity)

16 Wings 1, 2, 3, 5, 8, 9, 10 and 11 are headed by generals in active service in the Air Force Aircrew Officers Staff. (Included by Decree No. 9,077, of 2017) (Validity)

§2 The headquarters of the Wings referred to in this article are located as follows: (Included by Decree No. 9077, 2017) (Validity)

I – Wing 1 – Federal District; (Included by Decree No. 9,077, of 2017) (Validity)

 II – Wing 2 – Municipality of Anápolis,
State of Goiás; (Included by Decree No. 9,077, of 2017) (Validity)

III – Wing 3 – Municipality of Canoas, State of Rio Grande do Sul; (Included by Decree No. 9,077, of 2017) (Validity)

IV – Wing 5 – Municipality of Campo Grande, State of Mato Grosso do Sul; (Included by Decree No. 9,077, of 2017) (Validity)

V – Wing 8 – Municipality of Manaus, State of Amazonas; (Included by Decree No. 9,077, of 2017) (Validity)

VI – Wing 9 – Municipality of Belém,
State of Pará; (Included by Decree No.
9,077, of 2017) (Validity)

VII – Wing 10 – Municipality of Parnamirim, State of Rio Grande do Norte; and (Included by Decree No. 9,077, of 2017) (Validity)

VIII – Wing 11 – Municipality of Rio de Janeiro, State of Rio de Janeiro. (Included by Decree No. 9,077, of 2017) (Validity)

<u>Art. 18</u>

The General Staff Command is responsible for planning, managing and controlling activities related to the civil and military personnel of the Aeronautical Command.

61 (Repealed by Decree No. 9077, 2017) (Validity)

62 (Repealed by Decree No. 9077, 2017) (Validity)

63 (Repealed by Decree No. 9077, 2017) (Validity)

64 (Repealed by Decree No. 8909, 2016) (Validity)

Sole paragraph. The General Staff Command is based in the city of Brasília, Federal District. (Included by Decree No. 9,520, of 2018)

<u>Art. 18-A</u>

The Education Executive Board is responsible for planning, managing and controlling the teaching activities related to the training and post-training of the Aeronautical Command personnel, in addition to those related to basic education, of an assistance and supplementary nature. (Included by Decree No. 9,077, of 2017) (Validity)

Sole paragraph. The Education Executive Board is headquartered in the Federal District and will be headed by an Air Force general in active service. (Included by Decree No. 9,077, of 2017) (Validity)

<u>Art. 19</u>

The Airspace Control Department is responsible for: (Wording given by Decree n° 7.245, of 2010).

I – planning, managing and controlling activities related to airspace control, flight protection, search and rescue services and telecommunications of the Aeronautical Command; and (Included by Decree No. 7,245 of 2010).

II – support the Air Force Trial Board in its functions. (Included by Decree No. 7,245 of 2010).

§1 The Airspace Control Department is the central body of the Brazilian Airspace Control System and the Flight Protection System.

§2 The following are also subordinated to the Airspace Control Department: the Air Navigation Management Center, the Special Flight Inspection Group, the Communication and Control Groups, their Institutes, the Electronic Material Parks and the Regional Services Flight Protection. (Wording given by Decree No. 7,069, of 2010)

§3 The Air Force Trial Board is responsible for ascertaining, administratively judging and applying the penalties provided for in Law no. 7565, of 1986, and supplementary legislation, for air traffic infractions and breach of the rules governing the Brazilian Airspace Control System. (Included by Decree No. 7,245 of 2010).

§4 The Aeronautical Trial Board is made of the Trial Board and the Appeals Board, which are responsible for deciding on administrative proceedings at lower trial and appellate levels, respectively, with due regard to the rules in force. (Included by Decree No. 7,245 of 2010).

§5 Each of The Trial Board and the Appeals Board will be made up of three effective members and three alternates, appointed by the Aeronautical Commander among military and civil servants who preferably have technical or legal training, one of whom shall be the President. (Included by Decree No. 7,245 of 2010).

§6 The Director-General of the Airspace Control Department is responsible for detailing, in a proper regulation, the scope of jurisdiction, organization and functioning of the Air Force Trial Board, as well as the procedures of the respective processes. (Included by Decree No. 7,245 of 2010).

<u>Art. 20</u>

(Repealed by Decree No. 9,077, of 2017) (Validity)

61 (Repealed by Decree No. 9077, 2017) (Validity)

62 (Repealed by Decree No. 9077, 2017) (Validity)

<u>Art. 21</u>

The Aerospace Science and Technology Department is responsible for planning, managing, carrying out and controlling activities related to science, technology and innovation, within the scope of the Aeronautical Command.

Sole paragraph. (Repealed by Decree No. 9,077, of 2017) (Validity)

<u>Art. 22</u>

The Air Force Secretariat of Economy, Finance and Administration is responsible for supervising, within the scope of the Aeronautical Command: (Text provided by Decree No. 8909, 2016) Validity

I – the activities related to: (Included by Decree No. 8909, 2016) Validity

a) financial management, budget, financial, asset and accounting execution of funds of any nature; and (Included by Decree No. 8909, 2016) Validity

b) contracts, agreements and related instruments, credit transactions, compensation agreements and internal and external financing and (Included by Decree No. 8909, 2016) Validity

 II – activities related to the following areas: (Included by Decree No. 8909, 2016) Validity

a) administrative support management, through support groups; (Included by Decree No. 8909, 2016) Validity

b) functional housing management of own residential nationals, through the aeronautic prefectures; (Included by Decree No. 8909, 2016) Validity

c) flight attendantship provisions and materials; (Included by Decree No. 8909, 2016) Validity

d) personnel payment; (Included by Decree No. 8909, 2016) Validity

e) living expenses; and (Included by Decree No. 8909, 2016) Validity

f) assistance and social support. (Included by Decree No. 8909, 2016) Validity

§1 The Aeronautical Economy, Finance and Administration Secretariat has its headquarters in the city of Brasília, Federal District, and will be headed by a General Officer in active duty of the rank of Lieutenant Brigadier of Aeronautical Aircrew Officers. (Included by Decree No. 8909, 2016) Validity

§2 The Aeronautical Economy, Finance and Administration Secretariat interacts with the central body of the Federal Financial Administration System and the Federal Accounting System of the Federal Executive Branch in matters relating to the Aeronautical Command. (Included by Decree No. 8909, 2016) Validity

<u>Art. 22-A</u>

The Air Force Economy and Finance Executive Board, which reports to the Economy, Finance and Administration Secretariat of the Air Force, is responsible for exercising the activities related to: (Included by Decree No. 8909, 2016) Validity

I – financial management, budget, financial, asset and accounting execution of funds of any nature; and (Included by Decree No. 8909, 2016) Validity

II – contracts, agreements, similar and related instruments, credit transactions, compensation agreements and internal and external financing. (Included by Decree No. 8909, 2016) Validity

Sole paragraph. The Air Force Economy and Finance Executive Board is headquartered in the city of Brasília, Federal District, and will be headed by a General Officer General in active duty of the rank of Major-Brigadier of the Air Force Aircrew Officers Staff. (Included by Decree No. 8909, 2016) Validity

<u>Art. 22-B</u>

The Air Force Administration Executive Board, subordinated to the Air Force Economy, Finance and Administration Secretariat, is responsible for supervising the activities related to the following areas: (Included by Decree No. 8909, 2016) Validity

I – administrative support management through support groups; (Included by Decree No. 8909, 2016) Validity

II – functional housing management of the own residential nationals, through the aeronautic prefectures; (Included by Decree No. 8909, 2016) Validity

III – provisions and flight attendantship materials (Included by Decree No. 8909, 2016) Validity

IV – personnel payment; (Included by Decree No. 8909, 2016) Validity

V – living expenses; and (Included by Decree No. 8909, 2016) Validity

VI – assistance and social support. (Included by Decree No. 8909, 2016) Validity

§1 The Air Force Administration Executive Board is headquartered in the city of Rio de Janeiro, state of Rio de Janeiro, and will be headed by a general in active duty of the rank of Major-Brigadier of the Executive Board of Intending Officers or the Executive Board of Aircrew Officers of the Air Force. (Included by Decree No. 8909, 2016) Validity §2 The Aeronautical Administrative Support Center and the Specific Acquisitions Center are subordinated to the Aeronautical Administration Executive Board. (Wording given by Decree n° 9.520, of 2018)

§3 The Aeronautical Retired Servants and Pensioners Payment Office is subordinated to the Aeronautical Administration Support Center. (Included by Decree No. 8909, 2016) Validity

<u>Art. 22-C</u>

The Aeronautical Administrative Support Center is responsible for dealing with activities related to the following areas: (Included by Decree No. 8909, 2016) Validity

I – administrative support management through the subordinated support groups/ and (Included by Decree No. 8909, 2016) Validity

II – management of functional housing of the own national residents, through the aeronautics prefectures. (Included by Decree No. 8909, 2016) Validity

Sole paragraph. The Aeronautical Administrative Support Center is headquartered in the city of Rio de Janeiro, state of Rio de Janeiro, and will be headed by an active General, of the Brigadier rank, from the Flight attendantship Officers Staff or from the Aeronautical Aircrew Officers Staff. (Included by Decree No. 8909, 2016) Validity

<u>Art. 22-D</u>

The Aerospace Operations Command is the central body of the Brazilian Aerospace Defense System – SISDABRA, and is responsible for: (Included by Decree n° 9,077, of 2017) (Validity)

I – performing the aerospace defense of the national territory against all forms of threats, in order to ensure the exercise of sovereignty in Brazilian airspace; and (Included by Decree No. 9,077, of 2017) (Validity)

II – using the means under its operational control, including those necessary for the establishment of the procedures to be followed in relation to hostile aircraft or those suspected of trafficking narcotic substances and related drugs. (Included by Decree No. 9,077, of 2017) (Validity)

Sole paragraph. The Aerospace Operations Command is a Joint Operational Command with headquarters in the Federal District and will be headed by a general in active duty of the rank of Lieutenant-Brigadier of the Aircrew Officers Staff. (Included by Decree No. 9,077, of 2017) (Validity)

<u>Art. 22-E</u>

The Center for Specific Acquisitions is responsible for obtaining specific goods and services necessary for the preparation and employment of the Brazilian Air Force. (Included by Decree No. 9,520, of 2018)

Sole paragraph. The Center for Specific Acquisitions is headquartered in the city of Rio de Janeiro, State of Rio de Janeiro, and will be headed by a general in active duty of the Air Force. (Included by Decree No. 9,520, of 2018)

CHAPTER IV

OFFICERS' ASSIGNMENTS

SECTION I

AERONAUTICAL COMMANDER

<u>Art. 23</u>

The Aeronautical Commander, in addition to the duties provided for in the legislation in force and in accordance with the guidelines of the Minister of State for Defense, is responsible for:

I – exercising Air Force command, direction and management;

II – guiding the preparation and supervising the execution of the Air Force sectorial programs;

III – ensuring the aptitude of the Force to fulfill its constitutional mission and its subsidiary duties;

IV – proposing to the President of the Republic, through the Minister of State for Defense, within the limits of the law:

a) the creation, activation, deactivation or reactivation, extinction, organization, denomination, location, subordination, transfer, transformation, operation, headquarters of command and area of jurisdiction of the Air Force military organizations, whose command, leadership or direction is the exclusive duty of a general; and

b) the designation of a retired general for the active service.

V – providing for the creation, activation, deactivation or reactivation, extinction, organization, denomina-

tion, location, subordination, transfer, transformation, operation, headquarters of command and area of jurisdiction of the military organizations of the Air Force, whose command, leadership or direction is not the exclusive duty of a general, with due regard to the staff established by law and the budgetary allocation allocated to the Aeronautical Command;

VI – enacting acts related to the management of the military and civilian personnel of the Air Force, in addition to those provided for in the legislation in force and in accordance with the guidelines of the Minister of State for Defense, referring to:

 a) appointment of generals for permanent positions and commissions abroad;

b) designation of paid retired military personnel, except for general, for active service;

c) transfer to military paid reserve, except for generals;

d) establishment of rules regarding the provision of tasks for a certain period of time by retired military personnel or pensioners;

e) re-inclusion of military personnel;

f) declaration of aspiring officer;

g) appointment and designation of military personnel for positions of command, leadership and direction, officers of their cabinet, for collegiate bodies or commissions outside the Force and other movements, within the scope of their jurisdiction;

h) travel authorization for personnel and military organizations of the Aeronautical Command abroad when the purposes are for training, exchange, conclave, symposia, conference, scientific research, representation, presence action, cooperation or strengthening of bonds of friendship with friendly countries;

i) formulation, approval, implementation of training and qualification programs for personnel abroad; and

 j) authorization for civil personnel to participate in collegiate bodies or working groups outside the scope of the Aeronautical Command, as well as in conferences, congresses, training or other similar events;

VII – judging, as a last resort, administrative and disciplinary appeals related to the military personnel of the Force;

VIII – authorizing the extension of the deadline for military police investigation ending in exceptional condition provided for in §2 of art. 20 of Decree-Law No. 1,002, of October 21, 1969;

IX – regulating matters related to the Military Service within the scope of the Aeronautical Command, except those under the jurisdiction of the Minister of State for Defense;

X – enacting normative acts related to the concession of possession of weapons within the scope of the Aeronautical Command, in compliance with current legislation;

XI – approving regulations of the Aeronautical Command;

XII – enacting acts related to mobilization, within the scope of the Force, except those under the jurisdiction of the Minister of State for Defense;

XIII – defining and classifying, within the scope of the Aeronautical Command, material for military use;

XIV – formulating the specific legislation and approving specific rules of the Aeronautical Command;

XV – establishing, within the scope of the Aeronautical Command, the contractual termination, in the event of public interest;

XVI – establishing rules regarding the holding of bidding contests and the declaration of agreements and administrative and non-administrative acts, as well as authorizing their performance within the scope of the Aeronautical Command;

XVII – authorizing the acquisition of equipment manufactured and delivered abroad, for which the financial resources have been approved and allocated to the Aeronautical Command;

XVIII – establishing conditions for the accreditation of consignee entities, within the scope of the Aeronautical Command;

XIX – expressing its opinion on the annual accounts of the managing units of the Aeronautical Command;

XX – signing and terminating, as representative of the Ministry of Defense in matters related to the Aeronautical Command, agreements, amendments and adjustment terms, contracts, agreements and other instruments of mutual cooperation;

XXI – negotiating contracts related to credit transactions, in accordance with the legislation in force;

XXII – designating a Lieutenant-Brigadier, of the Air Force Active Officers Corp, to exercise, temporarily, the position of Chief of the Aeronautical Staff, in the eventual impediment of the permanent officer;

XXIII – performing the duties of the Aeronautical Authority;

XXIV – proposing to the Minister of State for Defense the establishment of values for Fees for the Use of Aeronautical Telecommunications and Aid to Air Navigation throughout the national territory;

XXV – setting the values for the Fees for Use of Communications and Aid to Air Navigation and the Fee for the Use of Communications and Radio and Visual Aid in Air Traffic Terminal Area throughout the national territory;

XXVI – approving the Basic Plans for: Airport Protection Zone, Noise Zoning, Helipad Protection Zone and Air Navigation Aid Protection Zone and the Specific Airport Protection Zone Plan; and

XXVII – establishing the legal regime for Fees for the Use of Communications and Aid for En route Air Navigation.

§1 The Aeronautical Commander may delegate, sub-delegation being admitted, jurisdiction to perform administrative acts, in accordance with the legislation in force.

§2 The Aeronautical Commander is a natural member of the National Defense Council and is a member of the Military Defense Council.

SECTION II

OTHER OFFICERS

<u>Art. 24</u>

The other directors of the bodies and units of the Aeronautical Command are responsible for planning, directing, coordinating, guiding, monitoring and evaluating the execution of the activities of the units that integrate their respective areas and exercising other attributions that are assigned to them.

CHAPTER V GENERAL PROVISIONS

<u>Art. 25</u>

The most senior general in service in the Force will replace the Aeronautical Commander, on an interim basis, on vacation, health care, on sick leave, in his/her absences from the country and other legal impediments.

<u>Art. 26</u>

The filling of positions in the Aeronautical Command will comply with the following guidelines:

I – the post of Chief of Staff of the Air Force will be held by an Aeronautical general in active service, from the last post, not included in a special category, and with functional precedence over the other Aeronautical generals; and (Wording given by Decree n° 9,077, of 2017) (Validity)

II – the positions of Commanders-General, Preparation Commander and Directors-General will be held by generals in active duty, from the last post. (Wording given by Decree n^o 9,077, of 2017) (Validity)

III – (Repealed by Decree No. 9,077, of 2017) (Validity)

§1 The holder of the position of Chief of Staff of the Air Force will also exercise the position of President of the Commission for the Promotion of Air Force Officers and the duties of Inspector General of the Air Force.

§2 The filling of the positions of the various military organizations of the Air Force will abide by the following formality:

I – private positions of general, through a presidential act; and

II – non-private positions of general, by act of the Aeronautical Commander.

<u>Art. 27</u>

(Repealed by Decree No. 8909, 2016) Validity

<u>Art. 28</u>

The Aeronautical prefectures will have their subordinations established in normative acts of the Aeronautical Command in accordance with the peculiarities of their locations.

<u>Art. 29</u>

The Aeronautical Commander will enact supplementary normative acts, establishing the details of the organizations, the functioning of the respective bodies and the duties of their officers.

* SOME OF THE ANNEXES TO THIS DECREE ARE NOT TRANSCRIBED IN THIS VERSION.

NATIONAL CIVIL AVIATION AGENCY – RESOLUTION No. 293 OF NOVEMBER 19, 2013

Provides for the Brazilian Aeronautical Registry and other measures.

THE EXECUTIVE BOARD OF THE NATION-AL CIVIL AVIATION AGENCY – ANAC, in the exercise of the jurisdiction conferred on it by arts. 8, item XVIII, and 11, item V, of Law No. 11,182, of September 27, 2005, in view of the provisions in arts. 72 et seq. of Law no. 7,565, of December 19, 1986, and considering what is contained in process no. 60800.075733/2009-51, deliberated and approved at the Deliberative Meeting of the Executive Board held on November 19, 2013,

RESOLVES:

<u>Art. 1</u>

This Resolution establishes the procedures related to the Brazilian Aeronautical Registry – RAB, which are essential for the perfect validity of the acts for the aircraft records, the related and subsequent acts, of mandatory compliance, applying to operators, owners and holders of any real rights, users, applicants in general and other areas of ANAC.

Sole paragraph. The activities concerning the public records of the RAB, established by the Brazilian Aeronautical Code – CBAer, Law No. 7,565, of December 19, 1986, for authenticity, security and effectiveness of legal acts, are subject to the provisions of Law No. 11,182, of September 27, 2005.

CHAPTER I

BRAZILIAN AERONAUTICAL REGISTRY

<u>Art. 2</u>

The activities of the RAB, with respect to civil aircraft, are as follows:

I – register aircraft;

II – grant and control nationality and registration marks;

III - issue a registration certificate;

IV – issue a certificate of airworthiness;

V - issue an experimental registration certificate;

VI – issue a Provisional Registration and Licensing Certificate in favor of the institution to which the use has been judicially granted, pursuant to Law No. 11,343, of August 23, 2006;

VII - draw up documents;

VIII – promote the general registration of aircraft and the respective owners or operators;

IX – recognize the acquisition of the domain in the transfer of aircraft;

X – register the notice of sale of the aircraft sent by the seller;

XI – endorse Declaration of Loss issued by the owner or operator;

XII – acknowledge the real rights of enjoyment and guarantee over aircraft or their components;

XIII – register aircraft construction projects or construction contracts;

XIV – register titles, instruments or documents in which the domain or the other real rights over aircraft, such as mortgage, fiduciary alienation, antichresis, privileged credits, adjudications, notices and exchanges are instituted, acknowledged, transferred, modified or terminated;

XV – register acts or contracts for the operation or use of aircraft, in which the use, recognition, transfer, modification or termination of the use rights on the aircraft are instituted, acknowledged, such as operating and commercial lease and sublease, charter, exchange, temporary assignment, consortium, purchase and sale with domain reservation;

XVI – register documents related to abandonment, loss, termination or essential alteration, which modifies airworthiness certificates for aircraft;

XVII – register divorce, nullity or marriage annulment decrees, when there are aircraft in the respective shares; terminating a condominium, dissolving or liquidating a company in which there is an aircraft to share; inventory, listing, as well as formal or sharing certificates in legitimate or testamentary succession, including those that award aircraft in payment of inheritance debts and usucapion declarations;

XVIII – register the listing of assets by the tax authority; court orders, judgments or other adjudication acts, such as arrest, sequestration, attachment, seizure, unavailability and other determinations;

XIX – register aircraft forfeiture judgments and judicial decisions authorizing the use by bodies or entities that act in the prevention of misuse, in the care and social reintegration of drug users and addicts and in the repression of unauthorized production and trafficking of illicit drugs in the aircraft consisting of crime products, under the terms of Law No. 11,343, of 2006;

XX – endorse insurance, in the form of art. 283 of CBAer;

XXI - cancel enrollments, registrations, entries and annotations;

XXII - issue 2nd copy of certificates;

XXIII – ensure publicity, authenticity, inalterability and maintenance of documents registered, annotated, authenticated and filed;

XXIV – authenticate Logbook of Brazilian aircraft;

XXV – annotate aeronautical uses and practices that do not infringe the law, public order and good customs; and

XXVI – provide a certificate, upon request, of what has been taken to registration, as well as provide applicants with the requested information.

CHAPTER II

CIVIL AVIATION INSPECTION FEE

<u>Art. 3</u>

Civil Aviation Inspection Fees – TFAC must be paid by the applicant at the time

of filing the application, under the terms of Law No. 11,182/2005.

Sole paragraph. The value of TFACs are those set out in Annex III of Law No. 11,182/2005, and correspond to the description of the required registration or activity.

CHAPTER III

ADVERTISING

<u>Art. 4</u>

The RAB acts are made public through the disclosure of the general registration of aircraft with the publication in own records as well as through the issuance of a certificate of what is required.

<u>Art. 5</u>

Anyone can request a certificate of registration without stating the reason or interest of the request, which will be issued within up to 05 (five) business days from the last registration in the aircraft Logbook or the receipt of the request, upon identification of the applicant, with due regard to the provisions of art. 5, X, of the Constitution – CF/88.

<u>Art. 6</u>

The certificate can be drawn up in full or in summary, as per requirements, and will be duly authenticated.

§1 The full-content certificate is extracted from the documents filed with the RAB, by paying the corresponding TFAC.

§2 The paper and the type of writing used in providing certificates must have characteristics that permit photocopying or other equivalent process.

§3 The full-content certificates have the same probative value of the original documents, unless falsehood in administrative or legal proceedings is proven.

§4 A negative certificate of ownership is provided, when requested, which will be sent within five (5) business days of the last record in the aircraft logbook or of the receipt of the request, by identifying the applicant, subject to the provisions of Art. 5, X, CF/88.

§5 Certificates issued by computerized systems will be electronically certified.

<u>Art. 7</u>

The certificate will contain all the acts included in the aircraft registration un-

til the date of issuance, including those subsequent to the request.

CHAPTER IV BOOKKEEPING, DOCUMENTS AND VALIDITY

SECTION I

BOOKS

<u>Art. 8</u>

The registration of the aircraft and annotation of "inter vivos" or "causa mortis" titles or acts constituting, declaring, translating and terminating real rights, of use or guarantee on aircraft, including their cell, engine, propeller, accessory, component or part, for its validity in relation to third parties and availability, are entered in the RAB Books.

SECTION II

DOCUMENTS

<u>Art. 9</u>

The following documents are admitted for registration purposes:

I – public deeds, including those drawn up at Brazilian consulates;

II – private documents, with public faith; (Wording given by Resolution No. 597, of 25.11.2020)

III – perfect legal acts from foreign countries, made official according to local laws and internalized and translated into Portuguese by a public translator, as well as judgments handed down by foreign courts, after ratification by the Superior Court of Justice – STJ; and

IV – letters of judgment, formal partitions of properties, certificates and court orders.

<u>Art. 10.</u>

For advertising and continuity purposes, the following documents must be entered, in summary for or according to the corresponding certificate:

I – auction and public auction awards;

II – decrees of judicial separation, divorce, nullity or annulment of marriage when in the respective shares there are aircraft;

III – judgements for termination of condominium;

IV – decrees of dissolution or liquidation of a company in which there are aircraft to be shared;

V – judgments that, in inventories, lists and shares, award aircraft in payment of inheritance debts;

VI – judgments or award acts, as well as partition or sharing certificates in legitimate or testamentary succession; and

VII – declaratory decrees of adverse possession.

<u>Art. 11.</u>

The registration or annotation of any fact or act related to aircraft, or their use or operation, must be substantiated by documents that prove them and by a preferably standardized application, in which the request is indicated.

<u>Art. 11-A.</u>

The following can be presented in digital format and applied for electronically: (Included by Resolution No. 597, of 25.11.2020)

 I – documents that are not intended for the registration or annotation of rights on aircraft or engines, except powers of attorney;

II – documents for annotation and registration of nato-digital rights, provided that they are digitally signed in accordance with a digital certificate issued within the scope of the Brazilian Public Key Infrastructure – ICP-Brasil; and

III – documents for annotation and registration of dematerialized rights by public notaries, provided they are digitally certified in accordance with a digital certificate issued within the scope of the Brazilian Public Key In-frastructure – ICP-Brasil.

<u>Art. 12.</u>

The private documents to be submitted to the RAB for annotation and registration must have the applicants´ signatures certified by a notary public and, at least, two witnesses.

Sole paragraph. Exceptionally in cases where there is a transfer of ownership of aircraft, the applicants' signatures must be certified for authenticity.

<u>Art. 13.</u>

The powers of attorney may be by Public or Private Instrument, the latter with the due certification of the grantor(s)' signature(s), both with the powers for the acts to be performed.

Sole paragraph. Powers of attorney in digital format must meet the requirements of art. 11-A, item II or III, of this Resolution. (Included by Resolution No. 597, of 25.11.2020)

<u>Art. 14.</u>

Deeds and documents written in a foreign language submitted to the RAB must be translated into Portuguese by a public translator.

<u>Art. 15.</u>

Deeds and documents entered into abroad must be notarized and apostilled in their respective country of issue. (Wording given by Resolution No. 552, of 29.04.2020)

§1 Documents originating from countries not signatories of the Hague Convention on the Elimination of the Requirement of Legalization for Foreign Public Documents, of 5 October 1961, should bear a consular visa. (Included by Resolution No. 552, of 29.04.2020)

§2 The apostille and the consular visa are discharged when there is a bilateral agreement in this regard. (Included by Resolution No. 552, of 29.04.2020)

<u>Art. 16.</u>

Documents submitted to the RAB, when not delivered directly by the applicant, can be forwarded by mail, registered or delivered to the Protocol by a duly appointed attorney.

Sole paragraph. The presentation of a deed or document for registration or annotation through an attorney does not create, for him/her, any right over the property.

<u>Art. 17.</u>

The applicant may request information from the RAB about the progress of his/ her case.

Sole paragraph. If an applicant has had his/her/her process overturned by the RAB to request additional information, supplementary requirements or to carry out due diligence, the applicant may file a reconsideration request.

<u>Art. 18.</u>

In case of doubt as to the authenticity or regularity of documents, the presence of the applicant, duly identified, may be required for the conference or receipt of the documentation.

<u>Art. 19.</u>

The presentation of the document, when resulting from an express legal provision, can be made by certified copy, without having to recheck the original document.

<u>Art. 20.</u>

Authentication can be done, by collating the copy with the original, by the ANAC server to whom the document must be presented, if not previously done by a notary.

<u>Art. 21.</u>

The documents taken for registration are filed and kept, as provided in art. 72, III, of CBAer.

<u>Art. 22.</u>

All documents issued by the RAB have public faith, within the limits of the law.

<u>Art. 23.</u>

Exceptionally in cases in which there is a fear of irreparable damage or difficult repair to the applicant due to irregularity in the documentation submitted or absence of the required document, the RAB may grant a period of up to 60 (sixty) days for regularization, by signing a Statement of Responsibility.

§1 The Statement of Responsibility must be signed by the applicant and the signature certified by a notary public.

§2. Failure to comply with the obligation assumed in the Statement of Responsibility will result in an irregularity with the RAB, which may lead to the interdiction of the aircraft subject matter of the process, under the terms of the CBAer.

SECTION III

VALIDITY OF ACTS

<u>Art. 24.</u>

The registration with the RAB of the acts, contracts and judgments in which rights on aircraft are established, acknowledged, transferred modified or terminate is of declaratory nature and gives them effectiveness before third parties, except in the cases provided for in the CBAer. §1 Only the registration with RAB of the deeds of transfer of aircraft title, by an *"inter vivos"* act, conveys its domain.

62 Fiduciary sale is valid and effective only after its registration with the RAB.

§3 Mortgage on aircraft only becomes effective after registration of the contract with the RAB.

<u>Art. 25.</u>

Ownership of the aircraft is deemed to be transferred by "inter vivos" act as from:

I - date of filing of the application; or

 $\rm II$ – the date on which the applicant completes the provision of evidence in the case overruled by the RAB, when the fulfillment of the formulated requirements occurs beyond the period provided for in Section I of Chapter IX.

<u>Art. 26.</u>

The aircraft subject to a mortgage or other liens is not admitted to registration without the express consent of the mortgagee or person on whose behalf the liens have been created.

<u>Art. 27.</u>

The attachment record provides evidence in case of fraud in any subsequent transaction.

CHAPTER V

DEADLINES

<u>Art. 28.</u>

Once the deed is filed, the registration is carried out within 30 (thirty) days, except in the following cases:

I – If a second mortgage deed is presented, with express reference to the existence of a previous one, it must be filed, waiting for 30 (thirty) days for the applicants in the first mortgage to promote the registration and, after this period, which runs from the date of the filing, without showing the previous deed, the second one is registered and has preference over the other.

II – For the purpose of priority registration on the same aircraft, when presented on the same day, the deeds filed in the Protocol under a lower order number prevail.

III – The provisions of item II do not apply to public deeds with the same

date and presented on the same day, which determine, strictly, the time of their drawing up, prevailing, for the purpose of priority, that which was drawn up in the first place.

<u>Art. 29.</u>

The notice of sale must be sent to the RAB, by the seller, with notarized signature, within 30 (thirty) days of being issued, duly filled in with name, CNPJ/CPF, full address of the buyer and identification elements of the aircraft, under penalty of fine under current legislation.

§1 The notice of sale does not discharge the purchaser of the aircraft from timely proceeding to the registration of transfer of the aircraft.

§2 The purchaser becomes responsible for the operation of the aircraft as soon as RAB receives the notice of sale, provided that the validity requirements are met.

§3 The seller is civilly, criminally and administratively liable for the notice of sale to the RAB.

<u>Art. 30.</u>

The aircraft purchaser has a period of 30 (thirty) days, counted from the date of the transaction, to request the transfer of its title in the RAB, under penalty of fine under the terms of the current legislation.

<u>Art. 31.</u>

The registration of contracts for transfer of the direct possession of aircraft, on a free or remunerated basis, must be requested by the holder of, within 30 (thirty) days from the date of the transaction, under penalty of fine under the terms of the current legislation.

<u>Art. 32.</u>

For the purpose of defining the terms for transfer of ownership, the date of the transaction is considered to be the date the last signature of one of the parties as certified to be genuine for authenticity.

<u>Art. 33.</u>

The registration of the title of property transfer within the required deadline discharges the seller's obligation to inform the RAB of the sale.

<u>Art. 34.</u>

The same deadlines apply to the cases of settlement of leasing and sale of aircraft by public auction, and are counted, in the latter case, as from the Transfer Agreement or equivalent document, under penalty of a fine under the terms of the current legislation.

<u>Art. 35.</u>

In the event of fiduciary sale settlement thereof, only the term provided for in art. 31 with regard to the purchaser's obligation applies, under penalty of a fine under the terms of the current legislation.

<u>Art. 36.</u>

In the case of purchase and sale with reservation of domain, the term provided for in art. 29 applies for the communication of the sale of the aircraft and the term of art. 30 to request the transcript of the title and to register the settlement of the obligation applies to the purchaser, under penalty of a fine under the terms of the current legislation.

CHAPTER VI NULLITIES

<u>Art. 37.</u>

The RAB will cancel the registration if the illegality thereof is proven in an administrative proceeding brought for this purpose, with due regard to the principles of broad defense and adversary proceeding.

<u>Art. 38.</u>

The registration can be rectified or canceled due to a court decision.

<u>Art. 39.</u>

The registration can be corrected by letter or at the applicant's request at any time, whenever a material error is found.

CHAPTER VII

PROTOCOL, REGISTRATION MARKS AND RE-REGISTRATON

SECTION I

RESERVATION OF REGISTRATION MARKS

<u>Art. 40.</u>

The reservation of registration marks is an initial action whose sole purpose is to enable the painting of the aircraft to make the initial technical inspection easier, without generating rights or prerogatives.

<u>Art. 41.</u>

The reservation of registration marks is exclusively intended to an aircraft that is:

I – certified or experimental, manufactured in Brazil;

II – in import process, with Brazilian certification;

III – acquired from the Brazilian Armed Forces of Brazil; and

IV - other cases authorized by ANAC.

<u>Art. 42.</u>

The reservation of registration marks should preferably be made electronically, and the applicant is held responsible for the accuracy of the following information to be inserted in the system:

I - identification of the applicant (natural person or legal entity);

II - aircraft data, such as manufacturer, model, serial number, waived when it is the case of an airline, manufacturer or importer;

III - payment of the corresponding TFAC.

<u>Art. 43.</u>

The reservation of registration marks is valid for 1 (one) year from the date of issuance of the reservation of registration marks certificate.

Sole paragraph. At the end of the above referred term, without renewal of the reservation, upon payment of fees, the nationality and registration marks will be available for use by another interested party.

<u>Art. 44.</u>

The reservation of registration marks certificate is not a proper document for ferrying the aircraft, whose ferry flight can only be carried out under specific authorization granted by ANAC.

<u>Art. 45.</u>

Only in exceptional cases, due to the nature of the business of the interested legal entity, the RAB may allow the reservation of a registration mark that is not associated with the identification of an aircraft.

SECTION II

PROTOCOL

<u>Art. 46.</u>

When filing its application, the applicant will receive, upon the Protocol, a proof of delivery and date of withdrawal of the numbered protocol, subject to the order of entry.

<u>Art. 47.</u>

The delivery of the documentation can be made by mail or at the ANAC units, with the application date being that of the protocol numbered by ANAC.

SECTION III

AIRCRAFT REGISTRATION

<u>Art. 48.</u>

The aircraft is a personal property that can be registered for the purpose of ownership, nationality, registration mark, airworthiness, creation of real rights of enjoyment and security interest, advertising and general registration.

<u>Art. 49.</u>

Each aircraft has its own registration, which is registered at the time of its first registration in Brazil, which must be individualized by:

- I manufacturer's name;
- II model;

III - serial number; and

IV - nationality and registration marks.

<u>Art. 50.</u>

The registration is made in accordance with the elements set out in the title and in the documents presented, in addition to the previous registration recorded in the files.

<u>Art. 51.</u>

In all registrations and in all acts relating to aircraft, reference should be made to the registration mark and the previous registration, if any.

Sole paragraph. Applicants who, by private instrument, sign any acts relating to aircraft are subject to this obligation.

<u>Art. 52.</u>

For the purposes of publicity, the registration of titles or acts, either between living parties or due to "causa mortis", crating, declaring, conveying or terminating security interests, rights of use or guarantee over cell, engine, propeller, accessory, component or part of aircraft is allowed.

Sole paragraph. In this case, the registration will be made in a separate act and in the proper Book, upon application enclosed with the applicable documentation, pursuant to this Resolution. (Wording as per Resolution No. 597, of 11.25.2020)

<u>Art. 53.</u>

The registration with RAB of an aircraft previously registered in another country can be carried out only after the applicant has proven the suspension or cancellation of the foreign registration by presenting the document issued by the civil aviation authority of the respective country, translated into portuguese by a public certified translator.

<u>Art. 54.</u>

Registration with RAB can be made by:

 I – a new purchaser, upon proof of transfer of title; or

II – the operator, with the express consent of the owner of the domain and cancellation of the existing registration.

Sole paragraph. The owner's consent can be stated in a special mandate, in a clause of the respective aircraft use contract or in a separate document.

SECTION IV

FIVE-YEAR AIRCRAFT RE-REGISTRATION

<u>Art. 55.</u>

In order to keep the aircraft registration permanently updated, all public and private aircraft with Brazilian nationality and registration marks whose registration has not been changed with the RAB in the last 60 (sixty) months should preferably be re-registered using a form available at the ANAC website. The following data must be stated in the form:

I – nationality and registration marks of the aircraft; II – owner data; III – operator data, when the operation is not carried out by the owner; and

IV – aircraft data: manufacturer's name, model, serial number and reg-

istration category of the aircraft. For aircraft used in scheduled, nonscheduled and on-demand public transport (air taxi), passenger and/ or cargo services, the manufacturer's name, model and serial number of installed engines and propellers (if applicable)).

<u>Art. 56.</u>

After 60 (sixty) months have elapsed without changing the registration with RAB, the owner or operator, personally or through a duly appointed attorney, has up to 90 (ninety) days to fill in and send the signed re-registration form, with a signature notarized by authenticity.

§1 In the case of ownership of aircraft under condominium, the form must contain the signatures of all owners or their legal representatives.

§2 The non-forwarding of the duly completed re-registration form within the time specified in this section will give rise to suspension of the aircraft airworthiness certificate for up to 180 (one hundred eighty) days.

§3 After the suspension period has elapsed without the problem having been remedied, the airworthiness certificate will be revoked.

§4 If the re-registration of the aircraft with its airworthiness certificate revoked for more than sixty (60) months is not carried out, administrative proceedings will be initiated seeking *ex officio* cancellation of the aircraft registration.

<u>Art. 57.</u>

In the case of aircraft whose registration has not been changed since September 26, 2013, a deadline will be given until February 23, 2014 for filing the request for re-registration.

CHAPTER VIII

REGISTRATION CATEGORIES

SECTION I

GENERAL PROVISIONS

<u>Art. 58.</u>

Civil aircraft include public and private aircraft.

Sole paragraph. For purposes of processing, TFAC and issuance of certificates, civil aircraft are grouped into registration categories, as detailed in this Chapter.

SECTION II

PUBLIC AIRCRAFT

<u>Art. 59.</u>

Public aircraft are those intended for public service, including those requested in accordance with the law, which must be registered according to the categories listed below, due to their use:

I – Direct Administration: in the categories established in subparagraphs "a", "b", "c" and "d" aircraft are registered in the service of federal agencies, state agencies, municipal agencies or Federal District agencies, direct administration agencies, for unpaid transportation of authorities, persons on duty, guests or cargo:

a) Federal Direct Administration (ADF);

b) State Direct Administration (ADE);

c) Municipal Direct Administration (ADM); and

d) Federal District Direct Administration (ADD);

II – Instruction (PIN): aircraft operated by a civil aviation public school for flight training and improvement; (Wording given by Resolution No. 597, of 11.25.2020)

III – Experimental (PEX): experimental aircraft at the service of the direct public administration.

IV – Historical (PUH): aircraft at the service of museums and similar public entities, used in samples and exhibition flights, restricted to these purposes and declared as such under the terms of the current legislation.

V – Indirect Administration: in the categories established in subparagraphs "a", "b", "c" and "d" of item I of this article, aircraft are registered if at the service of municipalities and foundations of the indirect federal, state, municipal or Federal District administration, for unpaid transportation of authorities, persons on duty, guests or cargo: (Included by Resolution No. 597, of 11.25.2020)

a) Federal Indirect Administration (AIF);

b) State Indirect Administration (AIE);

c) Municipal Indirect Administration (AIM); and

d) Federal District Indirect Administration (AID).

SECTION III

PRIVATE AIRCRAFT

<u>Art. 60.</u>

Private aircraft are those that do not fit the definition of public aircraft, which must be registered according to the categories listed below, due to their use:

I - (Repealed by Resolution No. 597, of 11.25.2020)

II – Public Specialized Air Service (SAE): aircraft used to provide specialized air service, performed by a Brazilian legal entity, on a remunerated basis, in which only the people and materials related to the performance of the service can be conducted; (Wording given by Resolution No. 597, of 11.25.2020)

III – Regular, Domestic or International Public Air Transport Service (TPR): aircraft used in public air transport services, performed by Brazilian legal entities, under a concession and on a remunerated basis, of passenger, cargo or mailbag, of regional, national or international scope;

IV – Non-Regular, Domestic or International Public Air Transport Service (TPN): aircraft used in non-regular public air transport services for passengers, cargo or mail, performed by a Brazilian legal entity, on a remunerated basis, between points located in the Country, between a point located in the national territory and another in a foreign country or between points located in foreign countries; (Wording given by Resolution No. 597, of 11.25.2020)

V – Non-Regular Public Air Transport Service – Air Taxi (TPX): aircraft used in non-regular public air transport services for passengers or cargo, performed by a Brazilian legal entity, on a remunerated basis, between the user and the carrier, aiming to provide immediate assistance, regardless of time, route or stopover; (Wording given by Resolution No. 597, of 11.25.2020)

VI – Private Air Services (TPP): aircraft used in services performed without remuneration, to the benefit of owners or operators, comprising aerial recreational or sporting activities, transportation reserved for the owner or operator, specialized air services performed to the exclusive benefit of the owner or operator and may not perform any remunerated air services.

VII – Instruction (PRI): aircraft used in flight instruction, training and improvement by air clubs, clubs or civil aviation schools; (Wording given by Resolution No. 597, of 11.25.2020)

VIII – Experimental (PET): aircraft aiming at certification in the experimental category, for the uses provided for in RBAC 21.191 and RBAC 21.195.

IX – Historical (PRH): aircraft used in demonstration and display flights, restricted to these purposes and declared as such in accordance with the legislation in force.

X – Remotely piloted aircraft (RPA): unmanned aircraft piloted from a remote piloting station for different recreational purposes. (Included by Resolution No. 597, of 11.25.2020)

16 (Revoked by Resolution no. 597, of 11.25.2020)

62 (revoked by Resolution No. 514 of 25/4/2019)

CHAPTER IX

REQUIREMENTS AND PROCEDURES FOR REGISTRATION AND ENROLLMENT

SECTION I

GENERAL PROVISIONS

<u>Art. 61.</u>

The application for registration and enrollment of any act with the RAB may contain more than one request, provided that it is duly enclosed with all the required documents and the corresponding TFAC payments have been made.

<u>Art. 62.</u>

The applicant must always submit his/ her application, preferably on a standard basis according to the form available from ANAC's electronic website, containing data that allow the identification of the applicant and the means to easily contact him/her.

<u>Art. 63.</u>

The lack or inaccuracy of the required documentation will be notified in writing to the applicant via ECT by RA and by ANAC's electronic address.

<u>Art. 64.</u>

The deadline for complying with the requirements is 30 (thirty) days, which can be extended in special cases, counted from the date the notice is sent by the RAB, under penalty of interdiction of the aircraft, under the terms of specific legislation.

<u>Art. 65.</u>

After the deadline for complying with the requirements has elapsed and the applicant has failed to act, the documents will be returned to the applicant and the process will be closed.

<u>Art. 66.</u>

For all requirements, the following documentation must be considered:

 I – proof of regular tax standing of the transaction, where applicable;

II – copy of the instrument for registration of liens, if any;

III - collection of TFAC;

IV - indication of the registration airport;

§1 The indicated airport must appear on the official list of ANAC or ROTAER in force.

§2 Where a private airport is indicated, the relevant owner's authorization must be submitted.

<u>Art. 67.</u>

When dealing with an individual, the following documents and data are required:

(Wording given by Resolution No. 490, of 08.28.2018)

I – copy of the identity card; (Wording given by Resolution No. 490, of 08.28.2018)

II – Individual Taxpayer Register registration number; (Wording given by Resolution No. 490, of 08.28.2018)

III – declaration of residence signed by the declarant, expressly mentioning his/her responsibility, under the terms of Law No. 7,115, of August 29, 1983, according to the form available from the ANAC website; and (Wording given by Resolution No. 490, of 08.28.2018)

IV – proof of resident status in the country, if an alien, where applicable.

<u>Art. 68.</u>

When dealing with a legal entity, the following are required: I – articles of incorporation, bylaws or articles of association in force, duly registered in the case of business companies and, in the case of joint stock companies, enclosed with documents of election of their directors and officers:

II – registration with the competent body, in the case of an individual company;

III – registration of the articles of association, in the case of non-business companies, enclosed with evidence from the acting executive board;

IV – authorization decree, duly filed, in the case of a foreign company operating in Brazil, except in the case of experimental aircraft; and

V – National Register of Legal Entities (CNPJ) registration number. (Wording given by Resolution No. 490, of 08.28.2018)

<u>Art. 69.</u>

In the case of applications for the issuance of an airworthiness certificate, the aeronautical insurance policy or certificate must be submitted in accordance with Chapter XI, on behalf of the air operator(s), together with proof of payment of the insurance or of installments due until the date the application was filed with RAB.

<u>Art. 70.</u>

In cases of application for registration or transfer of aircraft title, the original title of acquisition or transfer must be presented, where applicable.

<u>Art. 71.</u>

The foreign trust organization document, duly translated to Portuguese by a certified public translator, must be filed with the RAB in cases involving registration in Brazil of an aircraft owned by a foreign trust.

<u>Art. 72.</u>

The provisions of Art. 24, III, of ANAC Resolution No. 25, of April 25, 2008, do not apply to RAB activities.

<u>Art. 73.</u>

Aircraft purchased from the Armed Forces must have a certificate of compliance regarding type certification.

<u>Art. 74.</u>

Proof of concession or authorization, as well as the certificate issued under RBAC 121, 135 or 137, are required when the aircraft is intended for public air services.

<u>Art. 75.</u>

The RAB must proceed with the *ex officio* registration of the legal mortgage or of any right or guarantee in favor of the government, provided that such acts come to its knowledge.

SECTION II

REGISTRATION OF BRAZILIAN MANUFACTURED CERTIFIED AIRCRAFT

<u>Art. 76.</u>

In the case of application for registration of a new Brazilian manufactured certified aircraft, the following are required:

I – Invoice issued by the domestic manufacturer (certified copy or 2nd copy), when the value of the operation is not shown in the aircraft acquisition title; and

II – Return of the airworthiness certificate for newly manufactured aircraft.

SECTION III

REGISTRATION OF IMPORTED CERTIFIED AIRCRAFT

<u>Art. 77.</u>

In the case of application for registration of imported certified aircraft, the following are required:

I – proof of cancellation of foreign registration marks, of the last country of registration, with information from the last registered owner;

II – authorization for international transfer or bill of lading, where such information is not included in the documents provided for in item III of this article;

III – customs clearance documents – Evidence of Import and Import Declaration Extract – as determined by the Federal Revenue Service;

IV – lease agreement or other agreements for right of use, if any, together with the owner's express consent to register the aircraft with the RAB;

V – Registration of Financial Operations – ROF of the Electronic Declaratory Registration system of foreign capitals in Brazil, in the cases defined by the Central Bank of Brazil, such as operating and commercial leases and financing with a term of more than 360 (three hundred and sixty) days;

VI – original export airworthiness certificate issued by the civil aviation authority of the exporter's country.

SECTION IV

REGISTRATION OF EXPERIMENTAL AIRCRAFT

<u>Art. 78.</u>

In the case of registration of experimental aircraft, the following are required:

I – number of experimental aircraft amateur construction process; and

II – aircraft inspection certificate or equivalent document.

SECTION V

TRANSFER OF TITLE OF EXPERIMENTAL AIRCRAFT REGISTERED WITH RAB

<u>Art. 79.</u>

In the case of transfer of title of experimental aircraft already registered with the RAB, the following are required:

I - lien release document, if any;

 II – return of the original experimental registration mark certificates – CME and experimental flight authorization – CAVE;

III – Proof of Import and Import Declaration Extract, where the acquisition of the aircraft implies a change in the admission regime with the Federal Revenue Service of Brazil;

IV – regular tax standing of the legal entity in the sale or encumbrance, in any capacity, of an aircraft that is part of its permanent assets, where the value of the transaction is higher than that established in the current legislation; and (Wording given by Resolution No. 490, of 08.28.2018)

V – certified copy of the formal judicial sharing document or public deed and the Death Certificate of the owner, in cases of transfer of property by hereditary right.

SECTION VI

TRANSFER OF OWNERSHIP OF CERTIFIED AIRCRAFT REGISTERED WITH THE RAB

<u>Art. 80.</u>

In the case of transfer of ownership of certified aircraft already registered with the RAB, the following are required:

I - lien release document, if any;

II – good standing with the INSS of the selling legal entity, in accordance with the relevant legislation; (Wording given by Resolution No. 490, of 08.28.2018)

III – return of the original registration and airworthiness certificates; and

IV – certified copy of the formal judicial sharing document or public deed and the death certificate of the owner, in cases of transfer of ownership by hereditary right.

SECTION VII

CHANGE OF REGISTRATION AIRPORT

<u>Art. 81.</u>

The following documentation must be considered for the change of the registration airport of an aircraft:

I – return of the airworthiness certificate; and

II – indication of the registration airport contained in the official ANAC or ROTAER list in force.

Sole paragraph. When a private airport is indicated, the competent authorization from the owner must be presented.

SECTION VIII

CHANGE OF AIRCRAFT REGISTRATION CATEGORY

<u>Art. 82.</u>

The following documentation must be considered for changing the aircraft category:

I – aircraft Type Certificate for the required category, where applicable; and

II – insurance policy or certificate in the new condition.

SECTION IX

CONFIGURATION CHANGE

<u>Art. 83.</u>

The following documentation must be considered for changing the configuration of an aircraft:

I - aircraft Type Certificate in the new configuration, where applicable; and

II - addendum to the insurance policy referring to the new intended configuration.

SECTION X

CHANGE OF CORPORATE NAME

<u>Art. 84.</u>

The following documentation must be considered for changing the corporate name:

I – instrument of contractual amendment duly filed and authenticated by the competent registry;

 ${\sf II}$ – endorsement of the insurance policy with the new corporate name; and

III – return of registration and airworthiness certificates, if applicable.

SECTION XI

CHANGE OF MARKS

<u>Art. 85.</u>

It is exceptionally permitted, at the Administration's discretion, to change the aircraft nationality and registration marks in the following cases:

I – public aircraft of the Direct Administration (ADF, ADE, ADM and ADD), of regular public air transport (TPR) and of non-regular public air transport – air taxi (TPX) when, upon proven change of owner or operator, the change of marks is convenient for their business or to serve relevant public interest; and

II – aircraft acquired from the Federal Government, where the confiscation order is decreed, in case of their use for drug trafficking.

SECTION XII

REGISTRATION OF MORTGAGE, FIDUCIARY LIEN, ANTICHRESIS, PRIVILEGED CREDITS AND OTHER SECURITY INTERESTS

<u>Art. 86.</u>

The following documents are required for registration of mortgage, fiduciary lien, antichresis, privileged credits and other security interests:

I – copy of the public instrument or transcript related to the lien to be registered. If it is a private instrument, it must contain the notarization of the signatures of the applicants and witnesses;

II – express consent by all co-owners when the aircraft is owned in common by two or more owners and is granted under a mortgage; and

III - return of the registration certificate.

SECTION XIII

REGISTRATION OF TEMPORARY ASSIGNMENT, RENT, LEASE, EXCHANGE AND OTHER RIGHTS OF USE

<u>Art. 87.</u>

For registration of temporary assignment, rent, lease, exchange and other rights of use, the following documents are required:

I – assignment and acceptance deed or contract transferring the responsibility to the contractors regarding the exploitation and operation of the aircraft. In the case of an aircraft with Brazilian registration, it must be accompanied with the Financial Operations Registration - ROF of the foreign capitals Electronic Declaratory Registry system in Brazil, in the cases defined by the Central Bank of Brazil, such as operating and commercial leases and financing for a term of more than 360 (three hundred and sixty) days; (Wording given by Resolution No. 597, of 11.25.2020)

II - (Repealed by Resolution No. 597, of 11.25.2020)

III – owner's or lessor's consent; (Wording given by Resolution No. 597, of 11.25.2020)

IV – for lease contracts, involving an air services concessionaire, it is necessary that the lessee is in regular standing with ANAC; and V – for the registration of a temporary assignment to an air club, aviation club or civil aviation school, the assignee is in regular legal/corporate standing with ANAC.

§1 Interchange Contracts involving foreign registration aircraft will be annotated for purposes of fleet control, subject to the terms of a bilateral agreement. (Included by Resolution No. 597, of 11.25.2020)

§2 The registration of interchange involving foreign registration aircraft does not replace registration with the State of registration, does not constitute any security interest nor does it generate the right to issue of registration and airworthiness certificates. (Included by Resolution No. 597, of 11.25.2020)

SECTION XIV

REGISTRATION OF JUDICIAL ACTS

<u>Art. 88.</u>

For the registration of judicial acts, the original document issued by the issuing Court, as well as a copy or certificate authenticated by the court registry office are required.

SECTION XV

REGISTRATION OF AIRCRAFT UNDER CONSTRUCTION CONTRACT

<u>Art. 89.</u>

The aircraft construction contract is required for the registration of a public or private aircraft under construction contract.

Sole paragraph. If it is a private instrument, it must contain the notarization of the signatures of the applicants and witnesses.

SECTION XVI

AIRCRAFT REGISTRATION CANCELLATION

<u>Art. 90.</u>

Registration will be canceled:

I – by court decision;

II – at the request of the aircraft owner or operator when it must be registered in another State, provided that there is no legal prohibition;

III – voluntarily, in the event of abandonment or perishing of the aircraft, verified in an administrative inquiry, or proper document attesting to the destruction or scrapping of the aircraft.

<u>Art. 91.</u>

The following documents are required for aircraft registration cancellation:

I - proof of release of liens, if any;

II – return of the registration and airworthiness certificates;

III - in cases of export or re-export:

a) Export Dispatch Statement (DDE)
as determined by the Federal Revenue Service;

b) Export Registration (RE) – as determined by the Central Bank of Brazil;

c) notice of the release of the marks, when made by the manufacturer;

d) express agreement by the creditor if the aircraft to be transferred abroad is Brazilian and subject to guarantee;

e) certificate of airworthiness for export.

§1 Exceptionally in cases of export or re-export, the RAB may cancel the registration of the aircraft without requiring presentation of the certificate of airworthiness for export when it finds that the issues related to the transfer of responsibility for airworthiness are resolved between ANAC and the aviation authority of the importer's country. (Wording given by Resolution No. 597, of 11.25.2020)

§2 The cancellation of registration based on §4 of art. XIII of the Protocol Relating to Specific Matters to Aeronautical Equipment, of the Cape Town Convention, will be governed by the provisions in Chapter VIII of Resolution No. 309, of March 18, 2014, with the presentation of the original Registration Airworthiness Certificates and of the export documents described in item III, points «a» and «b», of this article by the creditor being waived. (Included by Resolution No. 597, of 11.25.2020)

SECTION XVII

CANCELLATION OF REGISTRATION AND ANNOTATION

<u>Art. 92.</u>

The cancellation of registration and annotation must indicate the reason that determined it, as well as the deed that gave rise to it.

<u>Art. 93.</u>

The cancellation of a mortgage can only be made with the express authorization

or discharge granted by the creditor or its successor in a public or private instrument.

<u>Art. 94.</u>

The registration, while not canceled, produces all its legal effects even though it may be otherwise proven that the deed is undone, annulled, cancelled or terminated.

<u>Art. 95.</u>

In the case of a legal mortgage, registered *ex officio* in favor of the Federal Government, the cancellation of the registration must also be done *ex officio*, in accordance with the provisions of the legal document that created it.

<u>Art. 96.</u>

The transcription of the ownership title with the RAB is canceled at the request of its owner, by a decision expressed in a final and non-appealable decision or where the aircraft:

- I forfeits the nationality;
- II perishes;
- III is abandoned;

IV – is intended to be a museum piece or intended as a matter for technical learning, on a final basis;

V – is no longer airworthy; or

VI – is the subject matter of a fact provided for by law as terminating the ownership.

<u>Art. 97.</u>

The use of parts or components of perished aircraft can be done in accordance with specific instructions by ANAC in which airworthiness aspects are protected.

<u>Art. 98.</u>

The following documents are required for mortgage cancellation, fiduciary lien, antichresis, privileged credit and other security interests:

I - proof of release of the lien;

II - original registration certificate.

<u>Art. 99.</u>

The following documents are required for cancellation of registration of contract with domain reservation clause:

I - document of release or discharge of the purchase and sale contract

with reservation of domain or repossession of property in court, if applicable; and

II - original registration certificate.

CHAPTER X CIVIL LIABILITY INSURANCE

<u>Art. 100.</u>

Each aircraft must have civil liability insurance coverage in the following classes, applicable to its configuration and operation:

I – Class I – Passengers and their hand luggage;

II - Class II - Crew;

III - Class III - People and goods on the ground;

IV - Class IV - Collision; and

V – Class V – Cargo and checked baggage.

§1 With respect to Classes I and II, insurance should be proportional to the number of seats in accordance with the provisions in Art. 281, II, of CBAer.

§2 Class V insurance is mandatory for aircraft operating in PRT, TPN and TPX categories.

<u>Art. 101.</u>

Any act performed before the RAB relating to the aircraft that, as a result of an investigation or administrative proceeding or lawsuit, is delivered in custody, storage or with a trustee, must have a hull insurance policy or certificate attached, with full coverage of its market value and with the operating guarantees usually granted by Brazilian insurers, when the operation thereof by the trustee is authorized.

CHAPTER XI

CERTIFICATES

SECTION I

GENERAL PROVISIONS

<u>Art. 102.</u>

The issuance of certificates by the RAB occurs at the request of the applicant upon presentation of the required documentation and payment of the corresponding TFAC.

<u>Art. 103.</u>

In case of replacement of certificates, the delivery of new ones is subject to the return of the previous ones.

<u>Art. 104.</u>

When the possession of the certificates is indispensable for the operation of the aircraft, certified copies may be filed with the proceedings, making the withdrawal of new ones conditional on the return of the previous ones.

<u>Art. 105.</u>

In the event of loss of certificates, a Police Report or loss declaration must be submitted, signed by the operator or legal representative vested with specific powers, with notarized signatures, in which the operator or legal representative is made aware of the obligation to discard said certificates if they are found later, under penalty of civil and criminal liability.

SECTION II

CERTIFICATES ISSUED BY THE RAB

<u>Art. 106.</u>

The RAB will issue the following certificates:

I - registration certificate;

II – airworthiness certificate, which may be delegated to the responsible technical area;

III – experimental registration marks certificate; and

IV – Provisional Registration and Licensing certificate in favor of the institution to which the use has been legally granted, under the terms of Law No. 11,343, of 2006.

SECTION III

CERTIFICATE DETAILS

<u>Art. 107.</u>

The aircraft nationality is considered to be that of the State in which it is registered.

Art. 108.

The registration assigns Brazilian nationality to the aircraft and replaces the previous registration, without prejudice to the legal acts previously performed.

<u>Art. 109.</u>

Save for special permission, under the terms of art. 20 of the CBAer, the registration and airworthiness certificates are issued by the RAB only after the registration has been completed, and after the technical inspection has been carried out.

<u>Art. 110.</u>

The registration certificate must indicate the aircraft's manufacturer, model and serial number.

<u>Art. 111.</u>

It is forbidden to issue more than one registration certificate for the same aircraft, even if it is co-owned.

<u>Art. 112.</u>

In the case of an aircraft already registered, the transcribed or registered interest must be annotated in summary form in the respective aircraft registration certificate.

<u>Art. 113.</u>

In the event of loss or destruction of the airworthiness or registration certificate, second copies of these documents may be issued.

CHAPTER XII

FINAL PROVISIONS

<u>Art. 114.</u>

The following Ordinances are hereby revoked:

I – n° 350/DGAC of October 07, 1992, published in the Federal Official Gazette of October 22, 1992, section 1, page 14879;

II – n° 382/DGAC of July 20, 1993, published in the Federal Official Gazette of July 29, 1993, section 1, pages 10771-10772;

III – n° 448/DGAC of August 14, 1996, published in the Federal Official Gazette of August 23, 1996, section 1, page 16276;

 IV – n° 457E/STE, September 29, 1998, published in the Federal Official Gazette on October 08, 1998, section 1, pages 17-18;

V – n° 516E/STE, October 20, 1998, published in the Federal Official Ga-

zette of October 28, 1998, section 1, page 78;

VI – n° 583E/STE of November 05, 1998, published in the Federal Official Gazette of November 25, 1998, section 1, page 29;

VII – n° 1215/DGAC of August 22, 2000, published in the Federal Official Gazette of September 01, , 2000, section 1, pages 11-12; and

VIII – n° 1191/DGAC of August 25, 2003, published in the Federal Official Gazette of September 04, 2003, Section 1, page 34.

<u>Art. 116.</u>

This resolution takes effect on the date of its publication.

MARCELO PACHECO DOS GUARANYS

Chief Executive Officer

NATIONAL CIVIL AVIATION AGENCY – RESOLUTION No. 011 OF JULY 10, 2007

Approves the installation of the Advisory Board of the National Civil Aviation Agency and makes other arrangements.

The Board of Directors of the National Civil Aviation Agency – FAA, in the exercise of attributions that have been granted thereto under §3 of art. 34 of Exhibit I of Decree No. 5.731, of March 20, 2006, and considering the decision taken at the meeting held on July 10, 2007,

RESOLVES:

<u>Art. 1</u>

To install, on July 11, 2007, the Advisory Board of the National Civil Aviation Agency, created by art. 20 of Law No. 11.182, of September 27, 2005.

<u>Art. 2</u>

The meetings of the Advisory Board, on temporary character, will be held by representatives of entities that qualify among those listed in § 2 of art. 34 of Exhibit I of Decree No. 5.731, of 2006, and invited by the Chief Executive Officer of this Regulatory Agency, until an Ordinance issued by the ANAC Executive Board, sets forth the criteria for designating the entities that may participate in the appointment of representatives of the segments that they represent.

<u>Art. 3</u>

In the meetings referred to in art. 2 of this Resolution, the bylaws of the Advisory Board will be discussed and approved

<u>Art. 4</u>

This Resolution enters into force on the date of its publication.

MILTON ZUANAZZI

Director-President

NATIONAL CIVIL AVIATION AGENCY – RESOLUTION No. 319 OF MAY 27, 2014

Approves the Bylaws of the Advisory Board of the National Civil Aviation Agency – ANAC.

THE BOARD OF DIRECTORS OF THE NA-TIONAL CIVIL AVIATION AGENCY – ANAC, in the exercise of attributions that have been granted thereto by art. 9, items VIII and XXIV of the Bylaws approved by Resolution No. 110 of September 15, 2009, as amended, and considering what is provided for in process No 60800.029529/2007-04, deliberated and approved at the Administrative Meeting of the Board held on May 27, 2014,

RESOLVES:

<u>Art. 1</u>

Approve the Bylaws of the Advisory Board of the National Civil Aviation Agency – ANAC, in the form of the Exhibit to this Resolution.

Sole paragraph. The Exhibit referred to in this article is published in the Personnel and Service Bulletin – BPS of this Agency (www.anac.gov.br/transparencia/bps. asp) and is also available on the page "Advisory Board" (http: // www.anac.gov. br/transparencia/ConselhoConsultivo. asp), on the world wide web.

<u>Art. 2</u>

This Resolution enters into force on the date of its publication.

<u>Art. 3</u>

Resolution No. 60, of November 20, 2008, published in the Official Gazette of November 21, 2008, Section 1, page 52, is hereby revoked.

MARCELO PACHECO DOS GUARANYS Director-President

EXHIBIT TO RESOLUTION NO. 319, OF 27 MAY 2014. BYLAWS OF THE ANAC ADVISORY BOARD

CHAPTER I

PURPOSE

<u>Art. 1</u>

The Advisory Board of the National Civil Aviation Agency – ANAC will be governed by the provisions set forth in its Bylaws.

<u>Art. 2</u>

The Advisory Boards is an advisory body to the ANAC Executive Board, with institutional participation from the civil aviation community.

CHAPTER II COMPOSITION

<u>Art. 3</u>

The Advisory Board is composed by members appointed by ANAC's Chief Executive Officer, under art. 34, § 2, Exhibit I of Decree No. 5731, of 20 March 2006, for a term of office of three (3) years, renewal being prohibited.

§ 1 The procedures for nominating members for the composition of the Advisory Board will be established by Ordinance of the Chief Executive Officer

§ 2 For each of the full members who make up the Advisory Board there will be an alternate member, who will replace him in his absences and legal impediments.

§ 3 The appointed board members and alternates, must inform the Executive Secretary Office of the Advisory Board about any changes to their individual data form.

§ 4 The function of a member of the Advisory Board is considered public service and will not remunerated.

<u>Art. 4</u>

The Advisory Board is chaired by ANAC's Chief Executive Officer, and in his absences and impediments, the work will be carried out by his formally appointed substitute.

CHAPTER III

COMPETENCE

<u>Art. 5</u>

It is incumbent upon the Advisory Board:

- I to advise the Board of Directors of ANAC, expressing its opinion on matters provided for in the current legislation;
- II to issue opinions and recommendations on civil aviation issues, when requested;
- III to issue opinions on the annual reports of the ANAC Board of Directors;
- IV to propose measures aimed at increasing the efficiency and quality of activities related to civil aviation;
- V to propose measures that contribute to the improvement of air transport safety;
- VI to recommend the adequacy of technical and economic regulation of civil aviation and aeronautical and airport infrastructure;
- VII to ensure that the development of civil aviation in the country takes place under the aegis of environmental, social, cultural and economic sustainability; and
- VIII to ensure the defense of users' interests.

<u>Art. 6</u>

The Advisory Board may forward to the ANAC Board of Directors a proposal for a normative act aimed at ordering and qualifying civil aviation activity in the country.

CHAPTER IV ATTRIBUTIONS

SECTION I

DUTIES OF THE CHAIRMAN

<u>Art. 7</u>

It is incumbent upon the Chairman of the Advisory Board to:

I – call, preside, suspend and postpone ordinary and special meetings;

II – ensure that the proposals of the Advisory Board are duly forwarded;

III – define the agenda of matters to be addressed at the meeting;

IV – directing the work, seeking consensus and forwarding votes on matters submitted to the Advisory Board;

V – invite representatives of public or private institutions, or even representatives of the Agency itself, specialists in matters of interest to the Advisory Board, to participate in the meetings;

VI - decide on matters of order;

VII – set deadlines for the completion of reports and for the closing of the work of sectoral technical chambers;

VIII – suspend discussions and other situations with a view to clarifying or calling third parties;

IX – represent the Advisory Board or designate a representative for specific acts;

X – institute and close sectoral technical chambers; and

XI – comply with and enforce this Regulation.

SECTION II

MEMBERS 'ATTRIBUTIONS

<u>Art. 8</u>

It is incumbent upon the members of the Advisory Board to:

I – participate effectively in meetings and work, presenting proposals and technically based opinions in relation to the matters in question;

II – request the necessary clarifications for addressing the subjects in question, being allowed to propose the call of specialists; III – provide the Advisory Board with all data and information related to its area of competence whenever deemed appropriate or when requested;

IV – to assess and report, within the deadlines established by the Executive Secretary Office of the Advisory Board, the matters assigned to them;

V – coordinate and participate in the sectorial technical chambers, when designated;

VI – request the Chairman, during the meeting, the inclusion of extramatters, provided that the matter is shown to be urgent and relevant;

VII – present proposals on matters under analysis or that may be analyzed by the Advisory Board;

VIII – perform, within their competences, other activities and functions assigned to them by the Chairman;

IX – propose changes to these Regulations, submitting them to the opinion of the ANAC Board of Directors; and

 ${\rm X}$ – ensure compliance with these Rules.

CHAPTER V

OPERATION

SECTION I

EXECUTIVE SECRETARY OFFICE

<u>Art. 9</u>

The Executive Secretary Office of the Advisory Board will be exercised by ANAC's Technical Advisory.

<u>Art. 10.</u>

It is incumbent upon the Executive Secretary Office of the Advisory Board to:

 I – provide technical and administrative support for meetings and other activities of the Advisory Board;

II – advise the Chairman of the Advisory Board;

III – examine, issue opinions and request revision of documents related to the Advisory Board;

IV – prepare acts to be downloaded by the Chairman;

V – invite the members of the Advisory Board to attend the meetings at least ten (10) days in advance;

VI – act as secretary and draw up the minutes of the meetings;

VII – take care of the receipt, delivery and filing of correspondence and other documents related to the Advisory Board;

VIII – report on the processing of documents related to the Advisory Board; and

IX – perform other administrative duties that are assigned by the Chairman.

SECTION II

MEETINGS

<u>Art. 11.</u>

The Advisory Board will hold ordinary and special meetings called by its Chairman.

§ 1 The ordinary meetings will be held quarterly, as called by the Chairman.

§ 2 The special meetings will be called by the Chairman or at the request of an absolute majority of members of the Advisory Board, in this case by submitting an explanation to the Chairman.

§ 3 The call of ordinary meetings must indicate the date, place and time of the meeting and the call of special meetings must indicate the motive thereof.

§ 4 The agenda of the meeting will be available to the Directors two (2) days before the meeting.

<u>Art. 12.</u>

The meetings of the Advisory Board will take place on days and times previously established and will be held with any number of Directors present.

Sole paragraph. It will be incumbent upon each full member to inform his alternate, with at least three (3) days in advance, about his impossibility to attend the meeting.

<u>Art. 13.</u>

Advisory Board meetings will meet the following sequence:

I - signature of the attendance list;

- II meeting setup;
- III reading the agenda;

IV – presentation and discussion of the subject matters and proposition of resolutions and recommendations, in the following order:

a) presentation of the Executive Board's reports;

 b) presentation of reports from the Executive Secretary Office of the Advisory Board;

c) agenda of the works; and

d) general matters.

V – closing.

<u>Art. 14.</u>

The matters that will be dealt with during the meetings will be preceded by inclusion in the agenda, according to the procedure to be established by the Executive Secretary Office of the Advisory Board.

Sole paragraph. The matters that deal with the proposal to amend the regulation or technical standard must be accompanied by a technically based report, which will be presented to the other members of the Advisory Board by the proposing member.

<u>Art. 15.</u>

Minutes of the Advisory Board meetings will be drawn up, which should contain the date, place and time of the meeting, name of those present, agenda, summary and result of the discussions.

§ 1 The draft minutes will be forwarded for ratification, through electronic means, to members of the Advisory Board, who will have a period of ten (10) days to submit suggestions for rectifying the corresponding text.

§ 2 After the period provided for in § 1 of this article has elapsed, in case of divergence in the presented versions, the Chairman of the Advisory Board will decide what will be included in the minutes, ad referendum to the other directors.

§ 3 The minutes must be numbered and published on the website of ANAC within fifteen (15) days of sending the electronic message to the Directors, and will be filed at the Executive Secretary Office of the Advisory Board.

<u>Art. 16.</u>

The costs of installing and operating the Advisory Board will be borne by ANAC, and the represented entities and sectors will be responsible for the cost of the travel and lodging of the respective representatives to attend the meetings.

SECTION III

DISMISSAL OF DIRECTORS

<u>Art. 17.</u>

A Director will be dismissed from the Advisory Board:

I – when a full member is absent from three (3) ordinary meetings between the last six (6) meetings held; and

II – the member whose dismissal is requested by the entity that appointed him. (Wording given by Resolution No. 483, of July 13, 2018)

III – the member who resigns the position held. (Included by Resolution No. 483, of July 13, 2018)

§1 The absence referred to in item I of the caption will be remedied by the presence of the respective alternate.

§ 2 In the event of absence of the full and alternate members, the full member may submit a justification for consideration by the Executive Secretariat of the Advisory Board by means of a signed official document, within 3 (three) days, counting from the date of the meeting to which he has been absent.

§ 3 In the event of items II and III of the caption, the entity that appointed the member shall notify the Executive Secretary Office of the Advisory Board through an official document of the entity, signed by its top leader. (Wording given by Resolution No. 483, of July 13, 2018)

§ 4 In the event of items I to III of the caption, the Director-President may appoint a new member designated by the respective entity, after evaluation of the qualifications of the nominee or start new selection procedure for a member to complete the term of office. (Wording given by Resolution No. 483, of July 13, 2018)

CHAPTER VI

SECTORAL TECHNICAL CHAMBERS

SECTION I

PURPOSE AND COMPETENCE

<u>Art. 18.</u>

The Advisory Board may propose the creation of sectoral technical chambers which, organized in the form of working

groups, will study, evaluate and present proposals on topics of common interest to the segments of civil aviation.

<u>Art. 19.</u>

It will be incumbent upon the sectoral technical chambers to:

- I study, offer suggestions and present proposals, always with a technical basis, on the subjects submitted to their analysis by the Advisory Board; and
- II prepare and submit the quarterly report of its activities to the Advisory Board.

SECTION II

CREATION AND COMPOSITION

<u>Art. 20.</u>

The sectoral technical chambers will be composed by Directors, full members or alternates, and by ANAC civil servants, as follows:

- I coordinator;
- II secretary; and
- III other members.

§ 1 The sectoral techniques cameras will be installed by the Chairman of the Advisory Board by means of own act, which will contain the name of the original members, the subject to be analyzed and the deadline for completion of the work.

§ 2 The coordinator of the chambers will be appointed by the Chairman.

§ 3 The Chairman of the Advisory Board will appoint a secretary to act on the technical advice of the work and to assist in achieving the objectives described in the reference instrument mentioned in item I of Art. 21 of this Regulation

<u>Art. 21</u>

Conditions for the creation of a sectorial technical chamber are:

- I presentation, in a meeting, of a reference instrument on the subject to be studied or analyzed, according to the guidelines provided by the Executive Secretary Office; and
- II approval of its creation by the Chairman of the Advisory Board.

Sole paragraph. It is incumbent upon the Executive Secretary Office of the Advisory Board to receive the requests referred to in the caption, with a view to submitting them to the Chairman's consideration.

<u>Art. 22</u>

Members who do not actively participate in the meetings or who are unjustifiably absent for three (3) consecutive meetings may, at the discretion of each technical chamber, be dismissed from their work.

<u>Art. 23</u>

The coordinator may invite representatives of public or private institutions, or even representatives of the Agency itself, specialists in matters of interest to the Advisory Board, to attend the meetings of the technical chamber.

<u>Art. 24</u>

Members of in the sectoral technical chambers will not be remunerated.

SECTION III

OPERATION

<u>Art. 25</u>

The sectoral technical chambers will meet outside the ordinary and special meetings of the Advisory Board, according to the schedule previously approved by them or when called by their coordinator.

<u>Art. 26</u>

The meetings will be recorded in minutes signed by the coordinator and filed by the Executive Secretary Office of the Advisory Board, with copies sent to members of the chamber.

<u>Art. 27</u>

The proposals prepared by the sectorial technical chambers, after being approved by their members, will be forwarded to the Advisory Board in the form of an opinion, dated and signed by its coordinator.

SECTION IV

MEMBERS 'ATTRIBUTIONS

<u>Art. 28.</u>

The attributions of the sectorial technical chamber coordinator are:

I – forward the call and the respective agenda of the meetings to the members of the technical chamber;

II – open and close the meetings, direct the corresponding work and decide on the inclusion of off-agenda matters; III – distribute the files and arrange for the preparation of official letters, reports and other acts of the respective technical chamber;

IV – prepare the minutes of the meetings, files and opinions;

V – forward to the Executive Secretary Office, for filling purposes, a copy of the documents linked to the technical chamber;

VI – submit, on a quarterly basis, a report on the activities carried out by the technical chamber;

VII – report the results of the work of the technical chamber during the meetings of the Advisory Board; and

VIII – forward the opinions prepared for the appreciation of the other members of the Advisory Board, accompanied or not by minutes, suggestion texts or studies carried out by the respective technical chamber.

<u>Art. 29</u>

The coordinator of the sectoral technical chamber, with a view to speeding up the conclusion of matters, may subdivide them into specific working groups with the purpose of deepen studies and obtaining a more detailed technical basis.

CHAPTER VII FINAL PROVISIONS

<u>Art. 30</u>

Omitted cases and doubts arising from the application of these Bylaws will be resolved by the Chairman, who may issue a specific act on the matter.

NATIONAL CIVIL AVIATION AGENCY – RESOLUTION No. 523, OF JULY 23, 2019

Provides for ANAC's Ethics Committee and approves its Bylaws.

THE BOARD OF DIRECTORS OF THE NATIONAL CIVIL AVIATION AGENCY, in the exercise of the powers granted to it by art. 11, items V and IX, of Law No. 11.182, of September 27, 2005, in view of the provisions of Decree No. 1.171, of June 22, 1994, and of Resolution No. 10, of September 29, 2008 of the Commission of Public Ethics, considering the provisions contained in process No 00058.019139/2019-80, deliberated and approved at the 13th Administrative Electronic Meeting of Board, held from 10 to 17 July 2019,

RESOLVES:

<u>Art. 1</u>

To create the Ethics Committee of the National Civil Aviation Agency – ANAC with the purpose of promoting the adoption of specific rules of ethical conduct for the employees of the Agency, pursuant to Decree No. 1.171, of June 22, 1994, and Decree No 6.029 of 1 February 2007.

<u>Art. 2</u>

Approve, in accordance with the Exhibit to this Resolution, the Bylaws of the ANAC Ethics Committee, defining its composition, powers, operating and procedural rules.

<u>Art. 3</u>

The following are revoked:

I – Resolution No. 29, of May 21, 2008, published in the Personnel and Service Bulletin – BPS v.3, No. 21, of May 23, 2008; and

II – Resolution No 431, June 6, 2017, published in the Official Gazette of June 12, 2017, Section 1, page 72.

<u>Art. 4</u>

This Resolution enters into force on the date of its publication.

JOSÉ RICARDO PATARO BOTELHO DE QUEIROZ

Director-President

EXHIBIT TO RESOLUTION NO. 523, OF JULY 23, 2019.

BYLAWS OF THE ETHICS COMMITTEE OF THE NATIONAL CIVIL AVIATION AGENCY – ANAC

CHAPTER I

COMPETENCES AND POWERS

<u>Art. 1</u>

It is incumbent upon the ANAC Ethics Committee to:

 I – act as an advisory body to the Executive Board and ANAC's employees;

II – apply the Code of Professional Ethics of the Civil Public Servant of the Federal Executive Branch, and must:

a) submit proposals to improve the Code of Professional Ethics to the Public Ethics Committee – CEP;

 b) ascertaining, by letter or through denunciation, a fact or conduct that does not comply with the relevant ethical standards;

c) recommend, monitor and evaluate the development of actions aiming at the dissemination, qualification and training on the rules of ethics and discipline;

III – apply the ANAC Code of Ethics and Conduct, once instituted by the Executive Board, and submit any suggestions for improvement to the Chief Executive Officer;

IV – represent ANAC in the Ethics Network of the Federal Executive Branch referred to in art. 9 of Decree No. 6029, February 1st 2007;

V – supervise the observance of the Code of Conduct of the Federal High Administration and report to CEP situations that may constitute noncompliance with its rules;

VI – guide and advise on the ethical conduct of the civil servant, including in the relationship with the citizen and in the protection of public assets; VII – respond to inquiries addressed to them, including preliminary analysis on potential conflict of interest;

VIII – authorize the civil servant or public employee within the scope of the federal Executive Branch to exercise private activity, when the absence of potential conflict of interest or its irrelevance is verified;

IX – receive from the Ombudsman's Office complaints and representations against employees for alleged non-compliance with ethical standards, proceeding to the investigation;

X – institute a process to determine a fact or conduct that may constitute non-compliance with the ethical standard recommended to public agents;

XI – convene civil servants and invite other people to provide information;

XII – request the parties, public agents and federal agencies and entities information and documents necessary for the supporting of instruments;

XIII – request information and documents necessary for the supporting of files to public agents and to bodies and entities of other entities of the federation or of other Powers of the Republic;

XIV - carry out diligences and request expert opinions;

XV – clarify and assess behaviors that evidence ethical deviations;

XVI – apply the penalty of ethical censorship to the civil servant and forward a copy of the act to the People Management Superintendence – SGP, and may also:

a) suggest to the Chief Executive Officer:

1. the dismissal of an occupant of a position of trust;

2. return of the servant to the agency or entity of origin; and

3. the remittance of files to the competent sector for the examination of possible transgressions of various kinds; and b) adopt other measures to avoid or remedy ethical deviations, drawing up, if applicable, the Personal and Professional Conduct Agreement – ACPP;

XVII – file processes or send them to the competent body when, respectively, the ethical deviation is not proven or a violation is established which is the responsibility of a different body;

XVIII – notify the parties of their decisions;

XIX – resolve doubts regarding the interpretation of the rules of ethical conduct and deliberate on omitted cases, observing the rules and guide-lines of the CEP;

XX – propose changes to these Bylaws;

XXI – give wide dissemination to the ethical rule and inform public servants or employees about how to prevent possible conflicts of interest and how to protect privileged information;

XXII – develop campaigns in order to promote ethical behavior within the scope of ANAC, in conjunction with the Social Communication Department;

XXIII – coordinate the meetings of the Personnel Conflict Management Committee – CGCP;

XXIV- publicize their acts, observing the restriction of art. 14 of these Bylaws;

XXV – request the assignment of a public agent to provide transitional technical or administrative services to the ANAC Ethics Committee, with prior authorization from the Chief Executive Officer;

XXVI – to elaborate and execute the Ethics Management Work Plan, according to the terms of Decree No. 6.029, of February 1, 2007; and

XXVII – appoint, through an internal act, representatives of the Ethics Committee, who will be appointed by the Chief Executive Officer to contribute to education and communication work.

CHAPTER II COMPOSITION

<u>Art. 2</u>

The ANAC Ethics Committee will be composed of three (3) sitting members and their respective alternates, civil servants occupying the permanent position on the Agency's permanent staff who have been approved at the probation stage, chosen by the Board of Directors and designated the Chief Executive Officer.

§1 It will be incumbent upon the Technical Development Group – GDT and Institutional Development Group – GDI, alternately, to indicate to the Board of Directors the civil servants to compose the ANAC Ethics Committee.

§ 2 Only the civil servants that are not under disciplinary administrative procedures may be recommended to compose the ANAC Ethics Committee and the Executive Secretary Office and also who not have suffered:

I - in the last five (5) years, disciplinary suspension; and

II - in the last three (3) years, disciplinary warning or penalty applied by an ethics committee.

§ 3 Work in the Ethics Committee is considered relevant provision of public service and does not gives rise to any remuneration, and shall be recorded in the functional registration of civil servant.

§ 4 Officers may not be members of ANAC Ethics Committee.

§ 5 In the absence of a full member, his alternate shall immediately assume his duties.

§ 6 The investiture of a member of the ANAC Ethics Committee will cease, with the extinction of the respective term of office, resignation or disciplinary or ethical deviation recognized by CEP.

§ 7 Work on the Ethics Committee has priority over the attributions of its members and of civil servants possibly required to temporary services.

<u>Art. 3</u>

The Commission will be chaired by one of its three (3) full members.

§ 1 The Chairman of the Ethics Committee will be chosen by its members and appointed by the Chief Executive Officer for the same period that his term of office in the Commission. § 2 The Chairman of the Ethics Committee will be replaced by the oldest member in the Commission, in the event of incapacity or vacancy.

<u>Art. 4</u>

The Ethics Committee will have an Executive Secretary Office, an organizational unit linked to the Office, whose purpose will be to contribute to the elaboration and compliance with the ethics management work plan approved by the Commission, subject to the guidelines of the Public Ethics Committee, and provide technical and material support necessary to fulfill the Commission's duties.

§ 1 The position of Executive Secretary will fall on the holder of a permanent position or a stable public employee of the Public Administration, appointed by the members of the ANAC Ethics Committee based on an internal selection process, and designated by the Chief Executive Officer.

§ 2 The Executive Secretary is forbidden to be member of the Ethics Committee.

§ 3 The Ethics Committee may appoint local representatives to assist the work of communication and education.

§ 4 Other ANAC civil servants may be required, temporarily, to perform administrative activities at the Executive Secretary Office.

CHAPTER III

OPERATION

<u>Art. 5</u>

The deliberations of the ANAC Ethics Committee will be taken by majority vote of its full members, subject to the provisions of § 5 of art. 2 of this Regulation.

<u>Art. 6</u>

The ANAC Ethics Committee will meet ordinarily on the first working Wednesday of the month and, specially, by decision of its Chairman, its members or the Executive Secretary.

<u>Art. 7</u>

The agenda for meetings of the Ethics Committee will be based on suggestions from its Chairman, its members or the Executive Secretary, with the inclusion of new matters at the beginning of the meeting being allowed.

CHAPTER IV ATTRIBUTIONS

<u>Art. 8</u>

It is incumbent upon the Chairman of the ANAC Ethics Committee to:

I - call and chair the meetings;

II – determine the initiation of processes for the investigation of practices contrary to ethics, as well as verifications and summons;

III – designate a rapporteur for the processes;

IV – guide the work of the ANAC Ethics Committee, order the debates and conclude the deliberations;

V – take the votes, have the casting vote, and announce the results;

VI – delegate competences for specific tasks to other members of the ANAC Ethics Committee;

VII – coordinate the work of the Executive Secretary Office of the Ethics Committee, together with the other members of the Committee; and

VIII – manage the servants related to the Executive Secretary Office of the Ethics Committee.

Sole paragraph. The casting vote referred to in item V of the caption will only be adopted in the event of a tie.

<u>Art. 9</u>

It is incumbent upon the members of the Ethics Committee to:

I – examine the matters, issuing opinions and votes;

II – to request the case records for examination;

III -- make reports;

IV – request information on matters under examination by the Commission; and

V – supervise the work of the Executive Secretary Office, and inform the Chairman of the Commission about any relevant facts.

<u>Art. 10.</u>

It is incumbent upon the Executive Secretary to:

I – organize the agenda and agenda of the meetings;

II – proceed with the registration of the meetings and the preparation of its minutes;

III – document the matters submitted to the resolution of the ANAC Ethics Committee;

IV – develop or supervise the preparation of studies and subsidies to the decision-making process of the ANAC Ethics Committee;

V – coordinate the work of the Executive Secretary Office, as well as local representatives;

VI – provide technical and administrative support to the ANAC Ethics Committee;

VII – execute and divulge the acts of the Executive Secretary Office;

VIII – coordinate the development of actions aimed at disseminating and training on ethics at ANAC;

IX – support the Ethics Committee in coordinating the meetings of the Personnel Conflict Management Committee – CGCP; and

X – perform other activities determined by the ANAC Ethics Committee.

§ 1 It is incumbent upon the other members of the Executive Secretary Office to provide the necessary administrative support to the development or performance of their duties.

§ 2 Local representatives are responsible for contributing to education and communication activities.

CHAPTER V

TERMS OF OFFICE

<u>Art. 11.</u>

The members of the Ethics Committee will perform non-coincident terms of office of three (3) years, with a single reelection allowed.

§ 1 The public servant who is appointed to fulfill a complementary mandate may be reappointed once as a member of the Ethics Committee of ANAC, if he has started before the end of half of the period established in the original term in office.

 \S 2 In case the complementary term in office is exercised after the passing of half the period established in the original term in office, the member of the Ethics Committee may be conducted immediately to the subsequent regular term in office of three (3) years, a single reappointment being allowed.

CHAPTER VI

GENERAL RULES OF PROCEDURE

<u>Art. 12.</u>

The procedural phases within the scope of the Ethics Committees will be as follows:

I – preliminary procedure, comprising:

a) admissibility judgment;

b) establishment;

c) summary analysis of the evidence and, exceptionally, the respondent's manifestation and urgent procedures;

d) report;

e) Proposal of Personal and Professional Conduct Agreement – ACPP, if applicable; and

f) preliminary decision determining the filing or conversion into an Ethical Assessment Process;

II – ethical verification process, subdivided into:

a) establishment;

b) complementary instruction, comprising:

1. carrying out of due diligence, if necessary;

2. the respondent's statement; and

3. the production of evidence;

c) report; and

d) deliberation and decision, which may declare the complaint unfounded or well founded, and may contain a sanction, recommendation, or ACPP proposal.

<u>Art. 13.</u>

The determination of an ethical infraction will be formalized through a preliminary procedure, which must comply with the assessment rules, filing of and other administrative procedures.

<u>Art. 14.</u>

Until the final conclusion, all files for the investigation of ethical violations will be

sealed "reserved", under the terms of Decree No. 4.553, of December 27, 2002.

Sole paragraph. After the final conclusion, the files will be accessible to interested parties, as provided by Law No. 9.784, of January 29, 1999.

<u>Art. 15.</u>

The defendant is guaranteed the right to know the contents of the accusation and to request the case records for examination, as well as to obtain copies of documents.

Sole paragraph. Copies must be formally requested to the ANAC Ethics Committee.

<u>Art. 16.</u>

The Ethics Committee, whenever it finds the possible occurrence of criminal, civil, administrative improbity or disciplinary infraction, will forward a copy of the records to the competent authorities to investigate such facts, without prejudice to the adoption of other measures of its competence.

Sole paragraph. In the event provided for in the caption, the defendant must be notified about the sending of the file to the competent body.

<u>Art. 17.</u>

The final decision on the investigation of ethical conduct that results in a sanction, recommendation or ACPP, will be summarized and published in a summary, with the omission of the names of those involved and any other data that allow identification.

Sole paragraph. The final decision containing the name and identification of the public agent must be sent to the CEP, for the formation of a sanctions database, for the purposes of consultation by federal public administration bodies or entities, in cases of appointment to a commission or highly relevant public position.

<u>Art. 18.</u>

The competent sectors of ANAC will give priority treatment to requests for documents and information necessary for the investigation of investigation procedures initiated by the Ethics Committee.

§ 1 Failure to comply with the priority given in this article involve the responsibility of those who give cause, and may be configured to conduct of affront to ethics. § 2 As regards ANAC and in relation to the respective public agents, the Ethics Committee will have access to all necessary documents, giving specific treatment to those protected by legal confidentiality.

CHAPTER VII PROCEDURAL RITE

<u>Art. 19.</u>

Any individual or legal entity may cause the Ethics Committee to act, aiming at investigating ethical transgressions attributed to the public agent or occurred in competent sectors of the Agency.

Sole paragraph. A public agent is anyone who, by virtue of law, contract or any legal act, provides permanent, temporary, exceptional or eventual services to ANAC, under the terms of art. 2 of Law 8429, June 2 1992.

<u>Art. 20.</u>

The Preliminary Procedure for investigating any conduct that, in theory, constitutes an infraction to the ethical standard, will be established by the Ethics Committee, by official letter or through representation or denunciation made by any of the persons mentioned in the caption of art. 19 of this Regulation.

1 § The establishment, ex officio, of an investigation must be substantiated by the members of the Ethics Committee and supported by public news of conduct or evidence capable of supporting it.

§ 2 If there is any doubt as to the conduct>s framework, if ethical deviation, disciplinary infraction, act of improbity, crime of responsibility or infraction of a different nature, the Ethics Committee may request an opinion to the Federal Attorney>s Office at ANAC.

<u>Art. 21.</u>

Representation, denunciation or any provocation aimed at investigating ethical violations must contain the following requirements:

I – description of the conduct;

 $\ensuremath{\mathsf{II}}$ – indication of authorship, if possible; and

III – presentation of evidence or indication of where they may be found.

Sole paragraph. When the plaintiff does not identify himself, the Ethics Committee may accept the facts narrated for the purposes of instating, ex officio, investigative procedure, provided that it contains sufficient evidence of the occurrence of the infraction or, otherwise, determine the summary filing.

<u>Art. 22.</u>

Representation, denunciation or any other request addressed to the Ethics Committee may be filed by any means admitted by ANAC.

§ 1 The Ethics Committee will widely divulge the service modalities and presentation of demands.

§ 2 If the person interested in denouncing or complaining appears before the Ethics Committee, the latter may reduce the representation and collect the signature of the original defendant, as well as receive any evidence.

§ 3 The original defendant will be assured proof of receipt of the complaint or representation sent by him.

<u>Art. 23.</u>

Once the representation or the complaint is presented, the Ethics Committee will decide on its admissibility, verifying the fulfillment of the requirements provided for in art. 21 of this Regulation.

§ 1The Ethics Committee may determine the obtention of further information or other evidence deemed necessary.

§ 2 The Ethics Committee, upon reasoned decision, will file a representation or complaint that is manifestly unfounded, informing the original defendant.

§ 3 The defendant is entitled to file a reconsideration request addressed to the Ethics Committee itself, within a period of ten (10) days, counted from the knowledge of the decision, which must be substantiated.

§ 4 Upon judgment of the Ethics Committee and by agreement with the denounced the ACPP may be issued.

§ 5 Upon issuance of the ACPP, the preliminary procedure may be halted for up to two (2) years at the discretion of the Ethics Committee, as appropriate.

§ 6 If by the end of the period when no action has been taken in any of the presently existing cases, the ACPP is accomplished, the filing of the case will be determined.

§ 7 If the ACPP is breached, the Ethics Committee will follow up by converting the preliminary procedure for determination of the ethical process.

§ 8 Non-compliance with the provisions of item XV of Exhibit to Decree No. 1.171, 1994, will not be the object of the ACPP.

<u>Art. 24.</u>

At the end of the preliminary procedure, a decision will be issued by the Ethics Committee determining the filing or its conversion into an ethical investigation process.

<u>Art. 25.</u>

Once the ethical investigation process is established, the Ethics Committee will notify the investigated person, to within ten (10) days, present a prior defense, in writing, listing any witnesses, up to the limit of four (4), and presenting or indicating the evidence he intends want to present.

<u>Art. 26.</u>

The request for witnesses to be questioned must be justified.

§ 1 The request for the examination will be rejected, when:

I – formulated in disagreement with this article;

II – the fact is already sufficiently evidenced by document or confession of the investigated person or any other means of proof compatible with the rite described in this Regulation; or

III - the fact cannot be proved by a witness.

§ 2 The witnesses may be substituted provided that the investigated person formalizes a request to the Ethics Committee and in time just prior to the hearing on the matter.

<u>Art. 27.</u>

The request for expert evidence must be justified, and it is lawful for the Ethics Committee to reject it in the following cases:

I – proof of the fact does not depend on special expert knowledge; or

II – prove to be merely delaying or of no interest to clarify the fact.

<u>Art. 28.</u>

In the event that the investigated person does not require the production of other evidence, in addition to the documents presented with the prior defense, the Ethics Committee, unless it deems necessary to examine the witnesses, may conduct due diligence or forensic examination, and will prepare the report.

§ 1 In the event that the investigated person, provenly summoned or subpoenaed by public notice, is not present, or does not send a legally constituted attorney to exercise adversary proceeding and full defense, the Ethics Committee will designate a court-appointed defense attorney preferably chosen among the civil servants of the permanent staff to monitor the process, being prohibited from conduct contrary to the interests of the investigated person.

§ 2 If the civil servant indicated to act as a court-appointed defense attorney presents reasoned refusal to act in the case, the Ethics Committee shall appoint another civil servant undertake the commitment.

3 § If it is proven that the accused does not have health conditions to exercise his defense, the ethical process will be suspended until the end of his license.

<u>Art. 29.</u>

After the procedural instruction is completed and the report is prepared, the investigated person will be notified to present the final allegations within ten (10) days.

<u>Art. 30.</u>

Whether the final allegations are presented or not, the Ethics Committee will render its decision.

Sole paragraph. If the conclusion is that the investigated person is guilty, the Ethics Committee may apply the ethical censorship penalty provided for in Decree No. 1171 of 1994, and, cumulatively, make recommendations, as well as draw up the ACPP, without prejudice to other measures of its office.

<u>Art. 31.</u>

A copy of the final decision that results in a penalty for ANAC's effective holder, as well as the person occupying a position on a committee or a trust function, will be forwarded to SGP to be included in the public agent's registrations, for exclusively ethical purposes.

§ 1 The record referred to in this article will be canceled after a period of three (3) years of effective exercise from the date on which the decision became final, provided that the civil servant or occupier of a committee or position of trust, in that period, has not committed any new ethical infraction.

§ 2 In the case of service provider with no direct or formal relationship with ANAC, the copy of the final decision will have to be sent to the Director-President, who will be incumbent upon to adopt the appropriate measures.

§ 3 In relation to services providers with no direct or formal relationship with ANAC, the Ethics Committee will issue a definitive decision listing the infraction conducts, exempting from applying or to proposing penalties, or ACPP recommendations.

CHAPTER VIII

DUTIES AND RESPONSIBILITIES OF MEMBERS OF THE COMMITTEE

<u>Art. 32.</u>

The fundamental duties in the work carried out by the members of the ANAC Ethics Committee are:

 I – preserve the honor and image of the investigated person;

II – protect the original defendant's identity;

III - act independently and impartially;

IV – attend the meetings of the ANAC Ethics Committee, justifying to the Chairman of the Committee, in writing, of any absences;

V – in the event of absence, instruct the substitute about the work in progress;

VI – declare to the other members, any impediment or suspicion in the work of the ANAC Ethics Committee; and

VII – exempt from acting in a procedure in which his/her impediment or suspicion has been identified.

<u>Art. 33.</u>

The member of the Ethics Committee will be impeded when:

I – he/she has a direct or indirect interest in the matter;

II – he/she has participated, or will participate, in another administrative or judicial process, as an expert, witness or legal representative of the defendant, accused or investigated, or of their respective spouses, companions or relatives up to the third degree;

III – he/she is litigating judicially or administratively with the defendant, accused or investigated, or with the respective spouses, partners or relatives up to the third degree; or

IV – he/she is your spouse, partner or relative up to the third degree who is the defendant, accused or investigated.

<u>Art. 34</u>

Member suspicion occurs when:

I – he/she is a close friend or notorious opponent of the defendant, accused or investigated, or of their respective spouses, partners or relatives up to the third degree; or

II – he/she is a creditor or debtor of the defendant, accused or investigated, or of their respective spouses, partners or relatives up to the third degree.

CHAPTER IX

FINAL PROVISIONS

<u>Art. 35</u>

Omitted situations will be resolved by resolution of the Ethics Committee, in accordance with the provisions of the ANAC Code of Ethics, the Code of Ethics for Civil Servants of the Federal Executive Branch, the Code of Conduct for Senior Federal Administration, as well as other relevant normative acts.

LAW No. 12,462 OF AUGUST 4, 2011

Institutes the Differentiated Public Procurement Regime - RDC; amends Law No. 10.683, of May 28, 2003, which provides for the organization of the Presidency of the Republic and the Ministries, the legislation of the National Civil Aviation Agency (Anac) and the legislation of the Brazilian Airport Infrastructure Company (Infraero); creates the Civil Aviation Secretary Office, positions of Minister of State, positions in commission and positions of Air Traffic Controller: authorizes the hiring of temporary air traffic controllers; amends Laws No. 11.182, of September 27, 2005, 5.862, of December 12, 1972, 8.399, of January 7, 1992, 11.526, of October 4, 2007, 11.458, of March 19, 2007, and 12.350, of December 20, 2010, and Provisional Measure 2.185-35, of August 24, 2001; and revokes provisions of Law No. 9.649, of May 27, 1998.

THE PRESIDENT OF THE REPUBLIC makes known that the National Congress decrees and she sanctions the following Law:

CHAPTER I

DIFFERENTIATED PUBLIC PROCUREMENT REGIME – DRC

SECTION I

GENERAL PROVISIONS

<u>Art. 1</u>

The Differentiated Public Procurement Regime (RDC) is created, applicable exclusively to the bids and contracts necessary to carry out:

I – the 2016 Olympic and Paralympic Games, included in the Olympic Projects Portfolio to be defined by the Olympic Public Authority (APO); and

II – the Confederations Cup of the International Football Federation Association – Fifa 2013 and the Fifa World Cup 2014, defined by the Executive Group – Gecopa 2014 of the Management Committee established to define, approve and supervise the actions provided for in the Brazilian Government Strategic Plan of Actions to hold the 2014 FIFA World Cup – CGCOPA 2014, restricting itself, in the case of public works, to those contained in the responsibility assignment matrix of the Union, States, Federal District and Municipalities;

III – infrastructure works and contracting services for airports in the capitals of the States of the Federation distant up to three hundred and fifty kilometers (350) from the host cities of the world championships referred to in items I and II.

IV – the actions included in the Growth Acceleration Program (PAC) (Included by Law No. 12.688, of 2012)

V – engineering works and services within the scope of the National Health System – SUS. (Included by Law No. 12,745, of 2012)

VI – engineering works and services for the construction, expansion, renovation and administration of penal establishments and socio-educational units; (Included by Law No. 13.190, 2015)

VII – actions within the scope of public security; (Included by Law No. 13.190, 2015)

VIII – engineering works and services, related to improvements in urban mobility or expansion of logistics infrastructure; and (Included by Law No. 13.190, 2015)

IX – the contracts referred to in art. 47-A. (Included by Law No. 13.190, 2015)

X – actions in bodies and entities dedicated to science, technology and innovation. (Included by Law No. 13.243, 2016)

§ 1 The RDC has the following objectives:

 I – increase efficiency in public procurement and competitiveness among bidders;

II – promote the exchange of experiences and technologies in search of the best relationship between costs and benefits for the public sector;

III – encourage technological innovation; and

IV – ensure equal treatment among bidders and the selection of the most advantageous proposal for the public administration.

Paragraph 2. The option for the RDC must be expressly included in the call instrument and will result in the removal of the rules contained in Law No. 8.666, of June 21, 1993, except in the cases expressly provided for in this Law.

§ 3 In addition to the assumptions provided for in the caption, the RDC is also applicable to tenders and contracts necessary to carry out engineering works and services within the scope of public education and research, science and technology systems. (Wording given by Law No. 13,190, 2015)

<u>Art 2</u>

The following definitions must be observed as regards the RDC application:

I – full contract work: when a project is contracted in its entirety, comprising all the stages of works, services and necessary facilities, under the contractor's entire responsibility until its delivery to the contracting party in conditions of entry into operation, having met the technical and legal requirements for its use in structural and operational safety conditions and with the appropriate characteristics for the purposes for which it was contracted;

II – construction for a global price: when the execution of the work or service is contracted for a certain and total price;

III – construction for unit price: when the execution of the work or service is contracted for a certain right price of certain units;

IV – basic design: a set of necessary and sufficient elements, with an adequate level of precision, in order to, subject to the provisions of the sole paragraph of this article:

a) characterize the engineering work or service, or complex of works or services that are the object of the bidding, based on the indications of the preliminary technical studies;

b) ensure technical feasibility and adequate treatment of the environmental impact of the project; and

c) enable the evaluation of the cost of the work or service and the definition of the methods and the execution period; V – executive project: set of elements necessary and sufficient for the complete execution of the work, in accordance with the relevant technical standards; and

VI – task: when labor is adjusted for small jobs at a certain price, with or without material supply.

Sole paragraph. The basic project referred to in item IV of the caption of this article must contain, at least, without frustrating the competitive nature of the bidding procedure, the following elements:

 I – development of the chosen solution in order to provide a global view of the work and clearly identify its constituent elements;

II – global and localized technical solutions, sufficiently detailed, in order to restrict the need for reformulation or variants during the phases of elaboration of the executive project and of the execution of the works and assembly to situations duly proven in a motivated act of the public administration;

III – identification of the types of services to be performed and of materials and equipment to be incorporated into the work, as well as specifications that ensure the best results for the project;

IV – information that allows the study and deduction of construction methods, provisional installations and organizational conditions for the work;

V – subsidies for setting up the bidding plan and management of the work, comprising its schedule, supply strategy, inspection rules and other necessary data in each case, except in relation to the respective bidding, in the event of integrated contracting;

VI – detailed budget of the global cost of the work, based on quantitative of services and supplies properly evaluated.

<u>Art. 3</u>

Bids and contracts carried out in accordance with the RDC must comply with the principles of legality, impersonality, morality, equality, publicity, efficiency, administrative probity, economy, sustainable national development, binding to the calling instrument and objective judgment.

<u>Art. 4</u>

In the bids and contracts referred to in this Law, the following guidelines will be observed:

I – standardization of the object of the contract in relation to the technical and performance specifications and, when applicable, the conditions of maintenance, technical assistance and guarantee offered;

II – standardization of call instruments and draft of contracts, previously approved by the competent legal body;

III – search for the greatest advantage for the public administration, considering direct and indirect costs and benefits, of an economic, social or environmental nature, including those related to maintenance, the disposal of goods and waste, the economic depreciation rate and other factors of equal relevance;

IV – conditions of acquisition, insurance, guarantees and payment compatible with the conditions of the private sector, including through the payment of variable remuneration according to performance, pursuant to art. 10; (Wording given by Law No. 12,980, of 2014)

V – use, whenever possible, in the cost spreadsheets contained in the proposals offered by the bidders, labor, materials, technologies and raw materials existing at the place of execution, conservation and operation of the service or work, provided that no losses in efficiency in the execution of the respective object are produced and that the limit of the estimated budget for contracting is respected; and

VI – subdivision of the object, aiming at the broad participation of bidders, without loss of economy of scale.

VII – wide publicity, on the website, of all phases and procedures of the bidding process, as well as of the contracts, respecting art. 6 of this Law. (Included by Law No. 13.173, of 2015)

§ 1 Contracts carried out based on the RDC must respect, in particular, the rules relating to:

 I – environmentally appropriate final disposal of solid waste generated by the contracted works;

II - mitigation by conditioners and environmental compensation, which

will be defined in the environmental licensing procedure;

III – use of products, equipment and services that are proven to reduce the consumption of energy and natural resources;

IV – neighborhood impact assessment, in the form of urban legislation;

V – protection of cultural, historical, archaeological and immaterial heritage, including through the assessment of the direct or indirect impact caused by the contracted works; and

VI – accessibility for use by people with disabilities or reduced mobility.

§ 2 The negative impact on the listed cultural, historical, archaeological and intangible heritage assets must be compensated by means of measures determined by the responsible authority, in accordance with the applicable legislation.

SECTION II

RULES APPLICABLE TO TENDERING UNDER THE RDC

SUBSECTION I

BIDDING OBJECT

<u>Art. 5</u>

The object of bidding must be clearly and precisely defined in the bidding instrument, excessive, irrelevant or unnecessary specifications are forbidden.

<u>Art. 6</u>

In compliance with the provisions of § 3, the budget previously estimated for contracting will be made public only and immediately after the closing of the bidding, without prejudice to the disclosure of the details of the amounts and other information necessary for the preparation of the proposals.

 \S 1 In cases in which the criterion of judgment by greater discount is adopted, the information referred to in the caption of this article will be included in the invitation to bid.

 \S 2 – In the case of judging by best technique, the value of the prize or remuneration will be included in the invitation to bid.

 \S 3 If it is not included in the invitation to bid instrument, the information referred to in the caption of this article will be confidential and will be strictly and permanently made available to external and internal control bodies.

<u>Art. 7</u>

In the case of a bid for the acquisition of goods, the public administration may:

I – indicate brand or model, as long as formally justified, in the following cases:

a) due to the need to standardize the object;

b) when a given brand or model marketed by more than one supplier is the only one capable of meeting the needs of the contracting entity; or

c) when the description of the object to be subject to bidding can be better understood by identifying a certain brand or model that can be used as a reference, in which case the addition of the expression "or similar or of better quality" will be mandatory;

II - require a sample of the asset in the pre-qualification procedure, at the stage of judging proposals or bids, as long as the need for its presentation is justified;

III – request the certification of the quality of the product or the manufacturing process, including under the environmental aspect, by any competent official institution or by an accredited entity; and

IV – request, with supporting arguments, a letter of solidarity issued by the manufacturer, which ensures the execution of the contract, in the case of a reseller or distributor bidder.

<u>Art. 8</u>

In the indirect execution of engineering works and services, the following regimes are allowed:

- I contract work for unit price;
- II contract work for global price;
- III contract work by task;
- IV full-job contracting; or
- V integrated contract work.

§ 1 In the bidding and contracting of works and engineering services, the regimes specified in items II, IV and V of the caption of this article will be preferably adopted.

§2 In the event that the application of the provisions of paragraph 1 of this article is not feasible, another regime provided for in the caption of this article may be adopted, in which case the reasons that

justified the exception will be inserted in the proceedings.

§ 3 The overall cost of engineering works and services must be obtained from unit costs of inputs or services less than or equal to the average of those corresponding to the National System of Research on Costs and Indices of Civil Construction (Sinapi), in the case of civil construction in general, or in the Road Works Cost System table (Sicro), in the case of road works and services.

§ 4 In the event that the definition of costs is not feasible under the provisions of § 3 of this article, the global cost estimate may be determined by using data contained in a reference table formally approved by federal public administration bodies or entities, in specialized technical publications, in a specific system created for the sector or in market research.

§ 5. In tenders for contracting works and services, with the exception of those where the regime provided for in item V of the caption of this article is adopted, there must be a basic project approved by the competent authority, available for examination by those interested in participating in the bidding process.

§ 6 In the case of contracts carried out by municipal, state and Federal District governments, provided that they do not involve Union resources, the overall cost of engineering works and services referred to in § 3 of this article may also be obtained from other cost systems already adopted by the respective entities and accepted by the respective public finance courts.

§ 7 It is prohibited to carry out, without an executive project, engineering works and services for which the RDC has been used, regardless of the regime adopted.

<u>Art. 9</u>

In the bidding for engineering works and services, within the scope of the RDC, integrated contracting may be used, provided that it is technically and economically justified and whose object involves at least one of the following conditions: (Wording given by Law No. 12,980, of 2014)

I – technological or technical innovation; (Included by Law No. 12.980, of 2014)

II – possibility of execution with different methodologies; or (Included by Law No. 12.980, of 2014)

III – possibility of execution with restricted domain technologies in the market. (Included by Law No. 12.980, of 2014)

§ 1 Integrated contracting includes the preparation and development of basic and executive projects, the execution of engineering works and services, the assembly, testing, pre-operation and all other necessary and sufficient operations for the final delivery of the object.

§ 2 In the case of integrated contracting:

I – the bidding instrument must contain an engineering draft that includes the technical documents intended to enable the characterization of the work or service, including:

 a) the demonstration and justification of program of needs, the global view of investments and the definitions of the desired service level;

b) solidity, safety, durability and delivery terms, observing the provisions of the caption and of § 1 of art. 6 of this Law;

c) the aesthetics of architectural design; and

d) the parameters of adequacy to the public interest, economy in use, ease of execution, environmental impacts and accessibility;

II – the estimated value of the contract will be calculated based on the values practiced by the market, on the amounts paid by the public administration for similar services and works or on the assessment of the global cost of the work, as determined by means of a synthetic budget or expeditious or parametric methodology. (Wording given by Law No. 12.980, of 2014)

III – (Revoked). (Wording given by Law No. 12.980, of 2014)

§ 3 If the presentation of projects with different execution methodologies is allowed in the engineering draft, the invitation to bid shall establish objective criteria for the evaluation and judgment of the proposals.

§ 4 In cases in which integrated contracting is adopted, it is forbidden to enter into amendments to the executed contracts, except in the following cases:

I – to restore the economic-financial balance resulting from Acts of God or force majeure; and

II – due to the need to change the project or specifications for better technical adaptation to the objectives of the contract, at the request of the public administration, provided that they do not result from errors or omissions on the part of the contractor, subject to the limits provided for in § 1 of art. 65 of Law No. 8.666, of June 21, 1993.

§ 5 If the preliminary draft includes a risk allocation matrix between the public administration and the contractor, the estimated value of the contract may consider a risk rate compatible with the object of the bid and the contingencies assigned to the contractor, according to the methodology predefined by the contracting entity. (Included by Law No. 13.190, 2015)

<u>Art. 10.</u>

When contracting works and services, including engineering, variable remuneration may be established, linked to the contractor's performance, based on goals, quality standards, environmental sustainability criteria and delivery deadlines defined in the invitation to bid and in the contract.

Sole paragraph. The use of variable remuneration will be motivated and will respect the budgetary limit set by the public administration for contracting.

<u>Art. 11.</u>

The public administration may, upon express justification, contract more than one company or institution to perform the same service, provided that it does not imply loss of economy of scale, when:

I – the object of the contract can be executed concurrently and simultaneously by more than one contractor; or

II - the multiple execution is convenient to serve the public administration.

 \S 1 In the cases provided for in the caption of this article, the public administration must maintain individual control of the execution of the contractual object in relation to each of the contracted parties.

 \S 2 The provision in the caption of this article does not apply to engineering services.

SUBSECTION II

BIDDING PROCEDURE

<u>Art. 12.</u>

The bidding procedure referred to in this Law will observe the following phases, in this order:

- I preparatory;
- II publication of the invitation to bid;
- III presentation of proposals or bids;
- IV judgment;
- V accreditation;
- VI appeal; and
- VII closure.

Sole paragraph. The phase referred to in item V of the caption of this article may, by means of a motivated act, precede those referred to in items III and IV of the caption of this article, provided that it is expressly provided for in the bidding instrument.

<u>Art. 13.</u>

Bids must be carried out preferably in electronic form, admitted in person.

Sole paragraph. In procedures performed electronically, the public administration may determine, as a condition of validity and effectiveness, that bidders practice their acts in electronic format.

<u>Art. 14.</u>

In the qualification phase of bids carried out in accordance with this Law, the provisions of arts. 27 to 33 of Law 8.666, of June 21, 1993, will be applied as follows:

I - bidders may be required to declare that they meet the qualification requirements;

 II – presentation of the qualification documents will be required only by the winning bidder, except in the case of phase reversal;

III – in the case of phase inversion, only bids from previously qualified bidders will be received; and

IV – in any case, the documents related to fiscal regularity may be required after the bid is judged, only in relation to the highest ranked bidder.

Sole paragraph. In biddings regulated by the RDC:

I – the participation of bidders in the form of a consortium will be admitted, as established by regulation; and

II – environmental sustainability requirements may be required, in accordance with the applicable legislation.

<u>Art. 15.</u>

Broad publicity will be given to the bidding and pre-qualification procedures governed by this Law, except for the assumptions of information whose secrecy is essential to the security of society and the State, and the following minimum deadlines for the submission of proposals, counted from the date of publication of the invitation to bid, will be adopted:

I – for the acquisition of goods:

a) five (5) business days, when the criteria of judgment are adopted at the lowest price or the highest discount; and

b) ten (10) business days, in the cases not covered by subparagraph *a* of this item;

II - for contracting services and works:

a) fifteen (15) business days, when the criteria of judgment are adopted at the lowest price or the highest discount; and

b) thirty (30) business days, in the cases not covered by subparagraph *a* of this item;

III – for biddings in which the criterion of judgment is that of the highest of-fer: ten (10) business days; and

IV – for bids where the criterion of judgment is adopted is that of the best combination of technique and price; the best technique or because of the artistic content: thirty (30) business days.

§ 1 The advertising referred to in the caption of this article, without prejudice to the possibility of direct disclosure to suppliers, registered or not, will be carried out through:

I – publication of an extract from the notice in the Federal Official Gazette, in the State Official Gazette, in the Federal District Official Gazette or the Municipality Official Gazette, or, in the case of a public consortium, of the highest entity among them, without prejudice to the possibility of publishing an extract in a daily newspaper of great circulation; and

II – disclosure in a centralized website of bids or maintained by the entity in charge of the bidding procedure on the world wide web.
§ 2 In the case of bids whose value does not exceed one hundred and fifty thousand reais (R\$ 150,000.00) for works or eighty thousand reais (R\$ 80,000.00) for goods and services, including engineering, the publication provided for in item I of § 1 of this article is dispensed.

§ 3 In the case of installment of the object, the total value of the contract must be considered, for the purposes of applying the provisions of § 2 of this article.

§ 4 Any modifications to the bidding instrument will be disclosed within the same terms as the original acts and procedures, except when the alteration does not compromise the formulation of the proposals.

<u>Art. 16</u>

In biddings, open and closed dispute modes may be adopted, which may be combined in accordance with the regulations.

<u>Art. 17</u>

The regulation will provide for the rules and procedures for submitting proposals or bids, subject to the following:

I – in the open dispute mode, the bidders will present their offers through public and successive bids, increasing or decreasing, according to the criterion adopted;

II – in the closed dispute mode, the proposals submitted by the bidders will be confidential until the date and time designated for them to be disclosed; and

III – in the bidding for engineering works or services, after the judgment of the proposals, the winning bidder must re-elaborate and present to the public administration, by electronic means, the spreadsheets indicating the quantities and unit costs, as well as the details of the Bonuses and Indirect Expenses (BDI) and Social Charges (ES), with the respective amounts appropriate to the winning bid.

§ 1 The following may be admitted, under the conditions established in regulation:

I - the presentation of intermediate bids, during the open dispute; and

II – the restart of the open contest, after the definition of the best bid and for the definition of the other placements, whenever there is a difference of at least ten percent | (10%) between the best bid and that of the subsequent bidder.

§ 2 Bids are considered to be intermediaries:

I – equal to or less than the highest one already offered, when the judgment was adopted by the criterion of the highest offer; or

II – equal to or greater than the smallest already offered, when other judgment criteria are adopted.

<u>Art. 18</u>

The following judgment criteria may be used:

I - lowest price or highest discount;

II - technique and price;

III - best technique or artistic content;

IV - higher price offer; or

V – greater economic return.

§ 1 The judgment criterion will be identified in the bidding instrument, in due compliance with the provisions of this Law.

§ 2 The judgment of the proposals will be carried out by the use of objective parameters defined in the invitation to bid.

§ 3° Advantages not provided for in the invitation to bid will not be considered, including subsidized or à fonds *perdus* financing.

<u>Art. 19</u>

The trial for the lowest price or highest discount will consider the lowest expenditure for the public administration, in compliance with the minimum quality parameters defined in the invitation to bid.

§ 1 Indirect costs, related to maintenance, utilization, replacement, depreciation and environmental impact expenses, among other factors, may be considered for the definition of the lowest expenditure, whenever objectively measurable, as provided in the regulation.

§ 2 The judgment for the highest discount will be based on the global price set in the bidding instrument, the discount being extended to any addendum terms.

§ 3 In the case of engineering works or services, the percentage of discount presented by the bidders shall be applied on a linear basis to the prices of all items of the estimated budget contained in the bidding instrument.

<u>Art. 20.</u>

In judging the best combination of technique and price, the technical and price proposals submitted by the bidders must be evaluated and weighted, using objective parameters that are obligatorily inserted in the bidding instrument.

§ 1 The judgment criterion referred to in the caption of this article will be used when the evaluation and weighting of the technical quality of the proposals that exceed the minimum requirements established in the invitation to bid are relevant to the purposes intended by the public administration, and are intended exclusively to objects:

I – of a predominantly intellectual nature and of technological or technical innovation; or

II – that can be executed with different methodologies or technologies of restricted domain in the market, punctuating the advantages and qualities that may be offered for each product or solution.

§ 2 The assignment of different weighting factors to evaluate technical and price proposals is allowed, with the most relevant weighting percentage limited to seventy percent (70%).

<u>Art. 21</u>

Judging by the best technique or the best artistic content will consider exclusively the technical or artistic proposals submitted by the bidders based on objective criteria previously established in the bidding instrument, in which the prize or remuneration to be attributed to the winners will be defined.

Sole paragraph. The judgment criteria referred to in the caption of this article may be used to contract projects, including architectural ones, and works of a technical, scientific or artistic nature, excluding engineering projects.

<u>Art. 22</u>

The highest price offer judgment will be used in the case of contracts that result in revenue for the public administration.

§ 1 When the criterion of judgment is used for the highest price offer, the requirements for technical and economicfinancial qualification may be waived, as provided by the regulation.

 \S 2 – In the judgment of the highest price offer, proof of payment of the amount may be required as a guarantee, as a

qualification requirement, limited to five percent (5%) of the offered value.

§ 3 In the event of § 2 of this article, the winning bidder will lose the entry fee in favor of the public administration if he does not make the payment due within the stipulated period.

<u>Art. 23.</u>

In judging the highest economic return, used exclusively for the execution of efficiency contracts, the proposals will be considered in order to select the one that will provide the greatest savings for the public administration resulting from the execution of the contract.

§ 1 The efficiency contract will have as its object the provision of services, which may include the execution of works and the supply of goods, with the objective of providing savings to the contractor, in the form of reduction of current expenses, the contracted being remunerated based on a percentage of the savings generated.

§ 2 In the event provided for in the caption of this article, bidders will submit work and price proposals, as provided by the regulation.

§ 3 In cases where the savings provided for in the efficiency contract are not generated:

 I – the difference between the contracted economy and the one actually obtained will be discounted from the contractor's remuneration;

II – if the difference between the contracted economy and the one actually obtained is higher than the contracted party's remuneration, a fine will be applied for non-performance in the amount of the difference; and

III – the contractor will also be subject to other applicable sanctions if the difference between the contracted economy and that actually obtained is higher than the maximum limit established in the contract.

<u>Art. 24</u>

Proposals will not be classified that:

I - contain incurable defects;

II – do not comply with the technical specifications detailed in the invitation to bid;

III – present prices that are manifestly unenforceable or remain above the estimated budget for contracting, including in the cases provided for in art. 6 of this Law;

IV – their feasibility has not been demonstrated, when required by the public administration; or

V – are non-compliant with any other requirements of the bidding instrument, as long as they are uncurable.

§ 1 The verification of the conformity of the proposals can be done exclusively in relation to the best classified proposal.

§ 2 The public administration may take steps to assess the feasibility of the proposals or require the bidders to demonstrate it, as provided for in item IV of the caption of this article.

§ 3 In the case of engineering works and services, for the purpose of assessing feasibility and over-price, the global price, the quantitative and the unit prices considered relevant will be considered, as provided by the regulation.

<u>Art. 25</u>

In the event of a tie between two (2) or more proposals, the following casting vote criteria will be used, in the order as follows:

I – final dispute, in which tied bidders may submit a new closed proposal in a continuous act to the classification;

II – the evaluation of the previous contractual performance of the bidders, provided that there is an objective evaluation system in place;

III – the criteria established in art. 3 of Law No. 8.248, of October 23, 1991, and in § 2 of art. 3 of Law No. 8.666, of June 21, 1993; and

IV - prize draw.

Sole paragraph. The rules provided for in the caption of this article do not prejudice the application of the provisions of art. 44 of Supplementary Law No. 123, of December 14, 2006.

<u>Art. 26</u>

Once the outcome of the judgment is defined, the public administration may negotiate more advantageous conditions with the first-place winner.

Sole paragraph. The negotiation can be done with the other bidders, according to the classification order initially established, when the price of the first placed, even after the negotiation, is disqualified because his proposal remains above the estimated budget.,

<u>Art. 27.</u>

Except in the case of phase reversal, the bidding procedure will have a single appeal phase, which will follow the qualification of the winner.

Sole paragraph. In the appeal phase, appeals related to the judgment of proposals or bids and the qualification of the winner will be analyzed.

<u>Art. 28.</u>

Once the administrative resources are exhausted, the bidding procedure will be closed and forwarded to the higher authority, which may:

I - determine the return of the records to remedy any irregularities that can be remedied;

II – annul the procedure, in whole or in part, due to insatiable defect;

III - revoke the procedure for reasons of convenience and opportunity; or

IV – award the object and ratify the bidding.

SUBSECTION III

AUXILIARY BIDDING PROCEDURES WITHIN THE RDC

<u>Art. 29.</u>

Auxiliary procedures for bidding are governed by the provisions of this Law:

I - permanent prequalification;

II - registration;

III - price registration system; and

IV – electronic standardization catalog.

Sole paragraph. The procedures referred to in the caption of this article shall obey clear and objective criteria defined in regulations.

<u>Art. 30.</u>

Pre-qualification is considered to be the procedure prior to bidding to identify:

I – suppliers that meet the qualification conditions required for the supply of goods or the execution of services or works within the previously established terms, locations and conditions; and II – goods that meet the technical and quality requirements of the public administration.

§ 1 The pre-qualification procedure will be permanently open for the registration of any interested parties.

§ 2 The public administration may carry out a bidding restricted to prequalified persons, under the conditions established by regulation.

§ 3 Prequalification may be carried out in groups or segments, according to the suppliers> specialties.

§ 4 The pre-qualification may be partial or total, containing some or all of the qualification or technical requirements necessary for contracting, ensuring, under any circumstances, equal conditions between competitors.

§ 5 The pre-qualification will be valid for a maximum of 1 (one) year, and may be updated at any time.

<u>Art. 31.</u>

The registration records may be kept for the purpose of qualifying those enrolled in bidding procedures and will be valid for a maximum of 1 (one) year, and may be updated at any time.

§ 1 The registration records will be widely disclosed and will be permanently open for the registration of interested parties.

Paragraph 2. Registrants will be admitted according to the requirements set out in the regulations.

§ 3 The performance of the bidder in fulfilling its assumed obligations will be noted in the respective cadastral record.

§ 4 At any time, the registration of the registrant who fails to meet the qualification requirements or those established for cadastral admission may be altered, suspended or canceled.

<u>Art. 32.</u>

The Price Registration System, specifically destined to the bids mentioned in this Law, will be governed by the provisions of the regulation.

§ 1 may join the system referred to in the caption of this article any agency or entity responsible for the execution of the activities contemplated in art. 1 of this Law.

§ 2 The price register will observe, among others, the following conditions:

I – prior carrying out extensive market research;

II – selection in accordance with the procedures provided for in the regulation;

III – mandatory development of a periodic control and periodic update of registered prices;

IV – definition of the validity of the registration; and

V – inclusion, in the respective minutes, of the registration of the bidders who agree to quote the goods or services with prices equal to that of the winning bidder following the classification of the event, as well as of the bidders who maintain their original proposals.

§ 3 – The existence of registered prices does not oblige the public administration to sign the contracts that may arise from them, being allowed to carry out specific bidding, ensuring the registered bidder preference under equal conditions.

<u>Art. 33.</u>

The electronic catalog for the standardization of purchases, services and works consists of a computerized system, centrally managed, designed to allow the standardization of items to be purchased by the public administration that will be available for bidding.

Sole paragraph. The catalog referred to in the caption of this article may be used in bids whose criterion of judgment is the offer of the lowest price or the highest discount and will contain all the documentation and procedures of the internal phase of the bidding, as well as the specifications of the respective objects, as provided in regulation.

SUBSECTION IV

BIDDING COMMISSION

<u>Art. 34.</u>

Bids promoted under the RDC will be processed and judged by a permanent or special bidding committee, composed mostly of public servants or employees belonging to the permanent staff of the public administration bodies or entities responsible for the bidding.

§ 1 The rules related to the functioning of the bidding commissions and the registration commission referred to in this Law will be established in regulation. § 2° the members of the bidding commission will jointly and severally answer for all acts performed by the commission, unless a different individual position is recorded in the minutes of the meeting at which the respective decision was adopted.

SUBSECTION V

EXEMPTION AND UNENFORCEABILITY OF BIDDING

<u>Art. 35.</u>

The hypotheses of dispensation and unenforceable bidding established in arts. 24 and 25 of Law 8,666, of June 21, 1993, apply, as appropriate, to contracts made based on the RDC.

Sole paragraph. The hiring process due to waiver or unenforceable bidding must follow the procedure provided for in art. 26 of Law No. 8.666, of June 21, 1993.

SUBSECTION VI

SPECIFIC CONDITIONS FOR PARTICIPATION IN BIDS AND FOR CONTRACTING IN THE RDC

<u>Art. 36.</u>

Direct or indirect participation in the bids referred to in this Law is prohibited:

 I – the natural or legal person who prepares the corresponding basic or executive project;

 II - the legal entity that participates in a consortium responsible for the preparation of the corresponding basic or executive project;

III – of the legal entity of which the author of the basic or executive project is an administrator, partner with more than 5% (five percent) of the voting capital, controller, manager, technician or subcontractor; or

IV – the civil servant, employee or occupant of a commissioned position of the contracting agency or entity responsible for the bidding.

 \S 1 The provisions of items I, II and III of the caption of this article do not apply in the case of integrated contracts.

Paragraph 2. The provision in the caption of this article does not preclude, in the bids for the contracting of works or services, the provision that the elaboration of an executive project constitutes a contracted party's charge, according to the price previously fixed by the public administration. § 3 The participation of individuals or legal entities referred to in items II and III of the caption of this article in bidding or in the execution of the contract, as a consultant or technician, is permitted in the functions of inspection, supervision or management, exclusively at the service of the body or interested public entity.

§ 4 For the purposes of this article, indirect participation is considered to be the existence of any link of a technical, commercial, economic, financial or labor nature between the author of the project, individual or legal entity, and the bidder or responsible for the services, supplies and works, including supplies of goods and services necessary for them.

§ 5 The provisions of § 4 of this article apply to members of the bidding commission.

<u>Art. 37</u>

It is forbidden to contract directly, without bidding, a legal entity in which there is an administrator or partner with management power who maintains a family relationship, including by affinity, up to the third civil degree with:

I – holder of a position in a commission or trust function that acts in the area responsible for the demand or contracting; and

II – hierarchically superior authority within the scope of each public administration body or entity.

<u>Art. 38</u>

In the contracting processes covered by this Law, the preferences for suppliers or types of goods, services and works provided for in the legislation apply, in particular those referred to:

I - in art. 3 of Law No. 8.248, of October 23, 1991;

II – in art. 3 of Law No. 8.666, of June 21, 1993; and

III - in arts. 42 to 49 of Supplementary Law No. 123, of December 14, 2006.

SECTION III

SPECIFIC RULES APPLICABLE TO CONTRACTS ENTERED INTO UNDER THE RDC

<u>Art. 39</u>

Administrative contracts entered into on the basis of the RDC will be governed by the provisions of Law No. 8.666, of June 21, 1993, with the exception of the specific rules provided for in this Law.

<u>Art. 40</u>

The public administration may, when the convened person does not sign the contract or does not accept or withdraw the equivalent instrument under the established term and conditions:

I – to revoke the bidding, without prejudice to the application of the sanctions provided for in Law No. 8.666, of June 21, 1993, and in this Law; or

II – call the remaining bidders, in the order of classification, for the execution of the contract under the conditions offered by the winning bidder.

Sole paragraph. In the event that none of the bidders accepts the contract under the terms of item II of the caption of this article, the public administration may call the remaining bidders, in the order of classification, to enter into the contract under the conditions offered by them, provided that the respective value is equal or less than the estimated budget for contracting, including updated prices under the terms of the invitation to bid.

<u>Art. 41</u>

In the event of item XI of art. 24 of Law No. 8.666, of June 21, 1993, the contracting of the remaining work, service or supply of goods as a result of contractual termination will observe the order of classification of the remaining bidders and the conditions offered by them, provided that the estimated budget is not exceeded.

<u>Art. 42</u>

The contracts for the execution of the works provided for in the multi-annual plan may be executed for the period therein included, subject to the provisions of the caption of art. 57 of Law No. 8.666, of June 21, 1993.

<u>Art. 43</u>

In the event of item II of art. 57 of Law No. 8.666, of June 21, 1993, the contracts entered into by the public entities responsible for the activities described in items I to III of art. 1 of this Law may be valid until the date of termination of the APO. (Wording given by Law No. 12.688, of 2012).

<u>Art. 44.</u>

The rules regarding the annulment and revocation of bids provided for in art. 49 of Law No. 8.666, of June 21, 1993, will

apply to contracts entered into based on the provisions of such Law.

<u>Art. 44-A</u>

In contracts governed by this Law, the use of private dispute resolution mechanisms may be admitted, including arbitration, to be carried out in Brazil and in Portuguese language, under the terms of Law No. 9.307, of September 23, 1996, and mediation, to settle conflicts arising from or related to its execution. (Included by Law No. 13,190, 2015)

SECTION IV

CLARIFICATION REQUESTS, CHALLENGES AND RESOURCES

<u>Art. 45</u>

The acts of public administration resulting from the application of the RDC will include:

I – requests for clarification and challenges to the bidding instrument within at least:

a) up to two (2) business days before the opening date of the proposals, in the case of a bid for the acquisition or sale of goods; or

b) up to five (5) business days before the opening date of the proposals, in the case of a bidding for the contracting of works or services;

II – appeals, within five (5) business days from the date of notification or the drawing up of the minutes, in view of:

 a) the act that grants or rejects the request for prequalification of interested parties;

b) the act of enabling or disabling a bidder;

c) judging the proposals;

d) the annulment or revocation of the bidding;

e) the dismissal of the application for registration with the register, its alteration or cancellation;

f) termination of the contract, in the cases provided for in item I of art. 79 of Law No. 8.666, of June 21, 1993;

g) application of warning, fine, declaration of unfairness, temporary suspension of participation in bidding and impediment to contract with the public administration; and III – representations, within five (5) business days from the date of notification, in relation to acts that are not subject to appeal.

§ 1 Bidders who wish to submit the appeals referred to in subparagraphs a, b and c of item II of the caption of this article shall immediately express their intention to appeal, under penalty of preclusion.

§ 2 The term for presenting counterarguments will be the same as the appeal and will start immediately after the end of the appeal period.

§ 3 The bidders are assured to request for examination the elements important to defend their interests.

§ 4 In counting the deadlines established in this Law, the starting day will be excluded and the due date will be included.

§5 The terms provided for in this Law begin and expire exclusively on business days of the agency or entity.

§ 6 The appeal will be directed to the superior authority, through the authority that performed the contested act, and it is up to the latter to reconsider its decision within five (5) business days or, within that same period, sending it to the higher court authority, duly informed, and, in this case, the decision of the appeal must be rendered within the period of five (5) business days, counted from its receipt, under penalty of verification of responsibility.

<u>Art. 46</u>

The provisions of art. 113 of Law 8.666, of June 21, 1993 will apply to the RDC.

SECTION V

ADMINISTRATIVE SANCTIONS

<u>Art. 47</u>

The bidder will be prevented from bidding and contracting with the Federal Government, States, Federal District or Municipalities, for a period of up to five (5) years, without prejudice to the fines provided for in the invitation to bid and in the contract, as well as to other legal agreements, if:

I – when it is called to bid, fails to enter into the contract within the term of validity of its proposal as provided for in the sole paragraph of art. 40 and in art. 41 of this Law; II – fails to deliver the documentation required for the event or present a false document;

III – gives rise to the delay in the execution or delivery of the object of the bidding without justified reason;

IV – does not maintain the proposal, unless as a result of an incidental fact, duly justified;

V – defrauds the bid or performs fraudulent acts in the execution of the contract;

VI – behaves in an unfaithful manner or commits tax fraud; or

VII – causes the total or partial nonperformance of the contract.

§ 1 The application of the sanction referred to in the caption of this article will also imply the disqualification of the bidder, for the period established in the caption of this article, from the registration systems of the federative entities that comprise the Olympic Public Authority.

§ 2 The administrative, criminal and other sanctions provided for in Chapter IV of Law No. 8.666, of June 21, 1993, apply to biddings and contracts governed by this Law.

<u>Art. 47-A.</u>

The public administration may enter into contracts for the lease of assets and property, in which the lessor carries out prior acquisition, construction or substantial renovation, with or without equipping assets, by itself or by third parties, of the property specified by the administration. (Included by Law No. 13,190, 2015)

§ 1 The contracting referred to in the caption is subject to the same discipline of waiver and unenforceable bidding applicable to common leases. (Included by Law No. 13,190, 2015)

§ 2 The contracting referred to in the caption may provide for the reversion of assets to the public administration at the end of the lease, as long as established in the contract. (Included by Law No. 13.190, 2015)

§ 3 The lease amount referred to in the caption cannot exceed, per month, one percent (1%) of the value of the leased asset. (Included by Law No. 13,190, 2015)

CHAPTER II

OTHER PROVISIONS

SECTION I

CHANGES TO THE ORGANIZATION OF THE PRESIDENCY OF THE REPUBLIC AND MINISTRIES

<u>Art. 48</u>

Law No. 10.683, of May 28, 2003, becomes effective with the following amendments:

"Art. 1 ° The Presidency of the Republic is comprised, essentially:

I - by the Domestic Affairs Office;

II - by the General Secretariat;

III - by the Institutional Relations Secretariat;

IV – by the Secretariat of Social Communication;

V - by the Personal Office;

VI – by the Institutional Security Office;

VII – by the Secretariat for Strategic Affairs;

VIII - by the Secretariat of Policies for Women;

IX - by the Human Rights Secretariat;

X – by the Secretariat for Policies for the Promotion of Racial Equality;

XI - by the Ports Secretariat; and

XII - by the Civil Aviation Secretariat.

§ 1.....

X - the Civil Aviation Council.

....."(NR)

"Art. 2 ° It is incumbent upon the Domestic Affairs Office of the Presidency of the Republic:

I – to assist the President of the Republic directly and immediately in the performance of his duties, particularly:

a) in the coordination and integration of Government actions;

b) in prior verification of the constitutionality and legality of presidential acts;

c) in the analysis of the merit, the opportunity and the compatibility of the proposals, including the matters under discussion in the National Congress, with the government guidelines;

d) in the evaluation and monitoring of governmental action and the management of federal public administration bodies and entities;

II – promote the publication and preservation of official acts.

Sole paragraph. The Domestic Affairs Office has as basic structure:

I – the Deliberative Council for the Amazon Protection System;

II - the National Press;

III - the Cabinet;

 $\ensuremath{\mathsf{IV}}$ – the Executive Secretary Office; and

 V – up to three (3) Deputy Leaders. (NR)

"Art. 3.....

§ 1 It is also incumbent upon the General Secretariat of the Presidency of the Republic to:

I – supervise and execute the administrative activities of the Presidency of the Republic and, alternatively, of the Vice-Presidency of the Republic; and

II – evaluate the governmental action and the result of the administrators' management, within the bodies comprising the Presidency of the Republic and Vice-Presidency of the Republic, in addition to others determined in specific legislation, through accounting, financial, budgetary, operational and equity supervision

 \S 2 The General Secretariat of the Presidency of the Republic has a basic structure:

I - the National Youth Council;

II - the Cabinet;

III - the Executive Secretary Office;

IV - the National Youth Secretariat;

V - up to five (5) Secretariats; and

VI - one (1) Internal Control body.

§ 3 It will be incumbent upon the Executive Secretary of the General Secretariat of the Presidency of the Republic to exercise, in addition to the supervision and coordination of the Secretariats that are part of the structure of the General Secretariat of the Presidency of the Republic subordinated to the State Minister, the functions thereto assigned by him." (NR)

"Art. 6 It will be incumbent upon Institutional Security Cabinet of the Presidency of the Republic to:

I – assist the President of the Republic directly and immediately in the performance of his duties;

II – prevent the occurrence and articulate crisis management in the event of a serious and imminent threat to institutional stability;

III - carry out personal advice on military and security matters;

IV – coordinate federal intelligence and information security activities;

V – ensure, exercising the exercise of police power, the personal safety of the Head of State, the Vice President of the Republic and their family members, the holders of the essential bodies of the Presidency of the Republic and other authorities or personalities when determined by the President of the Republic. Republic, as well as for the security of the presidential palaces and residences of the President and Vice-President of the Republic.

61 (Revoked).

§ 2 (Revoked).

§ 4 The Institutional Security Office of the Presidency of the Republic has as its basic structure:

I – the Brazilian Intelligence Agency (Abin);

II - the Cabinet;

 III – the Executive Secretary Office; and

IV - up to three (3) Secretariats." (NR)

"Art. 11-A. It is incumbent upon the Civil Aviation Council, chaired by the State Minister Chief the Civil Aviation Secretariat of the Presidency of the Republic, with composition and functioning established by the Executive Branch, to set forth the policy guidelines related to the civil aviation sector."

"Art. 24-D. It is incumbent upon the Civil Aviation Secretariat to:

 I – formulate, coordinate and supervise policies for the development of the civil aviation sector and airport and civil aeronautical infrastructures, in articulation, as appropriate, with the Ministry of Defense;

II – prepare studies and projections related to matters of civil aviation and airport and civil aeronautical infrastructures and on the logistics of air transport and intermodal and multimodal transport, along axes and production flows in conjunction with the other competent government bodies, with attention to the demands of urban mobility and accessibility;

III – formulate and implement the strategic planning of the sector, defining priorities for investment programs;

IV – elaborate and approve the concession plans for the exploitation of the airport infrastructure, after consultation with the National Civil Aviation Agency (Anac);

V – propose to the President of the Republic the declaration of public utility, for the purposes of expropriation or institution of administrative easement, of the goods necessary for the construction, maintenance and expansion of the aeronautical and airport infrastructure;

VI – manage resources and programs for the development of civil aviation infrastructure;

VII – coordinate the bodies and entities of the civil aviation system, in conjunction with the Ministry of Defense, as appropriate; and

VIII – transfer to the States, Federal District and Municipalities the implantation, administration, operation, maintenance and operation of public aerodromes, directly or indirectly.

Sole paragraph. The Civil Aviation Secretariat has as its basic structure the Cabinet, the Executive Secretary Office and up to three (3) Secretaries."

"Art. 25.....

Sole paragraph. State Ministers are:

I - the holders of the Ministries;

II – the holders of the Secretariats of the Presidency of the Republic;

III - the Federal Attorney General;

IV – the Chief of Staff of the Presidency of the Republic;

V – the Head of the Institutional Security Office of the Presidency of the Republic;

VI – the Head of Office of the Federal Controller General;

VII – the President of the Central Bank of Brazil." (NR)

"Art. 27.....

VII – Ministry of Defense:

y) aerospace and aeronautical infrastructure;

z) operationalization of the Amazon Protection System (Sipam);

XII -....

j).....

6. (revoked);

XIV -.....

m) articulation, coordination, supervision, integration and proposition of actions by the Government and the National Drug Policy System in aspects related to prevention activities, repression of illicit trafficking and unauthorized drug production, as well as those related to the treatment, recovery and social reintegration of users and dependents and the Integrated Plan to Combat Crack and Other Drugs;

n) national archive policy; and

 o) assistance to the President of the Republic in matters not assigned to another Ministry;

"Art. 29.....

VI – Ministry of Culture: the Superior Council of Cinema, the National Council for Cultural Policy, the National Committee for Cultural Incentives and up to six (6) Secretariats;

VII – Ministry of Defense: the Military Defense Council, the Navy Command, the Army Command, the Aeronautical Command, the Armed Forces, the War College, the System Management and Operational Center Protection of the Amazon (Censipam), the Hospital of Armed Forces, the Brazilian Representation in the Inter-American Defense Board, up to three (3) Secretariats and an Internal Control body;

XIV - the Ministry of Justice: the National Council for Criminal and Penitentiary Policy, the National Council for Public Security, the Federal Council for the Management of the Defense of Diffuse Rights, the National Council for Combating Piracy and Offenses against Intellectual Property, the National Archives Council, the National Drug Policy Council, the Federal Police Department, the Federal Highway Police Department, the Federal Railway Police Department, the Federal Public Defender's Office, the National Archive and up to six (6) Secretariats:

§ 3 (Revoked).

§ 8 Professionals of the Railway Public Security deriving from the Network group, the Federal Railway Network (RFF-SA), the Brazilian Urban Train Company (CBTU) and the Urban Train Company of Porto Alegre (Trensurb) who were in office on December 11, 1990, become part of the Federal Railway Police Department of the Ministry of Justice." (NR)

<u>Art. 49</u>

Civil aviation competences are transferred from the Ministry of Defense to the Civil Aviation Secretariat.

<u>Art. 50</u>

The assets of the bodies transferred, incorporated or dismembered by this Law will be transferred to the Ministries, bodies and entities that have absorbed the corresponding powers.

Sole paragraph. The permanent staff of the bodies referred to in this article will be transferred to the Ministries and bodies that have absorbed the corresponding powers.

<u>Art. 51</u>

The Ministry of Defense and the Ministry of Planning, Budget and Management will adopt, until June 1, 2011, the necessary

measures to carry out the transfers referred to in this Law, including in regard the budget allocations destined to the transferred bodies.

Sole paragraph. Within the term referred to in the caption, the Ministry of Defense will provide the necessary administrative and legal support to assure the continuity of the activities of the Civil Aviation Secretariat.

<u>Art. 52</u>

The civil servants and military personnel requested by the President of the Republic in office, on December 31, 2010, at the Management and Operational Center of the Amazon Protection System, at the National Archives and at the National Drug Policy Secretariat, may remain available, respectively, at the Ministry of Defense and the Ministry of Justice, to work at those units, as well as to be requested again if they have returned to the original bodies or entities before March 18, 2011. (Effective date)

§ 1. The civil servants and military personnel referred to in the caption may be appointed to exercise the Representation of the Presidency of the Republic or the Exercise in a Trusted Position in the bodies of the Presidency of the Republic due to the military while they remain in the bodies for which were requested.

§ 2 (Revoked by Law No. 12.702, of 2012)

§ 3 The provisions of the sole paragraph of art. 2 of Law No. 9.007, of March 17, 1995, are applicable to the civil servants referred to in this article.

SECTION II

ADAPTATIONS OF ANAC LEGISLATION

<u>Art. 53</u>

Law No. 11.182, of September 27, 2005, becomes effective with the amendments as follows:

"Art. 3 Anac, in the exercise of its powers, must observe and implement the guidelines, rules and policies established by the federal government, especially with regard to:

......) "Art. 8

XXII – approve the airport master plans;

XXIII - (revoked);

XXVII - (revoked);

XXVIII – monitor compliance with technical requirements in the construction, renovation and expansion of aerodromes and approve their opening to traffic;

XXXIX – submit a budget proposal to the Chief Minister of State of the Civil Aviation Secretariat of the Presidency of the Republic;

XL – prepare and send the annual report of its activities to the Civil Aviation Secretariat of the Presidency of the Republic and, through the Presidency of the Republic, to the National Congress;

XLVII – (revoked);

......"(NR)

"Art. 11.....

I – to propose, through the *Minister* of *State* for *Civil Aviation*, to the President of the Republic, amendments to the Anac regulations;

" (N	IR)
'Art. 14	

§ 2 It incumbent upon the *Minister* of *State* for *Civil Aviation* to file the disciplinary administrative process, to be conducted by a special committee comprised by stable federal civil servants, and it is incumbent upon the President of the Republic to determine the preventive removal, as the case may be, and render judgment." (NR)

SECTION III

ADAPTATION OF INFRAERO LEGISLATION

<u>Art. 54</u>

Art. 2 of Law No. 5.862, of December 12, 1972, becomes effective with the following wording:

"Art. 2 Infraero will have the purpose of implementing, managing, operating and exploiting industrially and commercially the airport infrastructure attributed to it by the Civil Aviation Secretariat of the Presidency of the Republic.

SECTION IV

ADAPTATION OF THE FEDERAL AIRPORT ASSISTANCE PROGRAM

<u>Art. 55.</u>

Art. 1 of Law No. 8.399, of January 7, 1992, becomes effective with the following amendments:

"Art. 1st.....

§ 2 The twenty percent (20%) portion specified in this article will constitute the financial support of the Federal Airport Assistance Program to be proposed and implemented in accordance with the State Airway Plans and established through agreements entered into between the State Governments and the Civil Aviation Secretariat of the Presidency of the Republic.

§ 3 The state airports included in the Airway Plans and which are the subject of a specific agreement entered into between the interested State Government and the Civil Aviation Secretariat of the Presidency of the Republic will be contemplated with the resources provided for in Paragraph 2.

....." (NR)

SECTION V

POSITIONS RESULTING FROM RESTRUCTURING OF THE CIVIL AVIATION SECRETARIAT

<u>Art. 56</u>

The position of Minister of State for the Civil Aviation is created.

<u>Art. 57</u>

The commissioned position Executive Secretary of the Civil Aviation Secretariat is created.

<u>Art. 58</u>

The following commissioned positions of the Senior Management and Advisory Group are created within the scope of the federal public administration, destined to the Civil Aviation Secretariat:

I – two (2) DAS-6;

II - nine (9) DAS-5;

- III twenty-three (23) DAS-4;
- IV thirty-nine (39) DAS-3;
- V thirty-five (35) DAS-2;
- VI nineteen (19) DAS-1.

<u>Art. 59</u>

The position, of a Special Nature, of the National Secretary for Drug Policy is transformed into the position, of a Special Nature, of Chief Advisor to the Special Advisory to the President of the Republic.

<u>Art. 60</u>

The Table a to Exhibit I of Law No. 11.526, of October 4, 2007, becomes effective added by the following line:

Chief Advisor	
to the Special	
Advisory to the	11.179,36
President of the	
Republic	

SECTION VI

AIR TRAFFIC CONTROL PERSONNEL

<u>Art. 61</u>

Art. 2 of Law No. 11.458, of March 19, 2007, becomes effective with the following wording:

"Art. 2 The engagement referred to in this Law will be a maximum of one hundred and sixty (160) persons, valid for up to two (2) years, and may be extended for successive periods until March 18, 2013.

§ 1 Extensions for periods after the date established in the caption of this article may be authorized, by a joint act of the Ministers of State for Defense and Planning, Budget and Management, by justifying the reasons that prevented the total replacement of temporary civil servants by permanent civil servants, pursuant to item II of art. 37 of the Federal Constitution.

§ 2 In the event of § 1 of this article, the regulation will establish criteria for the gradual replacement of temporary civil servants.

§ 3 No contract referred to in this Law may exceed the deadline of December 1, 2016." (NR)

<u>Art. 62</u>

In the Aeronautical Command Personnel Board, one hundred (100) effective positions of Air Traffic Controller, of intermediate level, members of the Air Defense and Air Traffic Control Group, code Dacta-1303, are created.

SECTION VII

CREATION OF THE CIVIL AVIATION NATIONAL FUND (FNAC)

<u>Art. 63.</u>

The Civil Aviation National Fund – FNAC, of an accounting and financial nature, is created, bound to the Civil Aviation Secretariat of the Presidency of the Republic, for the allocation of resources from the civil aviation system. (Included by Law No. 12.833, of 2013)

§ 1° FNAC resources are: (Wording given by Law n° 12.648, of 2012)

I - (Revoked by Law No. 13.319, of 2016)

II – (revoked) ;(Wording given by Law No. 14.034, of 2020)

III – the amounts due to the Union due to airport infrastructure grants; (Included by Law No. 12.648, of 2012)

IV – income from financial investments; (Included by Law No. 12.833, of 2013)

V – those attributed to it for the purposes referred to in art. 63-A; and (Wording given by Law No. 12.833, of 2013)

VI – others attributed to it. (Included by Law No. 12.833, of 2013)

§ 2° FNAC resources will be applied exclusively: (Wording given by Law No. 14.002, 2020)

I – in the development and promotion of the civil aviation sector and of airport and civil aeronautics infrastructures; (Included by Law No. 14.002, 2020)

II – in the increase of tourism. (Included by Law No. 14. 002, 2020)

§ 3 The expenses of FNAC will be accounted for specific budgetary allocations allocated in the general budget of the Union, observing the annual limits of movement and commitment and payment.

§ 4 The accounting and financial information, in addition to a description of the economic and social results obtained by the FNAC, should be made available annually by the Civil Aviation Secretariat of the Presidency of the Republic on its website.

§ 5 FNAC resources may also be applied: (Wording given by Law n° 14.034, of 2020) I – in the development, expansion and restructuring of concession airports, provided that such actions do not constitute the concessionaire's obligation, as established in the concession contract, under the rules issued by the National Civil Aviation Agency (Anac) and by the National Aviation Secretariat (SAC) of the Presidency of the Republic, with due regard for their respective powers; (Included by Law No. 14.034, 2020).

II – in the defrayment any expenses resulting from civil liability to third parties, in the event of damage to property and persons, passengers or not, caused by terrorist attacks, acts of war or related events against Brazilian registered aircrafts operated by Brazilian public air transport companies, excluding air taxi companies. (Included by Law No. 14.034, 2020).

§ 6 FNAC resources, while not destined to the purposes foreseen in art. 63-A, will be deposited in the National Treasury Single Account. (Included by Law No. 12.833, of 2013)

§ 7 FNAC resources may be the object and guarantee of a loan, to be entered into until December 31, 2020, to holders of airport concessions or concessions for the provision of regular air transportation services and to suppliers of auxiliary air transportation services, provided that they prove to have suffered damage due to the Covid-19 pandemic. (Included by Law No. 14.034, 2020).

§ 8. The limits of interest rate, grace period, the period of payment and other contractual conditions will be set forth in regulations, according to the following parameters: (Included by Law No. 14.034, 2020).

I – interest rate not lower than the Long-Term Rate (TLP), referred to in Law No. 13.483, of September 21, 2017; (Included by Law No. 14.034, 2020).

II – grace period not exceeding thirty (30) months; (Included by Law No. 14.034, 2020).

III – settlement of the debt up to December 31, 2031; (Included by Law No. 14.034, 2020).

 $\rm IV$ – loan guarantee limited to three billion reais (R\$ 3.000.000,000,00); (Included by Law No. 14.034, 2020), and

V – guarantee of an enforceable loan as from January 1, 2021. (Included by Law No. 14.034, of 2020).

<u>Art. 63-A.</u>

FNAC resources will be managed and administered by the Civil Aviation Secretariat of the Presidency of the Republic or, at its discretion, by a federal public financial institution, when used for the modernization, construction, expansion or renovation of public aerodromes. (Included by Law No. 12.833, of 2013)

§ 1 In order to achieve the objectives set forth in the caption, the Civil Aviation Secretariat of the Presidency of the Republic, directly or, at its discretion, through a federal public financial institution, will carry out a bidding procedure, and may, in its own name or in the name of third parties, acquire goods, contract engineering works and services and specialized technicians and use the Differentiated Public Procurement Regime – RDC. (Included by Law No. 12.833, of 2013)

§ 2 Joint act of the Ministers of Finance and of the Civil Aviation Secretariat of the Presidency of the Republic will establish the remuneration of the financial institution that provides services, as provided in this article. (Included by Law No. 12.833, of 2013)

CHAPTER III FINAL PROVISIONS

<u>Art. 64</u>

The Federal Executive Branch will regulate the provisions of Chapter I of this Law.

<u>Art. 65.</u>

Until the Olympic Public Authority defines the Olympic Projects Portfolio, the provisions of this Law apply, exceptionally, to the contracts resulting from item I of art. 1 of this Law, as long as they are essential for the fulfillment of the obligations assumed before the International Olympic Committee, and the International Paralympic Committee, and their need is substantiated by the contractor of the work or service.

<u>Art. 66</u>

For the projects dealt with in items I to III of art. 1 of this Law, the term established in item II of § 1 of art. 8 of Provisional Measure 2.185-35, of August 24, 2001, becomes that of December 31, 2013.

Art. 67.

Law No. 12.350, of December 20, 2010, comes into force added by art. 62-A, as follows:

"Art. 62-A. For the purpose of analyzing credit operations intended to finance projects for the Olympic and Paralympic Games, for the Confederations Cup of the International Football Federation Association – Fifa 2013 and for the Fifa World Cup 2014, the verification of compliance will be carried out by the Corporate Taxpayer Identification Number (CNPJ) that represents the legal entity of the borrower or borrower of the credit operation."

<u>Art. 68</u>

Item II of § 1 of art. 8 of Provisional Measure 2.185-35, of August 24, 2001, becomes effective with the following wording:

"Art. 8th.....

ς 1.....

II – loans or financing taken from multilateral financial organizations and institutions for promotion and cooperation bound to foreign governments, the National Bank for Economic and Social Development (BNDES) and Caixa Econômica Federal, which have a positive evaluation by the financing agency, and provided that contracted within a period of two (2) years, counted from the publication of the Law for the conversion of Provisional Measure n° 527, of March 18, 2011, and exclusively destined to complement ongoing programs;

......" (NR)

CHAPTER IV

REVOCATIONS

<u>Art 69</u>

The following are revoked:

 $I - \S$ 1 and 2 of art. 6, item 6 of subitem *i* of section XII of art. 2 7 and § 3 of art. 29, all of them of Law No. 10.683, of May 28, 2003;

II – <u>66</u> 4 and 5 of art. 16 of Law No. 9.649, of May 27, 1998; and

III – items XXIII, XXVI I and XLVII of art. 8 and § 2 of art. 10 of Law No. 11.182, of September 27, 2005.

<u>Art. 70</u>

This Law comes into force on the date of its publication, producing financial effects, with respect to art. 52 of this Law, as of the transfer of the bodies referred to therein.

Brasília, August 4, 2011; 190th of Independence and 123rd of the Republic.

DILMA ROUSSEFF

JOSE EDUARDO CARDOZO NELSON HENRIQUE BARBOSA FILHO IRANETH RODRIGUES MONTEIRO ORLANDO SILVA DE JESUS JÚNIOR LUÍS INÁCIO LUCENA ADAMS WAGNER BITTENCOURT DE OLIVEIRA

DECREE No. 73,070 OF NOVEMBER 1, 1973

Approves the Regulation of the "Aeronautical Fund" and takes other measures

The President of the Republic, using the attributions granted to him by article 81, item III of the Constitution, and in view of Article 6 of Decree Law n ° 1.252, of 22 December 1972,

DECREES:

<u>Art. 1</u>

The Regulation of the "Aeronautical Fund" is approved, signed by the State Minister for Air Force.

<u>Art. 2</u>

This Decree will come into force on the date of its publication, the provisions to the contrary being revoked and, in particular, Decrees No. 41.148 of March 13, 1957; 64.409, of April 25, 1969 and 65.523, of October 21, 1969.

Brasília, November 1, 1973; 152nd of Independence and 85th of the Republic.

EMÍLIO G. MÉDICI

J. ARARIPE MACÊDO

AERONAUTICAL FUND REGULATIONS

CHAPTER I

PURPOSE

<u>Art. 1</u>

The Aeronautical Fund, created by Decree-Law No. 8.373, of December 14, 1945, amended by Decree-Law No. 9.651, of August 23, 1946, is an accounting fund designed to assist the provision of financial resources for the equipping of the Brazilian Air Force and for the accomplishments or services that are necessary in order to ensure the efficient fulfillment of the constitutional mission of the Air Force, as established by Decree-Law No. 1.252, of December 22, 1972, which amends and ratifies the legislation relating to the Aeronautical Fund.

CHAPTER II ADMINISTRATION

<u>Art 2</u>

The Aeronautical Fund will be administered by the Ministry of Aeronautics.

§ 1 The accounting control Aeronautical Fund is incumbent upon the General Secretariat of Aeronautics.

§ 2 The Superior Council of Economy and Finance of the Aeronautics will advise the Minister of Aeronautics in the administration of the Aeronautical Fund.

CHAPTER III

INCOME SOURCES

<u>Art. 3</u>

The Aeronautical Fund's income includes:

1 – for limited application, subject to the general rules of planning, programming and budget, those obtained from:

a) proceeds of operations carried out in accordance with Law No. 5.658, of June 7, 1971, which provides for the sale or exchange of the Union's real estate under the jurisdiction of the Ministry of Aeronautics;

b) proceeds resulting from the lease or sale, depending on presidential authorization, of aircrafts, parts and equipment transferred to the Union under Decree-Law No. 496, of March 11, 1969;

c) proceeds from the sale of aircrafts, vehicles and communications equipment, incorporated into the Union's assets as provided for in § 2 of Article 6 and Article 7 of Decree-law No 975 of October 20, 1969;

d) specific resources of the "Union's General Costs" approved by the President of the Republic;

e) indemnities related to budget allocations related to fiscal years already closed;

f) funds from loans or financing in the country or abroad;

g) other are sources with a defined purpose.

2 – for other applications, constituting a contingency reserve:

a) the amounts resulting from the percentages determined by the Minister of Aeronautics on the savings or income of the different Administrative Units;

b) the proceeds from the lease or disposal of any movable property of the Aeronautics;

c) income from services of any kind, provided by the Ministry of Aeronautics to Federal, State or Municipal Bodies, provided that they are not provided for in approved Cooperation Plans;

d) deposit fees or proceeds from the sale of aircrafts, according to the Decree No 585 of May 16, 1969, pursuant to that provided for in Article 5 as to the payment of the balance;

e) income from services of any kind, provided by the Aeronautics, to companies or people;

f) the net income of the Fund's financial transactions less the amount corresponding to remuneration of services of its administration;

g) the resources resulting from the collection of services and facilities in the airport areas, and which do not constitute revenues from the Air Transport Fund or from entities of the Indirect Administration of the Ministry of Aeronautics;

h) grants, contributions, donations and legacies;

i) any other resources that are expressly assigned to it.

Sole paragraph. In the event of total or partial loss of any aircraft mentioned in item 1, letter "b" of this article, the application of the amount resulting from the insurance payment will also be limited, subject to the general rules of planning, programming and budget, although it may at the discretion of the Minister of Aeronautics reapplied in the recovery of the aircraft or in the total or partial acquisition of another aircraft intended for the use of the lessee company, under special conditions contained in a new contract.

CHAPTER IV

ECONOMIC-FINANCIAL MANAGEMENT AND ACCOUNTING

SECTION 1

APPLICATION

<u>Art. 4</u>

Aeronautical Fund resources can only be applied:

1 – for the benefit of an activity of interest to the Ministry of Aeronautics and its representation, its application in granting aids, loans or financing to third parties is forbidden;

2 – as an aid to insufficient budgetary allocations and, still, to meet expenses without their own headings, as long as they meet the purpose for which it was created;

3 – for the purpose expressly stated in each act of concession and within the term, when established; the Agents, Directors and Orderers of Expenses who violate the precept of this item are held responsible.

1 § The resources of the Aeronautical Fund, which are not applied within one hundred and eighty (180) days of grant, must be collected for further studies application.

§ 2 In cases of concessions with deadlines set will be adhered to the date s that figures among the acts of distribution.

<u>Art. 5</u>

On account of the Aeronautical Fund, loans or advance payments of funds may be granted to the Administrative Units, in order to avoid losses resulting from delays in transfers, distribution or processing of own budget resources.

Sole paragraph. Advances of funds referred to in this article will be redeemed as soon as the reasons for the concessions cease, in accordance with what is provided for in the respective concessionary acts.

<u>Art. 6</u>

The distribution of financial resources from the Aeronautical Fund will be made through Ministerial Notes.

SECTION 2

FISCAL YEAR

<u>Art. 7</u>

The fiscal year of the Aeronautical Fund will coincide with the calendar year and will comprise:

1 – the revenues therein deposited with Banco do Brasil S.A, to the account and order of the Minister of Aeronautics, for the credit of the Aeronautical Fund, even if referring to previous years;

2 – the expenses legally committed to it.

<u>Art. 8</u>

The balances verified at the end of each fiscal year will be automatically transferred to the following year, to the credit of the said Fund.

SECTION 3

BOOKKEEPING

<u>Art. 9</u>

The Aeronautical Fund's bookkeeping will comply with the general rules about Accounting and Auditing set forth by the Government.

Sole paragraph. The resources of the referred Fund will be accounted for separately according to their nature.

SECTION 4

ACCOUNTABILITY

<u>Art. 10.</u>

The supervision of the collection and application of funds from the Aeronautical Fund will be the responsibility of the General Secretariat of Aeronautics, which will verify the monthly accountability processes, subject to the same legal requirements established to prove the application of budgetary resources.

CHAPTER V

GENERAL PROVISIONS

<u>Art. 11</u>

The collection of income due to the Fund will be made by the Administrative Units to the General Secretariat of Aeronautics, no later than the thirtieth day of the month following that to which the respective income refers, in bank documents nominal to the Aeronautical Fund, attached to the payment discriminative forms.

<u>Art. 12</u>

The amounts due to the Fund are not subject to exemption, reduction or application to the payment account to be made.

<u>Art. 13</u>

Applications for credits from Military Organizations to pay expenses to the Aeronautical Fund account must always contain the detailed justification for the intended project or activity, the budgetary classification of the expenditure (Program and Expense Element) and be accompanied by the respective physical and financial schedules.

<u>Art. 14.</u>

The Minister of Aeronautics will issue regulatory instructions for the management of the Aeronautical Fund.

<u>Art. 15.</u>

Omissions in this regulation will be resolved by the Minister of Aeronautics.

J. ARARIPE MACÊDO

DECREE No. 6,780 OF FEBRUARY 18, 2009

Approves the National Civil Aviation Policy (PNAC) and takes other measures.

THE PRESIDENT OF THE REPUBLIC, in the use of the attributions granted to him by art. 84, item VI, item "a", of the Constitution,

DECREES:

<u>Art. 1</u>

The National Civil Aviation Policy (PNAC), formulated by the Civil Aviation Council (CONAC), attached to this Decree, is approved.

<u>Art 2</u>

The National Civil Aviation Secretariat of the Ministry of Infrastructure must monitor the implementation of PNAC by the bodies and entities responsible for the management, regulation and inspection of civil aviation, civil airport infrastructure and civil air navigation infrastructure bound to that Ministry. (Wording given by Decree n° 9.676, of 2019)

<u>Art. 3</u>

This Decree takes effect on the date of its publication.

Brasília, February 18, 2009; 188th of Independence and 121st of the Republic.

LUIZ INÁCIO LULA DA SILVA

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NATIONAL CIVIL AVIATION POLICY

1 – INTRODUCTION

The National Civil Aviation Policy (PNAC) corresponds to the set of guidelines and strategies that will guide the planning of the institutions responsible for the development of Brazilian civil aviation, establishing strategic objectives and actions for such sector, and is integrated into the context of Brazilian national policies.

The main purpose of PNAC is to ensure to the Brazilian society the development of a broad, safe, efficient, economical, modern, competitive civil aviation system, compatible with environmental sustainability, integrated with other modes of transport and based on the productive capacity and provision of national, South American and worldwide services.

It should be noted that civil aviation is a factor in national integration and development. One of the purposes of PNAC is, therefore, to characterize the importance of developing and increasing the availability of civil aeronautical and airport infrastructure, with a view to increasing the offer of air transport services. This condition will allow for an increase in the availability of services, thus enabling an increase in the well-being of Brazilian society, as well as greater integration of the country in the international context, given the exceptional importance of aviation for modern social and economic activities.

PNAC's premises are based on the foundations, objectives and principles set out in the Constitution and is in line with international conventions and treaties ratified by Brazil. It should be noted, therefore, that the observance of national legislation and the consideration of international standards and best practices related to civil aviation is an indispensable commitment for the good ordering of the activity. Likewise, maintaining an updated legal framework and monitoring its compliance are essential requirements for the development of the Brazilian airline industry.

The necessary resources and the deadlines involved in the complex and interdependent productive, operational, technical and administrative activities – fundamental to the success of national aviation – demand the effective action of the Brazilian State to coordinate, from the perspective of the public interest, the performance of the various public and private bodies and entities. It is up to it to establish the objectives to be pursued, with a view to disciplining choices, harmonizing interdependent achievements and preventing disparities in favor of greater joint efficiency.

Achieving the objectives of PNAC requires interaction with international organizations, agreements with other countries and commercial relations with foreign companies. Such activities underline the need for political action by the Brazilian State to defend national interests. In these terms, this document reflects the political intentions of Brazilian society for the development of the Civil Aviation System. It also has the virtue of making the objectives and strategies applicable to the sector reach all citizens, in an organized and systemic way.

This document is composed of a political part, which contemplates the objectives of PNAC; of a strategic part, in which strategic, general and specific actions are presented, and of a final part, in which the methodology for monitoring, evaluating and reviewing the PNAC is presented.

Finally, it is emphasized the importance of the PNAC being observed by the federal, state and municipal governments, as well as others responsible for the development of civil aviation, in order to be implemented harmoniously and coordinated by all.

2 – OBJECTIVES

2.1. SAFETY

The permanent objective that guides and improves the actions of civil aviation is safety, which is, therefore, a prerequisite for the functioning of the sector.

The concept of safety comprises a permanent state of guarantee of the physical and patrimonial integrity of the users of the civil aviation system. Safety covers OPERATIONAL SAFETY and PROTEC-TION AGAINST ILLEGAL ACTS, which are permanent objectives in civil aviation activities.

The players of the system will act in a coordinated manner, within their powers, to ensure the implementation of the highest practicable degree of safety in the adequate provision of public air transport services.

2.2. PROVISION OF THE PROPER SERVICE

The proper provision of the regular public air transport service by operators presupposes CONTINUITY, REGULARITY and Punctuality of the SERVICE, among others, without which it is deprived of characteristics.

The availability and continuity of services provided by providers of civil aeronautical and airport infrastructure contribute to ensuring the provision of adequate services.

To guarantee the continuity, regularity and punctuality of the service, it is necessary to establish measures that identify and eliminate threats to these precepts and that respond quickly and positively to natural, material or human factors that may interrupt the provision of the air transport service. Cooperation between public administration bodies and entities and the private sector should be encouraged in order to ensure the continuity, regularity and punctuality of the air transport service.

2.3. PROTECTION TO THE ENVIRONMENT

Minimizing the harmful effects of civil aviation on the environment is the duty of everyone, especially the bodies, entities and people involved in aviation, particularly with regard to noise and gas emissions from aircraft engines and infrastructure impacts. Stimulating the adoption of mechanisms to mitigate such effects is an action that is necessary for the protection of the environment.

Efforts must also be made to establish or enforce agreements with national and international bodies that contribute to the conservation and maintenance of the environment.

2.4. CONSUMER PROTECTION

Meeting the needs of consumers, respecting their dignity, health and safety, protecting their economic interests, as well as the transparency and harmony of consumer relations, constitute an important milestone in the relationship between consumers and suppliers of goods and services.

The peculiarities of civil aviation impose the need for proper regulation, which contemplates the principles in force in the Consumer Protection Code and guarantees, clearly and appropriately, the rights of the air transport service user, without the latter having to resort to judicial proceedings, with a view to harmony in its relations with public air transport service providers.

Thus, it is the duty of the State to ensure the existence of the necessary mechanisms for the protection of the air transport service consumer, in accordance with the precepts of the Constitution, the infra-constitutional legislation, the jurisprudence and the current agreements.

2.5. DEVELOPMENT OF CIVIL AVIATION

Few economic sectors encompass a set of activities as complex as those of civil aviation.

It is a sector marked by regulation (technical and economic) and intense inspection; capital intensive, skilled labor and cutting-edge technology; vulnerable to adverse weather and geographical conditions; networked; dependent on international agreements; extremely diverse as to the stage of development of the companies; and supplier of high specific value goods and services.

In view of this complexity, the adequate coordination of the activities of the aeronautical industry, the training of professionals at all levels, the civil airport infrastructure, the civil aeronautical infrastructure and air services is a task of fundamental importance for the development of the Brazilian civil aviation.

Measures such as encouraging the training and qualification of professionals, opening companies for the manufacture and maintenance of aeronautical components, expanding the supply of civil aeronautical infrastructure, the growth of air transport, competitiveness and the development and maintenance of a legal framework updated, transparent and adequate must be, among others, the object of specific public policies, but which have a great correlation among themselves regarding the objectives to be pursued.

The Brazilian State must therefore be able to adequately forecast the demand for aeronautical goods and services and provide the conditions for the development of civil aviation to take place in a harmonious, balanced and adequate manner. This condition becomes even more relevant in terms of providing the necessary infrastructure for the development of civil aviation.

The provision of infrastructure, whether by the Public Power or by private agents through delegation, as provided for in the Constitution, should provide for the development of air transport activities. We must overcome the obstacles that prevent the growth of civil aviation in an orderly manner and in line with the national objectives of integrating and expanding access to the service, in order to promote equitable prosperity.

2.6. THE EFFICIENCY OF CIVIL AVIATION OPERATIONS

The efficiency of civil aviation operations benefits everyone and is an objective to be pursued. Therefore, the improvement of air navigation, the optimization of the use of air space and civil airport infrastructure, in a coordinated and harmonious manner, and the improvement of management methods, processes and practices, must be continuously aimed at.

The major beneficiary of technological advances should be the modern and dynamic management of air traffic, capable of minimizing the limitations imposed on the airspace user. Without compromising safety, the user must be able to adhere to his flight profile as planned and requested.

The Civil Aviation System must be able to monitor the performance of its constituent elements and to be equipped in a manner compatible with the advances and innovations introduced in the system.

In the same sense, the regulatory framework for civil aviation, in all its segments, must be designed in a way that seeks greater economic efficiency, again without prejudice to safety and observing the country's strategic interests.

Achieving greater economic efficiency allows the expansion of social well-being and enables a better allocation of productive resources. The efficient allocation of resources enables a greater offer of air transport services, which, under the aegis of the appropriate regulatory instruments, results in the expansion of competition. Increased competition, in turn, by encouraging higher levels of quality and lower prices, adds new users to the air transport mode.

3 - STRATEGIC ACTIONS

3.1. SAFETY

GENERAL ACTIONS

- Promote the permanent updating and improvement of legislation, incorporating, when practicable, the standards and procedures and recommended practices, issued by the International Civil Aviation Organization (ICAO) or resulting from other international treaties, conventions and acts, of which Brazil is a party.
- Increase public awareness about the prevention of aviation accidents and protection against illegal acts.

- Ensure the improvement of safety through inspection and constant improvement of operational standards.
- Promote the improvement of safety through constant development of actions and inspection of the maintenance of operational standards, as well as the search for the achievement of established safety objectives and goals.
- Enhance Brazilian safety systems, integrating their premises and mechanisms into the planning of the sector's bodies and entities.
- Ensure periodic external audits, when scheduled by the OACI, and internal audits by a body recognized by the Brazilian government, with a view to improving safety mechanisms.
- Promote the training, qualification and updating of professionals, in order to guarantee the adequate implementation of measures for the benefit of safety.
- Improve protection against illegal acts in all areas of the Civil Aviation System, through the design of proactive measures, which take into account the concepts of facilitation, especially with regard to the application of new technologies for the processing of passengers, their luggage and air cargo.

SPECIFIC ACTIONS

OPERATIONAL SECURITY

- Promote the updating of norms, standards, methods and procedures to ensure the management of operational safety.
- Manage risk and implement mitigation measures and continued supervision and inspection of services.
- Conduct periodic audits by a body recognized by the Brazilian government, to identify deficiencies and correct them.
- Promote constant updating of the documentation on operational safety.
- Ensure operational safety, including the prevention of aeronautical accidents and incidents, as a curricular discipline in the training and qualification programs for professionals in the Civil Aviation System.
- Regularly inspect the airworthiness conditions, workshops and technical training of personnel.
- Promote integrated actions in the area of aeronautical certification and operational safety.

- Stimulate greater public awareness, through educational and promotional campaigns on operational safety.
- To act with the competent authorities in order to adopt measures to reduce urban activities that are or may be potential sources of attraction for birds in the areas of influence of aerodromes.
- Encourage coordination between federal, state and municipal bodies aiming at complying with the legislation dealing with the aerodrome, noise and air navigation protection zone.
- Ensure the coordination, control, improvement and execution of the prevention and investigation of aeronautical accidents and incidents.
- Promote constant updating of regulations on the prevention of aviation accidents and incidents.
- Promote permanent supervision of hazard identification and preventive management of operational safety risks.
- Promote the coordination of aviation accident and incident prevention activities with public administration and private sector bodies and entities.
- Conduct periodic assessments to prevent aeronautical accidents and incidents in civil aviation, by a body recognized by the Brazilian government, to identify deficiencies and correct them.
- Improve and ensure the application of supervisory procedures to comply with the measures established in favor of the prevention of aeronautical accidents and incidents.
- To ensure the adequate treatment of information in the scope of the investigation of accidents and incidents, observing the secrecy of its exclusive use for the purpose of preventing aeronautical accidents, in accordance with the treaties, conventions and international acts, of which Brazil is a party.
- Encourage the exchange of information between national and foreign institutions to promote the exchange of experiences on the prevention of aviation accidents and incidents.

PROTECTION AGAINST ILLICIT ACTS

- Permanently promote the assessment of the degree of risk for civil aviation, in order to identify and eliminate threats and illegal acts.
- Guarantee the application of the provisions regarding protection against illegal acts, observing the treaties,

conventions and international acts of which Brazil is a party.

- Improve and guarantee the application of inspection procedures to comply with the measures established to protect against illegal acts.
- Conduct periodic protection audits against illegal acts, by a body recognized by the Brazilian government, to identify deficiencies and remedy them.
- Promote constant updating of documentation on protection against illegal acts.
- Improve methods and procedures that ensure the safety of passengers, crew, shore-based personnel and the general public against unlawful acts.
- Encourage the exchange of information between national and foreign institutions to promote mutual trust and the exchange of experiences on protection against illegal acts.
- Improve security against illicit acts in all areas of civil aviation, encouraging the use of new technologies, in order to incorporate related facilitation requirements.
- Promote the inclusion, in public security policies, of actions to protect against illegal acts.
- Encourage interaction between public security bodies and civil aviation bodies and entities, in order to coordinate actions to protect against illegal acts.
- Stimulate greater public awareness, through educational and promotional campaigns on protection against illegal acts.
- Seek to include the protection of civil aviation against illegal acts in the training and qualification of professionals in the Civil Aviation System.

3.2. PROVISION OF THE PROPER SERVICE

GENERAL MEASURES

- Promote joint efforts to ensure that the services provided by public and private bodies and entities that comprise the Civil Aviation System are guided by safety, efficiency, continuity, regularity and punctuality, in order to ensure predictability for its users.
- Encourage the use of new technologies to ensure regularity and punctuality in the transport of passengers, cargo and mail.
- Develop the capacity to respond quickly and effectively to adverse factors –

natural, material or human – that may interrupt the provision of adequate air transport services.

- Ensure the provision of adequate services, through the inspection of air service providers, airport infrastructure and civil aeronautics.
- To continuously improve the parameters for the adequate provision of air transport services.

SPECIFIC MEASURES

 Establish rules and procedures so that air transport services are provided with respect to their users in general and, specifically, to those with special needs.

CONTINUITY

 Inspect air service companies in order to allow the regulatory agency to build contingency plans for possible discontinuity events.

REGULARITY

 Promote measures that identify and eliminate threats to the continuity of the provision of air transport services and that respond quickly and effectively to natural, material or human factors that may affect their regularity.

PUNCTUALITY

• Promote integration between public bodies and entities and companies, in order to avoid delays resulting from their functions.

3.3. ENVIRONMENT PROTECTION

GENERAL MEASURES

- Stimulate the reduction of aircraft engine noise levels.
- Minimize the impact of aircraft engine gas emissions on air quality.
- Promote the involvement of entities related to civil aviation in protecting the environment.
- Encourage the development and use of technologies that reduce the impacts of aeronautical activity on the environment.

SPECIFIC MEASURES

- Ensure the inclusion of environmental aspects in the planning, implementation and operation of aerodromes.
- Permanently seek to reduce adverse impacts caused by aircraft noise and

aircraft engine gas emissions in the environment.

- Adopt, in matters related to noise, a balanced approach, which consists of the following elements: reduction of noise at source, planning of land use around the aerodromes, adoption of mitigation measures, and operational restrictions, according to national interests.
- Encourage the development of technologies in the area of civil aviation, with emphasis on the aeronautical industry, respecting the environment.
- Promote and improve measures to discourage population density in areas subject to significant levels of noise and gas emissions from aircraft engines, in accordance with the legislation relating to aerodrome protection zones, noise, navigation and navigation assistance and airport security area.
- Stimulate and support the adoption of policies related to the environment in the areas surrounding the aerodromes at the federal, state and municipal levels, aiming at establishing more appropriate conditions for the practice of aeronautical activities.
- Improve the air navigation procedures in route and in the terminal area and inflight techniques that result in reducing the impact of noise and gas emissions from aircraft engines.
- Foster environmental education with the airport community, with communities living in areas surrounding aerodromes.

3.4. CONSUMER PROTECTION

GENERAL MEASURES

- Promote legal certainty in existing consumer relations in the civil aviation sector.
- Ensure the predictability, precision and clarity of the obligations of companies providing air services.
- Ensure the proper regulation of the rights and obligations of users, air service providers, civil aeronautical and airport infrastructure, in order to provide balance in the relationship between the parties and minimize administrative and judicial litigation.
- Ensure transparency and the provision of information regarding the consumption ratio by the various segments participating in the Civil Aviation System.

• Minimize differences in legal treatment in existing consumer relations in the provision of domestic and international air transport services.

SPECIFIC MEASURES

RIGHT TO INFORMATION

- Ensure the user of air transport services the right to information regarding their consumption relationship.
- Improve procedures so that the essential information about the service contracted by air transport users is provided in a correct, clear, precise and timely manner.
- Reduce information asymmetry between users, service providers, regulatory bodies and other government agencies.
- Ensure means that provide accurate information on flight schedules and reasons for any delays or cancellations.

3.5. DEVELOPMENT OF CIVIL AVIATION

GENERAL MEASURES

- Guarantee the exploitation of the domestic air transport market to companies organized under Brazilian laws.
- Improve the coordination of matters and actions of agents in the civil aviation sector, civil airport infrastructure and civil aeronautical infrastructure.
- Identify and study trends, coordinate planning and develop guidelines and policies that guarantee sustainable growth in civil aviation and the performance of a safe, regular, efficient, comprehensive and timely public service.
- Encourage effective management and the consolidation of an institutional and regulatory environment favorable to the development of civil aviation.
- Guarantee legal security and the reduction of regulatory risks, aiming at encouraging investments in Brazilian civil aviation.
- Promote the development of civil aviation through cooperation between the System's areas, ensuring that their plans are prepared in an integrated manner.
- Promote the expansion of international air transport with a view to increasing the flow of people and goods between Brazil and other countries.

- Promote the integration of air services within South America.
- Ensure clear and well-defined economic regulation that provides stability to public and private investors, aiming at increasing investments and expanding the offer of air transport services.
- Ensure effective and continuous inspection for the regular provision of services and the development of civil aviation.
- Monitor the development of the Civil Aviation System through permanent assessment and dissemination of indicators.
- Maintain updated and coordinated plans for civil aeronautical infrastructure, civil airport infrastructure and other areas of the System.
- Seek continuous adaptation of the capacity of the infrastructure to the expansion of air transport, including through delegation, as provided for in the Constitution.
- Encourage the exchange of information and technologies between national and international institutions.
- Encourage the integration of civil aviation with the tourism and trade sectors.
- Facilitate the movement of people and goods in the South American region through the creation of specific border control procedures.
- Recognize the specificity of most functions inherent to air traffic management and adopt measures that promote the adequate training of human resources that the Brazilian Airspace Control System (SISCEAB) needs.
- Stimulate the development of low and medium traffic density connections.
- Recognize the specificity and promote the development of agricultural, experimental and aerospace aviation activities, developing specific regulations for the sectors and encouraging the dissemination of their use.
- Ensure the transparency and publicity of regulatory activity.
- Consider the international operation of Brazilian airlines as an instrument of economic and commercial projection of political and strategic importance for the country and for regional integration, and should have fiscal, tax and credit treatment similar to that of export and infrastructure activities.
- Promote the initiatives required to ensure the execution of the planning

of civil aeronautical and airport infrastructures.

• Consider government procurement in the interest of developing aeronautical infrastructure.

SPECIFIC MEASURES

INSTITUTIONAL ORGANIZATION

- Define the competencies and attributions of the sector's bodies and entities, so that the activities are developed efficiently and without duplication of efforts.
- Ensure the coordination of the sector, aiming at the integration, harmonization and interaction of the bodies and entities related to civil aviation.
- Properly allocate financial resources in the sector's bodies and entities, in order to ensure that everyone performs their functions, considering their different degrees of autonomy.
- Ensure compliance with obligations assumed in international treaties, conventions and acts.
- Promote adequate interaction between government agencies essential to air transport, responsible for the activities of the federal police, health surveillance, customs control, among others, seeking to plan jointly their activities.
- Keep the legal framework that governs Brazilian civil aviation updated, promoting consultation with industry agents.

TRAINING, CAPACITY AND UPDATING OF HUMAN RESOURCES

- Encourage adequate training of human resources, aiming to meet the national and regional needs of the System.
- Encourage the training of human resources by the public sector and the private sector.
- Continuously expand the training and qualification of human resources, including the addition of new resources and partnerships.
- Improve the process of monitoring requirements and conditions for the functioning of personnel training institutions, in order to guarantee the quality of training, through periodic assessment procedures.
- Promote the proper functioning of air clubs and aviation schools to guarantee the practical training of professionals, seeking to improve the transfer of resources and equipment, selecting

those entities that meet the established quality and efficiency standards.

- Improve professional certification processes by periodically reviewing requirements, curriculum guidelines and the knowledge assessment and verification system, in a participatory manner with the related civil aviation segment.
- Encourage the training of professionals through incentives to educational institutions, the expansion of government programs for the granting of scholarships and the promotion of the installation of professional qualification centers.
- Encourage the training and updating of teaching staff, by establishing professional requirements, encouraging government programs and establishing national and international partnerships between civil aviation entities.
- Foster research networks in teaching centers, encouraging the international exchange of professionals in the sector and supporting scientific production and specialized training programs in the country and abroad.
- Encourage actions for the training and qualification of professionals in the English language, through partnerships with public and private organizations, to allow them to reach the linguistic proficiency criteria established in international agreements.
- Provide the qualification of public administration professionals to work in the sector.
- Extend the work of the labor regulatory and inspection bodies in the development of the activities of professionals working in the various branches of civil aviation, in order to ensure adequate working conditions.
- Encourage the participation of the academic community in the development of civil aviation through agreements with universities, sponsorships, research development, projects and others.

CIVIL AIRPORT INFRASTRUCTURE

- Promote the adequate provision, expansion and optimization of the civil airport infrastructure, through the strategic direction of investments, aiming at the economic development, the national integration and the service to regions of difficult access.
- Harmonize the capacity and demand of the civil airport infrastructure, based on investment plans that consider

short-, medium- and long-term planning based on specific studies and integrated information.

- Ensure the rationality of enabling airports for international traffic, always justified based on the projection of demand, studies of economic and financial feasibility and strategic interests of the country.
- Develop economic and regulatory incentives in order to manage demand and optimize the use of airports, ordering air transport services.
- Ensure the preservation and protection of airport sites and the compatibility of urban planning with the protection zones and the airport security area, through the development and improvement of control mechanisms with the municipalities.
- Stimulate private investment in the construction and operation of aerodromes.
- Plan the use of airport areas, in order to guarantee the full use of the potential of their sites.
- Maintain civilian airport facilities in a position to adequately serve air transport users, ensuring timely and appropriate maintenance of infrastructure.
- Promote the intramodality of transport, seeking to constantly integrate the planning of the civil aviation sector with that of road, rail and waterways.
- Encourage the installation of adequate economic activities in the vicinity or at the airport site, observing the restrictions imposed by the protection zones, and without prejudice to the operations of the aerial activities.
- Promote with the respective federated entities the provision of the necessary infrastructure for the implementation and operation of the aerodromes, including road access.

SCIENCE AND TECHNOLOGY

- Foster the development of technologies for use in civil aviation, through government programs and incentives for private participation.
- Seek the integration of the government's Science and Technology policy with the demands of civil aviation.
- Encourage the development of alternative fuel technology studies for use in the various segments of civil aviation.
- Promote the participation of educational and research institutions in the development of technologies for use in civil aviation.

AERONAUTICAL INDUSTRY

- Encourage the participation of the national industry in international programs for the development and production of services, systems and components.
- Promote the increasing of the production chain by encouraging and supporting related industries.
- Encourage international cooperation aimed at the productive integration of the national supply chain.
- Improve financing mechanisms and tax policy to boost the sector's development.
- Develop conditions for the Brazilian aviation industry to competitively meet the needs of the various segments of civil aviation.
- Strengthen and optimize the activities of certification, homologation and inspection of aeronautical products and services, so that Brazil qualifies as an international reference in these activities.
- Stimulate the commercial promotion of national aeronautical products and services.

CIVIL AERONAUTICAL

- Ensure the constant modernization of air traffic management systems, keeping them in line with the most advanced technologies and international standards.
- Ensure the operational safety of air traffic management services.
- Maintain supervision of airspace control activities, ensuring compliance with established technical-operational requirements.
- Monitor the relationship between the demand for air services and the installed capacity, in order to plan the expansion or adaptation of the infrastructure and minimize possible imbalances.
- Ensure the adequate training and qualification of human resources necessary to provide essential services for the safe, regular and efficient management of air traffic.

AIR SERVICES

- Stimulate the development of air services throughout the Brazilian territory.
- Encourage the development and expansion of air services provided on low and medium traffic density connections, in order to increase the number

of cities and municipalities served by air transport.

- Stimulate the development of general aviation.
- Promote adequate regulation for each type of air service.
- Encourage the use of air transport for the transportation of passengers, cargo and mail.
- Ensure the inspection of air services operated by scheduled, non-scheduled, general, experimental, aerospace and agricultural aviation.
- Stimulate competition in the civil aviation sector.
- Encourage the development of international air services as a means of integration with other countries.
- Improve negotiation mechanisms in order to avoid restrictions on the offer of international air services and to stimulate trade, tourism and relationship between Brazil and other countries.

3.6. THE EFFICIENCY OF CIVIL AVIATION OPERATIONS

GENERAL MEASURES

- Improve the efficiency of civil aviation operations, including through technical cooperation programs.
- Develop rules, methods, guidelines and plans to support the implementation of the concepts of organization and management of air traffic, design and operation of aerodromes, management of operational safety and activities of civil aviation operators.
- Seek the anticipated and coordinated expansion of civil aeronautical and airport infrastructure to meet the demand for air services.
- Promote the growth of the sector through efficient market regulation, incentives to private investments and incentives to competition, aiming to curb anti-competitive practices and ensure the adequate provision of services, low prices and the guarantee of users' rights.
- Enhance the regulatory framework for civil aviation that promotes, encourages and encourages competition.

SPECIFIC MEASURES

CIVIL AERONAUTICAL

• Monitor and evaluate the performance of air operations for the purpose of im-

proving services and civil aeronautical infrastructure.

- Introduce new technologies, methods and processes for air traffic management that are proven to produce efficiency gains without compromising the safety of air operations.
- Adapt the civil aeronautical infrastructure to the operational requirements more favorable to efficiency gains.
- Guarantee the qualification and training of human resources in line with the need to improve the efficiency of SIS-CEAB.
- Properly coordinate the transition to the efficient use of the various elements that make up the ICAO CNS/ ATM (Communication, Navigation and Surveillance/Air Traffic Management) concept.
- Harmonize the work programs of the civil aviation sectors, through integrated planning for the development of civil aeronautical infrastructure.

PLANNING

- Keep civil aviation regulation and civil aeronautical and airport infrastructure planning up to date and integrated.
- Identify, create and develop interactive planning tools to assist the analytical process.
- Encourage the integration of databases of common interest to all members of the Civil Aviation System.

CIVIL AIRPORT INFRASTRUCTURE

- Promote competition in the sector, in order to guarantee users better service quality and lower tariffs.
- Promote the participation of the private sector in the construction, operation and operation of airports, in whole or in part.
- Propose measures that allow the efficient use of airport infrastructure, such as tariff differentiation between different airports or at the same airport during times of greatest demand.

AIR TRANSPORT SERVICES

- Stimulate competition in services, in order to provide access to a larger portion of the population.
- Encourage the expansion of services to serve the largest number of locations.
- Keep updated the rules and conditions for the operation of services with a

view to improving security, improving them and keeping prices low.

- Ensure multiple designation of companies in international services.
- Seek to reduce barriers to the entry of new companies in the sector.

REGULATION

- Establish guidelines that give the market the role of balancing supply and demand, prevailing tariff freedom in air transport services.
- Monitor the behavior of the air transport market in order to adopt measures to meet demand based on economic efficiency, seeking to increase supply and expand the capacity of civil aeronautical and airport infrastructure.
- Support the Brazilian Competition Defense System (SBDC) in the fight against violations against the economic order in the civil aviation sector.
- Develop rules and procedures to facilitate the access of potential entrants to those aerodromes that present traffic saturation with a view to expanding the competition.
- Allow the use of civil aeronautical and airport infrastructure up to the limit of the established capacity, according to rules previously stipulated and in coordination with users and without compromising operational safety.
- Establish procedures for exiting the air transport market and discontinuing services.
- Establish legal norms for the vacancy of civil airport areas and facilities occupied by companies that have ceased to operate.

4 – MONITORING, EVALUATION AND REVIEW

The implementation of PNAC must be monitored continuously by the Ministry of Defense, through the Civil Aviation Secretariat, assisted by the other bodies and entities that are part of the Civil Aviation Council (CONAC).

The implementation of the PNAC must be monitored continuously by the Ministry of Infrastructure, through the National Civil Aviation Secretariat, assisted by the other bodies and entities that are part of the Civil Aviation Council – CONAC. (Wording given by Decree n° 9.676, of 2019)

To this end, indicators must be developed regarding the objectives and established actions, which will be evaluated annually,

seeking to verify the impact of PNAC in the civil aviation sector, according to a systemic and intersectoral view.

The Policy and its objectives and strategic measures must be constantly updated according to changes in the national, regional and international context, ensuring that its results are adequate to the needs of the Civil Aviation System.

BRAZILIAN CIVIL AVIATION REGULATION - RBAC No. 01

AMENDMENT No. 08

DEFINITIONS, WRITING RULES AND UNITS OF MEASUREMENT FOR USE IN ANAC STANDARDS.

(Title with wording given by Resolution No. 526 of 08/06/2019)

01.1 Definitions

For the purposes of ANAC regulations, the following definitions are valid, unless otherwise explained in their text: (Wording given by Resolution No. 526, of 06.06.2019)

ACAS (Airborne Collision Avoidance System) means a system that uses questions and responses from an onboard transponder radar, providing traffic guidance and, in some types, resolution guidance for the pilot. It is the name given by the International Civil Aviation Organization – ICAO for the Traffic Alert and Collision Avoidance System – TCAS.

ACAS II means a TCAS that uses questions and answers from an onboard transponder radar, providing the pilot with traffic guidelines and resolution guidelines in the vertical plane.

Aero Sports Pilot means the generic designation of a person who practices the activities governed by RBAC n° 103. (Included by Resolution n° 474, of 06/07/2018)

Aero Sports means any activity performed with aerial devices used or intended to be used to fly in the atmosphere for sport or recreational purposes. (Included by Resolution No. 474, 06.06.2018)

Airport means an area bounded on land or in water intended, in whole or in part, for landing, take-off and surface operation of aircraft; includes any buildings, facilities and equipment to support and control air operations, if any. When intended exclusively to helicopters, it is called helipad.

Civil airport means an airport for the operation of civil aircraft. It can be used by military aircraft, abiding by the rules established by the competent authority. Alternate airport means an airport to which an aircraft can proceed, when it is impossible or inadvisable to go or land at the intended destination airport, and where the necessary services and facilities will be available and the performance requirements of the aircraft may be met, as well as being operational at the intended time of use. Alternate airports can be:

(1) alternative post-take-off airport means an alternate airport on which an aircraft may land, if necessary, right after take-off, if the departure airport is not possible;

(2) en route alternate airport means an alternate airport on which an aircraft may land, should a detour be required, while en route; or

(3) alternative destination airport means an alternate airport on which an aircraft may land if it is impossible or inadvisable to land at the intended destination airport.

(Wording given by Resolution n° 546, of March 18, 2020)

Military airport means an airport intended for the operation of military aircraft. It can be used by civil aircraft, abiding by the rules established by the competent authorities.

Private airport means a civil airport open to traffic through a process of registration with the National Civil Aviation Agency – ANAC, used only with the permission of its owner, commercial exploitation thereof being prohibited.

Public airport means a civil airport open to traffic through a process of infrastructure approval by ANAC and intended for the use of civil aircraft in general.

Regular airport means the airport used by a certificate holder in its scheduled operations, listed in its operating specifications and authorized to process scheduled operations, subject to the provisions of RBAC No. 139. (Included by Resolution No. 526, of 08.06.2019)

Aircraft means a device that is used or that is intended to be used to fly in the atmosphere, capable of transporting people and/or things. Aero sports aircraft means the generic designation of an aircraft carrying a certificate issued under RBAC No. 21 whose main purpose is sport and leisure. (Included by Resolution No. 474, 06.06.2018)

Civil aircraft means an aircraft that does not fall within the definition of a military aircraft.

A rotary-wing aircraft means an aircraft heavier than air that relies primarily on the lift generated by one or more rotors to remain in the air.

Pendulum control aircraft means an aircraft, motorized or not, with a pivoted structured wing and a fuselage, controllable only in pitch and roll by the pilot's ability to change the aircraft's center of gravity in relation to the wing. Aircraft flight control depends more on the flexible deformation capability of the wing than on the use of control surfaces.

Power lift aircraft means an aircraft heavier than air, capable of taking off and landing vertically and flying at low speed, and which depends mainly on support devices driven by the engine or the thrust of the engine to support them in these flight regimes and non-rotating airfoils for their support in horizontal flight.

Light sport aircraft means an aircraft, excluding helicopter or aircraft whose support depends directly on the engine power (powered-lift), which, since its original certification, has continuously complied with the following characteristics:

(1) maximum take-off weight less than or equal to:

(i) 600 kilograms for aircraft to be operated from the ground only; or

(ii) 650 kilograms for aircraft to be operated from the water.

(2) maximum speed in level flight with maximum continuous power (VH) less than or equal to 120 CAS knots, under standard atmospheric conditions at sea level.

(3) speed never exceeding (VNE) less than or equal to 120 CAS knots for a glider.

(4) stall speed (or minimum speed in stabilized flight), without the use

of hypersupport devices (VS1), less than or equal to 45 CAS knots at the maximum certified take-off weight and most critical center of gravity.

(5) seats for no more than two people, including the pilot.

(6) only 1 (one) alternative engine, if the aircraft is powered.

(7) a fixed pitch propeller, or adjustable on the ground, if the aircraft is powered, but is not a motor glider.

(8) a fixed pitch or flagable propeller, if the aircraft is a motor glider.

(9) a fixed-pitch, semi-rigid, seesaw type, two-bladed rotor system, if the aircraft is a gyrocopter.

(10) a non-pressurized cabin, if the aircraft has a cabin.

(11) fixed landing gear, except for aircraft to be operated from the water or glider.

(12) fixed or retractable landing gear, or a hull, for aircraft to be operated from the water.

(13) fixed or retractable landing gear, for glider.

Military aircraft means an aircraft operated by the Armed Forces. It includes aircraft required by law to carry out military missions.

Private aircraft means a civil aircraft that does not fall within the definition of a public aircraft. It includes aircraft operated by entities of the indirect federal, state, municipal or Federal District administration. (Wording given by Resolution n° 546, of March 18, 2020)

Public aircraft means a civil aircraft intended for the service of bodies of the direct federal, state, municipal or Federal District administration. It includes aircraft required under the law, but it does not include aircraft owned by the government engaged in the air transport of people and/or cargo for commercial purposes.

Airport means a public airport with buildings, facilities and equipment to support aircraft operations and the processing of people and/or cargo. When intended exclusively to helicopters, it is called "heliport".

Aerostat means an aircraft lighter than air, which can rise and remain supported in the air by the use of gas-filled enclosures, with the assembly weighting less than the air displaced by such enclosures. National Civil Aviation Agency means an entity that is part of the indirect Federal Public Administration, subject to a special municipal regime, linked to the Civil Aviation Secretariat of the Presidency of the Republic, for an indefinite term, that acts as a Brazilian civil aviation authority and has its competencies established by Law No. 11182, of September 27, 2005.

Pitch adjustment means adjusting the angle of the blades of a propeller at a given angle, measured at a point and in the manner specified in the propeller manufacturer's instruction manual.

Runway Visual Range (RVR) means the distance at which the pilot of an aircraft, which is on the axis of a runway, can see runway surface signals, runway limit lights or runway center lights.

Change means any change made to aircraft and its components. (Included by Resolution n^{o} 546, of 03.18.2020)

Critical altitude means the maximum altitude at which, in a standard atmosphere, it is possible to maintain, at a specific engine speed, a specific power or intake pressure. Unless otherwise stated, the critical altitude is the maximum altitude at which it is possible to maintain, at the maximum approved continuous rotation, one of the following conditions:

(1) maximum continuous power, in the case of engines that keep such power from sea level to a certain altitude; or

(2) nominal maximum continuous inlet pressure, in the case of engines whose maximum continuous power is governed by a constant inlet pressure.

Decision altitude (DA), referring to aircraft operation, means an altitude specified in a 3D instrument approach procedure, in which the missed approach must be started, if the appropriate visual reference to continue the approach has not been established. The decision altitude is expressed in feet above the average sea level. (Wording given by Resolution n° 546, of March 18, 2020)

Obstacle clearance altitude (OCA) or obstacle clearance height (OCH) means the lowest altitude or the lowest height over the elevation of the most relevant runway headland or airport, as applicable, used to establish compliance with the appropriate obstacle separation criterion. (Included by Resolution n° 546, of 03.18.2020) Minimum Descent Altitude (MDA) means the lowest altitude, specified in an instrument approach procedure, for which descent is authorized on the final approach, or during a circulation maneuver for landing, until the pilot sees a required visual reference for the airport where you intend to land.

Decision height (DH), referring to aircraft operation, means a specified height above the ground in a 3D instrument approach procedure, in which the missed approach must be initiated, if the appropriate visual reference to continue the approach has not been established. The decision height is expressed in feet above ground level. (Wording given by Resolution n° 546, of March 18, 2020)

Year in service means the calendar time, counted in years, elapsed since an aircraft received its first Brazilian or foreign airworthiness certificate. (Included by Resolution No. 526, of 08.06.2019)

Apparatus means any instrument, equipment, mechanism, component, part, device, property or accessory, including communications equipment, that is used, or intended to be used, in the operation or control of an aircraft in flight and is installed or coupled to the aircraft and is not part of the cell, engine or propeller.

Approved means, unless used in reference to another person, approved by ANAC or by any person whose approval incumbency ANAC recognizes, in the matter in question, including other civil aviation authorities.

Approval for return to service (Maintenance Release) means a document containing a statement confirming that the maintenance work to which it refers has been completed satisfactorily, according to approved data and according to the procedures described in the maintenance organizations' procedures manual. or according to an equivalent system.

Non-precision approach means an instrument landing approach using only lateral guidance.

Precision approach means an instrument landing approach using lateral and vertical precision guidance, with minimum descent altitude (Minimum Descent Altitude – MDA) determined by the category of the operation.

Category I precision approach (CAT I) means a precision instrument and landing approach with a decision height (DH) of not less than 60 m (200 feet) and also with a visibility of not less than 800 m or a visual runway visual range (RVR) not less than 550 m. (Wording given by Resolution n° 546, of March 18, 2020)

Category II (CAT II) precision approach means instrument and landing precision approach with a DH of less than 60 m (200 feet), but not less than 30 m (100 feet) and an RVR of not less than 300 m. (Wording given by Resolution n° 546, of March 18, 2020)

Category IIIA precision approach (CAT IIIA) means precision instrument approach and landing with a DH less than 30 m (100 feet) or without DH and an RVR not less than 175 m. (Wording given by Resolution n° 546, of March 18, 2020)

Precision approach Category IIIB (CAT IIIB) means a precision instrument approach and landing with a DH less than 15 m (50 feet) or without DH and an RVR less than 175 m, but not less than 50 m. (Wording given by Resolution n° 546, of March 18, 2020)

Precision approach Category IIIC (CAT IIIC) means a precision instrument approach and landing without DH and RVR limitations. (Wording given by Resolution n° 546, of March 18, 2020)

Fireproof means:

(1) referring to materials and parts used to confine a fire in a designated fire zone, the ability of such materials and parts to withstand the heat produced by a severe, prolonged fire, at least as well as they would withstand if they were steel, in dimensions appropriate to the intended purposes; and

(2) referring to other materials and parts, the ability of such materials and parts to withstand the heat associated with fire at least as well as they would if they were steel, in dimensions appropriate to the intended purposes.

Congested area or densely populated area means, in relation to a city, town or settlement, an area substantially used for residential, commercial or recreational purposes.

Final Approach and Take-off area (FATO) means, referring to helicopters, a defined area over which the final approach to hovering or landing is completed or from which the take-off maneuver is initiated. When FATO is to be used by Category A (or ICAO Class 1) helicopters, the defined area must include the area available for rejected take-off. Wing reference area (S) means the area comprised by the projection of the wing contour, including flaps in the retracted position and ailerons, but excluding concordances (fairings), on the plane containing the wing strings. This contour is supposed to extend reasonably through the fuselage and nacelles to the plane of symmetry of the aircraft.

Airport reference area means, unless otherwise defined for a particular airport, the airspace contained within a circle with a radius of 8 km (5 miles), with center in the geographical center of the airport, extending from the ground to a defined height.

Dangerous area means an airspace of defined dimensions, within which there may be, at specific times, dangerous activities for the flight of aircraft. (Included by Resolution n^{0} 546, of 03.18.2020)

Prohibited area means an airspace of defined dimensions, over the Brazilian territory or territorial sea, within which the flight of aircraft is prohibited. (Wording given by Resolution n° 546, of March 18, 2020)

Restricted area means an airspace of defined dimensions, over the Brazilian territory or territorial sea, within which the flight of aircraft is restricted according to certain defined conditions. (Wording given by Resolution n° 546, of March 18, 2020).

Hazardous articles means objects or substances capable of posing a danger to health, operational safety, property or the environment and that are present in the List of Hazardous Articles published by ANAC or that are classified according to RBAC n° 175. (Included by Resolution No. 608, of February 11, 2021)

Front wing means front surface supported in a canard configuration or airplane with a tandem wing configuration. The surface can be fixed, mobile or with variable geometry, with or without control surfaces.

Ramp service (Ground Handling) means the services necessary for an aircraft during the arrival at and departure from an airport, excluding air traffic services.

Standard atmosphere means the atmosphere internationally defined as International Standard Atmosphere – ISA, adopted by ICAO.

Civil Aviation Authority – AAC, with respect to civil aviation in Brazil, means any public agent of ANAC performing activities assigned and within the jurisdiction of ANAC or person who acts under its delegation.

Air traffic control authorization means an authorization for an aircraft to proceed in accordance with the conditions specified by an air traffic control body. (Included by Resolution n° 546, of 03.18.2020)

Self-rotation means the flight condition of a rotating-wing aircraft in which, with the aircraft in motion, the lift rotor is driven exclusively by the action of air over it.

Airplane means a fixed-wing aircraft, heavier than air, propelled by a motor and which is supported in the air by the dynamic reaction of the air against its support surfaces, which remain fixed under certain flight conditions.

Regional transport category airplane means a certified type airplane in the RBAC 23 commuter category, item 3 (d). (Included by Resolution No. 526, of 08.06.2019)

Subsonic aircraft means an airplane unable to maintain speeds above the MACH number 1, in level flight, using its own engine or engines.

Balloon means an aircraft lighter than air that does not have its own propulsion.

Main base or maintenance headquarters means the place where the main maintenance facilities of a certificate holder are located (hangars, workshops, etc.). It may or may not be in the same location as the main operations base. (Included by Resolution No. 526, of 08.06.2019)

Main base or headquarters of operations means the location, as approved in operating specifications, where the main operational facilities of a certificate holder are located (hangars, aircraft, passenger embarkation and disembarkation points, etc.). It may or may not be in the same location as the main maintenance base. The operational headquarters is the one mentioned in the documentation of the Superintendence for Monitoring Air Services of ANAC (ANAC-SAS). (Included by Resolution No. 526, of 08.06.2019)

Secondary base or line station means a physical unit that an airline has, which is responsible for supporting activities aimed at starting and ending flights at locations, other than a main base, where material and personnel will be maintained in support of operational or maintenance activities. When related to maintenance, it includes the provision of services, facilities, equipment (including spare parts, supplies and materials) intended for carrying out preventive maintenance activi ties and providing support services for the continuity of operations. (Included by Resolution No. 526, of 08.06.2019)

Canard means the front wing of a canard configuration that can be a fixed, mobile or variable geometry surface, with or without flight controls.

Maximum paid load capacity:

(1) for an airplane whose maximum zero fuel weight is defined in its technical specification, it means the maximum zero fuel weight, less the empty weight, less the weight of all the aircraft's justifiable equipment and less the weight of the operational items (consisting of the operational items (consisting of the weight of the minimum required crew and the weight of food, beverages, supplies and equipment related to food and beverages, but not including the weight of usable fuel and oil); and

(2) for all other aircraft, it means the maximum certified take-off weight of the aircraft, minus the empty weight, minus all justifiable equipment weight and minus the operational weight (consisting of the minimum crew weight, oil and fuel), as follows:

(i) crew members – for each crew member required by RBAC $n^{\,o}$ 23, item 25:

(A) for male crew members – 82 kg (180 lb);

(B) for female crew members – 64 kg (140 lb); and

(C) for crew in general (not identified by gender) – 77 kg (170 lb);

(ii) oil - 158 (350 lb) or the total oil capacity contained in the aircraft's technical specification; and

(iii) fuel – the minimum fuel weight required by the applicable RBAC for a domestic flight between two airports that are 174 nautical miles apart, under VFR conditions, not involving operation over large expanses of water.

(Included by Resolution No. 526, of 08.06.2019)

Certification characteristics of public air transport operator are those associated with the operational arrangement described by the operator to be certified according to the design of its operations indicating whether they will be scheduled (regular) and/or unscheduled (non-regular), national and/or international and whether the aircraft employed meet the requirements set out in RBAC No. 135 or 121, or other characteristics that lead to air operator certification. (Included by Resolution No. 526, of 08.06.2019)

External cargo means a cargo carried totally or partially outside an aircraft's fuselage.

Dangerous cargo or dangerous article means articles or substances which are capable of endangering health, safety, property or the environment and which are listed and classified in Chapter 3 of Annex 18 to the International Civil Aviation Convention. (Wording given by Resolution n° 526, of 08.06.2019)

Category means:

(1) when used in reference to certificates, qualifications, prerogatives and limitations of persons, a general classification of aircraft (example: airplanes, helicopters, gliders and lighter than air); and

(2) when used in reference to aircraft certification, an aircraft classification based on intended use or operational limitations. Example: transport, regional transport, utility, normal, acrobatic, restricted, provisional, etc.

Category A means, referring to transport category rotary-wing aircraft, a multiengine rotary-wing aircraft, designed with the engine and system insulation characteristics specified in RBAC 29, and using pre-defined take-off and landing operations according to a concept critical engine failure that ensures adequate area and adequate performance capability to continue safe flight in the event of an engine failure.

Category B means, referring to transport category rotary-wing aircraft, a singleengine rotary-wing aircraft or a multiengine rotary-wing aircraft that does not fully comply with category A standards, having no assured ability to fly with engine failure and in which the probability of landing in a non-preprogrammed and suitable location should be considered.

Registration category means one of the categories provided for in Resolution No. 293, of November 19, 2013, for the registration of aircraft in the Brazilian Aeronautical Registry – RAB. (Wording given by Resolution n° 546, of March 18, 2020)

Cell or Structure means the fuselage, uprights, nacelles, engine hoods, fairings, aerodynamic surfaces (including rotors, but excluding rotating engine propellers and airfoils) and aircraft landing gear, including its accessories and controls. Aeronautical Medical Certificate – CMA means a document issued by ANAC attesting the physical capacity of a crew member to perform a certain function on board an aircraft in flight. (Included by Resolution No. 526, of 08.06.2019)

Traffic circuit means the air traffic flow established for aircraft landing, taxiing and taking off from an airport.

Class:

(1) when used in reference to certificates, qualifications, prerogatives and limitations of persons, it means a classification of aircraft having similar operational characteristics. Example: single-engine land planes, seaplanes or multi-engine amphibians, etc.;

(2) when used in reference to aircraft certification, it means a general group of aircraft having similar propulsion, flight or landing characteristics. Example: planes, rotary-wing aircraft, gliders, balloons, land planes, seaplanes, etc.; and

(3) when used in relation to helicopter performance in ICAO documents, it has the following meanings:

(i) Class 1 means a helicopter whose performance, in the event of an engine failure, allows a landing in the take-off aborting area or the safe continuation of the flight to an appropriate landing area;

(ii) Class 2 means a helicopter whose performance, in the event of an engine failure, allows the safe continuation of the flight, except when the failure occurs before a certain point after take-off or after a certain point before landing, in such cases, a forced landing may be required; and

(iii) Class 3 means a helicopter whose performance requires a forced landing after an engine failure at any point in the flight.

(Wording given by Resolution n° 546, of March 18, 2020)

Clearway (track supplement) means:

(1) for airplanes with certified turbine engines after August 29, 1959, an area beyond the end of the runway, at least 150 m (500 ft) wide, centrally located in relation to the extension of the runway center line and under the control of the authority with jurisdiction over the airport. The clearway is expressed in terms of a plane that extends from the end of the runway, rising with a pitch equal to or less than 1.25%, above which there is no fixed obstruction. However, the runway end lights can be above it, as long as their height does not exceed 66 cm (26 in) above the end of the runway and are placed on the sides of the runway; and

(2) for airplanes with certified turbine engines after September 30, 1958, but before August 30, 1959, an area beyond the end of the runway, extending not less than 90m (300 ft) to each side the extension of the center line of the runway and with an elevation not exceeding the elevation at the end of the runway, free from any fixed obstacles and under the control of the authority with jurisdiction over the airport.

Combination rotary-wing aircraft/external cargo means the combination of a rotary-wing aircraft and an external cargo, including the means of securing such external cargo. The combinations are designated as class A, B, C or D, as follows:

(1) Class A means a combination in which the external load is fixed to the aircraft, cannot be jettisoned and does not extend below the aircraft's landing gear;

(2) Class B means a combination in which the external load is disposable and frees the ground or water during the operation of the aircraft;

(3) Class C means a combination in which the external load is disposable and remains in contact with the ground or water during the operation of the aircraft; and

(4) Class D means a combination in which the external cargo is different from Class A, B or C, and which has been specifically approved by the civil aviation authority for that operation.

Portable oxygen concentrator means a medical device that separates oxygen from other gases in ambient air and that provides concentrated oxygen to the user. (Included by Resolution No. 549, dated 3.23.2020)

Special Condition means the requirement or set of additional safety requirements that ANAC considers necessary for certification of aircraft, aircraft engine or propeller, in order to guarantee a level of safety equivalent to that established in the regulations, in accordance with the provisions of section 21.16 of the RBAC n° 21. (Included by Resolution n° 548, of March 20, 2020)

Instrument Meteorological Conditions (IMC) means meteorological conditions below the minimum established for flying according to the rules of visual flight.

Visual Meteorological Conditions (VMC) means meteorological conditions equal to or greater than the minimum established for flying under the rules of visual flight.

Canard configuration means an airplane configuration in which the wingspan of the front wing is substantially less than the wingspan of the main wing.

Passenger seat configuration means an approved passenger seat configuration, excluding any crew member seats. For the purposes of this RBAC, the configuration with the highest number of passenger seats certified for the aircraft is considered; however, only for the purpose of determining the mandatory installation of certain instruments and equipment, ANAC may approve a configuration with a smaller number of seats as long as it is one of the configurations included in the approved aircraft type design, it becomes the configuration registered in the Airworthiness Certificate of that "serial number" and does not harm the type certification of the aircraft in question.

Note: References to the passenger seat configuration do not refer to aircraft configured for passenger transport, but rather to the size of the aircraft. The option of using the number of passengers as a size reference comes from the fact that on civilian planes, in their overwhelming majority, the cargo version is a derivation of the original passenger version.

(Included by Resolution No. 526, of 08.06.2019)

Installed passenger seat configuration means the passenger seat configuration, approved by ANAC, installed on the aircraft, excluding any seat intended for use by crew members. (Included by Resolution No. 526, of 08.06.2019)

Maximum certified passenger seat configuration means the configuration with the highest number of passenger seats, excluding any seat intended for use by crew members, certified for the aircraft model. The maximum certified passenger seat configuration is that recorded in the aircraft Type Specifications. (Included by Resolution No. 526, of 08.06.2019)

Operational control means, referring to a flight, to exercise authority over the be-

ginning, continuation, deviations for alternatives and termination of the same, aiming at the safety of the aircraft and the regularity and efficiency of the flight.

Positive control, referring to air traffic, means the effective control of all air traffic within a defined airspace.

Demonstrating means, unless the context provides for another meaning, demonstrating something in order to satisfy the competent authority.

Human performance means human capabilities and limitations which have an impact on the safety and efficiency of aeronautical operations.

Airship means an aircraft lighter than air, propelled by engine and having its own handling.

Acceleration and stopping distance means the total distance required to accelerate an airplane to a certain speed and, assuming a critical engine failure at the moment when such speed is reached, decelerate the airplane until its complete immobilization.

Configuration, Maintenance and Procedures Document (CMP Document) means a document approved by ANAC that contains the restrictions regarding minimum configuration, operation and maintenance requirements, component life limits and the Master Minimum Equipment List – MMEL necessary for an airplane combination -engine meets the requirements for obtaining ETOPS approval for the type design.

Ground effect means the increase in lift produced by the reaction to air displacement when an aircraft hovers or moves close to the ground.

Airline means a person authorized to perform a public air service. (Wording given by Resolution n° 526, of 08.06.2019)

Brazilian airline means a person authorized to perform a public air service according to the Brazilian Aeronautical Code, and in accordance with the certification process proposed by ANAC-Brazil. (Wording given by Resolution n° 526, of 08.06.2019)

Takeoff thrust, referring to turbine engines, means the thrust developed statically at a specific altitude and atmospheric temperature, under conditions of maximum rotation speed and gas temperature approved for normal take-off, limited in continuous use to the time period in the approved technical specification for the engine. Minimum thrust means the thrust of an engine to the reaction obtained with the engine power control lever positioned on the minimum power stop.

Nominal take-off thrust, referring to the type of reaction engine certification, means the approved thrust developed statically in a standard atmosphere at sea level, without fluid injection and without burning fuel in a special combustion chamber, within the limit of engine operation established according to RBAC 33 and approved for use in take-off operations for periods not exceeding 5 (five) minutes.

Increased nominal take-off thrust, referring to the type of reaction engines, means the approved thrust developed statically in a standard atmosphere at sea level, with fluid injection or with fuel burning in a special combustion chamber, within the limits of engine operation established according to RBAC 33 and approved for use in take-off operations for periods not exceeding 5 (five) minutes.

Maximum continuous rated thrust, referring to the type of reaction engine certification, means the approved thrust developed statically or in flight in a standard atmosphere and at a specific altitude, without fluid injection and without burning fuel in a special combustion chamber, within engine operating limits established in accordance with RBAC 33 and approved for use in unlimited periods of time.

Increased maximum continuous rated thrust, referring to the type of reaction engine certification, means the approved thrust, developed statically or in flight in a standard atmosphere and at a specific altitude, with fluid injection or with fuel burning in a special combustion chamber, within the engine operating limits established in accordance with RBAC 33 and approved for use for unlimited periods of time.

Justified aircraft equipment means any equipment necessary for the operation of the aircraft. Equipment or ballast permanently installed or those that can be removed with the purpose of changing the empty weight of an aircraft by increasing its maximum load capacity are not considered as such, (Included by Resolution No. 526, of 08.06.2019)

Altimetry System Error (ASE) means the difference between the altitude indicated by the altitude display, assuming its correct barometric adjustment, and the pressure altitude corresponding to the undisturbed ambient pressure.

Certificate Issuing Office – EsEC (or Issuing Agency) is the ANAC sector in charge of conducting the certification process of an air transport company; in the current structure of the National Civil Aviation Agency, EsEC may be the Superintendence of Operational Standards or whoever it delegates. (Included by Resolution No. 526, of 08.06.2019)

Airspace with reduced minimum vertical separation (RVSM airspace) means any airspace or route between flight levels FL290 and FL410, inclusive, where aircraft are separated vertically by 1000 feet. (Included by Resolution n° 546, of 03.18.2020)

Airworthy space means airspace at or above the minimum flight altitude for a given area, including the airspace required to land and take off safely.

Early ETOPS means approval of an ETOPS-type project, obtained without gaining experience in non-ETOPS service, of an airplane-engine combination candidate for ETOPS certification.

Approach and landing phase, referring to helicopters, means the part of the flight from 300 m (1,000 ft) above the final approach and take-off area (FACT), if the flight was planned to exceed that height, or from the beginning of the descent in other cases, to the landing or dash point.

Cruise phase (En-route phase) means the part of the flight from the end of the take-off and initial climb phase to the beginning of the approach and landing phase.

Takeoff and initial climb phase, referring to helicopters, means the part of the flight from the start of take-off up to 300 m (1,000 ft) above the FATO elevation, if the flight was planned to exceed that height, or until the end of the climb in other cases.

Load factor means the relationship between a specific load and the total weight of the aircraft. The specific load is expressed in terms of aerodynamic forces, forces of inertia or reactions of soil or water.

Human Factors (Principles of) means principles applicable to aeronautical design, certification, training, operation and maintenance and which aim to provide a safe interface between the human component and the other components of a system through appropriate consideration of human performance. Fixed final approach – FAF means a point that defines the beginning of the final approach segment and where the final descent segment can be started.

Fixed position means a geographic location in relation to which the position of an aircraft must be informed.

Rocket means an aircraft propelled by the jet caused by the expansion of gases generated inside the engine from propellants contained therein, without the introduction of external substances to process combustion. It includes any parts that normally separate during the operation of the aircraft.

Armed Forces means the Navy, the Army and the Air Force, including their active and reserve personnel.

Responsible manager is the sole and identifiable person who, within the organizational structure of the Company or Organization, has the legal or hierarchical power to authorize or refuse any expenses related to the conduct of the intended operations, in accordance with the regulatory requirements for operational safety. The appointment of the Responsible Manager must comply with the organizational acts of the company or organization filed with ANAC. (Included by Resolution No. 526, of 08.06.2019)

Girodino means a rotary-wing aircraft whose rotors are normally powered by a motor during take-off, hovering and landing and use part of the rotor's rotational speed for horizontal displacements. Its means of propulsion, normally consisting of a conventional propeller, is independent of the rotor system.

Gyroplane or gyrocopter means a rotarywing aircraft whose rotors are not powered by an engine (except, eventually, for starting), but rotate by the action of air when the aircraft is in motion and whose means of propulsion, usually consisting of conventional propellers, is independent of the rotor system.

Large aircraft means an aircraft with a maximum approved take-off weight greater than 5,670 kg (12,500 lb).

Major change means a change not listed in the approved technical specification for the aircraft, engine or propeller and that:

(1) can substantially affect weight, balance, structural strength, flight and maneuverability characteristics or any other feature related to airworthiness; or (2) is not performed in accordance with acceptable practices or that cannot be performed using elementary operations.

(Included by Resolution n° 546, of 03.18.2020)

Large transport category airplane means a certified type airplane in the transport category ("transport category") of the RBAC 25, having a configuration for passengers with more than 30 seats, excluding any seat for crew members. (Included by Resolution No. 526, of 08.06.2019)

Major repair means a repair:

(1) which, if done improperly, can substantially affect weight, balance, structural strength, performance, powertrain operation, flight characteristics or any other airworthiness related feature; or

(2) that it is not done using acceptable practices or that it cannot be performed using elementary operations.

Lateral and vertical guidance means guidance provided by aid for ground navigation or computer generated navigation data.

Propeller means a device for propelling aircraft that has blades attached to an axis moved by an engine and which, when rotating, produces, by its action on the air, a traction approximately perpendicular to its plane of rotation. It includes control components normally supplied by its manufacturer, but does not include main and auxiliary rotors for rotary-wing aircraft, as well as rotary airfoils (vanes) for engines.

Helicopter means a rotary wing aircraft that depends mainly on its rotors, powered by motor, for horizontal displacements.

Helideck means a helideck located in a structure over water, fixed or floating. It is also called an offshore helipad.

Helipad means an area bounded on land, in the water or in a structure intended for use, in whole or in part, for landing, takeoff and aircraft movement on the ground of helicopters. Helipads can be public or private (see definitions of public and private airports).

Elevated helipad (or heliport) means a helipad (or heliport) located on an elevated structure or terrain.

Heliport means a public helipad with premises and facilities to support heli-

copter operations and the processing of passengers and/or cargo.

Flammable, referring to fluids, means susceptible to suddenly igniting or exploding.

Weather information means a weather report, analysis or forecast or any other information related to existing or expected weather conditions.

Instrument means a device with an internal mechanism designed to indicate, by sound or visual means, the altitude, speed or operation of the aircraft or parts thereof. It includes electronic devices designed to automatically control an aircraft in flight.

Exemption means the temporary or permanent waiver of compliance with the rule established by ANAC in Resolution, RBAC or Special Condition, when it is proven that non-compliance does not affect the safety of operations or that there are actions by the interested party to guarantee the service to the public interest at a security level acceptable to ANAC, after analysis according to section 11.31 of RBAC n° 11. (Included by Resolution n° 548, of 03.20.2020)

Configuration Deviation List (CDL) means a list prepared by the Type Certificate holder and approved by ANAC that identifies any external part of an aircraft type that may be missing at the start of a flight and that contains, when necessary, any information, operational limitation or associated performance correction.

Minimum Equipment List (MEL) means a list, prepared by an air operator in accordance with or more restrictive than the MMEL established for the type of aircraft, which establishes how to operate that type of aircraft with particular inoperative equipment, provided that given specific conditions. (Included by Resolution n^o 546, of 03.18.2020)

Master Minimum Equipment List (MMEL) means a list established for a particular type of aircraft by the organization responsible for the type design, with the approval of the certifying body, containing items, one or more of which are allowed to be inoperative at the start of a flight. MMEL can be associated with special operating conditions, limitations or procedures. (Included by Resolution n° 546, of 03.18.2020)

Aircraft Operating Manual (AOM) means the manual prepared by the air operator, approved by ANAC, containing normal, abnormal and emergency procedures, checklists, limitations, performance information, details of the aircraft systems and other materials relevant to the operation of the aircraft. Normally, it must be based on the Approved Flight Manual (AFM), and cannot be against it and considering any specific operational condition of the operator not provided for in the AFM. (Included by Resolution n° 546, of 03.18.2020)

Maintenance organization procedures manual means a document approved by the head of the maintenance organization which details the structure of the maintenance organization and management responsibilities, the purpose of the work, the description of the facilities, the maintenance procedures and the maintenance system. inspection or quality assurance.

Aircraft Flight Manual (AFM) means a manual, approved by the certifying body, containing normal, abnormal and emergency procedures, checklists, limitations, performance information, details of the aircraft systems and other matters relevant to the aircraft operation.

Maintenance means any activity of inspection, overhaul, repair, cleaning, maintenance or replacement of parts of an aircraft and its components, but excludes preventive maintenance.

Preventive maintenance means a simple or small maintenance operation, as well as the replacement of small standard parts that do not involve complex assembly and disassembly operations.

Safety margin (MS) means the excess resistance of a given part of a structure in relation to the final load.

External cargo securing devices means structural components used to attach an external cargo to an aircraft's fuselage, including cargo containers, support structure of the attachment points and any device for releasing or dumping external loads.

Flight crew member means a pilot, flight mechanic or navigator assigned to service an aircraft during flight time.

Moto glider means an aircraft equipped with one or more engines and which, with the engine(s) stopped in flight, has the same characteristics as a glider.

Aircraft engine means an engine that is used or that is intended to be used to propel an aircraft. It includes turbochargers, devices and controls necessary for its operation, but excludes propellers and rotors. Unless explained differently in the text, the aircraft engine is referred to in the RBACs only as "engine". There are two basic types of aircraft engine: conventional and turbine:

(1) conventional engine means an aeronautical engine in which pistons, which move inside cylinders, drive a crankshaft which, directly or through a gear box, drives a propeller (airplanes) or a rotor (rotary wing aircraft);

(2) turbine engine means an aircraft engine whose operation is driven by a gas turbine. Turbine engines are basically divided into three different types:

(i) turboprop engine is an engine designed to drive a propeller responsible for propelling the plane; the participation of exhaust gases in this propulsion, when it exists, is merely residual;

(ii) turbo-axis engine is an engine designed to drive the rotor of an aircraft with rotating wings; exhaust gases have no part in the process; and

(iii) reaction engine or turbojet engine is an engine designed for airplanes that uses the expansion of gases to propel the plane. It includes engines called turbofan.

Critical engine means an engine whose failure most adversely affects an aircraft's performance or maneuverability characteristics.

Altitude engine means a conventional engine having a rated take-off power that can be maintained from sea level to a certain altitude.

Sea level engine means a conventional engine with a rated take-off power that can only be produced at sea level.

Area Navigation – RNAV means a navigation method that allows the operation of aircraft on any desired flight path within the coverage of navigation aids, based on the ground or in space, or within the limits of the possibilities of autonomous navigation equipment, or a combination of both. (Wording given by Resolution n° 546, of March 18, 2020)

Note: area navigation includes PBN, as well as other operations not included in the definition of PBN. (Included by Resolution n° 546, of 03.18.2020)

Visual navigation means navigation made by visual references of the land overflown.

Flight level means a constant atmospheric pressure level relative to the atmospheric pressure level of 1,013.2 hPa (29.92 in Hg). It is indicated by the letters FL (Flight Level) followed by 3 digits referring to the hundreds of feet. For example: FL 060 represents the barometric indication of the 6,000 ft altimeter, and FL 255 represents 25,500 ft.

Target Level of Safety (TLS) means, as a generic term, the representation of the level of risk that is considered acceptable under particular circumstances.

Equivalent Level of Safety means the condition that there is no literal fulfillment of the requirement established by ANAC, but compensatory factors are adopted that achieve the purpose of the requirement, guaranteeing an equivalent level of safety, whose recognition, after analysis according to section 11.41 of RBAC n° 11, does not involve exemption, alteration or requirement creation, but only makes specific design, procedure or equipment accepted that formally do not fit the literality of the rule. (Included by Resolution n° 548, of 03.20.2020)

Night means the period between the end of the evening civil twilight and the beginning of the morning civil twilight. The first has its end and the second has its beginning when the center of the solar disk reaches 6 degrees below the horizon.

Consensual Standard means, for the purposes of certification of light sports aircraft, an agreed standard developed by the industry that applies to the design, production and airworthiness of the aircraft. It includes, but is not limited to, standards for aircraft design and performance, required equipment, manufacturer's quality assurance systems, production acceptance testing procedures, operating instructions, inspection and maintenance procedures, identification and registration of major repairs and major changes, and continued airworthiness.

North Atlantic High Level Airspace – NAT-HLA means the volume of air space between FL285 and FL420, including, extending between latitude 27° N and the North Pole, limited to the East by the Eastern limits of the Santa Maria Oceanic, Shanwick Oceanic and Reykjavik Oceanic control areas, and limited to the West by the Western boundaries of the Reykjavik Oceanic, Gander Oceanic and New York Oceanic control areas, excluding areas West of 60° W and south of 38°30 'N. (Included by Resolution n° 546, of 03.18.2020)

MACH number means the relationship between the true speed and the speed of sound.

Cargo operation means any public air transport service operation that does not include the transport of persons or, if persons are transported, be those specified in paragraph 121.583(a) of RBAC No. 121 or in section 135.85 of RBAC No. 135. Cargo operations, for the purposes of operational certification, are considered to be supplemental operations, even if the certificate holder has a concession to conduct regular air cargo operations. (Included by Resolution No. 526, of 08.06.2019)

General aviation operation means an aircraft operation not involving the operation of public (commercial) air transport or specialized air service.

Public air transport operation is one that aims at serving a public air service in national or international transport, regular or non-regular, of passengers, cargo or mail. (Included by Resolution No. 526, of 08.06.2019)

Public air transport operation carrying passengers means any public air transport operation carrying persons that are not specified in paragraph 121.583(a) of RBAC No. 121 or in section 135.85 of RBAC No. 135. An aircraft used in a passenger transportation operation may, also, transport cargo, parcels or mailbags in addition to passengers, provided that the applicable requirements for fixing/ positioning such cargo/parcels/mailbags are complied with. (Included by Resolution No. 526, of 08.06.2019)

Non-scheduled (or unscheduled) operation means a public air transport service operation that does not fall under the definition of regular operation. (Included by Resolution No. 526, of 08.06.2019)

Operation by authorization means an operation carried out with authorization from the Federal Government. (Included by Resolution No. 526, of 08.06.2019)

Concession operation means an operation carried out by the Federal Government. (Included by Resolution No. 526, of 08.06.2019)

Extended Operations (ETOPS) means an airplane flight operation in which part of the flight is operated beyond the time limit identified in RBAC 121 or 135 from a suitable airport, based on a cruising speed with one inoperative engine approved, under standard atmospheric conditions and calm air. (Wording given by Resolution n^0 546, of March 18, 2020)

Regular (or scheduled) operation means a public air transport operation in which the time of departure, the place of departure and the place of destination are defined and offered in advance by the certificate holder, his/her representative or commercial operator. (Included by Resolution No. 526, of 08.06.2019)

Steep Approach Operation means any operation where the approach landing angle is greater than 3.77 degrees. (Included by Resolution n° 546, of 03.18.2020)

Substitute operation means an operation that should be conducted by one certificate holder and is conducted by another certificate holder through a contract signed between the parties. (Included by Resolution No. 526, of 08.06.2019)

Public air transport operator means a legal entity engaged in public air transport service and certified according to ANAC rules. (Included by Resolution No. 526, of 08.06.2019)

Operating means, referring to an aircraft, to use, motivate use or authorize its use for the purpose (except as provided for in section 91.13 of RBAC 91) of performing a flight, including piloting an aircraft, with or without the legal right of control of the same as owner or lessee.

Paramotor means an aircraft consisting of a parachute-type paraglider and an engine/propeller/fuel tank assembly that is attached to the pilot's back.

Paragliding means a parachute whose canopy, when inflated, takes the shape of an airfoil, allowing some control of its trajectory during the descent.

Parachute means a device used or intended to be used to delay the fall of a body or object through the air.

Motorized parachute means a motorized aircraft consisting of a flexible or semirigid wing connected to a fuselage so that the wing is not in position for flight until the aircraft is in motion. The fuselage of a motorized parachute contains the aircraft's engine and a seat for each occupant and has the aircraft's landing gear attached to it.

In-Flight Shutdown (IFSD) means, in ETOPS operations only, the stopping of an engine in flight, followed by its selfinduced shutdown, either at the initiative of the crew, or caused by external influence. ANAC considers IFSD to be a shutdown for any reason: flameout, internal failure, shutdown initiated by the crew, ingestion of foreign objects, ice, inability to obtain or control the desired power or thrust and the recycling of start control, even if briefly, even if the engine operates normally for the remainder of the flight. This definition excludes an engine stop in flight when immediately followed by an automatic restart of the engine or when an engine does not obtain the desired power or thrust, but is not cut.

Small aircraft means an aircraft with a maximum approved take-off weight of 5,670 kg (12,500 lb) or less.

Small change means a change that does not fit the definition of a big change. (Included by Resolution n° 546, of 03.18.2020)

Small transport category airplane means a certified transport type airplane (RBAC 25), having a configuration for passengers with less than 31 seats, excluding any crew member seat. (Included by Resolution No. 526, of 08.06.2019)

Small repair means a repair that does not fit the definition of a big repair.

Maximum zero fuel weight means the maximum allowable weight of an aircraft without the fuel and consumable oil. The maximum zero fuel weight value can be found in the aircraft's technical specification, in the approved flight manual (AFM), or in both. (Included by Resolution No. 526, of 08.06.2019)

Empty weight means the weight of the cell, engines, propellers, rotors and fixed equipment. The empty weight excludes the weight of the crew and the payload, but includes the weight of all fixed ballasts, unusable fuel, non-drainable oil and the total amount of engine coolant and hydraulic fluid. (Included by Resolution No. 526, of 08.06.2019)

Person means an individual, firm, partnership, corporation, company, association, joint-stock company or government entity. It includes an administrator, attorney or similar representative of any of them.

Piloting means manipulating an aircraft's flight controls during flight time.

Airspace pilot means the generic designation of a person who holds any license issued in accordance with RBAC No. 61 required for the operation of an airspace aircraft. (Included by Resolution No. 474, 06.06.2018) Pilot in command means a person who has the final authority and responsibility for the operation and safety of the flight. (Wording given by Resolution n° 546, of March 18, 2020)

Glider means an aircraft heavier than air, supported in flight by the dynamic reaction of air against its fixed support surfaces and for which free flight does not depend mainly on an engine.

Flight plan means specific information, related to a planned flight or part of an aircraft flight, provided to the agencies that provide air traffic services. (Wording given by Resolution n° 546, of March 18, 2020)

Defined point before landing, referring to performance class 2 helicopters, means a point, within the approach and landing phase, after which the helicopter's ability to proceed to a safe landing with an inoperative engine is not ensured and a forced landing may be required. (Wording given by Resolution n° 546, of March 18, 2020)

Defined point after take-off, referring to performance class 2 helicopters, means a point, within the initial take-off and climb phase, before which the helicopter's ability to continue a safe flight with an inoperative engine is not ensured and a forced landing may be required. (Wording given by Resolution n° 546, of March 18, 2020)

RNAV control point means a predetermined geographical position fixed in relation to a navigation aid, used to define a route or an instrument approach or to define a fixed position.

Takeoff Decision Point (TDP) means the point used in determining the take-off performance of Category A helicopters at which, if an engine failure occurs, takeoff can be aborted or take-off can be continued, both with safety.

Landing Decision Point (LDP) means the point used in determining the landing performance of Category A helicopters at which, if an engine failure occurs, a landing can be safely continued or a dash can be initiated.

Equivalent time point (equi-time point) means a point in the flight path at which, considering the wind, the flight time for two selected airports is equal.

Takeoff power means:

(1) referring to conventional engines, the available power on the shaft developed in a standard atmosphere at sea level, in the rotation and inlet pressure approved for normal takeoff, and limited in continuous use to the period of time constant in the technical specification approved for the engine; and

(2) referring to turbine engines, means the power available on the shaft statically developed at specific altitudes and temperatures, at the maximum rotation speed of the shaft and at the maximum temperature of gases approved for normal take-off, and limited in continuous use for the period time constant in the approved technical specification for the engine.

Shaft power means the power available on the propeller shaft of an aircraft engine.

Nominal take-off power means, referring to the type certification of conventional engines, turboprop or turbo-axle, the approved power available on the shaft statically developed in a standard atmosphere at sea level, within the engine operating limits established according to RBAC 33 and approved for use in takeoff operations for periods not exceeding 5 (five) minutes.

Maximum continuous rated power means, referring to a conventional engine, turboprop or turbo-axis, the approved power available on the shaft statically developed or in flight in the standard atmosphere and at a specific altitude, within the engine operating limits established according to RBAC 33 and approved for use in unlimited periods of time.

OEI (One Engine Inoperative) continuous rated power (with one engine inoperative), referring to rotary-wing aircraft with turbine engines, means the approved axis power, developed under static conditions at specified altitudes and temperatures within the operating limitations established for the engine according to RBAC 33, and limited in use to the time required to complete the flight after the failure or shutdown of an engine in a multi-engine aircraft.

Nominal power 2-minutes OEI (One Engine Inoperative) (with one engine inoperative), referring to rotary-wing aircraft with turbine engines, means the approved axle power, developed under static conditions at specified altitudes and temperatures within the limitations of operation established for the engine according to RBAC 33 for continuation of a flight after engine failure or shutdown in a multi-engine aircraft, limited to three periods of use not exceeding 2 (two) minutes on each flight, and then mandatory inspection and established maintenance actions.

Rated power 2 1/2-minutes OEI (One Engine Inoperative) (with one engine inoperative), referring to rotary-wing aircraft with turbine engines, means the approved axis power, developed under static conditions at specified altitudes and temperatures within the operating limitations established for the engine according to RBAC 33 and limited in use to a period not exceeding 2 ½ (two and a half) minutes each after the failure or cut of an engine in a multi-engine aircraft.

Rated power 30-minutes OEI (One Engine Inoperative) (with one engine inoperative), referring to rotary-wing aircraft with turbine engines, means the approved axle power, developed under static conditions at specified altitudes and temperatures within the limitations of operation established for the engine according to RBAC 33, limited to use for a period not exceeding 30 (thirty) minutes of flight after the failure or cut of an engine in a multi-engine aircraft.

Rated power 30 seconds OEI (One Engine Inoperative) (with one engine inoperative), referring to rotary-wing aircraft with turbine engines, means the approved axle power, developed under static conditions at specified altitudes and temperatures within the limitations operating conditions established for the engine in accordance with RBAC 33 for continuation of a flight after engine failure or shutdown in a multi-engine aircraft, limited to three periods of use not exceeding 30 (thirty) seconds each on any flight, and followed by a mandatory inspection and established maintenance actions.

Safe forced landing means a forced landing on land or water with a reasonable expectation that no injuries will occur to people on board the aircraft or on the surface.

Inlet pressure means the absolute pressure measured at an appropriate point in the induction system of a conventional engine, usually expressed in inches of mercury.

Precision approach procedure means a standardized instrument approach procedure that has an electronic glide-pitch, such as ILS (Instrument Landing System) or PAR (Precision Approach Radar).

Instrument approach procedure means a series of predetermined maneuvers per-

formed with the aid of on-board instruments, with specific protection against obstacles, from the initial approach fix or, when applicable, from the beginning of an arrival route to a point from which it is possible to make the landing and, if this is not done, to a position in which the criteria of waiting circuit or margin free of obstacles en route apply. (Wording given by Resolution n^o 546, of March 18, 2020)

Non-precision approach procedure means a standardized instrument approach procedure without an electronic glide-pitch.

Aeronautical product means any civil aircraft, engine or aircraft propeller or apparatus installed therein.

Maintenance program means a document that describes the specific scheduled maintenance tasks and their frequencies and related procedures, as well as a reliability program necessary for the safe operation of the aircraft to which it applies.

Dilution ratio (bypass ratio) means the ratio of the mass of air flowing through the bypass ducts of an engine to the gas turbine and the mass of air passing through the combustion chambers, calculated at maximum thrust, with the stationary engine, in a standard atmosphere, at sea level.

Repair means the return of an aircraft and/or its components to the airworthy situation, after the elimination of defects or damages, including those caused by accidents/incidents.

Airworthiness requirement means a governmental requirement relating to the design, materials, construction and manufacturing processes, performance, flight qualities, systems and equipment of an aircraft and its components, in order to ensure the safety of the operation.

Flame resistant means not susceptible to combustion, not spreading flames beyond a safe limit after removing the ignition source.

Resistant to violent combustion means not susceptible to violent burning when subjected to ignition.

Fire resistant means:

(1) referring to plates or structural members, the ability of such plates and members to withstand the heat associated with fire at least as well as they would do with an aluminum alloy; and (2) referring to pipelines carrying fluids, parts of fluid systems, wiring, air ducts, powerplant connections and controls, the ability of such items to perform their intended functions when subjected to heat and other possible conditions to be faced if a fire occurs in the area where they are located.

RNAV route means an RNAV-based ATS route that can be used by properly equipped aircraft.

Rotor, referring to rotary wing aircraft, means a set of rotary airfoils.

Auxiliary rotor means a rotor that serves to counter the torque effect of the main rotor of a rotary wing aircraft or to maneuver that aircraft around one or more of its three axes.

Main rotor means the rotor that supplies the main portion of the support for a rotary wing aircraft.

Operational headquarters means the location chosen by a certificate holder where most of its technical and operational management and management activities are centralized. (Included by Resolution No. 526, of 08.06.2019)

Route segment means a section of a route bounded at each end by:

(1) a continental or island geographic landfill; or

(2) a point at which a defined fixed radio can be established.

Second in command means a pilot assigned to act as second-in-command of an aircraft during flight time.

Aerial Work (Aerial Work) means an aerial operation in which an aircraft is used for specialized services such as agriculture, construction, photography, surveys, advertising, patrol, search and rescue, etc. It does not include air transportation of people, cargo or mailbags.

Designated server is a person accredited by the civil aviation authority who is, as its representative, authorized to carry out civil aviation inspection activities. Formerly known as Civil Aviation Inspector – INSPAC. (Included by Resolution No. 526, of 08.06.2019)

Private air service is that performed without remuneration, for the benefit of the operator itself. (Included by Resolution No. 526, of 08.06.2019)

Public air service is that performed, on a remunerated basis, for the benefit of the service user, other than the operator itself. (Included by Resolution No. 526, of 08.06.2019)

Air traffic control service means the service provided for the purpose of preventing collisions between aircraft and between aircraft and obstacles in the area of maneuvers and to accelerate and maintain the flow of air traffic. (Included by Resolution n^0 546, of 03.18.2020)

Security management system means a systematic process for managing security, including the necessary organizational structures, responsibilities, policies and procedures.

Significant ETOPS system means an airplane system, including the propulsion system, whose failure or malfunction may adversely affect the safety of an ETOPS flight or the continuation of a safe flight and landing during a detour for an ETOPS alternative. The significant ETOPS systems are divided into 2 groups:

(1) a significant group 1 ETOPS system:

(i) it has fail-safe characteristics directly linked to the degree of redundancy provided by the number of aircraft engines;

(ii) it is a system whose failure or malfunction can result in an IFSD, loss of thrust control or other power losses;

(iii) contributes significantly to safety during a diversion to the ETOPS alternative, by providing additional redundancy for any loss of a system's power source, resulting from an inoperative engine;

(iv) is essential for prolonged operation of an airplane at altitudes for an inoperative engine.

(2) a group 2 significant ETOPS system means a group ETOPS significant system that is not a group 1 significant ETOPS system.

Long-Range Communication System (LRCS) means a system that uses satellite transmission, digital data transmission, high frequency or any other approved communications system that extends beyond the line of sight.

Long-Range Navigation System (LRNS) means an electronic navigation unit approved for use under instrument flight rules as the primary means of navigation, and which has at least one source of navigation information such as an inertial navigation system, a global positioning system, Omega/VLF or Loran C. Synthetic vision system means an electronic means of presenting a synthetic image of the vision of the external topographic scene to the flight crew.

Enhanced Flight Vision System (EFVS) means an electronic means to provide an image of the topographic scenario in front of the aircraft (natural or manmade characteristics of a place or region, especially in order to show their relative positions and elevations), through image sensors, such as Forward Looking Infrared – FLIR, millimeter wave radiometry, millimeter wave radar or image intensifier in low light level.

Adequate RNAV system means an RNAV system that meets the performance requirements established for the type of operation (for example, IFR) and is suitable for operation on the route to be flown in terms of any performance criteria (including accuracy) established by the air navigation service provider for certain routes (such as ocean routes, ATS routes and instrument approach procedures). The suitability of an RNAV system is dependent on the availability of aids for navigation on the ground and/or on satellites that are necessary to meet any route performance criteria that may be established to navigate the aircraft along the route to be flown.

Psychoactive substance means alcohol, opioids, cannabinoids, sedatives, hypnotics and volatile solvents, excluding coffee and tobacco.

Traffic Alert and Collision Avoidance System – TCAS I or ACAS I means a TCAS that uses questions and responses from an onboard transponder radar, providing traffic guidance for the pilot.

TCAS II means a TCAS that uses questions and answers from an onboard transponder radar, providing traffic guidance and resolution guidelines in the vertical plane for the pilot.

TCAS III means a TCAS that uses questions and answers from an onboard transponder radar, providing traffic and resolution guidelines in the vertical and horizontal planes for the pilot.

Flight time means:

(1) for the pilot of an aircraft other than those mentioned in paragraphs (2) and (3) below, the time that begins when the aircraft starts to move by its own means for the purpose of flying and ends when the aircraft fully stops after landing (block-by-block time); (2) for the pilot of a glider without self-launch capability, the time that begins when the glider starts to be towed for the purpose of flying and ends when the glider returns to rest after landing; or

(3) for a helicopter pilot, the total time from the moment the rotor blades begin to rotate until the helicopter returns to rest, at the end of the flight, and the rotor blades are stopped.

Instrument flight time means the flight time during which a pilot operates an aircraft using only on-board instruments as reference, without external reference points. Flight time by instruments can also be computed when a pilot operates, without external references, a simulator or flight training device approved by ANAC.

Time in service, referring to times in maintenance records, means the time elapsed from the moment the aircraft leaves the earth's surface until the moment it touches that surface, at landing.

Ceiling means the height above ground or water, from the base of the lowest cloud layer, below 6,000 m (20,000 feet) that covers more than half the sky. (Wording given by Resolution n° 546, of March 18, 2020)

Type means:

(1) referring to certificates, qualifications, prerogatives and limitations of persons, a specific type and basic model of aircraft, including modifications that do not alter the flight and maneuverability characteristics. Examples: MD-11, B767, F100 etc.;

(2) referring to aircraft certification, those aircraft that have similar projects.

Examples: DC-7 and DC-7C, 1049 G and 1049 H, F-27 and F-27F etc.; and

(3) referring to the certification of aircraft engines, those engines that are similar in design. Example: JT8D and JT8D-7, JT9D-3A and JT9D-9 etc.

RNP type means a value expressed as a lateral distance, in nautical miles, from the intended route, within which the flight must remain for at least 95% of the total flight time. For example, RNP 4 represents an accuracy of plus or minus 7.4 km (4 NM) for each side of the desired route, in 95% of the flight time.

Air traffic means all aircraft in flight or operating in an airport's maneuver area.

(Wording given by Resolution $n^{\rm o}\,$ 546, of March 18, 2020)

Emergency Locator Transmitter (ELT) means a device that emits specific signals, at designated frequencies and which, depending on the application, can be triggered automatically by impact or manually triggered. An ELT can be of the following types:

 Fixed automatic ELT – ELT (AF): it is an automatically activated ELT, permanently fixed to the aircraft;

(2) Portable automatic ELT – ELT (AP): it is an automatically activated ELT that is rigidly fixed to the aircraft, but that can be promptly removed from it;

(3) Ejectable automatic ELT – ELT (AD), where D is deployable: it is an ELT rigidly attached to the aircraft and which is automatically activated and ejected by impact and, in some cases, by hydrostatic sensors. Manual ejection can also be provided; and

(4) ELT for survival – ELT (S): an ELT removable from the aircraft, positioned in a location that allows its ready use in an emergency and that is manually activated by survivors.

Public air transport (CBA art. 175) means commercial air transport (for profit) of people, goods, and/or mailbags, regular or non-regular, domestic or international. (Included by Resolution No. 526, of 08.06.2019)

Private air transport (CBA art. 177) means a non-profit aircraft operation for the benefit of the operator. (Included by Resolution No. 526, of 08.06.2019)

Approved training means an instruction program approved and supervised by the civil aviation authority, carried out at training organizations certified by that authority.

Crew member means a person designated to perform a function on board an aircraft during flight time.

Flight crew member means a pilot, flight mechanic or navigator designated to perform a function on board an aircraft, in its cockpit, during the flight time.

Cabin crew member means a crew member who performs, for the benefit of the safety of passengers, the duties assigned by the operator or pilot-in-command of the aircraft, but who cannot act as a flight crew member. He is also called a "flight attendant". Auxiliary Power Unit (APU) means an auxiliary energy source for the aircraft, self-contained, which provides electrical/hydraulic power for that aircraft during ground operations and, eventually, in flight.

Ultralight vehicle means the generic designation of an aircraft whose physical and operational characteristics are limited according to RBAC n° 103. (Included by Resolution n° 474, of 06/07/2018)

Calibrated speed means the indicated speed of an aircraft corrected for position and instrument errors. At sea level, under ISA atmospheric conditions, the calibrated speed is equal to the true speed.

Initial climb speed means, referring to rotary-wing aircraft, the reference speed that results in a flight path within the height/speed envelope during the initial climb.

Take-off decision speed (V1) means the maximum take-off speed at which the pilot must perform the first action (for example, apply brakes, reduce power, open aerodynamic brakes) to stop the plane within the range of the acceleration and stop. It also means slower takeoff speed, following a critical FEV engine failure, in which the pilot can continue to take off and reach the required height above the take-off surface within the take-off distance.

Lowered flap speed means the highest permissible speed with the wing flaps lowered in a given position.

Landing gear operating speed means the maximum speed at which the landing gear can be safely lowered or retracted.

Landing reference speed means the speed of an airplane, in a specific landing configuration, at the point of descent where it crosses the 50 ft height in determining landing distances.

Lowered landing gear speed means the maximum speed at which an aircraft can be safely flown with the landing gear in the lowered position.

Equivalent speed means the calibrated speed of an aircraft corrected for the effects of adiabatic compressibility for a particular altitude. The equivalent speed is equal to the calibrated speed, in a standard atmosphere at sea level.

Final take-off speed means the speed of an existing aircraft at the end of the take-off path in the route configuration with an inoperative engine. Indicated speed means the speed of an aircraft as shown by its pitot/static speed indication system, calibrated to indicate the adiabatic compressible flow of standard atmosphere at sea level, without corrections in relation to system errors.

Safe take-off speed means a reference speed, obtained after leaving the ground, in which the climb performance with an inoperative engine can be achieved.

Maximum speed for stability characteristics (Maximum Speed for Stability Characteristics – VFC/MFC) means a speed that cannot be less than a speed between the maximum operating speed limit (VMO/MMO) and the dive speed demonstrated in flight (VDF/MDF), except that, for altitudes where the MACH number is a limiting factor, MFC cannot exceed the MACH number at which the effective speed alarm occurs.

True speed means the speed of the aircraft in relation to undisturbed air. The true speed is equal to the equivalent speed multiplied by (po/p) ½.

Synthetic vision means a computer generated image of the external topographic scenario from the perspective of the cockpit depending on the altitude of the aircraft, the high-precision navigation solution and the terrain database, obstacles and relevant cultural characteristics.

In-flight visibility means visibility in front of the flight deck of an aircraft in flight. (Wording given by Resolution n° 546, of March 18, 2020)

Enhanced Flight Visibility (EFV) means the average horizontal distance in front of the aircraft, as seen from that aircraft's flight deck, in which prominent topographic objects can be clearly distinguished and identified, day or night, by a pilot using an Enhanced Flight Visibility System (EFVS).

Visibility on the ground means visibility at an airport indicated by an accredited observer or by means of automatic systems. (Wording given by Resolution n° 546, of March 18, 2020)

IFR flight means the operation of an aircraft under the rules of instrument flight.

VFR flight means the operation of an aircraft according to the rules of visual flight.

Special VFR flight means the VFR flight carried out under meteorological conditions below VMC, authorized by the approach control, inside a CTR or, even, a controlled airport ATZ that is located within the vertical projections of the lateral limits of a TMA. (Included by Resolution n° 546, of 03.18.2020)

Wet leasing or Wet-lease (lease with crew) means any lease agreement where one person agrees to provide another complete and manned aircraft to another. The "wet lease" does not include "code-sharing" arrangements (shared transport) or aircraft charter. (Included by Resolution No. 526, of 08.06.2019)

Winglet or Tip Fin means an external surface of the airplane, extending beyond the airfoil. This surface may or may not have control surfaces.

Stopway zone means a rectangular area with a width not less than that of the runway, defined on the ground and located in the extension of the runway axis, intended and prepared as a suitable area for aircraft stops, capable of supporting the aircraft during an aborted take-off without causing structural damage to it and intended for aircraft deceleration during an aborted take-off.

[Resolution No. 200, of September 13, 2011, published in the Federal Official Gazette, of September 14, 2011, Section 1, p. 1-2]

01.2 Abbreviations and symbols

The following abbreviations and symbols are applicable to the purposes of the RBAC.

VA stands for design maneuver speed.

VB stands for speed for maximum project burst intensity.

VC stands for design cruising speed.

RV means maximum design dive speed.

VDF/MDF means diving speed demonstrated in flight.

VEF means speed at which critical engine failure is assumed at take off.

VF stands for speed with lowered design flaps.

VFC/MFC stands for maximum speed for stability characteristics.

VFE stands for maximum speed with lowered flaps.

VH means maximum speed in level flight with maximum continuous power.

VLE stands for maximum speed when the landing gear is lowered.

VLO stands for maximum speed while the landing gear is in motion.

VLOF stands for ground clearance speed.

VMC means minimum control speed with critical engine inoperative.

VMO/MMO means maximum speed limit in operation.

VMU stands for minimum abusive takeoff speed.

VNE means speed never to be exceeded.

VNO stands for maximum structural cruising speed.

VR stands for speed of rotation.

VS stands for stall speed or minimum stable flight speed, at which the plane is controllable.

VSO means stall speed in the landing configuration or minimum stable flight speed in the landing configuration, in which the airplane is controllable.

VS1 means stall speed or lower stable flight speed obtained in a given configuration.

VTOSS means safe take-off speed for Category A (or ICAO Class 1) rotary-wing aircraft, that is, the lowest speed at which a climb can be achieved with the critical engine inoperative and the other engines operating within approved operating limits.

VX stands for speed for the best climb angle.

VY stands for speed for the best rate of climb.

V1 stands for take-off decision speed (also called critical engine failure speed).

V2 stands for safe take-off speed.

V2min means minimum safe take-off speed.

ANAC stands for National Civil Aviation Agency.

ADF – Automatic Direction Finder – means automatic direction indicator.

AFM – Aircraft Flight Manual – means approved aircraft flight manual.

AGL – Above Ground Level – means above ground level.

ALS – Approach Light System – means a system of approach lights.

AOM – Aircraft Operating Manual – means Aircraft Operation Manual. (Included by Resolution n° 546, of 03.18.2020)

APU – Auxiliary Power Unit – means auxiliary power unit.

ASE – Altimetry System Error – means altimetry system error.

ASR – Airport Surveillance Radar – means airport surveillance radar.

ATC – Air Traffic Control – means air traffic control.

ATS – Air Traffic Service – means air traffic service.

CAMP – Continuous Airworthiness Maintenance Program – stands for continued airworthiness maintenance program. (Wording given by Resolution n° 546, of March 18, 2020)

CAS – Calibrated Airspeed – means calibrated speed.

CAT II – Category II – means category II operation.

CAT III – Category III – means category III operation.

CDL – Configuration Deviation List – means Configuration Deviation List.

CONSOL or CONSOLAN – Consolidated Long Range Aid to Navigation – means a kind of medium or high frequency navigation aid.

CVR – Cockpit Voice Recorder – means voice recorder in the cockpit.

CMP – Configuration, Maintenance and Procedures – means configuration, maintenance and procedures.

DH – Decision Height – means decision height.

DME – Distance Measuring Equipment – means distance measuring equipment.

EAS – Equivalent Airspeed – means equivalent speed.

ELT – Emergency Locator Transmitter – means emergency locator transmitter.

ETOPS – Extended Operations – means extended operations.

FATO – Final Approach and Take-Off Area – means final approach and takeoff area.

FDR – Flight Data Recorder – means flight data recorder. (Included by Resolution n° 546, of 03.18.2020)

FM – Fan Marker – means radio marker that emits a vertical signal in the form of lobes.

GS - Glide Slope - means glide ramp.

HIRL – High-Intensity Runway Light system – means high intensity runway lighting system.

IAS – Indicated Airspeed – means indicated speed.

IFR – Instrument Flight Rules – means instrument flight rules.

IFSD – In-Flight Shutdown – means inflight engine shutdown.

ILS – Instrument Landing System – means instrument landing system.

IM – ILS inner Mark – means internal ILS marker.

LDA – Localizer-Type Directional Aid – means localizer-type directional aid.

LOC – Localizer – means the localizer of an ILS.

M stands for MACH number.

MAA – Maximum Authorized IFR Altitude – means maximum authorized altitude in IFR.

MALS – Medium intensity Approach Light System – means a system of medium intensity approach lights.

MALSR – Medium intensity Approach Light System with Runway Alignment Indicator Lights – means a system of medium intensity approach lights, with indicator lights for alignment with the runway.

MDA – Minimum Descent Altitude – means minimum descent altitude.

MEA – Minimum En Route IFR Altitude – means minimum altitude on route in IFR flight.

MEL – Minimum Equipment List – means list of minimum equipment.

MM – ILS Midle Mark – means medium ILS marker.

MMEL – Master Minimum Equipment List – means master list of minimum equipment.

MSL – Mean Sea Level – means average sea level.

NAT-HLA – North Atlantic High Level Airspace – means NAT-HLA Airspace. (Included by Resolution n° 546, of 03.18.2020)

NDB – Non Directional Beacon – means non-directional beacon radio.

OEI – One Engine Inoperative – means an inoperative engine.

OM – ILS Outer Marker – means ILS external marker. PAR – Precision Approach Radar – means precision approach radar.

PBN – Performance-based Navigation – means Performance Based Navigation. (Included by Resolution n° 546, of 03.18.2020)

RAB stands for Brazilian Aeronautical Registration.

RBAC means Brazilian Civil Aviation Regulation.

RFFS – Rescue and Firefighting Services – means rescue and fire-fighting services.

RNAV – Area Navigation – means area navigation.

RNP – Required Navigation Performance – means required navigation performance.

RVR – Runway Visual Range – means visual range on the track. (Wording given by Resolution nº 546, of March 18, 2020)

RVSM – Reduced Vertical Separation Minimum – means Reduced Vertical Separation Minimum. (Included by Resolution n° 546, of 03.18.2020)

SAE stands for Specialized Air Services.

TAS - True Airspeed - means true speed.

TAWS – Terrain awareness and warning system – stands for Ground proximity perception and alarm system. (Included by Resolution n^0 546, of 03.18.2020)

TCAS – Traffic alert and Collision Avoidance System – means a traffic alert and collision prevention system.

VFR – Visual Flight Rules – means visual flight rules.

VFTO stands for final take-off speed. (Included by Resolution n° 546, of 03.18.2020)

VHF – Very High Frequency – means a radio that operates at very high frequencies.

VOR – Very High Frequency Omnirange – means a ground station that operates on VHF and emits omnidirectional signals.

VSR stands for stall reference speed. (Included by Resolution n° 546, of 03.18.2020)

VSRO stands for stall reference speed in landing configuration. (Included by Resolution n^{o} 546, of 03.18.2020)

VSR1 stands for stall reference speed obtained in a given configuration. (Included by Resolution n° 546, of 03.18.2020)

VSW stands for speed at which a natural or artificial stall alert occurs. (Included by Resolution n° 546, of 03.18.2020)

01.3 RBAC construction rules

(a) In the text of the RBACs, unless otherwise stated:

(1) words in the singular include their plural;

(2) words in the plural include their singular; and

(3) words in the masculine gender include their feminine.

(b) In RBAC texts, the following words have the following meaning:

(1) the verbs "should" or "be" in the present indicative or in the future indicate mandatory compliance with an imperative connotation. For example: should, is, are, or will be;

(2) the verb "can" in the present, future or conditional, or verb "to be" in the conditional has the connotation of being permissible, recommendable or optional. For example: can, could, would. The verb "can", in the present or in the future, followed by the adverb "no", means that the referenced action is not allowed or is not authorized; and

(3) the word "includes" always means "includes, but is not limited to".

01.3-I Units of Measurement

The units of measurement used in operations in the air or on the ground, including on the displays of on-board or ground instruments, are those defined in standard NBR 7234 – Units of measurement for use in aeronautics, Aug. 1993, of the Brazilian Association of Technical Standards – ABNT. [Resolution No. 200, of September 13, 2011, published in the Federal Official Gazette, of September 14, 2011, Section 1, p. 1-2]

01.3-II Final Provisions

In the definitions contained in this regulation, when mentioning an RBAC not yet issued, the corresponding RBHA in force should be considered as reference, until it is replaced by the appropriate RBAC.

AERONAUTICAL COMMAND INSTRUCTION No. 100-44

AIRSPACE CONCEPT

DEFENSE MINISTRY

AERONAUTICAL COMMAND

AIRSPACE CONTROL DEPARTMENT

DECEA'S ORDINANCE No. 127/DGCEA OF JULY 31, 2017.

Approves the issue of ICA 100-44 that establishes the criteria for development of the airspace concept.

THE DIRECTOR-GENERAL OF THE AIR-SPACE CONTROL DEPARTMENT, in accordance with the provisions of art. 19, item I, of the Aeronautical Command Regulatory Structure, approved by Decree No. 6834 of April 30, 2009, and considering the provisions of art. 10, item IV, of the DECEA's Regulation, approved by Ordinance No. 1668/GC3 of September 16, 2013, resolves:

<u>Art. 1</u>

To approve the issue of the Aeronautical Command Instruction No. ICA 100-44 – "Airspace Concept", published herewith.

<u>Art. 2</u>

The Instruction will be made available on the DECEA's website on the World Wide Web (www.decea.gov.br).

<u>Art. 3</u>

This Ordinance shall come into force ninety (90) days after the date of its publication.

AIR FORCE GENERAL CARLOS VUYK DE AQUINO

DECEA's General Director

PREFACE

The concept of airspace is a master plan that defines the intended operations within a given airspace, as well as the organization of that space to enable such operations and the components of the ATM system to be benefited, as established in DCA 351-2/2011 – National ATM Operational Concept: a) Airspace Organization and Management (AOM);

b) Airport Operations (AO);

c) Demand and Capacity Balancing (DCB);

d) Traffic Synchronization (TS);

e) Operations of Airspace Users (AUO);

f) Conflict Management (CM); and

g) ATM Service Delivery Management (ATM SDM).

In addition, an airspace concept should include details of the airspace operational organization and its use by users, based on specific assumptions of the available CNS/ATM System, such as the ATS route structure, minimum separation, route spacing, separation of obstacles and flexible use of airspace, as well as it being developed to satisfy strategic objectives, such as:

a) Improvement or maintenance of operational safety;

b) Increase in air traffic capacity;

c) Improvement of efficiency;

d) More accurate and efficient flight paths; and

e) Mitigation of environmental impact

The following are critical factors for the effective implementation of an airspace concept: the design of the airspace itself and the collaboration of all the involved parties, particularly the airport operators, ANAC, DECEA, airlines, general aviation and military aviation, among others.

1. PRELIMINARY PROVISIONS

1.1 PURPOSE

The purpose of this Instruction is to define the process and criteria to be used in the development of an airspace concept.

1.2 SCOPE

The provisions contained in this Instruction are mandatory and apply to all those involved in the development of the airspace concept at SISCEAB.

1.3 COMPETENCE

It is the competence of the Airspace Control Department (DECEA) to establish the criteria to be used in the development of the airspace concept at SISCEAB.

2. DEFINITIONS AND ABBREVIATIONS

2.1 DEFINITIONS

The terms and expressions listed below, used in this Instruction, have the following meanings:

SCENARIO

Set represented by the airspace infrastructure, airport infrastructure, flight intentions, meteorology and aeronautical information.

STANDARD ARRIVAL BY INSTRUMENTS (STAR)

Instrument arrival route that connects a point, usually on an ATS route, to a point from which an instrument approach procedure can be initiated.

AERIAL SPACE CONCEPT

Formal document description of the general lines and the structure planned for operations within an airspace. Airspace concepts are developed to satisfy explicit strategic objectives, such as increasing NADSO, increasing air traffic capacity or mitigating environmental impact. It may include details of the operational organization of the airspace and its use by users, based on specific assumptions of the available CNS/ATM System, such as, for example, the ATS route structure, minimum separation, route spacing, separation of obstacles and flexible use of the airspace.

PROCEDURES DEVELOPER (EP)

Duly qualified officer, responsible for preparing air navigation procedures.

ATS AIRSPACE

Airspace of defined dimensions, alphabetically designated from A to G, within which specific types of flights can operate and for which the available air traffic services as well as the operating rules are established.

NAVIGATION SPECIFICATION

Set of aircraft and crew requirements necessary to support performancebased navigation within a defined airspace. There are two types of navigation specifications: RNAV and RNP.

RNAV SPECIFICATION

Navigation specification based on area navigation that does not include monitoring and alerting as performance requirements for on-board systems.

RNP SPECIFICATION

Navigation specification based on area navigation that includes monitoring and alerting as performance requirements for on-board systems.

AERONAUTICAL COMMAND INSTRUCTION (ICA)

It is the publication of the Aeronautical Command aimed at disclosing rules, precepts, criteria, work programs, recommendations and various procedures, of a determinative and directive nature, to facilitate, in an unequivocal manner, the application of laws, decrees, ordinances and regulations.

MODELLING

Activity of building a model that reproduces the characteristics of a reality or of the set of proposed modifications, by which it is possible to identify the characteristics or functionality of a system.

MODEL

Representation of a real system in terms of logical and quantitative relationships, which are manipulated to show the behavior of the system considering certain changes.

DECEA REGIONAL OFFICE

COMAER organization, subordinate to DECEA, with jurisdiction over a certain region of the Brazilian airspace, whose ATC agencies, for the purpose of air traffic control, are in direct line of operational subordination. The regional agencies are CIN-DACTA and SRPV-SP.

PANS-OPS

Methods for Building Visual and Instrument Flight Procedures, contained in DOC 8168/611 – PANS – OPS, Volume II, and Flight Procedures, contained in DOC 8168/611 – PANS – OPS, Volume I, both published by the International Civil Aviation Organization (ICAO).

AIRSPACE PLANNER (AP)

Duly trained officer, responsible for the development of the airspace structure to meet an airspace concept.

PROCAR

Work program prepared by ICA and approved by DECEA which contains the planning for the preparation and update of aeronautical charts (IAC, standard departure chart – instruments, STAR, VAC and ATCSMAC), considering the productive capacity, the availability of inputs and the demands of the SISCEAB.

STANDARD DEPARTURE CHART – INSTRUMENTS (SID)

Instrument exit route connecting the airport, or a specific airport runway with a significant point, usually on an ATS route, in which the en route flight phase can be initiated.

AIR NAVIGATION PROCEDURE

Procedure that establishes a series of flight paths, with specific protection from obstacles, and defined in an aeronautical publication, which aims at the safety, economy, regularity and fluidity of visual and instrument air operations.

ATS SURVEILLANCE SYSTEM

Generic term that means, in a varied way, the ADS-B, PSR, SSR or any equivalent ground system that allows the identification of the aircraft. Equivalent ground system is one that has been shown, by comparative assessment or other methodology, to have a safety and performance level equal to or better than the singlepulse SSR.

2.2 ABBREVIATIONS

The abbreviations used in this Instruction have the following meanings:

ADS-B – Automatic Dependent Surveillance by Radio Broadcasting

AIC - Aeronautical Information Circular

AIP – Aeronautical Information Publication

ANAC – National Civil Aviation Agency

AO - Airport Operations

AOM - Airspace Organization and Management

AP – Airspace Planner

ASCOM – Social Communication Advisory

ASMU – Airspace Management Unit

ATC – Air Traffic Control

ATCO - Air Traffic Controller

ATCSMAC – ATC Minimum Altitude Surveillance Chart

ATFM - Air Traffic Flow Management

ATFMU – Air Traffic Flow Management Unit

ATM – Air Traffic Management

ATM SDM - ATM Service Delivery Management

ATS - Air Traffic Services

AUO - Airspace User Operations

CGNA – Air Navigation Management Center

CINDACTA – Integrated Air Defense and Air Traffic Control Center

CNS/ATM – Communication, Navigation and Surveillance/Air Traffic Management

CISCEA – Commission for the Implementation of the Airspace Control System

CM – Conflict Management

COMAER - Aeronautical Command

DCA - Aeronautical Command Guideline

DCB - Demand and Capacity Balancing

DCCO1 – ATM Coordination and Control Section

DECEA – Airspace Control Department

DNOR1 - ATM Standards Section

DO-ATM – Air Traffic Management Subdivision

DO-PEA – Subdivision of Procedures and Airspace

DPLN1 - ATM Planning Section

EP – Procedures Developer

GRSO – Operational Safety Risk Management

IAC – Instrument Approach Chart

ICA – Aeronautical Cartography Institute or Aeronautical Command Instruction
IFR - Instrument Flight Rules

KPA – Main Performance Areas

NADSO – Operational Safety Acceptable Performance Level.

ICAO – International Civil Aviation Organization

PANS-OPS – Procedures for Air Navigation Services – Aircraft Operations

PCA - Aeronautical Command Plan

PROCAR – Work Program for Preparation and Update of Aeronautical Charts

PSR – Primary Surveillance Radar

RBAC – Brazilian Civil Aviation Regulation

RBHA – Brazilian Aeronautical Certification Regulation

RNAV - Area Navigation

RNP - Required Navigation Performance

RNP AR – Required Navigation Performance – Required Clearance

SIA - Infrastructure Superintendence

SDOP - DECEA Operations Subdepartment

SID - Standard Output by Instruments

SIAT – Instruction and Technical Update Section

SIPACEA – Airspace Control Accident/Incident Prevention and Investigation Department

SISCEAB – Brazilian Airspace Control System

SRPV-SP – São Paulo Regional Flight Protection Service

SSR – Secondary Surveillance Radar

STA - Accelerated Time Simulation

STAR - Standard Instrument Arrival

STR – Real Time Simulation

TS - Traffic Synchronization

VAC - Visual Approach Chart

VFR – Visual Flight Rules

3. PROCESS

3.1 GENERAL

The process of developing an airspace concept can be divided in four phases,

separated into a total of twenty-one macro activities, such as

3.1.1 Figure 3-1.

[THE IMAGE WAS REMOVED FROM THIS VERSION]

3.1.2 Although macro activities are distributed within each phase in a sequential manner, with the intention of reducing the time required to complete each phase, the Team Manager must analyze, considering the available human and material resources, whose macro activities can be performed in parallel.

3.1.3 The development of an airspace concept arises from operational needs, which can be categorized by one or more strategic objectives, such as operational safety, capacity, efficiency, environmental impact and accessibility.

3.1.4 There are two prerequisites for developing a successful airspace concept:

a) comprehensive preparation – planning must take all aspects into account and address all concerns related to stakeholders in the development of the airspace concept; and

b) iteration – the development of an airspace concept is not a linear process, but the product of a series of subsequent reviews, validations and refinements.

3.1.5 Successful implementation can only be achieved through a comprehensive planning that establishes the scope and objectives of the airspace concept, based on operational requirements.

NOTE: Limiting the scope of the concept to the minimum necessary to meet the agreed objectives is a good practice in managing this type of project. Scope expansion is a risk and can impact deadlines and costs to a point where the project is no longer viable.

3.1.6 The macro activities that make up each of the four phases of the process of developing an airspace concept are detailed in this chapter.

3.2 PLANNING PHASE

3.2.1 The planning phase consists of the initial concept of the airspace

concept, comprising the following macro-activities:

 a) Macro-activity 1 – Proposal Development;

a) Macro-activity 2 - Team definition;

b) Macro-activity 3 - Concept;

c) Macro-activity 4 – Performance Measurement Plan;

d) Macro-activity 5 - GRSO; and

e) Macro-activity 6 – Disclosure of Results.

3.2.2 MACROACTIVITY 1: DEVELOPMENT OF THE PROPOSAL

3.2.2.1 The development of the proposed airspace concept may be necessary:

a) from a registration process resulting from the construction of airports under the terms of ICA 11-3 – AERO-DROME AREA PROCESSES (AGA) WITHIN THE SCOPE OF COMAER;

b) from a process of a change in the registration resulting from a change in the physical or operational characteristics of airports, pursuant to ICA 11-3 – AERODROME AREA PRO-CESSES (AGA) WITHIN THE SCOPE OF COMAER;

c) from a process of implantation, approval, activation and deactivation of equipment, aid to air navigation and systems, under the terms of MCA 63-4 – APPROVAL, ACTIVATION AND DEACTIVATION IN THE FRAMEWORK OF THE BRAZILIAN AIRSPACE CONTROL SYSTEM;

d) from a process of implementing operational agencies;

e) from a joint study between ANAC and DECEA to identify the need to reduce aeronautical noise in a specific area;

f) in compliance with PCA 351-3 – NATIONAL ATM IMPLEMENTATION PLAN; and

g) in response to the existence of possible deficiencies or opportunities for improvement.

3.2.2.2 The proposal for an airspace concept must be formalized to the SDOP for approval and must contain the definition of the problem and the strategic objectives to be achieved.

3.2.2.3 Activity breakdown

a) development of the proposal based on one of the cases provided for in item 3.2.2.1;

b) problem definition:

i. collect and analyze data from the airspaces involved:

1. understand sectorization;

2. know the equipment and systems available;

3. know the most commonly applied ATFM measures and the problems of imbalance between demand and capacity;

4. know the means of ATS surveillance available and the existing problems; and

5. know the means of communication available and the existing problems.

c) definition of the strategic objectives to be achieved; and

d) formalization of the proposal to the SDOP for analysis and approval.

3.2.2.4 Responsible

a) Project Manager of the SIRIUS BRASIL Program; or

b) SDOP through DPLN1 or DCCO1;

c) CINDACTA/SRPV-SP, through DO-ATM;

d) CGNA, through ASMU;

e) ICA, through DO-PEA; or

f) SISCEAB users.

3.2.3 MACRO ACTIVITY 2: TEAM DEFINITION

3.2.3.1 After an analysis and approval of the proposal for an airspace concept, the Team Manager will be defined.

3.2.3.2 The Team Manager must comply with the following profile:

a) be a QOECTA officer;

b) have knowledge of the airspace (s) involved; and

c) preferably have knowledge of project management techniques.

3.2.3.3 The team must be organized by the Manager as follows:

a) DO-ATM airspace planner (s) of the Regional Agency(ies) involved;

b) SIPACEA representative(s) of the Regional Agency(ies) involved;

c) air traffic controllers, preferably instructors or supervisors, of the ATC agency(ies) involved;

d) ASMU airspace planner(s);

e) ATFMU representative(s);

f) DO-PEA procedure developer(s);

g) representative(s) of the ANAC Superintendence(s) involved;

 h) representatives of aircraft operators that use the airspace, such as scheduled air transport companies, air taxi companies, general and military aviation, among others;

i) representative(s) of the airports involved; and

j) other specialists whose participation is deemed convenient by the Manager, after approval by the SDOP.

3.2.3.4 Detailing of the Activities

a) analysis and approval of the proposed airspace concept;

b) definition of the Team Manager;

c) composition of the Team;

d) creation of an account at the SIGA-DAER DECEA, subordinate to DPLN1, specific for the project containing the entire defined team;

e) creation of FIP; and

f) insertion of the entire project into the NEXO system.

3.2.3.5 Responsible

a) SDOP, through DPLN1:

i. analysis and approval of the proposal;

ii. definition of the Team Manager;

iii. account creation at SIGADAER DE-CEA; and

iv. creation of FIP.

b) Team Manager:

i. team composition; and

ii. insertion of the entire project in the NEXO system.

3.2.4 MACRO ACTIVITY 3: CONCEPT

3.2.4.1 Detailing of the Activities

a) establish and prioritize strategic objectives:

i. survey the planned implementations for the airspaces involved within the concept time horizon; ii. define the KPA, as provided for in DCA 351-2 – NATIONAL ATM OPERA-TIONAL CONCEPT; and

iii. prioritize strategic objectives.

b) collect and analyze a significant sample of air traffic:

i. understand the geographical distribution of arrival and departure flows;

ii. understand the distribution of arrival and departure flows by period of the day;

iii. understand the mix of IFR and VFR flights;

iv. understand the mix of types of operation (RBHA 91, RBAC 121, RBAC 129, RBAC 135, air clubs and military aircraft, among others);

v. understand the mix of aircraft types (helicopters, jets and turbo propellers, among others); and

vi. understand the mix of aircraft performances (minimum speeds and climb gradients, among others).

c) collect and analyze statistical data from the main airports located within the airspaces involved:

i. understand the percentage of use of the runways;

ii. know the preferred runways;

iii. know the available runway lengths; and

iv. know the weather conditions.

d) collect and analyze statistical data with air traffic projections for the airspaces involved:

i. understand growth trends.

e) collect and analyze the navigation capacity of the current aircraft fleet that operates within the airspaces involved and the intentions to update this capacity within the project life cycle:

i. understand the most adequate navigation specifications;

ii. understand the percentage of operations to be benefited; and

iii. understand possible strategies for accommodating aircraft that do not have the defined navigation capabilities.

f) perform a critical coverage check flight and analyze the CNS facilities on the ground to meet the desired navigation specifications; g) define the IFR air circulation through the ATS routes and departure and arrival paths;

 h) define the VFR air circulation by means of visual routes and airport traffic circuits;

i) define the upper and lower limits of the various airspaces involved;

j) Define the structure of the various airspaces involved, such as CTR, TMA, CTA, UTA and FIR, among others;

k) Define the classification of the various airspaces involved; and

I) define the sectorization of the various airspaces involved.

3.2.4.2 Responsible

a) Team with support from the various SISCEAB agencies.

3.2.5 MACRO ACTIVITY 4: PERFORMANCE MEASUREMENT PLAN

3.2.5.1 Detailing of the Activities

a) Prepare the performance measurement plan:

i. Identify the performance indicators;

ii. Establish specific objectives;

iii. Establish the methodology for obtaining the indicators:

1. Define the data gathering process;

2. Define the data tabulation process; and

3. Define the data analysis process.

b) Execute the performance measurement plan:

i. Apply the performance measurement plan in the validation phase; and

ii. Apply the performance measurement plan in the implementation phase.

3.2.5.2 Responsible

a) Team with support from the various SISCEAB bodies.

3.2.6 MACRO ACTIVITY 5: GRSO

3.2.6.1 Detailing of the Activities

a) According to the process defined in ICA 63-26 – OPERATIONAL SAFE-TY RISK MANAGEMENT (GRSO) IN SISCEAB and MCA 63-14 – OPERA-TIONAL SAFETY RISK MANAGEMENT MANUAL IN SISCEAB. 3.2.6.2 Responsible

a) Team with the support of SIPACEA of the CINDACTA/SRPV-SP involved.

3.2.7 MACRO ACTIVITY 6: DISCLO-SURE OF RESULTS

3.2.7.1 Detailing of the Activities

b) Disseminate the results of the planning phase and present the airspace concept:

i. Define the WEB content to be published on a specific page of the ATM Portal;

ii. Internal Workshop (DECEA and Subordinate Agencies); and

iii. External Workshop (Regulators, Users, Providers, Industry and Aircraft Operators).

3.2.7.2 Responsible

a) Team supported by ASCOM from DECEA.

3.3 DRAWING PHASE

3.3.1 The design of airspace is an iterative process, which brings significance to the weight of the qualitative analysis and operational judgment of the ATCO, pilots, AP and EP that make up the team.

3.3.2 It is of fundamental importance to ensure the existence of coherence and integration between en-route and in TMA airspaces.

3.3.3 The EPs that make up the team should participate in this phase by contributing to the air circulation design proposed in the airspace concept from the perspective of PANS-OPS.

3.3.4 The pilots that make up the team should participate in this phase by contributing to the design of the air circulation proposed in the air-space concept from the perspective of the actual performance of the air-craft, such as the capacity of curves and gradients, among others, and of flyability, since its analysis is more effective than the analysis based on theoretical models.

3.3.5 The design phase should only be finalized after the airspace concept validation, because the cost to complete the design is very high and the team must have guarantees that the scenario proposed by the airspace concept is viable. 3.3.6 The design phase comprises the following macro-activities:

a) Macro-activity 7 – Preparation of PNA drafts;

b) Macro-activity 8 – Designing the draft of the Airspace Structure;

c) Macro-activity 9 – Adequacy of the Concept; and

d) Macro-activity 10 – Disclosure of the Results.

3.3.7 MACRO-ACTIVITY 7: PREPARA-TION OF PNA DRAFTS

3.3.7.1 Detailing of the Activities

a) Quantify the charts to be adjusted and prepared;

b) Request the SDOP to include the charts in PROCAR;

c) Prepare the draft of the IFR air circulation:

i. Draft the ATS routes;

ii. Prepare the SID draft;

iii. Prepare the STAR draft; and

iv. Prepare the IAC draft.

d) Prepare the draft of the VFR air circulation:

i. Prepare the draft of REA, REH and REAST, among other visual routes; and

ii. Prepare the draft of the VAC, if applicable, considering the changes in the air traffic circuits of the airports involved, as appropriate.

3.3.7.2 Responsible

a) DO-PEA.

3.3.8 MACRO-ACTIVITY 8: DRAFT DE-SIGN OF THE AIRSPACE STRUCTURE

a) Design the draft of the structure of the various airspaces involved, such as CTR, TMA, CTA, UTA and FIR, among others, including the classification and the respective sectors:

i. Prepare the ARC draft;

ii. Prepare the draft of the upper airspace ERC; and

iii. Prepare the draft of the lower airspace ERC.

3.3.8.1 Responsible

a) DO-PEA.

3.3.9 MACRO-ACTIVITY 9: ADEQUACY OF THE CONCEPT

3.3.9.1 Detailing of the Activities:

a) adapt the design of the IFR and VFR air circulation to the results of the design phase; and

b) adapt the design of the structure of the various airspaces involved, such as CTR, TMA, CTA, UTA and FIR, among others, including the classification and the respective sectors according to the results of the design phase.

3.3.9.2 Responsible

a) Team with support from the various SISCEAB agencies.

3.3.10 MACRO-ACTIVITY 10: DISCLO-SURE OF RESULTS

3.3.10.1 Detailing of the Activities

a) Disseminate the results of the design phase:

i. Internal Workshop (DECEA and Subordinate Agencies); and

ii. External Workshop (Regulators, Users, Providers, Industry and Aircraft Operators).

3.3.10.2 Responsible

a) Team supported by ASCOM from DECEA.

3.4 VALIDATION PHASE

3.4.1 After the design phase is completed, the airspace concept must undergo the validation phase, whose main objectives are:

a) assess whether the strategic objectives can be achieved and whether the developed airspace concept proves to be a positive business case;

b) identify potential weaknesses in the airspace concept and develop mitigation measures; and

c) generate evidences that the airspace concept meets the operational safety requirements.

3.4.2 Validation methods can produce quantitative or qualitative results. Both types of results are important, necessary and complementary and should not be used isolatedly.

NOTE 1: The quantitative assessment refers to validation methods that are numerical and rely on data quantification. These methods often rely on computer simulation tools. NOTE 2: Qualitative assessment refers to validation methods that are not dependent on data, but on the experience and judgment of the experts involved.

3.4.3 The comparison between quantitative and qualitative validation methods is shown in Table 3-1.

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3.4.4 Each validation method differs in terms of cost, realism, complexity, time and number of traffic samples and cases used. The more complex the simulation method used, the higher the cost, preparation/execution time required and the closer to reality the results will be. However, usually for reasons related to cost and time, the number of traffic samples and cases used tend to decrease as the complexity of the simulation method used increases.

3.4.5 Most computer-based validation tools assume an unrealistic high-quality navigation performance on the part of the aircraft, but this generally does not compromise the purpose of the validation, which is to check the scenario proposed by the airspace concept from the perspective of operational safety and workload of pilots and ATCO.

NOTE: In special cases, when deemed convenient by the Team and approved by the SDOP, the scenario proposed by the airspace concept may also be validated from the point of view of failures in the navigation systems that may compromise the operational safety.

3.4.6 The number of validation methods used and their duration are directly linked to the complexity of the airspace concept. The greater the number of changes and the greater the operational impact, the greater the need for validation to demonstrate operational benefits and compliance with operational safety requirements.

3.4.7 The validation phase comprises the following macro-activities:

a) Macro-activity 11 - Simulation;

b) Macro-activity 12 - ATFM Modeling;

c) Macro-activity 13 - Noise Modeling;

d) Macro-activity 14 – Other Validation Methods; e) Macro-activity 15 - Flight Inspection;

f) Macro-activity 16 – Adequacy of Design; and

g) Macro-activity 17 – Disclosure of Results and CDM.

NOTE: Macro-activity 13 is optional and can be performed, at the discretion of the Team Manager, with the approval of the SDOP.

3.4.8 MACRO-ACTIVITY 11: SIMULATION

3.4.8.1 Detailing of the activities:

a) According to the process defined in ICA 100-42 – ATM SIMULATION IN THE SISCEAB.

3.4.8.2 Responsible

a) As responsible defined in ICA 100-42 - ATM SIMULATION IN THE SIS-CEAB.

3.4.9 MACRO-ACTIVITY 12: ATFM MODELLING

3.4.9.1 Details of activities:

a) Perform ATFM modelling.

3.4.9.2 Responsible

a) Team with support from the various SISCEAB bodies and in conjunction with ATFMU and ASMU.

3.4.10 MACRO-ACTIVITY 13: NOISE MODELLING

3.4.10.1 Detailing of the activities:

a) Perform noise modelling.

3.4.10.2 Responsible

a) Team with support from the various SISCEAB agencies and jointly with ANAC's SIA.

3.4.11 MACRO-ACTIVITY 14: OTHER VALIDATION METHODS

3.4.11.1 Detailing of the activities:

a) Define the other validation methods to be used:

i. Perform the analysis using flight track data;

ii. Perform the analysis using data analytics tools;

iii. Perform the analysis using statistical data; or

iv. Perform the analysis using collision risk models.

3.4.11.2 Responsible

a) Team with support from the various SISCEAB agencies.

3.4.12 MACRO-ACTIVITY 15: IN-FLIGHT INSPECTION

3.4.12.1 Detailing of the activities:

a) According to the process defined in ICA 96-1 – AERONAUTICAL CHARTS.

3.4.12.2 Responsible

a) GEIV.

3.4.13 MACRO-ACTIVITY 16: ADE-QUACY OF DESIGN

3.4.13.1 Detailing of the activities:

a) Finalize the IFR air circulation according to the results of the validation phase:

i. Prepare the final version of the ATS routes;

ii. Prepare the final version of the SID;

iii. Prepare the final version of the STAR; and

iv. Prepare the final version of the IAC.

b) Finalize the VFR air circulation according to the results of the validation phase:

i. Prepare the AIC containing the VFR air circulation, if applicable, considering the changes in the REA, REH and REAST, among other visual routes; and

ii. Prepare the final version of the VAC, if applicable, considering the changes in the air traffic circuits of the airports involved, as appropriate.

c) Finalize the various types of airspaces involved, such as CTR, TMA, CTA, UTA and FIR, among others, including the classification and the respective sectors, depending on the results of the validation phase:

i. Prepare the final version of the ARC;

ii. Prepare the final version of the ERC upper airspace; and

iii. Prepare the final version of the ERC lower airspace.

3.4.13.2 Responsible

a) DO-PEA.

3.4.14 MACRO-ACTIVITY 17: DISCLO-SURE OF RESULTS AND CDM

3.4.14.1 Detailing of the Activities

a) Disseminate the results of the validation phase and make a decision as regards the implementation: i. Internal Workshop (DECEA and Subordinate Agencies); and

ii. External Workshop (Regulators, Users, Providers, Industry and Aircraft Operators).

3.4.14.2 Responsible

a) Team supported by ASCOM from DECEA.

3.5 IMPLEMENTATION PHASE

3.5.1 During the validation phase, it is possible to gather evidence on the feasibility of the proposed scenario in the airspace concept and make a decision as to whether or not to implement the airspace concept.

3.5.2 Once a decision is made, it is in the implementation phase that:

a) the necessary modifications to the ATC systems are completed to support the implementation;

b) the necessary amendments to the standards and AIP to support the implementation are published;

c) skill development and training programs are conducted; and

d) post-implementation is monitored.

3.5.3 The validation phase comprises the following macro-activities:

a) Macro-activity 18 - ATC systems;

b) Macro-activity 19 – Rules and Procedures;

c) Macro-activity 20 – Skill Development and Training Program; and

d) Macro-activity 21 - Post-Implementation.

3.5.4 MACRO-ACTIVITY 18: ATC SYS-TEMS

3.5.4.1 Detailing of the Activities

a) Assess the impact of changes in ATC systems; and

b) Implement the necessary changes to the ATC systems.

3.5.4.2 Responsible

a) Team supported by CISCEA.

3.5.5 MACRO-ACTIVITY 19: STAN-DARDS AND PROCEDURES

3.5.5.1 Detailing of the Activities

a) Notify changes in the airspace involved:

i. Develop AIC; and

ii. Publish AIC.

b) Amendment to the rules in force:

i. Assess the impact of the implementation in the current rules; and

ii. Prepare the necessary amendments to the standards:

1. Write the proposed amendments;

2. Revise the proposed amendments; and

3. Publish the amendments.

iii. Develop the necessary amendments to the AIP, where applicable (rules, applicable procedures and the corresponding in-flight contingencies):

1. Write the proposed amendments;

2. Revise the proposed amendments; and

3. Publish the amendment to the AIP.

c) Update the Operational Model of the ATC agencies involved:

i. Develop version 1 of the Operational Model for the airspace concept for the purposes of STA and STR;

ii. Prepare the final version of the Operational Model;

iii. Revise the final version of the Operational Model; and

iv. Approve the final version of the Operational Model.

d) Update the letters of operational agreement:

i. Develop version 1 of the letters of operational agreement between the ATS units involved;

ii. Prepare the final version of the letters of operational agreement;

iii. Review the final version of the letters of operational agreement; and

iv. Approve the final version of the letters of operational agreement.

3.5.5.2 Responsible

a) Team with support from the various SISCEAB agencies.

3.5.6 MACRO-ACTIVITY 20: TRAINING PROGRAM

3.5.6.1 Detailing of the Activities

a) ATCO:

i. Develop a training program for air traffic controllers;

ii. Prepare the teaching materials;

iii. Define the formation of the teams (coordinators, instructors and students); and

iv. Apply the training program:

1. Seminar on the new concept of airspace;

2. Theoretical instruction;

3. Apply theoretical assessment; and

4. Practical phase.

b) AIS:

i. Develop a training program for AIS operators;

ii. Prepare the teaching materials; and

iii. Apply the training program:

1. Seminar on the new concept of airspace; and

2. Theoretical instruction.

c) Users and Operators:

i. Develop a dissemination program for users and operators (civil and military personnel);

ii. Prepare the promotional material;

iii. Apply the disclosure program:

1. Seminar for civilian operators;

2. Seminars for military operators; and

3. User seminars.

3.5.6.2 Responsible

a) Team with support from the various SISCEAB agencies and in coordination with the SIAT of the CINDAC-TA/SRPV-SP involved.

3.5.7 MACRO-ACTIVITY 21: POST-IM-PLEMENTATION

3.5.7.1 Detailing of the Activities

a) Identify the aspects that should be monitored after implementation;

b) Prepare the Program; and

c) Run the post-implementation monitoring program.

3.5.7.2 Responsible

a) Team with support from the various SISCEAB agencies.

4. TRANSITIONAL PROVISIONS

4.1

As long as APs are not yet trained, the functions of these professionals within the Team must be performed by active QOECTA officers.

5. FINAL PROVISIONS

5.1

Suggestions aimed at improving this Instruction should be sent to:

DEPARTAMENTO DE CONTROLE DO ESPAÇO AÉREO SUBDEPARTAMEN-TO DE OPERAÇÕES

Av. General Justo, 160 – 2° Andar, Centro CEP 20021-130 – RIO DE JANEIRO, RJ

Tel.: (21) 2101-6267/Fax: (21) 2101-6233

E-mail address: ea_dccol@decea.gov.br

5.2

This publication is available on the DE-CEA website on the World Wide Web (www.decea.gov.br).

[REFERENCES WERE REMOVED FROM THIS VERSION]

AERONAUTICAL COMMAND INSTRUCTION No. 100-12

AIR RULES

DEFENSE MINISTRY

AERONAUTICAL COMMAND

AIRSPACE CONTROL DEPARTMENT

DECEA ORDINANCE No. 204/DGCEA OF NOVEMBER 8, 2018.

Approves the 2nd change of ICA 100-12, Instruction on "Rules of the Air".

THE DIRECTOR-GENERAL OF THE AIR-SPACE CONTROL DEPARTMENT, in accordance with the provisions of art. 19, item I, of the Aeronautical Command Regulatory Structure, approved by Decree No. 6834 of April 30, 2009, and considering the provisions of art. 10, item IV of the DECEA Regulation, approved by Ordinance No. 1668/GC3 of September 16, 2013, resolves:

<u>Art. 1</u>

To approve the change of ICA 100-12 "Rules of the Air", which is published herewith.

<u>Art. 2</u>

This Instruction shall come into force on the date of its publication.

AIR FORCE GENERAL AIR JEFERSON DOMINGUES DE FREITAS

DECEA's General Director

DECEA ORDINANCE NO. 227/DGCEA OF OCTOBER 17, 2016.

Approves the reissue of ICA 100-12, Instruction on "Rules of the Air".

THE DIRECTOR-GENERAL OF THE AIR-SPACE CONTROL DEPARTMENT, in accordance with the provisions of art. 19, item I, of the Aeronautical Command Regulatory Structure, approved by Decree No. 6834 of April 30, 2009, and considering the provisions of art. 10, item IV, of the DECEA Regulation, approved by Ordinance No. 1668/GC3 of September 16, 2013, resolves:

<u>Art. 1</u>

To approve the reissuance of ICA 100-12 "Rules of the Air", which with this low.

<u>Art. 2</u>

This Instruction shall come into force on November 10, 2016.

<u>Art. 3</u>

The following Ordinances are hereby revoked:

DECEA No. 112/SDOP of 11/18/2013, published in BCA n° 228 of 11/28/2013, which approved the re-issuance of ICA 100-12/2013.

DECEA No. 82/SDOP of 07/31/2014, published in BCA n° 160, of 08/26/2014, which approved the change of ICA 100-12/2013.

AIR FORCE GENERAL AIR CARLOS VUYK DE AQUINO

DECEA's General Director

PREFACE

This publication has been reissued in order to incorporate Amendment 45 to Annex 2 into the International Civil Aviation Convention, which basically deals with:

Compliance with the Flight Plan in force;

Deviations from the current Flight Plan; and

Requests for changes to the current Flight Plan.

In addition, the criteria for bindingness and waiver of the presentation of the Flight Plan, as well as other requirements and procedures related to this form were removed from this publication, as they are already included in ICA 100-11, "Flight Plan" and in MCA 100- 11, "Filling in Flight Plan Forms".

1. PRELIMINARY PROVISIONS

1.1 PURPOSE

The purpose of this publication is to regulate in Brazil the Air Rules provided for in Annex 2 to the International Civil Aviation Convention.

1.2 SCOPE

The procedures described herein, which are mandatory, apply to SISCEAB agencies and airspace users under the jurisdiction of Brazil.

1.3 COMPLIANCE WITH INTERNATIONAL STANDARDS

The International Civil Aviation Convention (CACI), signed on December 7, 1944, in the City of Chicago, was ratified by Decree Law No. 21713, thus formalizing the application of this Convention (and its Annexes) in Brazil.

1.3.1 Article 38 of the CACI provides that, if a Contracting State considers it necessary to adopt regulations that differ in any particular aspect from the established international standards, it should present such a difference.

1.3.2 Thus, the rules and procedures set forth in this publication are in line with Annex 2 to the International Civil Aviation Convention, with the exception of the differences published in Part GEN 1-7 of AIP-BRASIL.

2. DEFINITIONS AND ABBREVIATIONS

2.1 DEFINITIONS

The terms and expressions listed below, used in this Instruction, have the following meanings:

ADS-C AGREEMENT

A reporting plan that establishes the conditions for the notification of ADS-C data. This plan covers the data required by the ATS unit and the frequency of ADS-C notifications, which must be agreed in advance, in order to use ADS-C in the provision of air traffic services.

NOTE: The terms of the agreement will be exchanged between the ground systems and the aircraft through a contract or a series of contracts.

AERODROME

A defined area of land or water (which includes all its buildings, installations and equipment) intended totally or partially for the arrival, departure and movement of aircraft on its surface.

CONTROLLED AERODROME

An airport to which air traffic control service is provided.

NOTE: The expression "CON-TROLLED AERODROME" indicates that the air traffic control service is provided for airport traffic, but does not necessarily imply the existence of a control zone.

ALTERNATIVE AERODROME

Airport to which an aircraft may proceed, when it is impossible or inadvisable to go or land at the intended airport of the intended destination, and where the necessary services and facilities will be available and the performance requirements of the aircraft may be met, and also that it will be operational at the intended time of use. Alternative airports are as follows:

a) post-takeoff alternative airport

Alternative airport on which an aircraft can land, if necessary, right after takeoff, if it is not possible to use the departure airport.

b) en route alternative airport

Alternative airport on which an aircraft can land, if a detour is necessary, while en route; and

c) destination alternative airport

Alternative airport on which an aircraft can land if it is impossible or inadvisable to land at the intended destination airport.

NOTE: The departure airport may also be designated as the en route alternative airport or as the destination alternative airport for that flight.

AIRCRAFT

Any device that can sustain itself in the atmosphere from air reactions other than air reactions against the earth's surface.

REMOTELY PILOTED AIRCRAFT

Unmanned aircraft that is piloted from a remote piloting station.

AIRPLANE (PL1ANE)

Aircraft heavier than air, mechanically propelled, which owes its support in flight mainly to aerodynamic reactions exerted on surfaces that remain fixed under certain flight conditions.

AIRWAY

Control Area, or part of it, arranged in the form of a corridor.

ALTITUDE

Vertical distance between a level, a point or object considered as a point and the average sea level.

PRESSURE ALTITUDE

Atmospheric pressure expressed in terms of altitude that corresponds to that pressure in the standard atmosphere.

TRANSITION ALTITUDE

Altitude at which or below which the vertical position of an aircraft is controlled by reference to altitudes.

HEIGHT

Vertical distance of a level, point or object considered as a point and a given reference.

CONTROL AREA

Controlled airspace that extends upwards from a specified boundary over the terrain.

NOTE: The Control Area concept also includes airways and TMA.

TERMINAL CONTROL AREA

Control area usually located at the confluence of ATS routes and in the vicinity of one or more airports.

MANEUVERING AREA

Part of the airport for the landing, takeoff and taxiing of an aircraft, excluding the yards.

MOVEMENT AREA

Part of the airport for the landing, takeoff and taxiing of an aircraft. It is integrated by the maneuvering area and the yards.

LANDING AREA

Part of a movement area that is intended for aircraft landing or takeoff.

SIGNALING AREA

Area of an airport for the display of ground signals.

DANGEROUS AREA

An airspace of defined dimensions, within which there may be, at specific times, dangerous activities for the flight of an aircraft.

PROHIBITED AREA

An airspace of defined dimensions, over the Brazilian territorial sea or territory, within which the flight of aircraft is prohibited.

RESTRICTED AREA

An airspace of defined dimensions, over the Brazilian territorial territory or sea, within which the flight of an aircraft is restricted according to certain defined conditions.

AIR TRAFFIC CONTROL CLEARANCE

Clearance for an aircraft to proceed in accordance with the conditions specified by an air traffic control agency.

NOTE 1: For convenience, the term "AIR TRAFFIC CONTROL CLEAR-ANCE" is often abbreviated to "CLEARANCE", when used in appropriate contexts.

NOTE 2: The term "CLEARANCE" can appear with words, such as "taxi", "takeoff", "abandonment", "en route", "approach" or "landing" to indicate the particular portion of the flight to which the air traffic control clearance is related.

UNMANNED FREE BALLOON

Unpowered, unmanned, lighter-thanair and free-flying aircraft.

NOTE: Free unmanned balloons are classified as light, medium or heavy, as provided in Annex B.

AREA CONTROL CENTER

Agency established to provide air traffic control services to controlled flights in the control areas under its jurisdiction.

WEATHER CONDITIONS OF FLIGHT BY INSTRUMENTS

Weather conditions expressed in terms of visibility, distance from clouds and ceiling, below the minimum specified for visual flight.

VISUAL FLIGHT WEATHER CONDITIONS

Weather conditions, expressed in terms of visibility, distance from clouds and ceiling, equal to or greater than the specified minima. NOTE: The specified minima are shown in table 1.

APPROACH CONTROL

Agency established to provide air traffic control service to controlled flights arriving at or leaving one or more airports.

EXPECTED TOTAL FLIGHT DURATION

In the case of IFR flights, the estimated time required from takeoff till the aircraft arrives at a designated point, defined in relation to the navigation aid, from which an instrument approach procedure will begin, or, if there is no navigation aid associated with the destination airport, to reach the vertical of such airport. In the case of VFR flights, the estimated time required from takeoff till the aircraft arrives at the destination airport.

AERONAUTICAL STATION

Ground station of the aeronautical mobile service. In certain cases, the aeronautical station can be installed on board a ship or platform over the sea.

REMOTE PILOTING STATION

Component of the remotely piloted aircraft system that contains the equipment used by the pilot of a remotely piloted aircraft.

EXPLOITER

Person, organization or company that is dedicated or proposes to dedicate itself to the exploitation of aircraft.

ESTIMATED APPROACH TIME

Time when the ATC predicts that an aircraft that arrives, after being delayed, will leave the waiting point to complete its approach to land.

NOTE: The actual time of leaving the waiting point will depend on the clearance for the approach.

CHOCKS-AWAY ESTIMATED TIME

Estimated time at which the aircraft will start the departure-related displacement.

ESTIMATED ARRIVAL TIME

For IFR flights, the time when the aircraft is expected to arrive at a designated point, defined with reference to navigation aids, from which it is planned that an instrument approach procedure will be initiated, or, if the airport is not equipped with navigation aids, the time when the aircraft will arrive over the airport. For VFR flights, the time when the aircraft is expected to arrive over the airport.

TRAFFIC INFORMATION

Information issued by an ATS unit to alert a pilot about other known or observed air traffic that may be in the vicinity of the desired flight position or route, and to assist the pilot in preventing a collision.

CLEARANCE LIMIT

Point (airport, location, notification point or significant point) up to which an air traffic control clearance is given to an aircraft pilot.

FLIGHT CREW MEMBER

Authorized member of the crew in charge of the essential functions for the operation of an aircraft during the flight charges period.

AREA NAVIGATION

Navigation method that allows the operation of aircraft on any desired flight path within the coverage of the navigation aids based on ground or space, or within the limits of the possibilities of an autonomous navigation equipment, or a combination of both.

NOTE: Area Navigation includes Performance Based Navigation, as well as other operations not included in the Performance Based Navigation definition.

LEVEL

Generic term referring to the vertical position of an aircraft in flight, which means, without distinction, height, altitude or flight level.

CRUISE LEVEL

Level that is maintained during a considerable flight stage.

FLIGHT LEVEL

Surface of constant atmospheric pressure, with regard to a specific pressure reference, 1013.2 hecto-pascals, and which is separated from other analogous surfaces by certain pressure intervals.

NOTE 1: The pressure altimeter, calibrated according to the standard atmosphere, will indicate:

a) altitude – when set to "altimeter adjustment" (QNH);

b) height – when set to "adjust to zero" (QFE); and

c) flight level – when adjusted to the pressure of 1013.2 hectopascals (QNE).

NOTE 2: The terms "height" and "altitude", used in NOTE 1, refer to altimetric heights and altitudes instead of the geometric ones.

APPROACH INSTRUMENT OPERA-TION (NR) – Ordinance No. 204/DG-CEA of November 8, 2018.

An approach and landing using instruments for navigation guidance based on an approach procedure. There are two methods for performing instrument approach operations:

a) two-dimensional (2D) approach: using a side navigation guide only; and

b) three-dimensional (3D) approach: using a side and vertical navigation guide.

NOTE: The side and vertical navigation guides can be provided by:

a) a ground navigation aid; or

b) computer-generated navigation data from ground navigation aid, satellite aid, autonomous navigation systems or a combination of them.

AIR TRAFFIC CONTROL AGENCY

Generic expression that applies, depending on the case, to an Area Control Center, Approach Control or Airport Control Tower.

AIR TRAFFIC SERVICES AGENCY

Generic expression that applies, depending on the case, to an air traffic control agency or a flight information agency.

NOTE: For convenience, the term "traffic services agency" is abbreviated to "ATS agency or ATS unit" in this publication.

YARD

A defined area, in a terrestrial airport, destined to shelter the aircraft for the purpose of boarding or disembarking passengers, loading or unloading, refueling, parking or maintenance.

PILOT IN COMMAND

The pilot designated by the exploiter, or in the case of general aviation, by the owner, who is in command and responsible for the safe operation of the flight.

PERSONNEL PERFORMING SECURI-TY-SENSITIVE FUNCTIONS.

People who could endanger aviation security if they performed their duties and functions improperly.

These people include, among others, flight crew members, aircraft maintenance personnel and air traffic controllers.

RUNWAY

A defined rectangular area, on a ground airport, prepared for aircraft landing and takeoff.

TAXIWAY

A defined route, on a land airport, established for the aircraft taxiing and intended to provide a connection between one and another part of the airport, comprising:

a) taxiway strip of access to the aircraft parking:

part of the yard designated as a taxiway and intended to provide access to aircraft parking lots only;

b) taxiway strip in the yard:

part of a taxiway system located in a yard and designed to provide a route for taxiing through the yard; and

c) fast exit taxiway:

taxiway that joins a runway at an acute angle and is designed so that the landing aircraft will clear the runway at speeds higher than those used on other exit taxiways, thus allowing the runway to be occupied as little as possible.

FLIGHT PLAN

Specific information, related to a planned flight or part of an aircraft flight, supplied to agencies that provide air traffic services.

FLIGHT PLAN SUBMITTED

A Flight Plan as presented by the pilot, or his/her representative, to the air traffic services agency, without any subsequent change.

FLIGHT PLAN IN FORCE

A Flight Plan that covers changes, if any, resulting from subsequent clearances.

REPETITIVE FLIGHT PLAN

A Flight Plan related to a series of regular flights, which are often conducted with identical basic characteristics, presented by the exploiters for retention and repetitive use by the ATS units.

NOTIFICATION POINT

A specified geographical location, in relation to which an aircraft can notify its position.

POINT OF EXCHANGE

Point at which an aircraft is expected to navigate in an ATS route segment that an aircraft defined by VOR will change, in its primary navigation equipment, the tuning of the stern navigation aid by the one located immediately at its heading.

NOTE: Switch points are established to provide the best possible balance, regarding the intensity and quality of the signal between navigation aids at all usable levels and to ensure a common source of guidance for all aircraft flying along the same part of the route segment.

MEANINGFUL POINT

Specific geographic location that is used to define an ATS route or the flight path of an aircraft, as well as for other purposes related to the air navigation and Air Traffic Services.

NOTE: There are three categories of significant points: terrestrial navigation aids, intersection and waypoint. In the context of this definition, intersection is a significant point referenced in radials, prows and/or distances with respect to terrestrial navigation aids.

INSTRUMENT APPROACH PROCE-DURE (NR) – Ordinance No. 204/DG-CEA, of November 8, 2018.

A series of predetermined maneuvers performed with the aid of onboard instruments, with a specific protection against obstacles, from the initial approach fix or, when applicable, from the beginning of an arrival route to a point from which it is possible to make the landing and, if this is not done, to a position in which the criteria for a holding pattern or an obstacle-free margin en route apply.

Instrument approach procedures are classified into:

a) non-precision approximation procedure (NPA). Instrument approach procedure created for 2D Type A instrument approach operations;

b) approach procedure with vertical guide (APV). Approach procedure by performance-based navigation instruments (PBN) created for approach operations using 3D Type A instruments; or

c) precision approach (PA) procedure. Instrument approach procedure based on navigation systems (ILS, MLS, GLS and SBAS Cat I) created for 3D Type A or B instrument approach operations.

NOTE: Approach operations by instruments should be classified based on the designed operational minimums, below which an approach operation should only be continued with the required visual reference, as follows:

Type A: Minimum Descent Height or Decision Height of or over 75 m (250ft); and

Type B: Decision height below 75 m (250ft).

PUBLICATION OF AERONAUTICAL INFORMATION

Material published by any State, or with its clearance, containing aeronautical information of a lasting nature, indispensable for air navigation.

RADIOTHELPHONY

A form of radio communication intended primarily for the exchange of information orally.

FLIGHT INFORMATION REGION

An airspace of defined dimensions, within which flight information and alert services are provided.

ROUTE

Projection on the land surface of the trajectory of an aircraft whose direction, at any point, is usually expressed in degrees from the North (true or magnetic).

ATS ROUTE

Specific route designed to channel the flow of air traffic, as needed to provide air traffic services.

NOTE 1: The term "ATS route" is used to mean, depending on the case, airway, advisory route, controlled or uncontrolled route, arrival or departure route, etc.

NOTE 2: An ATS route is defined by route specifications that include an ATS route designator, the path to or from significant points, distance between significant points, notification requirements and the minimum safety altitude.

ADVISORY ROUTE

Designated route along which the air traffic advisory service is provided.

HEADING

Direction of the desired or taken route at the moment considered and, normally, expressed in degrees, from 000° to 360° from the (true or magnetic) North, in a clockwise movement.

AERODROME AERONAUTICAL IN-FORMATION ROOM

Agency established at an airport with the purpose of providing pre-flight information and receiving flight plans submitted before the departure.

ALERT SERVICE

Service provided to notify the appropriate agencies about aircraft that need search and rescue assistance and to assist such agencies as necessary.

AIR TRAFFIC ADVISORY SERVICE

Service provided in airspace with advisory services so that, as much as possible, adequate separations are maintained between aircraft operating under IFR flight plans.

AERODROME CONTROL SERVICE

Air traffic control service for airport traffic.

APPROACH CONTROL SERVICE

Air traffic control service for the arrival and departure of controlled flights.

AREA CONTROL SERVICE

Air traffic control service for controlled flights in control areas.

AIR TRAFFIC CONTROL SERVICE

Service provided for the purpose of:

a) preventing collisions:

between aircraft; and

between aircraft and obstacles in the maneuvering area;

b) speed up and keep the flow of air traffic orderly.

FLIGHT INFORMATION SERVICE

Service provided to supply notices and useful information to ensure flight safety and efficiency performance.

AIR TRAFFIC SERVICE

Generic expression that applies, depending on the case, to flight information, alert, air traffic advisory, air traffic control (area control, approach control or airport control).

ON-BOARD ANTICOLLISION SYSTEM (ACAS)

Aircraft system based on transponder signals from the secondary surveillance radar (SSR) that operates independently of the ground equipment to provide warning to the pilot about possible conflicts between transponder-equipped aircraft.

PSYCHOACTIVE SUBSTANCES

Alcohol, opiates, cannabinoids, sedatives and hypnotics, cocaine, other psychostimulants, hallucinogens and volatile solvents, coffee and tobacco being excluded.

TAXIING

Self-propelled movement of an aircraft on the surface of an airport, excluding landing and takeoff, but, in the case of helicopters, including movement on the surface of an airport, at low height and at low speed.

CEILING

Height, above ground or water, from the base of the lowest cloud layer, below 6000 m (20,000 feet) covering more than half the sky.

AERODROME CONTROL TOWER

Agency established to provide air traffic control service to airport traffic.

AIR TRAFFIC

All aircraft in flight or operating in an airport maneuvering area.

AERODROME TRAFFIC

All traffic in an airport's maneuvering area and all aircraft in flight in the vicinity of the airport.

NOTE: An aircraft will be considered in the vicinity of an airport, when it is

in the airport's traffic circuit, entering or exiting it.

PROBLEMATIC USE OF PSYCHOAC-TIVE SUBSTANCES

It is the use of one or more psychoactive substances by aviation personnel so that:

a) it constitutes a direct danger to its user or puts in danger the life, health or well-being of others; and/or

b) causes or aggravates a professional, social, mental or physical problem or disorder.

AUTOMATIC DEPENDENT SURVEIL-LANCE – RADIOBROADCAST (ADS-B)

A means by which the aircraft, airport vehicles and others can automatically transmit and/or receive data (such as identification, position and additional data, as appropriate) through broadcasting over a data link.

AUTOMATIC DEPENDENT SURVEIL-LANCE – CONTRACT (ADS-C)

A means by which the terms of an ADS-C agreement will be exchanged between the ground system and the aircraft, by data link, specifying under what conditions the ADS-C reports would be initiated and what the contents of those reports would be.

NOTE: The abbreviated term "ADS contract" is usually used to refer to an ADS event contract, ADS demand contract, periodic contract or an ADS emergency mode.

VISIBILITY

For aeronautical purposes, visibility is the highest value among the following:

a) the greatest distance over which a dark colored object of satisfactory dimensions, located close to the ground, can be seen and recognized, when observed against a luminous background; or

b) the longest distance that the lights of 1000 candelas, in the vicinity, can be seen and identified against a nonilluminated background.

NOTE: These definitions apply to the visibility observations made available by ATS units, to the observations of predominant and minimum visibility notified in METAR and SPECI, as well as to the observations of visibility on the ground.

FLIGHT VISIBILITY

Visibility in front of the flight deck of an aircraft in flight.

VISIBILITY ON THE GROUND

Visibility at an airport indicated by an accredited observer or through automatic systems.

ACROBATIC FLIGHT

Maneuvers intentionally performed with an aircraft, which imply sudden changes in altitudes, flights in abnormal attitudes or abnormal speed variations.

CONTROLLED FLIGHT

Any flight subject to air traffic control clearance.

IFR FGHT

Flight conducted according to instrument flight rules.

FLIGHT VFR

Flight conducted according to visual flight rules.

SPECIAL VFR FLIGHT

VFR flight, authorized by air traffic control, conducted within a Terminal Control Area or Control Zone under weather conditions lower than VMC.

CONTROL ZONE

Controlled airspace that extends from the ground to a specified upper limit.

AERODROME TRAFFIC ZONE

Airspace of defined dimensions established around an airport to protect the airport traffic.

2.2 ABBREVIATIONS

ACAS - Onboard Anticollision System

ADS-B – Automatic Dependent Surveillance – Broadcasting

ADS-C – Automatic Dependent Surveillance – Contract

AFIS – Airport Flight Information Service

AIP – Aeronautical Information Publication

AMSL - Above Medium Sea Level

ASC - Ascend to or ascending

ATC – Air Traffic Control

ATS – Air Traffic Service

ATZ - Airport Traffic Zone

CINDACTA – Integrated Air Defense and Air Traffic Control Center

COM - Communications

COpM - Military Operations Center

CPDLC – Controller Pilot Data Link Communications

CRN - NOTAM Regional Center

CTA – Control Area

CTR - Control Zone

DA - Decision Altitude

DECEA - Airspace Control Department

FIR - Flight Information Region

FIS – Flight Information Service

ICA – Aeronautical Command Instruction

IFR - Instrument Flight Rules

ILS - Instrument Landing System

IMC – Instrument Flight Weather Conditions

km – Kilometer

Kt – Knot

METAR – Regular Aeronautical Meteorological Report

MHz – Megahertz

NM - Nautical Mile

NOTAM - Notice to Airmen

ICAO – International Civil Aviation Organization

QFE – Zero Adjustment

QNE – Standard Pressure Altitude (1013.2hPa)

QNH – Altimeter Adjustment

RCC - Rescue Coordination Center

RNAV - Area Navigation

ROTAER – Auxiliary Manual of Air Routes

RPA - Remotely Piloted Aircraft

RVSM – Reduced Minimum Vertical Separation

SAR - Search and Rescue

SELCAL - Selective Calling System

SPECI – Selected Special Aeronautical Meteorological Report SRPV - Regional Flight Protection Service

SSR - Secondary Surveillance Radar

TMA - Terminal Control Area

TWR - Airport Control Tower

UTC - Coordinated Universal Time

VFR – Visual Flight Rules

VMC – Visual Flight Weather Conditions

VOR - VHF Omnidirectional Radio Beacon

3. APPLICABILITY OF AIR RULES

3.1 THE COMPETENT UTILITY

3.1.1 The Director-General of the Airspace Control Department is responsible for:

a) the establishment, changes or cancellation of the special use airspaces on a permanent basis;

b) the establishment or changes, on a temporary and previously defined basis, of the special use airspaces that may or may not lead to changes in routes and procedures of the Air Traffic Services, contained in the publications in force, through the SRPV and CINDACTA;

c) suspension of airport operations due to weather conditions, interdiction and impracticality of maneuvering areas, through the ATC agencies; and

d) establishment of the operational meteorological minimums.

3.2 TERRITORIAL APPLICATION OF AIR RULES

3.2.1 The Rules of the Air set forth in this publication shall apply to the following:

a) all aircraft operating within the airspace that overlaps the Brazilian territory, including territorial waters, except as required to comply with the provisions of item 3.2.2; and

b) all Brazilian registered aircraft, wherever they may be, to the extent that they do not conflict with the rules of the overflown State and with the international rules in force under the International Civil Aviation Convention held in Chicago in 1944. 3.2.2 Article 12 of the International Civil Aviation Convention provides that the Rules of the Air are complied with, without exception, over international waters. Thus, if any procedure related to such international practices is provided for differently in the national regulations, those international standards will be described in a specific publication to be applied to flights in the high seas.

3.3 COMPLIANCE WITH AIR RULES

The operation of aircraft, both in flight and in the movement area of airports, shall comply with the general rules and, additionally, when in a flight:

a) with the visual flight rules; or

b) with the instrument flight rules.

3.4 RESPONSIBILITIES FOR COMPLIANCE WITH AIR RULES

3.4.1 RESPONSIBILITY OF THE PILOT IN COMMAND

The pilot-in-command, whether maneuvering the commands or not, will be responsible for the operation to be performed according to the Air Rules, being able to deviate from them only when absolutely necessary to meet safety requirements.

3.4.2 FLIGHT PLANNING

3.4.2.1 Before starting a flight, the pilot-in-command of an aircraft must be aware of all the information necessary for planning the flight.

3.4.2.2 The information required for the flight mentioned in 3.4.2.1 must include, at least, a careful assessment of the following aspects:

a) meteorological conditions (updated weather reports and forecasts) of the airports involved and the route to be flown;

b) calculation of the fuel foreseen for the flight;

c) alternative planning in case it is not possible to complete the flight; and

d) flight-relevant conditions provided for in the Integrated Aeronautical Information Documentation (IAIP) and in the ROTAER.

NOTE: The conditions mentioned in d) above refer, for example, to the op-

erational restrictions of the airports involved, to the conditions relating to the operation of aids for route navigation, approach and take-off, to the airport infrastructure necessary for the proposed operation, to the timetable of operation of the airports and ATS units assigned to the flight, etc.

3.4.2.3 The ATS units will consider, upon receipt of the flight plan, that the conditions verified by the pilot-incommand meet the requirements of the regulations in force for the type of flight to be conducted.

3.5 AUTHORITY OF THE PILOT IN COMMAND

The pilot-in-command of an aircraft shall be the decision-making authority with regard to everything related to him/her while in command.

3.6 EMERGENCY AIRCRAFT

The emergency aircraft that is in a distress or emergency situation must use, through radiotelephony, the corresponding message (signal) provided for in Annex A and MCA100-16 (Air Traffic Terminology). Rescue and emergency conditions are defined as:

a) Distress: a condition in which the aircraft is threatened by serious and/ or imminent danger and requires immediate assistance; and

NOTE: The distress condition also refers to the emergency situation in which the aviation accident is inevitable or is already finished.

b) Urgency: a condition that involves the safety of the aircraft or someone on board, but that does not require immediate assistance.

3.7 PROBLEMATIC USE OF PSYCHOACTIVE SUBSTANCES

No person whose role is critical to aviation security (personnel performing security-sensitive roles) shall not assume their role while under the influence of any psychoactive substance that could impair human performance. The persons concerned should refrain from any problematic use of psychoactive substances.

4. GENERAL RULES

4.1 PROTECTION OF PEOPLE AND PROPERTIES

4.1.1 NEGLIGENT OR IMPRUDENT OPERATION OF AIRCRAFT

No aircraft will be conducted with negligence or recklessness, in such a way as to endanger the life or property of others.

4.1.2 MINIMUM HEIGHTS

Except for landing or takeoff operations, or when authorized by DECEA, aircraft will not fly over cities, towns, inhabited places or over groups of people in the open air, at a height lower than that which allows them, in an emergency, to land safely and without danger to people or property on the surface.

NOTE: See, in 5.1.4, the minimum height for VFR flight and, in 6.1.2, the minimum level for IFR flight.

4.1.3 CRUISE LEVELS

The cruise levels at which a flight, or part of it, is to be conducted with reference to:

a) flight levels, for flights that take place at a level equal to or higher than the lowest usable flight level or, where applicable, for the flight that takes place above the transition altitude; or

b) altitudes, for flights that take place below the lowest usable flight level or, where applicable, for flights that take place at or below the transition altitude.

4.1.4 LAUNCHING OBJECTS OR SPRAYING

The launching of objects or spraying by aircraft in flight will only be authorized under the conditions prescribed by the competent authority and in accordance with information, advice and/or clearance from the relevant ATS unit.

4.1.5 TOWING

No aircraft will tow another aircraft or object unless in accordance with the conditions prescribed by the competent authority and in accordance with information, advice and/or clearance from the relevant ATS unit.

4.1.6 PARACHUTE LAUNCH

Except for cases of emergency, parachutes are only launched in compliance with the conditions prescribed by the competent authority and according to information, advice and/or clearance from the relevant ATS unit.

4.1.7 ACROBATIC FLIGHT

No aircraft will conduct acrobatic flights in areas that pose a danger to air traffic, except for areas established for this purpose or when authorized by the competent authority, according to information, advice and/ or clearance from the relevant ATS unit.

4.1.8 COMPETENT AUTHORITY

4.1.8.1 The competent authority to authorize and establish the conditions related to air traffic in which acrobatic flights and those for object launching or spraying, towing and launching parachutes and flights in formation in controlled airspace are to be conducted is the SRPV or CIN-DACTA with jurisdiction over the area in which the operation is intended to take place.

NOTE: The clearance issued by SRPV or CINDACTA has the exclusive purpose of ensuring the coordination and control of air traffic, as well as flight safety, with no implicit clearance for performing the specific technical activity of the operation.

4.1.8.2 Any operation mentioned in 4.1.8.1 must be previously authorized by the Commander of the Unit to which it is subordinate, in the case of military aircraft, or by the competent agency of ANAC, in the case of civil aircraft.

4.1.9 PROHIBITED AREAS AND RE-STRICTED AREAS

No aircraft will fly in an airspace duly published as a prohibited area or even as a restricted area, unless it complies with the conditions of restriction or a prior permission is obtained from the competent authority. Such a flight must be coordinated, in advance, with the SRPV or CINDACTA with jurisdiction over the area.

4.1.10 TRAINING FLIGHTS

Aircraft must should not fly in close formation, except when previously agreed by the pilots in command of the aircraft participating in the flight and, in the case of formation flight in the controlled airspace, according to the conditions determined by the competent authority. These conditions should include the following:

a) the formation operates as a single aircraft when it comes to navigation and position notification;

b) the separation between the aircraft in flight should be the responsibility of the flight leader and the pilots in command of the other participating aircraft. Transition periods should also be included when the aircraft are maneuvering to achieve their own separation within the formation and during the maneuvers to start and break this formation; and

c) each aircraft will remain at a distance that should not exceed 0.5 NM (1 km) laterally and longitudinally, as well as 30 m (100 feet) vertically with respect to the leading aircraft.

4.1.11 UNMANNED FREE BALLOONS

An unmanned free balloon must be used in a way that minimizes the danger to other people, property and other aircraft and in accordance with the conditions set forth in Annex B.

NOTE: The launch of an unmanned hot air balloon (e.g., June balloon) is subject to other Brazilian legislation in force.

4.1.12 REMOTELY PILOTED AIRCRAFT

The regulations on remotely piloted aircraft are found in specific publications on the subject, issued by ANAC and DECEA.

4.2 COLLISION PREVENTION

4.2.1 The rules described below do not exempt the pilot-in-command from the responsibility to take the best action to avoid a collision, including maneuvers based on the warnings of resolutions provided by the ACAS equipment.

NOTE 1: In order to prevent possible collisions, it is important that surveillance is exercised on board the aircraft, no matter what the flight rules are or the airspace class in which the aircraft is operating and, also, when operating in the area of movement of an airport.

NOTE 2: The regulations regarding the use of ACAS are found in specific regulations of DECEA on this subject.

4.2.2 PROXIMITY

No aircraft will fly so close to another that it can cause a danger of collision.

4.2.3 RIGHT OF WAY

The aircraft that has the right of way must keep its course and speed.

4.2.3.1 An aircraft that is required by the following rules to stay out of the other's path should avoid going over or under or in front of it, unless there is a sufficient distance and the effect of the aircraft's turbulence wake is taken into account.

4.2.3.2 Front approach

When two aircraft approach by the front, or almost by the front, and there is a danger of collision, both must change their course to the right.

4.2.3.3 Convergence

When two aircraft converge at approximately equal levels, the one with the other on its right will give the way with the following exceptions:

a) aircraft heavier than air, mechanically propelled, will give way to airships, gliders and balloons;

b) airships will give way to gliders and balloons;

c) the gliders will give way to the balloons; and

d) mechanically powered aircraft will give way to those towing aircraft or objects.

4.2.3.4 Overtaking

An overtaking aircraft is the one that approaches another, from behind, in a line that forms an angle of less than 70 degrees with the plane of symmetry of the aircraft to be overtaken. Any aircraft that is being overtaken by another will have the right of way and the overtaking aircraft, whether ascending, descending or at a level flight, should remain outside the path of the first, changing its course to the right. No subsequent change in the relative position of both aircraft will exempt the overtaking aircraft from this obligation until the overtaking is fully completed.

4.2.3.5 Landing

4.2.3.5.1 Aircraft in flight and also those that operating on land or in the water, will give way to aircraft that are landing or in the final approaching phase for landing. 4.2.3.5.2 When two or more aircraft are approaching an airport to land, the one at a higher level will give way to the one below. However, the one below will not be able to use this rule to cross the front of the one which is in the approach phase for landing, nor overtake it. Nevertheless, the mechanically propelled heavier-thanair aircraft will give way to the gliders.

4.2.3.5.3 Emergency landing

An aircraft that is aware that another aircraft is forced to land should yield the way.

4.2.3.6 Takeoff

Every aircraft taxiing in the maneuver area of an airport will give way to the aircraft that are taking off or about to take off.

4.2.3.7 Movement of the aircraft on the ground surface

4.2.3.7.1 If there is a risk of collision between two aircraft taxiing in the maneuvering area of an airport, the following will apply:

a) when two aircraft approach from the front, or almost from the front, both will delay their movements and change their course to the right to keep at a safe distance;

b) when two aircraft meet on a converging course, the aircraft with the other on its right will give way; and

c) any aircraft that is being overtaken by another will have the right of way and the overtaking aircraft will remain at a safe distance from the path of the other aircraft.

NOTE: See the description of "overtaking aircraft" in 4.2.3.4.

4.2.3.7.2 An aircraft taxiing in the maneuvering area should stop and remain on hold in all runway waiting positions, unless TWR authorizes another procedure.

4.2.3.7.3 An aircraft taxiing in the maneuvering area should stop and remain on stand-by at all illuminated stop bars and may proceed when the lights go out.

4.2.4 LIGHTS TO BE DISPLAYED BY THE AIRCRAFT

NOTE 1: The procedures related to the lights that must be displayed by the aircraft are those listed in the ANAC regulations. NOTE 2: In the following contexts, an aircraft is said to be operating, when taxiing, when being towed, or when it has stopped, momentarily, during the taxiing or when towed.

4.2.4.1 Between sunset and sunrise, or any other period deemed necessary, all aircraft in flight must display:

a) anti-collision lights, the purpose of which is to draw attention to the aircraft; and

b) navigation lights, the purpose of which is to indicate the aircraft's relative path to observers and no other lights will be displayed, if these can be confused with the navigation lights.

4.2.4.2 Between sunset and sunrise or any other period deemed necessary:

a) all aircraft operating in the movement area of an airport must display navigation lights, the purpose of which is to indicate the aircraft's relative path to observers and no other lights will be displayed if they can be confused with the navigation lights;

b) all aircraft, except those that are stationary and properly lit by another means in the movement area of an airport, must display lights in order to indicate the ends of its structure;

c) all aircraft operating in the movement area of an airport must have lights designed to highlight their presence; and

d) all aircraft that are in the movement area of an airport and whose engines are in operation must display lights that indicate this situation.

NOTE: If the navigation lights mentioned in 4.2.4.1 b) are conveniently located on the aircraft, they can meet the requirements described in 4.2.4.2 b). Red anti-collision lights will also meet the requirements of 4.2.4.2 c) and d) whenever they do not dazzle observers.

4.2.4.3 Except as provided in 4.2.4.5, all aircraft in flight with anti-collision lights will also keep those lights on between sunrise and sunset.

4.2.4.4 Except as provided in paragraph 4.2.4.5, all aircraft operating in the movement area of an airport and having red anti-collision lights, will also keep these lights on between sunrise and sunset. 4.2.4.5 Pilots will be permitted to switch off or dim any bright light on board to meet the requirements prescribed in 4.2.3.2, 4.2.3.3, 4.2.3.4 and 4.2.3.5, if it is likely that:

a) adversely affect the performance of their duties; or

b) obfuscate an observer outside the aircraft.

4.2.5 INSTRUMENT SIMULATED FLIGHTS

An aircraft shall not fly under simulated instrument flight conditions, unless:

a) the double command in full operation is installed on the aircraft; and

b) a qualified pilot occupies a command post to act as a safety pilot for the person flying instruments in simulated conditions. The safety pilot will have visual conditions both forwards and to the sides of the aircraft or a competent observer who is in communication with the pilot will occupy a position on the aircraft of which his visual field adequately complements that of the safety pilot.

4.2.6 OPERATIONS IN AERODROME OR IN ITS IMMEDIATIONS

Aircraft operating on or near an airport, whether or not they are on an ATZ, must:

a) observe the airport traffic in order to avoid collisions;

b) adjust to the airport traffic circuit handled by other aircraft or avoid it;

c) make all the turns to the left when approaching for landing and after takeoff, unless instructed otherwise;

d) land and take off against the wind, unless safety reasons, runway configuration or air traffic determines that another direction is recommended;

e) at an uncontrolled airport, proceed to land only when there is no other aircraft on the runway; and

f) occupy the landing and take-off runway for the minimum time necessary for the landing and take-off operation, avoiding dwelling on the runway for a time that impairs the operation of other aircraft.

NOTE: Additional requirements may apply to Airport Traffic Zones.

4.2.7 WATER OPERATION

In addition to the provisions prescribed in the following sub-items, in certain cases, the Rules established in the International Regulations for Preventing Collisions at Sea, prepared by the International Conference on the Revision of the Regulations for Preventing Collisions at Sea (London, 1972), apply.

4.2.7.1 When two aircraft or an aircraft and a vessel approach and there is a risk of collision, the aircraft will proceed according to the circumstances and conditions of the case, including the limitations of each one.

4.2.7.1.1 Convergence

When an aircraft has another aircraft or vessel on its right, it will give way, keeping a safe distance.

4.2.7.1.2 Front approach

When an aircraft approaches in front of or almost in front of another aircraft or vessel, it will change course to the right in order to maintain a safe distance.

4.2.7.1.3 Overtaking

Every aircraft or vessel that is being overtaken by another will have the right of way and the overtaking aircraft will change its course to maintain a safe distance.

4.2.7.1.4 Landing and takeoff

All aircraft that land or take off in the water should, as far as possible, maintain a safe distance from all vessels, avoiding interference with their navigation.

4.2.7.2 Lights to be displayed by aircraft in the water

Between sunset and sunrise or during any other period deemed necessary, any aircraft in the water will display the lights prescribed by the International Regulations for Preventing Collisions at Sea (revised in 1972), unless it is impossible. In that case, it must display lights whose characteristics and position are as similar as possible to those required by the International Regulation.

NOTE 1: ICAO Annex 6 contains the instructions regarding the lights that the aircraft must be provided with in the water.

NOTE 2: The International Regulation to Prevent Collisions at Sea specifies

that the rules regarding lights must be complied with from sunset to sunrise. Therefore, in the regions specified by this regulation, for example, on the high seas, they should not be applied in a period shorter than between sunset and sunrise to comply with paragraph 4.2.7.2.

4.3 FLIGHT PLANS

4.3.1 FLIGHT PLAN SUBMISSTION

4.3.1.1 The information regarding the planned flight, or part of it, will be submitted to the ATS units through a Flight Plan.

4.3.1.2 The criteria for the mandatory submission of the flight plan or its waiver, as well as other requirements and procedures related to this form are set forth in ICA 100-11, "Flight Plan" and in MCA 100-11, "Filling in Forms Flight Plan".

4.3.1.3 If the aircraft contacts an ATS unit, without having submitted a Flight Plan by that time, said office will request its submission.

4.3.1.3.1 When the ATS unit is that of the destination airport, said agency will ask for the ANAC code of the pilot-in-command and, at least, the flight origin data, such as: the place of departure and the actual takeoff time.

4.3.2 CONTENTS OF A FLIGHT PLAN

A Flight Plan must contain the following information:

a) aircraft identification;

b) flight rules and flight types;

c) numbers, type (s) of aircraft and category of wake turbulence;

d) equipment;

e) departure airport;

f) estimated time for chocks-off (see NOTE);

g) cruising speed (s);

h) cruise level (s);

i) route to be followed;

j) destination airport and expected total duration;

k) alternative airport(s);

l) autonomy;

m) total number of people on board;

n) emergency and survival equipment; and

o) other data.

NOTE: In the Flight Plans presented in flight, the information provided will be the actual time of departure.

4.3.3 CHANGE IN THE FLIGHT PLAN

All changes made to a Flight Plan must be immediately notified to the corresponding ATS unit.

NOTE: If the pilot cannot guarantee the accuracy of the information supplied with regard to the autonomy and/or the number of people on board, when submitting Flight Plan, he must, until the moment of departure, inform the ATS unit, by radiotelephony, the exact value of that information.

4.3.4 TERMINATION OF THE FLIGHT PLAN

4.3.4.1 The closure of the Flight Plan for an airport without an ATS unit will occur automatically when the total estimated flight duration is completed.

4.3.4.2 The closure of the Flight Plan for an airport equipped with an ATS unit will occur with the landing at the destination airport, notified by the pilot personally, by telephone or radiotelephony, through an arrival information containing:

a) aircraft identification; and

b) landing time

NOTE: Exception for this requirement is the case of landing at an airport with TWR.

4.3.4.2.1 When, for any reason, the landing is made at an airport other than the destination, declared in the Flight Plan, and this one is provided with an ATS unit, the arrival information submitted to that ATS unit must contain:

a) the aircraft identification;

b) the departure airport;

c) the destination airport; and

d) arrival time (except when the airport is equipped with TWR).

NOTE: The ATS unit should arrange for this information to be forwarded to the ATS unit at the destination airport as soon as possible. 4.3.4.2.2 When, for any reason, the landing is made at an airport other than the destination, declared in the Flight Plan, and it is not provided with an ATS unit, the pilot must transmit the arrival information by any means of communication available (radiote-lephony of the aircraft or other, tele-phone, radio amateur, etc.) to an ATS unit, containing:

a) aircraft identification;

b) departure airport;

c) destination airport;

d) arrival airport; and

e) arrival time.

NOTE 1: The omission of this information will require the ATS units to activate the Search and Rescue Service, the pilot being, in this case, responsible for the indemnification of the expenses that the operation may incur (in accordance with Art. 58 of the Brazilian Aeronautical Code).

NOTE 2: The ATS unit that receives this notification must arrange for it to be sent to the destination ATS unit stated in the arrival information as soon as possible.

4.4 SIGNS

4.4.1 When observing or receiving any of the signals shown in Annex A of this document, the aircraft will proceed in accordance with the interpretation presented for the signal in that Annex.

4.4.2 The signs in Annex A, when used, will have the meanings described therein and no other signs that may be confused with them will be used.

4.4.3 A signalman will be responsible for providing the aircraft with clear, precise and standard marshalling signals indicated in Chapter 3 of Annex A.

4.4.4 No person shall guide an aircraft unless properly trained, qualified and approved by the competent authority to perform such function.

4.4.5 The signalman must wear a fluorescent identification vest to allow the flight crew to recognize that he or she is the person responsible for the marshalling operation.

4.4.6 All ground personnel participating in the signaling will, during daylight hours, use fluorescent wands, table-tennis bats or gloves. For night or in conditions of low visibility, illuminated wands will be used.

4.5 TIME

4.5.1 Coordinated Universal Time (UTC) will be used, which must be expressed in hours and minutes of the 24-hour day starting at midnight.

4.5.2 The time must be checked before starting a flight or any other time as it may be necessary.

NOTE: The time check is performed with information from the ATS unit.

4.5.3 When used in the application of data link communications, the time must be accurate to within one second of UTC.

4.6 AIR TRAFFIC CONTROL SERVICE

4.6.1 AIR TRAFFIC CONTROL CLEAR-ANCES.

4.6.1.1 Before operating a controlled flight, or a portion of a controlled flight, clearance must be obtained from the ATC. This clearance will be requested by submitting the Flight Plan to an ATC agency.

NOTE 1: A Flight Plan may include only part of a flight, when necessary, to describe the portion of the flight or those maneuvers that are subject to air traffic control. A clearance may affect only the part of the Flight Plan in force, as indicated by the clearance limit or by reference to specific maneuvers, such as taxiing, landing or takeoff.

NOTE 2: If an air traffic control clearance is not satisfactory to the pilotin-command, he/she may request the correction, at his/her convenience and, if practicable, a corrected clearance will be issued.

4.6.1.2 Whenever an aircraft applies for a clearance involving priority, the reasons for the priority must be explained to the responsible ATC unit.

4.6.1.3 All aircraft operating at a controlled airport must not taxi in the maneuvering area without clearance from TWR and must comply with the instructions received from that unit.

4.6.1.4 Possible renewal of clearance in flight

If, before departure, it is anticipated that, depending on the aircraft fuel autonomy and subject to the renewal of the flight clearance, the decision may be taken to proceed to another destination airport, the appropriate ATC unit must be notified by an insertion in the Flight Plan of information on the revised route and the new destination airport.

NOTE: The purpose of this provision is to enable the renewal of clearance to a new destination airport, normally located further away than the one contained in the Flight Plan.

4.6.2 COMPLIANCE WITH THE FLIGHT PLAN IN FORCE

4.6.2.1 Except as provided for in 4.6.2.7, all aircraft must adhere to the Flight Plan in force or the applicable portion of the Flight Plan in force for a controlled flight, within the tolerances defined in paragraphs 4.6.2.2 to 4.6.2.5, unless a request for a change has been made and clearance has been obtained from the ATC unit, or unless an emergency situation occurs, which requires immediate action by the aircraft. In the latter situation, as soon as it is permitted, after the authority of the pilot-in-command in the event of that emergency has been exercised, the appropriate ATS unit shall be notified of the actions taken and that they have been exercised, under the authority of the pilot-in-command, due to the situation of emergency.

4.6.2.2 Flights, in so far as practicable, when conducted:

a) on an established ATS route, they shall follow along the defined axis of that route; or

b) in FIR, they shall go directly between the navigation facilities and/or the points defining that route.

4.6.2.3 To meet the main requirement in item 4.6.2.2, an aircraft that operates along a section of the ATS route, defined by reference to VOR, shall change over to its primary navigation orientation the tuning of the navigation facility from that behind the aircraft to the one immediately ahead of it, at the change-over point or as close to it as possible, if that point is established.

4.6.2.4 Deviations from the requirements set out in 4.6.2.2. must be notified to the competent ATS unit. 4.6.2.5 Deviations from the Flight Plan in force

4.6.2.5.1 In the event that a controlled flight deviates from its current Flight Plan, the following actions must be taken:

a) deviation of route: if the aircraft deviates from its route, actions should be taken to change the heading and return to the proposed route immediately;

b) deviation from the indicated Mach/ speed number assigned by the ATC: the appropriate ATS unit must be informed immediately;

c) deviation from the Mach number/ true speed: if the Mach number/true speed maintained at the cruising level varies plus or minus 0.02 Mach or more; or, more or less, 19 km/h (10 kt) of true speed or more, with regard to the value indicated in the Flight Plan in force, the appropriate ATS unit must be informed; and

d) estimated time changes: except where ADS-C is activated and in service conditions in an airspace where ADS-C services are provided, if the estimated time on the next notification point, FIR limit or destination airport, whichever occurs first, changes by more than 2 minutes from the one previously notified, the flight crew shall notify the estimated time to the appropriate ATS unit as soon as possible.

4.6.2.5.2 When ADS-C services are provided and ADS-C is activated, the ATS unit must be informed, automatically through the data link, whenever changes occur and are beyond the limit values established in the event ADS contract.

4.6.2.6 Change requests

When changing the Flight Plan in force, the information to be issued is as follows:

a) cruise level changes:

- · aircraft identification;
- new cruise level requested;
- Mach number/true cruising speed at that level; and
- new estimates (if applicable) on subsequent notification points or FIR limits.

b) change of Mach number/true speed:

· aircraft identification;

 Mach number/actual speed requested.

c) changes of route without changing the destination point:

- · aircraft identification;
- flight rules;
- description of the new flight route, including data related to the Flight Plan, starting with the position from which the requested change of route begins;
- estimated time (s) revised; and
- other information deemed convenient;

d) changes of route with changes of the destination point:

- aircraft identification;
- flight rules;
- description of the new flight route, up to the new destination airport, including data related to the Flight Plan, starting with the position from which the requested change of route begins;
- estimated time(s) revised;
- alternative airport(s); and
- other information deemed convenient.

4.6.2.7 Deterioration of weather conditions until they are below visual weather conditions

When it becomes evident that the flight in VMC is not feasible according to the Flight Plan in force, the aircraft in VFR flight, conducted as a controlled flight, shall:

a) request a change of clearance that allows you to continue in VMC to the destination or an alternative airport, or to abandon the airspace within which an ATC clearance is required;

b) continue on a VMC flight and notify the corresponding ATC unit of the measures taken either to abandon said airspace or to land at the nearest appropriate airport if a change of clearance cannot be obtained;

c) request a clearance to proceed as a special VFR flight if it is within a TMA or CTR; or

d) request clearance fly according to the instrument flight rules.

4.6.3 COMMUNICATIONS

4.6.3.1 All aircraft that perform a controlled flight must keep a permanent hearing on the appropriate frequency of the corresponding ATC unit and, when necessary, establish bilateral communication with that unit.

NOTE: The SELCAL system or similar automatic signaling device meets the maintenance requirement.

4.6.3.2 Communication failure

If, due to a radio equipment failure, the aircraft cannot comply with the requirements of 4.6.3.1, it shall perform the specific procedures described below for a communication failure. In addition, the aircraft should attempt to establish communications with the appropriate ATC unit, using all other available means. Also, the aircraft that takes part in the airport traffic shall keep a watch for such instructions that may be issued by visual signals.

4.6.3.2.1 If in visual flight weather conditions, the aircraft shall:

a) continue to fly in visual flight weather conditions, land at the nearest appropriate airport and report its landing to the appropriate ATS unit by the fastest means; or

b) complete an IFR flight, as set out in 4.6.3.2.2, if the pilot deems it convenient.

4.6.3.2.2 If the aircraft has a communication failure in meteorological conditions of flight by instruments or in an IFR flight, and the pilot deems that it is not convenient to end the flight in accordance with the provisions of 4.6.3.2.1 a), he/she shall:

a) keep the level, speed and route according to the Flight Plan in Force until the clearance limit and, if this is not the intended airport of destination, continue the flight in accordance with the Flight Plan Submitted, not violating any minimum flight altitude appropriate;

b) proceed as per a) above to the relevant significant point of the destination airport and, when necessary to comply with the provisions of d), wait on that significant point to begin the descent;

c) when under radar vectoring or having been instructed by ATC to make a lateral deviation using RNAV without a specified limit, return the route of the Flight Plan in Force before reaching the next significant point, also taking into account the appropriate minimum flight altitude;

d) start the descent from the significant point mentioned in b), at the last estimated time of approach received and acknowledged or the closest to that time; or if no estimated approach time has been received and acknowledged, at the estimated time of arrival or the closest to that time calculated in accordance with the Flight Plan in Force or Flight Plan Submitted, if the clearance limit was not the destination airport, as described in a) above;

e) complete the instrument approach procedure provided for the designated significant point; and

f) land, if possible, within 30 minutes of the estimated time of arrival, specified in d), or of the last estimated time of approach, whichever is later.

4.6.3.2.3 Whenever a pilot finds a communication failure only at the reception, he/she will blindly transmit the maneuvers he/she intends to perform, giving the ATC unit sufficient time to comply with such maneuvers.

4.6.4 NOTIFICATION OF POSITION

Unless exempted by the ATS unit, IFR and VFR controlled flights shall notify that unit, as soon as possible, of the time and level at which they pass over each of the designated compulsory notification points, as well as any other necessary data. Likewise, position notifications on additional notification points should be sent when requested by the corresponding ATS unit. In the absence of designated notification points, position notifications will be given at fixed intervals, in accordance with specific regulations of the DECEA on Air Traffic Services, or specified by the ATS unit with jurisdiction over the area where the flight takes place.

4.7 UNLAWFUL INTERFERENCE

4.7.1 Every aircraft that is the subject of acts of unlawful interference shall endeavor to notify the appropriate ATS unit of this fact, as well as any significant circumstance associated therewith and any deviation from the current Flight Plan that the situation requires, in order to allow the ATS unit to give priority to the aircraft and to minimize traffic conflicts with other aircraft.

NOTE 1: ATS units will do their best to identify any indication of such acts and will promptly respond to aircraft requests. Information related to the safe performance of the flight will continue to be provided and the necessary measures will be taken to facilitate the completion of all phases of the flight.

NOTE 2: See specific DECEA publication on the procedures for the SISCEAB Agencies in cases of acts of unlawful interference against civil aviation.

NOTE 3: The measures to be adopted by the ATS units in the acts of unlawful interference are contained in the specific publication of DECEA on Air Traffic Services.

NOTE 4: Annex C contains the procedures for aircraft that are subject to acts of unlawful interference and are unable to notify an ATS unit of this fact.

4.7.2 If an aircraft is subject to unlawful interference, the pilot-incommand must land as quickly as possible at the nearest appropriate airport or at an airport designated for that purpose by the competent authority, unless the situation on board the aircraft determine another way to proceed.

4.8 INTERCEPTION

4.8.1 Interception of civil aircraft will be avoided and will only be used as a last resort. However, the Aeronautical Command reserves the right to intercept any aircraft, at the discretion of the air defense agencies or the authorities responsible for conducting aerospace defense missions.

NOTE: The word " interception ", in this context, does not include the interception and escort services provided to an aircraft in distress, upon request, in accordance with the International Aeronautical and Maritime Search and Rescue Manual (IAMSAR), Volumes II and III (ICAO DOC 9731).

4.8.2 The procedures to be followed by the aircraft being intercepted and the interception methods are set out in Annex D.

4.8.3 In the specific publication of DE-CEA dealing with Air Traffic Services, there are provisions covering the procedures to be followed by the ATS units when they become aware that an aircraft is being intercepted.

4.9 CLIMATE VISIBILITY AND DISTANCE MINIMUMS IN VMC

The minimum visibility and distance of clouds in VMC are shown in table 1.

[THE IMAGE WAS REMOVED FROM THIS VERSION]

4.10 NOTIFICATION OF SUSPECTED SICKNESS TRANSMISSIBLE ON BOARD THE AIRCRAFT OR OTHER RISKS TO PUBLIC HEALTH

4.10.1 As soon as the crew of an aircraft en route identifies, on board, one or more suspected cases of transmissible disease, or other risk to public health, it must immediately notify the ATS unit, with which the pilot is communicating, the information listed below:

a) aircraft identification;

b) departure airport;

c) destination airport;

d) estimated time of arrival;

e) number of people on board;

f) number of suspected cases on board; and

g) nature of the risk to public health, if known.

4.10.2 The ATS unit, upon receiving information from a pilot regarding suspected cases of a communicable disease, or other public health risk, on board the aircraft, shall notify the departure and destination ATS units as soon as possible which, in turn, shall inform the airport administration and the aircraft operator.

NOTE 1: When supplying information to the airport administration, the ATS units at the places of departure and destination should alert about the need to contact the relevant public health agency. The public health agency is expected to contact the aircraft operator's representative, if applicable, for further coordination with the aircraft regarding clinical details and the airport preparation. Depending on the communication facilities available to the aircraft operator's representative, it may not be possible to communicate with the aircraft until it is close to its destination. With the exception of the initial notification to the ATS unit, the use of ATC communication channels for later coordination as mentioned above should be avoided during the flight.

NOTE 2: The information to be supplied to the relevant agencies of the departure airport aims to prevent the possible spread of communicable disease, or other public health risk, by other aircraft departing from the same airport.

5. VISUAL FLIGHT RULES

5.1 GENERAL CRITERIA

5.1.1 Except when operating as a special VFR flight, VFR flights must be conducted in such a way that the aircraft fly in conditions of visibility and distance from clouds equal to or greater than those specified in table 1.

5.1.2 Notwithstanding the provisions of 5.1.1 above, VFR flights will only be conducted when they can fulfill simultaneously and continuously the following conditions:

 a) keep reference with the ground or water, so that the meteorological formations below flight level do not obstruct more than half of the pilot's vision area;

b) fly below FL 150; and

c) fly at a speed established in table 1.

5.1.3 Except when cleared by the ATC unit to handle a special VFR flight, VFR flights may not land, take off, enter ATZ or the traffic circuit of such airport if:

a) the ceiling is less than 450 m (1500 feet); or

b) visibility on the ground is less than 5 km.

NOTE: The ceiling will continue to be used as a meteorological parameter to define the operationality of an airport (if VFR or IFR). (NR) – Ordinance No. 204/DGCEA of November 8, 2018.

5.1.4 Except for landing and takeoff operations, the VFR flight will not be performed:

a) over cities, towns, inhabited places or groups of people in the open air, at a height of less than 300 m (1000 feet) above the highest obstacle within a radius of 600 m around the aircraft; and

b) in places not mentioned in the previous paragraph, at a height of less than 150 m (500 feet) above the ground or water.

5.1.5 For VFR flights in Class B, C and D airspace, aircraft must have the means to establish radiotelephone communications with the appropriate ATC unit.

5.1.6 The operation of an aircraft without radio equipment or with inoperative radio equipment is prohibited at airports provided with TWR and AFIS, except in the cases provided for in ICA 100-37 (Air Traffic Services).

5.1.7 Aircraft in a VFR flight within TMA or CTR shall not cross the trajectories of the exit and descent procedures by instruments at conflicting altitudes, nor shall they fly over navigation facilities without clearance from their respective ATC agencies.

5.1.8 VFR flights shall comply with the provisions of 4.6, as applicable, whenever:

a) they are performed in airspaces B, C, D;

b) they occur in the controlled airport traffic zone; or

c) they are performed as special VFR flights.

5.1.9 When flying in ATS class E, F and G airspaces, VFR flights are not subject to air traffic control clearance, receiving from ATS units only flight information and alert services.

5.2 PILOT RESPONSIBILITY

It is up to the pilot-in-command of an aircraft in VFR flight to provide his/her own aircraft separation in relation to obstacles and other aircraft through the use of vision, except in Class B airspace, where the separation between the aircraft is the responsibility of the ATC, and, however, the provisions of 4.2.1 shall be observed.

5.3 CONDITIONS FOR CONDUCTING A VFR FLIGHT

NOTE: In addition to the conditions below, there must be compliance with the requirements for VFR flight at airports as per a DECEAS's specific publication.

5.3.1 DAYLIGHT PERIOD

5.3.1.1 Departure, destination and alternative airports must be registered or approved for daytime VFR operation.

5.3.1.2 The prevailing meteorological conditions at departure, destination and alternative airports, during take-off or landing operations, must be equal to or better than the minimum established for the VFR flight.

5.3.2 NIGHTLY PERIOD

5.3.2.1 Departure, destination and alternative airports must be registered or homologated for nightly VFR operation.

5.3.2.2 In addition to the conditions prescribed in 5.3.1.2 $\,$

a) the pilot must be qualified for IFR flight;

b) the aircraft must be approved for IFR flight;

c) the aircraft must have a functioning VHF transceiver to establish bilateral communications with the appropriate ATS units.

5.3.3 When the VFR night flight is conducted entirely in ATZ, CTR or TMA, including the projections of its lateral limits, or even in the absence of such airspaces, when conducted within a radius of 27 NM (50 km) from the departure airport, the requirements contained in 5.3.2.2 a) and b) shall apply.

NOTE: This item also includes the adjacent ATZ, CTR and/or TMA.

5.4 CRUISE LEVELS

5.4.1 Except when cleared by the ATC, cruise-level VFR flights above 900 m (3000 feet) in relation to the ground or water will be conducted at a level appropriate to the route, according to the table of cruise levels, depending on the magnetic heading shown in Annex E.

5.4.2 The VFR flight level, selected in accordance with paragraph 5.4.1, will be kept by the aircraft for as long as it can meet the conditions set out in 5.1.1. and 5.1.2.a), the aircraft pilot being responsible for making changes in level and/or heading in order to meet the aforementioned conditions, except for the provisions of 4.6.2.7.

5.5 VFR TO IFR FLIGHT CHANGES

Every aircraft operating according to visual flight rules and willing to change to conform to instrument flight rules shall:

a) if you have submitted a Flight Plan, communicate the necessary changes that will be made to the current Flight Plan; or

b) when so required in item 4.3.1.2, submit a Flight Plan to the appropriate ATS unit and obtain the necessary clearance before proceeding with IFR, when in controlled airspace.

5.6 VFR FLIGHT OUT OF A CONTROLLED AIRPACE

The VFR flight being conducted outside a controlled airspace, but within areas or along routes designated by DECEA and with an operational radio equipment, will keep listening on the appropriate frequency of the ATS unit that provides the flight information service and inform its position to that agency, when necessary or requested.

6. INSTRUMENT FLIGHT RULES

6.1 RULES APPLICABLE TO ALL IFR FLIGHTS

6.1.1 AIRCRAFT EQUIPMENT

The aircraft shall be equipped with the appropriate instruments and navigation equipment for the route to be flown.

6.1.2 MINIMUM LEVELS

Except when necessary for landing or takeoff, the IFR flight shall be conducted at a level not lower than the minimum flight level established for the route to be flown.

NOTE: It is the responsibility of the pilot-in-command to calculate the minimum level for IFR flight outside the airway, in accordance with the provisions of a specific publication.

6.1.3 CHANGING FROM IFR TO VFR FLIGHT

6.1.3.1 Any aircraft that, operating in accordance with instrument flight rules, decides to change to conform to visual flight rules shall specifically notify the appropriate ATS unit about the IFR flight cancellation and the changes that must be made in the current Flight Plan.

6.1.3.2 When an aircraft, operating in accordance with instrument flight rules, begins to fly in or under visual flight weather conditions, it will not cancel its IFR flight, unless it is possible to predict that the flight will continue for a reasonable period of time in uninterrupted visual flight weather conditions and that it intends to fly under such conditions in accordance with visual flight rules.

6.1.3.3 In specific situations, at the discretion of DECEA, the pilot shall maintain the flight according to the rules of instrument flight, even when operating under visual flight conditions.

6.2 RULES APPLICABLE TO IFR FLIGHTS WITHIN A CONTROLLED AIRSPACE

6.2.1 IFR flights shall comply with the provisions of paragraph 4.6, when conducted within a controlled airspace.

6.2.2 The cruise levels used on IFR flights in controlled airspace will be selected according to the cruise level table shown in Annex E, except when another correlation of levels and route is indicated in aeronautical information publications or in air traffic control clearances.

6.3 RULES APPLICABLE TO IFR FLIGHTS OUT OF A CONTROLLED AIRSPACE

6.3.1 CRUISE LEVELS

The IFR flight outside the controlled airspace will be conducted at the route appropriate cruise level, as specified in the cruise level table that appears in Annex E.

6.3.2 COMMUNICATIONS

The IFR flight that takes place within specified areas or on defined routes, outside the controlled airspace, will keep listening to the appropriate frequency and establish, when necessary, bilateral communication with the ATS unit that provides the flight information service.

6.3.3 POSITION NOTIFICATION

The IFR flight that operates outside controlled airspace will notify its po-

sition as specified in 4.6.4 for controlled flights.

NOTE: An aircraft that decides to use the air traffic advisory service, when operating IFR within specified routes with advisory services, shall comply with the rules contained in paragraph 4.6. However, the Flight Plan and the changes that occur therein are not subject to clearances. Bilateral communications with the agency providing the air traffic advisory service will be maintained.

6.4 CONDITIONS FOR CONDUCTING THE IFR FLIGHT

NOTE: In addition to the conditions below, there must be compliance with the requirements for IFR flight at airports shown in a DECEA's specific publication.

6.4.1 IN THE DAYLIGHT PERIOD:

a) departure, destination and alternative airports must be approved for daytime IFR operation;

b) if the departure airport is not approved for IFR operation, the prevailing meteorological conditions at that airport must be equal to or better than the minimum established for VFR operation;

NOTE: In this situation, the flight shall only depart in VFR.

c) the prevailing meteorological conditions at the departure airport must be equal to or better than the minimum established for the IFR take-off operation; and

d) the aircraft must be in a position to establish bilateral communications with the ATS units that exist at the departure, destination and alternative airports and with those responsible for the airspaces that are overflown.

6.4.2 IN THE NIGHT PERIOD:

a) the departure airport must be approved for the night IFR operation; otherwise, the flight must be started during the day, meeting the requirements for the day IFR flight;

b) the destination and alternative airports must be approved for night IFR operation; if the estimated time of arrival at the destination airport is in the daylight time, it is sufficient that this airport is approved for daylight time IFR operation. The same criterion shall apply to the alternative if the estimated time on this alternative (via destination airport or detour point) occurs in the daylight time;

c) the prevailing meteorological conditions at the departure airport must be equal to or better than the minimum established for the IFR take-off operation; and

d) the aircraft must be in a position to establish bilateral communications with the ATS units that exist at the departure, destination and alternative airports and with those responsible for the airspaces that are overflown.

7. FINAL PROVISIONS

7.1

Suggestions for the continuous improvement of this publication should be sent through the electronic addresses http:// publicacoes.decea.intraer/ or http://publicacoes.decea.gov.br/, accessing the specific link of the publication.

7.2

This publication can be purchased, upon request:

a) at the electronic address <u>http://</u> <u>www.pame.aer.mil.br/</u>, Aeronautical Publications; or

b) over the phones: (21) 2117-7294, 2117-7295 and 2117-7219 (fax).

7.3

The cases not provided for in this instruction shall be submitted to the Head of DECEA's Operations Subdepartment.

[REFERENCES AND ANNEXES HAVE BEEN DELETED FROM THIS VERSION]

ORDINANCE No. 2,626 OF OCTOBER 7, 2020

It institutes the Simple Flight Program.

The DIRECTOR PRESIDENT SUBSTITUTE AGENCY NATIONAL AVIATION CIVIL – ANAC, using the powers conferred on it by arts. 16 of Law No. 1182 of September 27, 2005, and 35, item II of Annex I of Decree No. 5731 of March 20, 2006,

Considering the need to reduce regulatory barriers that hinder the growth of the airline sector;

Considering the need to reduce administrative and regulatory costs;

Considering the need to improve continuously the provision of public services to regulators and to society;

Considering the need to promote a safe, modern and competitive airline industry; and

Considering the contents of Case No. 00058.031617/2020-63, deliberated and approved at the 4th Extraordinary Administrative Meeting of the Collegiate Executive Board, held on October 7, 2020,

RESOLVES:

<u>Art. 1</u>

Establish the Voo Simples Program, within the scope of the National Civil Aviation Agency – ANAC.

<u>Art. 2</u>

The Simple Flight Program will be governed by the following guidelines:

I – continuously seek to simplify and reduce the bureaucracy of ANAC's performance in order to reduce administrative costs;

II – promote actions related to improving the effectiveness and efficiency of public services provided by ANAC;

III – promote the improvement of ANAC's interaction with regulated entities;

IV – expand the transparency and disclosure of the actions and results obtained; and

 ${\sf V}$ – ensure the adequate treatment of contributions for improvements and simplification of processes sent to ANAC.

<u>Art. 3</u>

The specific objectives of the Voo Simples Program are:

 I – increase the satisfaction of users of the civil aviation system;

II – increase the quality of public services provided by ANAC;

III – reduce regulatory and administrative costs;

IV – encourage the entry of new players in the airline industry;

V – increase legal security and regulatory transparency;

VI – reduce information asymmetry in the sector; and

VII – stimulate the aeronautical industry.

Art. 4

The Voo Simples Program shall include simplification in the following axes of initiatives:

- I civil aviation professionals;
- II flight simulator;
- III aircraft registration;
- IV flight documentation;
- V aircraft maintenance;

VI – certification of aircraft and components;

- VII small companies;
- VIII incentive to industry;

IX – notification and assessment procedures;

- X legal review;
- XI increased security; and
- XII airport infrastructure.

<u>Art. 5</u>

The axes and actions of the first cycle of the Voo Simples Program shall remain in force until December 2021 and will be reviewed on a regular basis every two (2) years by the Executive Board.

Sole paragraph. Extraordinary reviews may be made at any time by the Institutional Planning Superintendence – SPI, and the exclusions of shares must be validated by the Collegiate Board.

<u>Art. 6</u>

The actions related to the lines of action provided for in art. 4 of this Ordinance, with the respective deadlines and responsible organizational units, are available in this Agency's Personnel and Service Bulletin (electronic address https:// www.anac.gov.br/assuntos/legislacao/ legislacao1/boletim- de-personnel /) and on the "Legislation" page (electronic address https://www.anac.gov.br/assuntos/legislacao), on the World Wide Web.

Sole paragraph. It is up to the holder of the designated organizational unit in terms of this Ordinance to manage the activities necessary to meet the deadlines established for each initiative.

<u>Art. 7</u>

SPI is responsible for monitoring the program with the organizational units responsible for the actions contained in the areas of activity.

<u>Art. 8</u>

This Ordinance shall come into force on the date of its publication.

JULIANO ALCÂNTARA NOMAN

[THE ATTACHMENT TO THE ORDINANCE WAS DELETED FROM THIS VERSION]

NATIONAL CIVIL AVIATION AGENCY – ANNEX TO RESOLUTION No. 381 OF JUNE 14, 2016

INTERNAL RULES OF THE NATIONAL CIVIL AVIATION AGENCY – ANAC

TITLE I

NATURE, HEADQUARTERS, PURPOSE AND JURISDICTION

<u>Art. 1</u>

The National Civil Aviation Agency – ANAC, an autarchy under a special regime created by Law No. 11182, of September 27, 2005, and regulated by Decree No. 5731, of March 20, 2006, having administrative independence, financial autonomy, absence of hierarchical subordination and fixed term of office of its officers, has its headquarters and venue in the Federal District, is bound to the Ministry of Transport, Ports and Civil Aviation and its purpose is to regulate and supervise the activities of civil aviation and aeronautical and airport infrastructure.

Sole paragraph. In the exercise of its powers, ANAC processes are structured in the following macro processes:

 Regulation: comprises the processes related to the establishment of requirements to the Civil Aviation System entities through preparation and updating of normative acts within the jurisdiction of ANAC;

II – Certification and Granting: comprises the processes related to the verification of compliance with requirements established in normative acts so that a product, company, process, service or person can provide services, perform activities or be operated within the Civil Aviation System;

III – Inspection: comprises the processes related to the verification of the conformity of products, companies, processes, services or people that act, in a lawfully or unlawfully, within the Civil Aviation System, and the respective action of the Agency in case of non-compliance;

IV – Institutional Relations: comprises the processes of relationship between ANAC and external entities, inside and outside the Civil Aviation System, with the exception of processes already related to other macro-processes; and

V – Internal Management: comprises support or management processes whose clients are employees and internal areas of the Agency, in order to maintain or improve internal processes, skills, structure and administrative infrastructure.

TITLE II

ORGANIZATIONAL STRUCTURE

<u>Art. 2</u>

The National Civil Aviation Agency – ANAC has the following organizational structure:

I - Executive Board;

II - Bodies of direct and immediate assistance to the ANAC Executive Board:

a) Office - GAB;

b) Parliamentary Advice - ASPAR;

c) Social Communication Advice – ASCOM;

1. Technical Management of Press Relations - GTRI;

2. (Repealed by Resolution No. 502, of January 30, 2019);

3. Technical Management of Public Relations – GTRP;

4. Technical Management of Integrated Communication – GTCI.

d) Technical Assistance – ASTEC;

Technical Management of Coordination, Advice and Standardization of Acts – GTCP;

e) Ombudsman – OUV;

f) Internal Inspection Office - CRG;

g) Attorney's Office - PF-ANAC;

h) Internal Audit - AUD;

i) Operational Safety Advice – AS-SOP; (Wording given by Resolution n° 502, of 01/30/2019)

j) International and Environmental Advice – ASINT; (Wording given by Resolution nº 581, of 08.21.2020)

k) Advice on the Judgment of Case Records in Court of Appeals level – ASJIN.

III - Specific Bodies:

a) Superintendence for Monitoring Air Services – SAS:

1. Market Access Management – GEAM;

1.1. Technical Management of Negotiation of Air Services Agreements – GTNA;

1.2. Technical Management of Air Services Registration and Slots Coordination – GTRC; (Wording given by Resolution No. 525, of August 2, 2019)

2. Consumer Relations Regulation Management – GCON;

2.1. Technical Management of Education for the Consumption and Quality of Air Passenger Transport Services
GTEQ; (Included by Resolution No. 525, of August 2, 2019)

2.2. Technical Management of Inspection of Air Passenger Transport Services – GTFT; (Included by Resolution No. 525, of August 2, 2019)

3. (Repealed by Resolution No. 525, of August 2, 2019)

4. Market Monitoring Management – GEAC;

4.1. Technical Management of Statistical Analysis – GTES

4.2. Technical Management of Economic Analysis – GTEC;

5. Technical Advisory Management – GTAS;

b) Airport Infrastructure Superintendence – SIA:

 Certification and Operational Safety Management – GCOP;

1.1. Technical Management of Airport Infrastructure and Operations – GTOP:

1.2. Technical Management of Airport Engineering – GTEA; (Wording given by Resolution No. 525, of August 2, 2019)

1.3. Technical Management of Plans, Programs, Heliports and Registration Information – GTPI; (Wording given by Resolution No. 525, of August 2, 2019)

1.4. (Repealed by Resolution No. 525, of August 2, 2019)

 Management of Civil Aviation Security against Illicit Interference Acts – GSAC;

2.1. Technical Management of AVSEC Certification – GTCA;

2.2. Technical Management of Quality Control AVSEC – GTCQ;

3. Standards, Infringement Review and External Demands Analysis Management – GNAD;

3.1. Technical Standards Management – GTNO;

4. Control and Inspection Management – GFIC;

4.1. Technical Inspection Management – GTFS; (Wording given by Resolution No. 525, of August 2, 2019)

4.2. Technical Management of Risk Management – GTGR; (Included by Resolution No. 525, of August 2, 2019)

5. Technical Advisory Management – GTAS;

6. (Repealed by Resolution No. 525, of August 2, 2019)

c) Operational Standards Superintendence – SPO:

 Operations Management of Air Transport Companies – 121 – GCTA;

1.1. Technical Certification Management – GTCT; (Wording given by Resolution n° 581, of 08.21.2020)

2. General Aviation Operations Management – GOAG;

2.1. Technical Certification Management – GTCE; (Wording given by Resolution n° 448, of 20.09.2017) 2.2. Technical Management of Continuous Surveillance – GTVC; (Wording given by Resolution n° 448, of 20.09.2017)

2.3. (Repealed by Resolution No. 448, 9/20/2017)

3. Management of Operational Standards and Support – GNOS;

3.1. Technical Management of Operational Standards – GTNO;

4. Continued Airworthiness Certification Management – GCAC; (Wording given by Resolution n° 581, of 08.21.2020)

4.1. Technical Management of Air Carriers in Continued Airworthiness – GTOA; (Included by Resolution n° 581, of 08.21.2020)

4.2. Technical Management of Certification of Maintenance Organizations
GTOM; (Included by Resolution n° 581, of 08.21.2020)

4.3. Technical Management of Continued Airworthiness Surveillance – GTVA; (Included by Resolution n° 581, of 08.21.2020)

5. (Repealed by Resolution n° 581, of 08.21.2020)

5.1. (Wording given by Resolution n° 581, of 08.21.2020)

6. Technical Management of Performance Analysis – GTAD; (Included by Resolution No. 448, 9/20/2017)

7. Grant and Registration Technical Management – GTOC; (Included by Resolution No. 525, of August 2, 2019)

d) Airworthiness Superintendence – SAR:

1. Aeronautical Product Project Certification Management – GCPP; (Wording given by Resolution n° 581, of 08.21.2020)

1.1. Technical Management of Certification Programs – GTPR; (Wording given by Resolution n° 581, of 08.21.2020)

1.2. Technical Management of Product Engineering – GTEN; (Wording given by Resolution n° 581, of 08.21.2020)

1.3. Flight Engineering Technical Management – GTEV; (Wording given by Resolution n° 581, of 08.21.2020)

2. (Repealed by Resolution n° 581, of 08.21.2020)

2.1. (Repealed by Resolution No. 581, dated 08.21.2020)

2.1.1. (Repealed by Resolution No. 581, dated 08.21.2020)

2.1.2. (Repealed by Resolution No. 581, dated 08.21.2020)

2.1.3. (Repealed by Resolution No. 581, dated 08.21.2020)

2.2. (Repealed by Resolution No. 581, dated 08.21.2020)

3. Technical Management of the Brazilian Aeronautical Registry – GTRAB;

4. Technical Management of Standards and Innovation – GTNI; (Wording given by Resolution n° 581, of 08.21.2020)

5. (Repealed by Resolution n° 581, of 08.21.2020)

6. Technical Planning Management – GTPL; (Wording given by Resolution n° 581, of 08.21.2020)

7. (Repealed by Resolution No. 448, of 9/20/2017);

8. Technical Management for Organizations Certification and Inspection – GTCO; (Included by Resolution n° 581, of 08.21.2020)

9. Technical Management for Continued Airworthiness – GTAC; (Included by Resolution n° 581, of 08.21.2020)

e) Administration and Finance Superintendence – SAF:

1. Management of Strategic Resource Management – GEST;

1.1. Technical Planning and Budget Management – GTPO;

1.2. Technical Management of Bids and Contracts – GTLC;

2. Management of Logistics and Information Services – GSIN:

2.1. Technical Management of General Services – GTSG;

2.2. Technical Management of Information Management – GTGI;

3. Technical Advisory Management – GTAS;

 Technical Management of Administration and Finance Rio de Janeiro – GTAF/RJ;

5. Technical Management of Administration and Finance São Paulo -GTAF/SP; 6. Technical Management of Finance and Accounting – GTFC;

f) Institutional Planning Superintendence – SPI:

1. Articulation and Institutional Planning Management – GAPI;

1.1. Technical Management of Project Office – GT-ESPRO; (Wording given by Resolution n° 448, of 20.09.2017)

1.2. Technical Management of Processes Office - GT-ESPROC;

2. Technical Advisory Management – GTAS;

3. Technical Management of Normative Quality – GTQN; (Wording given by Resolution No. 489, of 27.08.2018)

g) Information Technology Superintendence - STI:

1. Technological Infrastructure Management – GEIT;

2. Systems and Information Management – GESI;

3. Technical Management of Planning and Projects – GTPP;

4. (Repealed by Resolution No. 448, of 20.09.2017);

h) People Management Superintendence – SGP:

1. People Administration Management – GAPE;

2. People Development Management - GDPE;

2.1. Technical Training Management - GTCA;

2.2. (Repealed by Resolution No. 448, 9/20/2017)

3. Technical Management of Recruitment, Selection, Performance and Quality of Life – GTRQ;

4. Technical Advisory Management – GTAS;

i) Superintendence of Economic Regulation of Airports – SRA:

1. Technical Advisory Management – GTAS;

2. Management of Airport Infrastructure Grants – GOIA;

3. Economic Regulation Management - GERE;

3.1. Technical Management of Economic Analysis - GTAE;

4. (Repealed by Resolution n° 581, of 08.21.2020)

5. Investment and Works and Service Quality Management – GIOS; (Wording given by Resolution n° 581, of 08.21.2020)

5.1. Technical Management of Investments and Regulatory Improvements – GTIM; (Wording given by Resolution n° 581, of 08.21.2020)

5.2. Technical Management of Infrastructure Monitoring and Service Quality – GTIS; (Wording given by Resolution nº 581, of 08.21.2020)

6. Information and Accounting Management – GEIC;

j) Tax Action Superintendence – SFI:

1. Operations Management - GEOP;

1.1. Technical Management of Coordination of Regional Administrative Units – GTREG;

1.2. Technical Management of Tax Action Execution – GTFI;

2. Intelligence Management – GINT; (Wording given by Resolution No. 525, of August 2, 2019)

3. Technical Management of Advisory and Process Management – GTAG; (Wording given by Resolution No. 525, of August 2, 2019)

4. (Repealed by Resolution No. 525, of August 2, 2019)

k) Civil Aviation Personnel Superintendence – SPL; (Included by Resolution n° 581, of 08.21.2020)

1. Technical Advisory Management – GTAS; (Included by Resolution n° 581, of 08.21.2020)

2. Technical Standards Management – GTNO; (Included by Resolution n° 581, of 08.21.2020)

3. Personnel Certification Management – GCEP; (Included by Resolution n° 581, of 08.21.2020)

4. Certification Management for Instruction and Accreditation Organizations – GCOI; (Included by Resolution n° 581, of 08.21.2020)

4.1. Technical Management of Training Organization – GTOF. (Included by Resolution nº 581, of 08.21.2020)

IV - Collegiate Bodies:

a) Advisory Council;

b) Plenary.

TITLE III EXECUTIVE BOARD

CHAPTER I COMPOSITION

<u>Art. 3</u>

ANAC's Executive Board consists of a Chief Executive Officer and four Directors, appointed in accordance with the provisions of art. 12 of Law No. 11182, of September 27, 2005.

Sole paragraph. Each Director will have an advisory structure that will be directly subordinated to him/her, disciplined in a specific normative act and approved by the Executive Board, to provide him/her with specialized technical advice for the decision-making process.

CHAPTER II DELIBERATIVE MEETINGS

<u>Art. 4</u>

The Collegiate Executive Board will ordinarily meet in public sessions, according to the schedule established by it and, extraordinarily, upon formal calling by the Chief Executive Officer or at least 2 (two) other Directors, to pass resolutions on processes involving interests of the civil aviation industry agents and consumers. (Wording given by Resolution n° 590, of 10/012020)

§1 The decisions of the Executive Board will be made by the vote of an absolute majority of its members, with the Chief Executive Officer being entitled, in addition to the ordinary vote, to the casting vote, and will be recorded in minutes that will be available for general knowledge, together with the documents that substantiate them.

§2 The Executive Board will meet with the majority of its members.

§3 The Executive Board's meetings will be chaired by the Chief Executive Officer or his/her legal substitute.

§4 The interested party, as identified in the case records, may speak at the meeting, for a period of 15 (fifteen) minutes, upon prior registration through a message sent to the email address secretaria.geral@anac.gov.br or at the place of the meeting, always at least 30 (thirty) minutes before the scheduled time of the meeting. (Wording given by Resolution $n^{\rm o}$ 590, of 10/012020)

§5 The Chief Executive Officer will include the matters on the agenda, and may delegate this assignment to the Technical Advice Officer.

§6 Each Director will vote independently, justifying his/her vote, abstention being forbidden.

<u>Art. 5</u>

After reading the Rapporteur's vote, any of the Directors present, before casting the vote, may:

I – state that he/she is prevented from exercising his/her vote, informing his/her reasons in fact;

II – plead impediment or suspicion to cast a vote on the matter or to decide on the impediment or suspicion of a Director, questioned by an interested party;

III – request clarification from the Rapporteur; and

IV – ask for a view of the case records.

§1 In the eventual absence of the rapporteur, he/she is allowed to forward the report, in advance and in writing, to the Chief Executive Officer, who will decide on its reading for the purpose of having the matter assessed by the Collegiate Body. (Wording given by Resolution n° 590, of 10/012020)

§2 In the event of impediment or declaration, by the Executive Board, of impediment or suspicion, a new quorum check is made, and the impeded or suspicious Director is excluded from the count of those present for resolution on the specific matter.

§3 Once the request of the Collegiate Body for a view is granted, the matter is removed from the agenda and the records are sent to the Director requesting the view. (Wording given by Resolution n° 590, of 10/012020)

§4 If the matter is in a condition to be voted, the other members of the Collegiate Body express their vote, abstention being forbidden.

95 The vote will be cast either by approval or rejection of the matter, as follows: (Wording given by Resolution n° 590, of 01.10.2020)

 I – in full agreement to the rapporteur's vote; or (Wording given by Resolution n° 590, of 10/012020) II – in disagreement to the rapporteur's vote. (Wording given by Resolution n° 590, of 10/012020)

§6 The Chief Executive Officer will participate in the resolutions being entitled to voting rights equal to those of the other members of the Executive Board, and being assured the with the casting vote.

<u>Art. 6</u>

In urgent and relevant situations, the Chief Executive Officer may render a decision on the jurisdiction of the Executive Board, ad referendum to this Collegiate Body.

§1 The decision referred to in the caput hereof will be submitted to the Executive Board, for confirmation.

§2 The ad referendum decision will lose its effectiveness if not confirmed by the Executive Board, with the effects it produced during its term being maintained, however, not generating a perfect legal act, vested right or administrative res judicata.

<u>Art. 7</u>

The deliberative meetings will be transmitted in real time on the internet and the respective recordings will be made available on the ANAC website up to 15 (fifteen) days after the end of the meeting. (Wording given by Resolution n° 590, of 10/10/2020)

Sole paragraph. In case of urgency and relevance, the deliberative meetings may be held by videoconference, subject to the provisions in the caput paragraph. (Included by Resolution No. 590, dated 10.10.2020)

<u>Art. 7-A</u>

The deliberative meetings may be held electronically, subject to the provisions of this chapter. (Included by Resolution No. 590, dated 01/10/2020)

§ 1 If already registered, the interested party as defined in the case records may request to include a statement in the agenda of the virtual deliberative meeting, by sending an e-mail by 8 (eight) a.m. on the morning of the day that the meeting commences to the address secretaria.geral@anac.gov.br. (Included by Resolution No. 630 of July 12, 2021)

§ 2 The request for a statement pursuant to Paragraph 1 of this Article shall result in the removal of the respective proceeding from the agenda of the virtual deliberative meeting and its inclusion in the next in-person deliberative meeting, the date and time of which ASTEC shall inform the interested party. (Included by Resolution No. 630 of July 12, 2021)

<u>Art. 8</u>

Supplementary procedures and routines applicable to the holding of deliberative meetings of the Collegiate Executive Board will be included in specific normative instructions, subject to the provisions of this Chapter. (Wording given by Resolution n° 590, of 01/10/2020)

Sole paragraph. (Wording given by Resolution n° 590, of 01/10/2020)

CHAPTER III JURISDICTION AND DUTIES

<u>Art. 9</u>

The Executive Board of ANAC is responsible, on a collegiate basis, to review, discuss and decide, in a final administrative instance, the matters within the Agency's jurisdiction, as well as to:

I – propose, through the Minister for Transport, Ports and Civil Aviation, amendments to the Agency's Regulations;

II – comply with and enforce the rules relating to civil aviation and aeronautical and airport infrastructure;

III – propose, to the Minister for Transport, Ports and Civil Aviation, government policies and guidelines aimed at ensuring the fulfillment of the Agency's institutional objectives;

IV – guide the Agency's performance in international negotiations;

V – approve administrative bidding procedures;

VI - grant the provision of air services;

VII – grant or authorize the exploitation of aeronautical and airport infrastructure;

VIII – exercise the Agency's normative power;

IX – approve drafts of bidding notices, ratify awards, transfer and termination of concession and permission contracts;

X – approve the Agency's internal regulations;

XI – assess, on an appeal basis, investigations, disciplinary administrative proceedings and penalties imposed by the Agency;

XII – approve the rules relating to the Agency's internal administrative procedures;

XIII – decide on the Agency's strategic planning;

XIV – establish the functional, executive and administrative guidelines to be followed, ensuring their effective compliance;

XV – decide on internal administrative and human resources policies and their development;

XVI – decide on the appointment of the superintendents and managers of organizational units;

XVII – decide on the creation, termination, classification according to the complexity of the structure and the form of supervision of the activities of the Regional Administrative Units;

XVIII – approve proposals of declaration of public utility necessary for the execution of projects and investments within the scope of the established grants or delegations in progress, under the terms of the relevant legislation;

XIX – decide on the acquisition and sale of assets;

XX - execute agreements, in accordance with the legislation in force;

XXI – approve ANAC's budget, to be forwarded to the Ministry of Transport, Ports and Civil Aviation;

XXII - resolve, in the administrative sphere, as to the interpretation of the legislation and on the omitted cases;

XXIII – prepare an annual report on its activities, highlighting compliance with the industry policies;

XXIV – approve the internal regulations of the Agency's Advisory Council;

XXV – send the annual report of its activities to the Ministry of Transport, Ports and Civil Aviation and, through the Presidency of the Republic, to the National Congress;

XXVI – guide the relevant sectors of ANAC with regard to the Civil Aviation Security Programs of the Brazilian State and monitor their operationalization aiming at their continuous improvement; and

XXVII – critically review the results achieved by the supervision of operational safety and the operationalization of the Civil Aviation Security Programs of the Brazilian State; and

XXVIII – judge, in the second administrative instance, the appeals filed against the suspension or revocation sanctions, with or without cumulation of the financial penalty, applied in the first administrative instance. (Included by Resolution No. 502, of January 30, 2019)

XXIX – supervise the adoption of good practices and the dissemination of the culture of integrity at ANAC. (Included by Resolution n° 581, of 08.21.2020)

§1 The Executive Board will appoint one of its members to chair the meetings in the event of eventual absences and impediments of the Chief Executive Officer, and the other Directors will be eventual substitutes among themselves.

§2. The Executive Board is prohibited from delegating the powers provided for in this article to any body or authority.

<u>Art. 10</u>

The Chief Executive Officer is responsible for:

I - representing ANAC;

II – exercising hierarchical command over personnel and services, coordinating administrative incumbencies;

III – chairing the Executive Board meetings;

IV – managing the Air Transport Fund;

V – approving the requisition, at ANAC's cost, of civil servants and employees of bodies and entities that are part of the public administration, whatever the functions to be performed may be, under the terms of art. 16 of Law No. 9986, of July 18, 2000;

VI – authorizing, in accordance with the legislation in force, the withdrawal from Brazil of civil servants for the performance of technical activities and professional development;

VII – approving the assignment, requisition, promotion and removal of civil servants to participate in training events, lato and stricto sensu, in accordance with the legislation in force;

VIII – hearing, in the first instance, investigations and disciplinary administrative proceedings; and

IX – planning, developing, operationalizing, supervising, promoting and continuously improving the Civil Aviation Security Programs of the Brazilian State, ensuring the financial, human, technological and infrastructure resources necessary for the effective operationalization of these programs.

X – authorizing the granting of per diem allowances and tickets to full servants, in exercise, assigned or requested by ANAC, to the military, the public employees and occasional associates, as well as approving the rendering of accounts for the respective trips, allowing delegation to the directors, to the superintendents and heads of the bodies of direct and immediate assistance to the Collegiate Board, under the terms of the law. (Included by Resolution n° 581, of 08.21.2020)

<u>Art. 11.</u>

Common duties for ANAC Directors are:

I – comply with and enforce the regulatory provisions within the scope of the ANAC powers;

II – ensure the development and internal and external trustworthiness of ANAC and the legitimacy of its actions;

III – ensure compliance with ANAC plans and programs;

IV – perform and issue the administrative management acts within the scope of the powers conferred on them;

V – enforce the decisions collectively made by the Executive Board; and

VI – contribute with subsidies for proposals for adjustments and changes in legislation, necessary for the modernization of the institutional environment in which ANAC operates.

TITLE IV

DUTIES

CHAPTER I

BODIES OF DIRECT AND IMMEDIATE ASSISTANCE TO THE EXECUTIVE BOARD

SECTION I

THE OFFICE

<u>Art. 12</u>

The Office is responsible for:

I – providing direct assistance to the Chief Executive Officer in technical advice on the Agency's activities;

II – providing assistance to the Chief Executive Officer in his/her political, social and administrative representation;

III – guiding and controlling the activities related to the Office, especially those related to administrative matters; and

IV – performing other activities as assigned thereto by the Chief Executive Officer.

<u>Art. 13</u>

The Head of Office is responsible for planning, directing, coordinating and guiding the execution of the Office's activities and ensuring the quality of the services.

SECTION II

PARLIAMENTARY ADVICE

<u>Art. 14.</u>

The Parliamentary Advice Office is responsible for:

I – advising the Executive Board and other sectors of ANAC on matters related to the parliamentary area;

II – coordinating, supervising and monitoring matters and processing proposals of interest to ANAC before the National Congress;

III – coordinating the activities of answering correspondence, requests, inquiries and demands for information from the National Congress;

IV – monitoring and keeping updated information on the permanent, special, temporary and parliamentary inquiry commissions, and their developments; and

V – performing other activities as assigned by the Executive Board.

<u>Art. 15.</u>

The Head of the Parliamentary Advice Office is responsible for planning, directing, coordinating and guiding the execution of the activities of the respective unit and ensuring the quality of the services.

SECTION III

SOCIAL COMMUNICATION DEPARTMENT

<u>Art. 16.</u>

The Social Communication Department is responsible for planning, coordinating and supervising the development of ANAC's social communication and press activities, as well as carrying out other activities assigned to it by the Executive Board.

Sole paragraph. The Head of the Social Communication Department may delegate the powers provided for in this article to the bodies referred to in art. 2, item II, subitem "c".

SECTION IV

TECHNICAL ADVICE

<u>Art. 17.</u>

The Technical Advice Department is responsible for:

I – exercising the activities of ANAC's General Secretariat;

II – coordinating the preparation of normative acts that will be reviewed by the Executive Board;

III – organizing the agendas and minutes of the Executive Board Meetings, issuing the necessary calls, notices and communications;

IV – preparing, for publication purposes, the summaries of the Executive Board decisions, sending notices to interested parties;

V – receiving, reviewing and processing the execution of acts and correspondence from the Executive Board;

VI – providing for the publication of administrative acts for which such action is required;

VII – exercising the activities of the Executive Secretariat of the Advisory Council; and

VIII – performing other activities as assigned by the Executive Board.

<u>Art. 18</u>

The Head of Technical Advice Department is responsible for:

I – exercising the function of ANAC Secretary-General; and

II – planning, directing, coordinating and guiding the execution of the activities of the respective Unit and ensuring the quality of the services.

<u>Art. 19</u>

The Head of the Technical Advice Department may delegate the powers provided for in arts. 17 and 18 of these Rules to the body referred to in art. 2, item II, subitem "d".

SECTION V

OMBUDSMAN

<u>Art. 20.</u>

The Ombudsman is responsible for:

I – receiving, investigating and forwarding to the Executive Board complaints, criticisms and comments from citizens, users and providers of air services or airport and aeronautical infrastructure, acting independently in the production of assessments on ANAC's performance;

II – receiving charges of any violations of individual or collective rights, of legal acts, as well as of any act of administrative misconduct, performed by public agents or civil servants of any nature, directly or indirectly related to ANAC's activities;

III – carrying out the necessary actions to verify the accuracy of complaints and charges, requesting the necessary actions to remedy the irregularities and illegalities found;

IV – preparing, every six months, or whenever the Executive Board deems it timely, a detailed report of its activities, to be submitted to the Executive Board for review; and

V – allowing user participation with ANAC, in cooperation with other user defense entities; (Wording given by Resolution No. 525, of August 2, 2019) VI – monitoring performance and proposing improvement of services provided by ANAC; (Included by Resolution No. 525, of August 2, 2019)

VII – proposing the adoption of actions to defend the user's rights; (Included by Resolution No. 525, of August 2, 2019)

VIII – providing the adoption of mediation and conciliation between the user and ANAC; (Included by Resolution No. 525, of August 2, 2019)

IX – annually preparing a management report, which should consolidate the statements sent by users of the services provided, and, based on them, point out failures and suggest improvements in the provision of services; (Included by Resolution No. 525, of August 2, 2019)

X – exercising supervision of the ANAC Service System; (Included by Resolution No. 525, of August 2, 2019)

XI – ensuring compliance with the rules regarding access to information and the Open Data Policy, by promoting active transparency and recommending actions to improve the respective rules and procedures; (Wording given by Resolution n° 581, of 08.21.2020)

XII – monitoring the implementation of the Law on Access to Information and the Open Data Policy and guiding the respective units with regard to the compliance thereof; (Included by Resolution No. 525, of August 2, 2019)

XIII – proposing the creation and managing the councils of public service users; and (Wording given by Resolution n^{0} 581, of 08.21.2020)

XIV – performing other activities as assigned by the Collegiate Board. (Included by Resolution n° 581, of 08.21.2020)

Sole paragraph. The Ombudsman will provide source confidentiality and whistleblower's protection, where applicable. (Included by Resolution No. 525, of August 2, 2019)

<u>Art. 21</u>

The Ombudsman is responsible for:

I – receiving requests for information, clarifications, complaints, charges and suggestions, by answering directly to interested parties; II – planning, directing, coordinating and guiding the performance of the Ombudsman's activities, forwarding actions, reports and appraisals subject matter of his/her performance to the Chief Executive Officer; and

III – producing, where appropriate, assessments of ANAC's performance, and, at every six months, a substantiated report of its activities, forwarding it, after the Executive Board's assessment, to the Internal Inspection Office, the Audit Office, the Advisory Council and the Minister of Transport, Ports and Civil Aviation.

SECTION VI

INTERNAL INSPECTION OFFICE

<u>Art. 22.</u>

The Internal Inspection Office is responsible for:

I – inspecting ANAC's functional activities;

II – proceeding with the representations or charges it receives, regarding the performance of the civil servants;

III – carrying out corrections in the various bodies and units, suggesting the necessary measures for the rationalization and efficiency of the services, with due regard to the incumbencies provided for in arts. 26, item II, and 27, of these Internal Regulations; and

IV – initiating, voluntarily or by determination of a superior body, investigations and disciplinary administrative processes in relation to civil servants, submitting them to the decision of the Chief Executive Officer.

V – proposing the execution of the Conduct Adjustment Commitment for consensual settlement of conflicts in which the disciplinary infraction is of less offensive potential. (Included by Resolution n° 581, of 08.21.2020)

<u>Art. 23</u>

The Internal Inspector is responsible for:

 I – approving the inspection reports on functional activities and those related to corrections, submitting them to the Chief Executive Officer;

II – (Repealed by Resolution No. 448, of 9/20/2017); and

III – approving the opinions prepared by the Internal Inspection Office.

SECTION VII

ATTORNEY GENERAL'S OFFICE

<u>Art. 24.</u>

The Prosecutor's Office is responsible for:

I – performing legal consulting and advisory activities;

II - issuing opinions and technical notes;

III – exercising ANAC's judicial representation;

IV – representing in court the holders and former holders of commissioned positions and technical commissioned positions of ANAC, including to bring private criminal actions or to represent them before the Public Prosecution Office, when they are victims of crime, regarding acts performed in the exercise of their constitutional, legal or regulatory duties, in the public interest, especially that of the Agency, and may, as regards the same acts, bring habeas corpus and writ of mandamus in defense of public agents;

V – determining credits of any nature, inherent to its activities, to be clear and certain, registering them as overdue federal debts, for purposes of amicable or judicial collection;

VI – assisting the ANAC authorities in the internal control of the administrative lawfulness of the acts to be performed, including previous review of the wording of normative acts, bidding notices, contracts and other acts resulting therefrom, as well as the acts of waiver and unenforceability of bidding;

VII – giving an opinion in advance on how to comply with judicial decisions;

VIII – supervising and technically guiding the Agency's legal representation in the Regional Administrative Units;

 IX – examining and issuing opinion on matters of a legal nature and on ANAC's normative acts;

X – providing opinion on disciplinary proceedings;

XI – interpreting the laws and guiding the Executive Board in the enforcement thereof; and

XII - filing complaints to the Executive Board on actions of a legal na-

ture claimed by the public interest and by the current rules.

<u>Art. 25</u>

The Attorney General is responsible for:

l – coordinating ANAC's legal advisory activities;

II – attending the Executive Board sessions and meetings, without the right to vote;

III - receiving court summons and service of process;

IV – giving up, compromising, signing a commitment and admitting actions of interest to ANAC, authorized by the Executive Board;

V – approving the legal opinions issued by the attorneys; and

VI – representing the Public Prosecutor's Office to initiate public action of interest to ANAC.

Sole paragraph. The incumbency referred to in item III may be delegated to federal prosecutors assigned to ANAC.

SECTION VIII

INTERNAL AUDIT DEPARTMENT

<u>Art. 26.</u>

The Internal Audit Department is responsible for:

I – supervising the budget, financial, administrative, accounting, technical and equity management and other administrative and operational systems of ANAC, in accordance with the Annual Audit Activities Plan approved by the Executive Board;

II – preparing an audit report, proposing preventive and corrective measures for the detected deviations, if applicable, forwarding it to the Chief Executive Officer;

III – answering for the systematization of the information required by the control bodies of the Executive Branch;

IV – coordinating ANAC's Annual Accountability process to the Federal Audit Court; and

V – performing other activities as assigned by the Executive Board.

<u>Art. 27</u>

The Chief Auditor is responsible for:

 I – supervising ANAC's administrative, budgetary, accounting, equity and personnel management;

II - approving audit reports;

III – approving the opinions prepared in the Internal Audit Department; and

IV – coordinating the fulfillment of requests from internal control bodies.

SECTION IX

OPERATIONAL SAFETY ADVICE OFFICE

(WORDING GIVEN BY RESOLUTION N° 502, OF 01/30/2019)

<u>Art. 28</u>

The Operational Safety Advice Office is responsible for: (Wording given by Resolution n° 502, of 01/30/2019)

I – advise the Chief Executive Officer, in his/her capacity as the executive responsible for ANAC's activities in relation to the supervision and management of operational safety, as defined by PSO-BR and PSOE-ANAC; (Wording given by Resolution n° 502, of 01/30/2019)

II – advise the Collegiate Board on matters related to the Civil Aviation Safety Programs of the Brazilian State, including the establishment of the performance objectives and targets for the operational safety of Brazilian civil aviation, within the scope of ANAC's activities; (Wording given by Resolution n^o 502, of 01/30/2019)

III – advise the Collegiate Board on matters related to the USOAP-CMA Program, as well as exercise the function of coordinating that program, with ICAO; (Wording given by Resolution n° 502, of 01/30/2019)

IV – coordinate and integrate the activities of the Agency's units and periodically review the results achieved, with regard to the actions related to the USOAP-CMA Program; (Wording given by Resolution n^o 502, of 01/30/2019)

V – coordinate and integrate the performance of the Agency's units with regard to the management of operational safety; (Included by Resolution No. 502, of January 30, 2019)

VI – propose guidelines and methodologies, as well as guide their adoption by the various areas of ANAC, with regard to the procedures and actions adopted in risk management and in guaranteeing operational safety; (Included by Resolution No. 502, of January 30, 2019)

VII – coordinate security risk management activities that involve the performance of multiple organizational areas of the Agency; (Included by Resolution No. 502, of January 30, 2019)

VIII – deal with matters related to ANAC's interface with the body responsible for investigating aviation accidents in Brazil; (Included by Resolution No. 502, of January 30, 2019)

IX – control compliance, within the scope of ANAC, of the Operational Safety Recommendations originating from the body responsible for investigating aviation accidents in Brazil; (Included by Resolution No. 502, of January 30, 2019)

X – coordinate, within the scope of ANAC, the actions related to the storage, treatment and protection of data and information aiming at the operation of the Operational Safety Data Collection and Processing System (SDCPS) of PSO-BR; (Included by Resolution No. 502, of January 30, 2019)

XI – perform analysis of the data contained in the SDCPS in order to identify issues of operational safety and situations of high risk level existing in the Civil Aviation System; (Included by Resolution No. 502, of January 30, 2019)

XII – continuously monitor and propose a review, where applicable, of the objectives, of NADSO and other operational safety performance indicators and targets considered of strategic monitoring by the Agency; (Included by Resolution No. 502, of January 30, 2019)

XIII – periodically review the operational safety results achieved by the Agency's performance in the civil aviation system and propose improvement actions, where applicable; (Included by Resolution No. 502, of January 30, 2019)

XIV – coordinate the process of preparing the Operational Safety Supervision Plan (PSSO); (Included by Resolution No. 502, of January 30, 2019)

XV – coordinate integrated actions for the Promotion of Operational Safety, including the process of preparing and updating the Communication Plan of the PSOE-ANAC; (Included by Resolution No. 502, of January 30, 2019)

XVI – exercise the function of Executive Secretary of the BAST groups; and (Included by Resolution No. 502, of January 30, 2019)

XVII – perform other activities that are assigned by the Executive Board. (Included by Resolution No. 502, of January 30, 2019)

SECTION X

INTERNATIONAL AND ENVIRONMENTAL ADVICE

(WORDING GIVEN BY RESOLUTION N° 581, OF 08.21.2020)

<u>Art. 29</u>

The International and Environmental Advice Office is responsible for: (Wording given by Resolution n° 581, of 08.21.2020)

I – carrying out studies, issuing opinions and proposing normative acts, measures and actions related to the implementation of international civil aviation standards and recommendations, subject to agreements, treaties, conventions and other acts related to international air transport to which the Federative Republic of Brazil is a party, in articulation with the other organizational units of ANAC; (Wording given by Resolution n° 581, of 08.21.2020)

II – promoting, together with the competent bodies, compliance with international acts on civil aviation ratified by the Federative Republic of Brazil;

III – assisting the Executive Board in coordinating matters relating to the representation of ANAC before international organizations, as well as maintaining contact with the Ministry of Foreign Affairs and the Permanent Delegation to the International Civil Aviation Organization – ICAO, in matters within its incumbency;

IV – coordinating and integrating the activities of ANAC's organizational units in national and international bodies, forums, committees and events in aspects related to the environment; (Wording given by Resolution n° 581, of 08.21.2020)

V – monitoring, coordinating and proposing, in conjunction with the other ANAC organizational units concerned with the matter, the development of normative acts, measures and actions aimed at implementing the environment-related recommendations of the International Civil Aviation Organization – ICAO and other national or international bodies, with due regard to the final incumbencies of the other organizational units of ANAC; (Wording given by Resolution n° 581, of 08.21.2020)

VI – preparing, together with the other organizational units, and annually submitting ANAC's International Action Plan to the Collegiate Board for approval; (Wording given by Resolution n° 581, of 08.21.2020)

VII – advising ANAC's organizational units on matters related to international representation and coordinating the management of information related to international missions of institutional representation and technical cooperation; and (Included by Resolution n° 581, of 08.21.2020)

VIII – performing other activities as assigned by the Executive Board. (Included by Resolution n° 581, of 08.21.2020)

Sole paragraph. The advisor responsible for matters related to international air transport of the Permanent Delegation of Brazil to the ICAO Council will be subordinated to the International and Environmental Advisory Board, whose duties will be regulated in a specific act approved by the Collegiate Board. (Wording given Resolution n^o 581, of 08.21.2020)

SECTION XI

ADVICE ON JUDGMENT OF CASE RECORDS IN SECOND INSTANCE

<u>Art. 30.</u>

It is incumbent upon the Office of Advice on Judgment of Case Records in Second Instance to:

I – hear, in the second administrative instance, the appeals against the penalties filed for non-compliance or non-fulfillment of the legal provisions that regulate the activity of civil aviation and aeronautical and airport infrastructure, with due regard to the rules in force, as well as, alternatively, to Law no. 9,784, of 1999, without prejudice to the resources of the Executive Board;

II – (Revoked by Resolution No. 502, of 01/30/2019);

III – make the admissibility judgment of the following procedural acts: (Wording given by Resolution No. 502, of 01/30/2019)

a) requests for review or appeals submitted as a result of second instance decisions rendered by that unit; and (Included by Resolution No. 502, of January 30, 2019)

b) requests for review or appeals submitted as a result of decisions at first instance that imply, exclusively, financial penalties. (Included by Resolution No. 502, of January 30, 2019)

IV – (Revoked by Resolution No. 502, of 01/30/2019);

V – exercise the administrative secretariat duties in sanctioning processes in any instance of the Agency, subject to specific regulatory powers; and (Wording given by Resolution n^0 502, of 01/30/2019)

VI – judge the appeals against the rejection of the request for refunding the TFAC; and (Wording given by Resolution No. 635, of 09.22.2021)

VII – perform other activities assigned by the Board of Directors. (Wording given by Resolution No. 635 of 09.22.2021)

61 (Repealed by Resolution 448, of 09.20.2017)

62 (Repealed by Resolution 448, of 09.20.2017)

6 3 (Repealed by Resolution 448, of 09.20.2017)

CHAPTER II

SUPERINTENDENCIES

SECTION I

COMMON INCUMBENCIES

<u>Art. 31</u>

The Superintendencies are responsible for planning, organizing, executing, controlling, coordinating and assessing ANAC's organizational and operational processes within the scope of their incumbencies, and especially:

I – comply with and enforce the decisions of the Agency's Executive Board and implement the civil aviation policy;

II – investigate, assess and decide at the first instance the administrative

processes related to the determination and application of penalties within the scope of ANAC, with due regard to the duties provided for in these Internal Regulations, according to the respective area of incumbency;

III – make the admissibility judgment of the following procedural acts: (Wording given by Resolution No. 502, of 01/30/2019)

a) requests for review or appeals submitted as a result of decisions at first instance rendered by these units, in cases where the decision that is the subject of the appeal or review has applied suspension or cassation penalty, with or without cumulation of financial penalty; and (Included by Resolution No. 502, of January 30, 2019)

b) requests for review submitted as a result of decisions at first instance rendered by these units, in proceedings that have not been heard at second instance due to the inexistence or timeliness of appeal to the decision at first instance. (Included by Resolution No. 502, of January 30, 2019)

IV – apply measures provided for in Law No. 7565, of December 19, 1986 (Brazilian Aeronautical Code) and supplementary rules, as a precautionary measure, to preserve the public interest, operational safety and security of civil aviation against unlawful interference acts; (Wording given by Resolution n° 502, of 01/30/2019)

V – submit the administrative acts, contracts and processes, as well as the other administrative measures resulting from the exercise of the respective incumbency to the Executive Board, when subject to its private resolution; (Wording given by Resolution n^o 502, of 01/30/2019)

VI – contribute to the preservation of the historical heritage and the memory of civil aviation and aeronautical and airport infrastructure, in cooperation with institutions dedicated to national culture, guiding the participation of companies in the industry; (Wording given by Resolution n° 502, of 01/30/2019)

VII – work in close cooperation with each other and with the other bodies within the ANAC structure; (Wording given by Resolution n° 502, of 01/30/2019) VIII – prepare the basic projects related to the contracting of goods and services with respect to its duties; (Wording given by Resolution n° 502, of 01/30/2019)

IX – coordinate and manage the respective final activities at its Headquarters and Regional Administrative Units that are not under the coordination of SFI; (Wording given by Resolution n° 502, of 01/30/2019)

X – carry out inspection actions with regard to continuous surveillance, which involves permanent monitoring of the activities of the regulated parties to guide them, maintain the risk of operations within an acceptable level of civil aviation security and improve the provision of services to passengers; (Wording given by Resolution n° 502, of 01/30/2019)

XI – carry out the certification actions to attest that the regulated parties, within their area of operation, have the adequate capacity carry out civil aviation activities; (Wording given by Resolution n° 502, of 01/30/2019)

XII – adopt actions to make air transport easier, within its area of operation; (Wording given by Resolution n° 502, of 01/30/2019)

XIII – submit proposals for normative acts and supervise ancillary services to air transport in the activities within its sphere of incumbency; (Wording given by Resolution n° 502, of 01/30/2019)

XIV – coordinate the development, operation, maintenance, promotion and continuous improvement of the Civil Aviation Security Programs of the Brazilian State in their areas of operation; (Wording given by Resolution n° 502, of 01/30/2019)

XV – critically review the results achieved by the supervision of operational safety and the operationalization of the Civil Aviation Security Programs of the Brazilian State; (Wording given by Resolution n° 502, of 01/30/2019)

XVI - propose the execution of technical and administrative cooperation agreements with government agencies and entities, national or foreign, with a view to decentralization and efficient inspection of the civil aviation industry; (Wording given by Resolution n° 502, of 01/30/2019)

XVII – evaluate and submit to the Executive Board petitions for exemption from regulatory requirements, as well as rejecting those that, by merit or form, do not meet the established criteria; (Wording given by Resolution n° 502, of 01/30/2019)

XVIII – plan, propose to the executive board and carry out actions to promote civil aviation; and (Wording given by Resolution n° 502, of 01/30/2019)

XIX – keep information on services related to their respective areas of activity up to date and monitor the performance of those services, as defined in the governance model for managing the services provided by the Agency; and (Wording given by Resolution No. 525, of August 2, 2019)

XX – adopt good practices and promote a culture of integrity at ANAC; (Wording given by Resolution n° 581, of 08.21.2020)

XXI – perform other activities that are assigned to them by the Collegiate Board. (Included by Resolution $n^{\rm o}~581,$ of 08.21.2020)

§1 In the exercise of their incumbencies, when they require decentralized activities, the Superintendencies may have employees assigned to the Regional Administrative Units coordinated by SFI, according to the procedure defined in a joint act with the said Superintendence.

§2 The incumbency assigned to the Superintendents under the terms of item II may be delegated.

SECTION II

SUPERINTENDENCE FOR MONITORING AIR SERVICES

<u>Art. 32</u>

The Air Services Monitoring Superintendence is responsible for:

I - submitting to the Executive Board:

a) draft normative acts related to the operation of public air services, including with regard to the rights and duties of users of public air transport services and conditions for accessibility to air transport for passengers needing special assistance, in compliance with the duties of the SFI; (Wording given by Resolution No. 525, of August 2, 2019) b) (Repealed by Resolution No. 525, of August 2, 2019)

c) (Repealed by Resolution No. 525, of August 2, 2019)

d) proposal for draft regulatory acts and authorization to operate, in Brazil, related to foreign air transport companies; and (Wording given by Resolution No. 525, of August 2, 2019)

e) opinion on consortium, pool, association, creation of a group among concessionaires and authorized companies for the provision of air services, whenever it concerns transfer of concession or corporate control of concessionaires.

II – planning, coordinating and performing the inspection of the provision of public air services, including the General Conditions of Air Transport and Accessibility, and adopting the resulting administrative measures; (Wording given by Resolution n° 502, of 01/30/2019)

III – settling, on an administrative basis, conflicts of interest between:

a) air service providers among themselves; and

b) providers of air services and providers of airport infrastructure services, after hearing the Superintendence of Economic Regulation of Airports.

IV- communicating to the bodies and entities of the Brazilian Antitrust System a fact that constitutes or may constitute an infraction against the economic order, or that endangers the defense or promotion of competition;

 V – listing and monitoring indicators on the conditions of the market for public air services and user satisfaction and disseminating the corresponding studies;

VI – implementing incentive programs to increase the productivity of the air industry and to make access to infrastructure and air transport feasible for the locations not served;

VII – promoting the protection and collective defense of the rights of users of public air transport services;

VIII – ensuring to Brazilian regular air transport companies the operation of any domestic airlines, with due regard, exclusively, to the conditions of the airspace control system, the operational capacity of each airport and the regulatory standards for providing adequate service;

IX – performing the activities related to prior registration for the operation of airlines and the authorization for public air transport services;

X – ensuring freedom of airfares for the operation of air services;

XI – (Repealed by Resolution No. 525, of August 2, 2019)

XII – (Repealed by Resolution No. 525, of August 2, 2019)

XIII – monitoring the operations of public air services;

XIV – (Repealed by Resolution No. 525, of August 2, 2019)

XV – (Repealed by Resolution No. 525, of August 2, 2019)

XVI – approving codeshare operations between scheduled air transport companies, whether on a domestic or international basis;

XVII – interacting with the National Consumer Protection System and other similar entities;

XVIII – standardizing the financial statements to be presented to ANAC by companies that operate public air services;

XIX – examining the accounts of companies that operate public air services, when deemed necessary;

XX – allocating and monitoring the arrival and departure times at coordinated airports and monitoring the airports of interest;

XXI – participating in negotiations for the conclusion of international air transport agreements and treaties, in compliance with the guidelines of the federal government;

XXII - designating and distributing frequencies for Brazilian companies to operate in international air transport;

XXIII – issuing opinions on the activities of foreign operators that operate in international air transport with Brazil, in order to identify operational practices, laws and procedures adopted in other countries, which restrict or conflict with international regulations and agreements signed by Brazil, including requesting, where applicable, clarifications and information to the agents and legal representatives of the operators under analysis;

XXIV – identifying the existence of legislation, procedures or practices that are detrimental to national interests or Brazilian companies, proposing to the Executive Board the application of sanctions, in the manner provided for in the Brazilian legislation and in international regulations and agreements;

XXV – preparing reports and issuing opinions on agreements, treaties, conventions and other acts related to international air transport, entered into or to be entered into with other countries or international organizations; and

XXVI – coordinating the ANAC Plenary Body.

XXVII – inspecting and monitoring the reporting of carbon dioxide emission data related to international air transport; and (Included by Resolution n° 581, of 08.21.2020)

XXVIII – regulating the monitoring, reporting and verification of pollutant emission data related to international air transport. (Included by Resolution n° 581, of 08.21.2020)

Sole paragraph. The Air Services Monitoring Superintendent may delegate the powers provided for in this article to the bodies referred to in art. 2, item III, item "a".

SECTION III

AIRPORT INFRASTRUCTURE SUPERINTENDENCE

<u>Art. 33.</u>

The Airport Infrastructure Superintendence is responsible for:

I – submitting to the Executive Board proposals for normative acts on matters within its incumbency, which are:

a) safety of aircraft, people and goods in operations for air transport under the responsibility of the airport operator;

b) safety of people and equipment in operations in aircraft movement areas and service routes at airports under the coordination of its operator;

c) protection of civil aviation operations against unlawful interference acts, in matters within the jurisdiction of ANAC; and

d) protection of the development of airport infrastructure and airport operations in compatibility with its surroundings, in matters within the jurisdiction of ANAC.

II – executing the processes that involve certification and approval of plans and programs, promoting inspection actions and supporting other activities of ANAC related to its area of jurisdiction.

III – establishing the planning, allocating the resources made available and carrying out the inspection activities of the regulated entities, within the scope of its jurisdiction, in particular:

a) evaluate and monitor the procedures, the organizational structure and the assignment of proposed responsibilities, as well as the documentation, infrastructure and equipment made available by the regulated parties, with a view to verifying compliance with current regulations and maintaining certified or approved conditions; and

b) evaluate and monitor risk mitigation actions and correction of nonconformities by regulated entities.

 IV – adopt, within the scope of its jurisdiction, administrative measures to determine violations of current legislation and the application of penalties;

 V – adopting precautionary administrative measures within the scope of its jurisdiction;

VI – consolidating and reporting to the Executive Board the results of its inspection activities, in accordance with the normative provisions, in particular regarding:

a) supervision of operational safety in activities carried out by airport operators; and

b) AVSEC quality control.

VII - certifying airports;

VIII – attesting to the AVSEC procedures carried out by airport operators and air operators;

IX – (Repealed by Resolution n° 581, of 08.21.2020)

X – including, changing or excluding data and information, within the scope of its jurisdiction, from public and private airports in the ANAC register;

XI – expressing its opinion on the performance of aerial operations at airports, within the scope of its jurisdiction, when requested;

XII – keeping the information on the airport infrastructure, the regulated parties and their operations updated in the ANAC information systems, through:

a) the processes for including, changing or excluding data and information in the airport register;

 b) monitoring the procedures, the organizational structure and the allocation of responsibilities proposed by the regulated parties;

c) monitoring the movement of air operations carried out at airports; and

d) control of the conditions of the equipment made available for operation by the regulators under the responsibility of SIA.

XIII – adopting, within the scope of its jurisdiction, measures to subsidize the Aeronautical Command in maintaining updated Aeronautical Information;

XIV – providing information in a timely and efficient manner to regulators, on issues of operational safety and civil aviation protection;

XV – promoting the adoption of measures by the regulated parties for the safe development of airport infrastructure in compatibility with its surroundings, through:

a) Airport Master Plans;

b) Airport Noise Zoning Plans and Monitoring Projects; and

c) Fauna Risk Management Programs.

XVI – issuing technical opinion, instructions, guidelines and recommendations on matters within its incumbency;

XVII – reviewing and granting an equivalent level of operational safety and protection for civil aviation and an alternative means of demonstrating compliance with requirements on matters within its incumbency;

XVIII – reviewing, issuing an opinion and taking action, as applicable, on a flight safety recommendation related to the investigation of an aeronautical accident and incident; XIX - representing ANAC in discussions related to its area of jurisdiction;

XX – responding, within its incumbency, to the demands for information from public administration bodies, society and interested parties, using the institutional channels established by ANAC and respecting the principles of administrative acts;

XXI – participating and supporting research and development activities that are of interest to the Superintendence;

XXII – regulating, standardizing and ruling the activities carried out by the Regional Administrative Units within the scope of its jurisdiction;

XXIII – delegating, when necessary, any of its attributions, except those that, due to their own nature or due to legal prohibition, can only be implemented by it privately; and

XXIV – coordinating the representation of ANAC in discussions regarding the facilitation of air transport with the other superintendencies.

§1 The exercise of the powers listed in §3 of art. 8 of Law No. 11182, of September 27, 2005, will occur jointly with the Aeronautical Command when it is a shared airport, an airport of military interest or an airport operated by the Aeronautical Command.

§2 The Airport Infrastructure Superintendent may delegate the powers provided for in this article to the bodies referred to in art. 2, item III, item "b".

SECTION IV

OPERATIONAL STANDARDS SUPERINTENDENCE

<u>Art. 34.</u>

The Operational Standards Superintendence is responsible for:

I – submitting to the Collegiate Executive Board projects of normative acts on operational standards related to certification and inspection, at the operational level, of air operators, air operations, transport of dangerous articles, maintenance organizations and human factors related to air operations; (Wording given by Resolution nº 581, of 08.21.2020)

II - promoting studies, issuing an opinion, proposing standards and participating, by deliberation of the

Executive Board, Technical Panels, Study Groups, Work Groups, and other similar events, whether national or international, related to:

a) minimum operational standards in order to guarantee operational safety, especially those related to the operation of aircraft, transport of dangerous articles, maintenance and inspection organizations, coordinating, when necessary, with the related sectors of the other ANAC Superintendencies; (Wording given by Resolution n° 581, of 08.21.2020)

b) standards related to human factors of crew members, as well as measures to be adopted by companies providing air services for prevention, by their crew or technical maintenance and operation personnel who have access to the aircraft, regarding the use of narcotic or psychotropic substances, that can produce physical or psychological dependence, whether permanent or transitory; (Wording given by Resolution nº 581, of 08.21.2020)

c) (Repealed by Resolution n° 581, of 08.21.2020)

d) (Repealed by Resolution n° 581, of 08.21.2020)

e) (Repealed by Resolution n° 581, of 08.21.2020)

f) (Repealed by Resolution n° 581, of 08.21.2020)

g) use and application of new aeronautical technologies in air operations; and

h) aircraft maintenance; (Included by Resolution nº 581, of 08.21.2020)

III – propose the updating of the operational certification standards and establish standards related to operations authorization processes based on the evolution of national and international operating standards and available aeronautical technology;

IV - issuing an opinion on:

 a) minimum standards of performance and efficiency, in terms of operational safety, to be met by air operators, in conjunction with other Superintendencies;

b) air traffic control rules and procedures proposed by the Aeronautical Command, which have an impact on the operational practices and standards of air operators; and c) interpretation of international standards and recommendations relating to the activities within its incumbency, in the technical sphere, including omitted cases.

V – proposing to the interested bodies measures to implement the rules and recommendations of the International Civil Aviation Organization – ICAO, assessing the results and suggesting the necessary changes to improve air services, notifying the ICAO and publishing the differences in the area of jurisdiction of the Operational Standards Superintendence, where applicable;

VI – participating in negotiations, exchanging and articulating, when determined by the Executive Board, with foreign aeronautical authorities, for the mutual validation of activities related to the establishment of operational standards in order to guarantee an acceptable level of operational safety;

VII – proceeding with the certification and issuing, suspending, revoking or canceling certificates, certifications, approvals and authorizations, related to the activities under the responsibility of the Operational Standards Superintendence, with due regard to the established standards and norms and, in particular:

a) recognize the foreign certification, with due regard to the interest of the Administration;

b) issue, suspend, revoke and cancel a certificate issued by air operators carrying dangerous goods and maintenance organizations; (Wording given by Resolution n^o 581, of 08.21.2020)

c) (Repealed by Resolution n° 581, of 08.21.2020)

d) (Repealed by Resolution n° 581, of 08.21.2020)

e) issue, suspend, revoke and cancel authorizations for special air operations requested by air operators.

f) (Repealed by Resolution n° 581, of 08.21.2020)

VIII – establishing routines pertinent to certification and continuous surveillance with regard to air operations, the air transport of dangerous articles and maintenance organizations, including conducting inspections, surveys, auditing, operational monitoring flights, technical proficiency checking flights, tests and other procedures relevant to compliance with the operational standards established in order to ensure operational safety, including on foreign aircraft operating in Brazilian territory; (Wording given by Resolution n° 581, of 08.21.2020)

 IX – promoting the seizure of aeronautical goods and products for civil use, which are in disagreement with the specifications;

X – accrediting, under the terms established in a specific norm, individuals or legal entities, whether public or private, of notorious specialization, in accordance with internationally accepted standards for civil aviation, for issuing reports, opinions or reports that demonstrate compliance with the necessary requirements for issuing certificates or attestations related to the activities within its incumbency, as well as suspending or revoking such accreditation;

XI – delegating, where necessary, any of its duties, except those that, due to their own nature or due to legal prohibition, can only be implemented by it privately;

XII – coordinating, regulating, standardize and standardizing the activities carried out by the Regional Administrative Units in technical areas under the jurisdiction of the Operational Standards Superintendence;

XIII – (Repealed by Resolution nº 581, of 08.21.2020)

XIV – reviewing, providing opinion and taking action, as applicable, on flight safety recommendations related to the investigation of aeronautical accidents and incidents;

XV – defining the prerequisites, the minimum qualification and the standard of training and retraining for employees and accredited employees in their area of incumbency;

XVI – (Repealed by Resolution n° 581, of 08.21.2020)

XVII – conducting activities related to the granting and registration of Brazilian public air services companies; (Included by Resolution No. 525, of August 2, 2019)

XVIII – suspending and revoking suspension of a standard or special air-
worthiness certificate; (Included by Resolution n° 581, of 08.21.2020)

XIX – issuing a technical opinion in support of the activity of issuing a standard airworthiness certificate; (Included by Resolution n° 581, of 08.21.2020)

XX - carrying out continued surveillance over the airworthiness of aircraft registered in Brazil; (Included by Resolution n^o 581, of 08.21.2020)

XXI - approving maintenance activities for an air transport company; and (Included by Resolution n° 581, of 08.21.2020)

XXII – maintaining coordination with the Airworthiness Superintendence regarding issues related to continued airworthiness. (Included by Resolution n° 581, of 08.21.2020)

Sole paragraph. The Operational Standards Superintendent may delegate the powers provided for in this article to the bodies referred to in art. 2, item III, item "c".

SECTION V

AIRWORTHINESS SUPERINTENDENCE

<u>Art. 35.</u>

The Airworthiness Superintendence is responsible for:

I – submitting to the Executive Board, regarding airworthiness, noise and emissions of aeronautical products, a proposal for a normative act and an opinion on the following matters:

a) project certification and approval, including validation of imported aeronautical product; (Wording given by Resolution n^{0} 581, of 08.21.2020)

b) certification of project and production organization; (Wording given by Resolution nº 581, of 08.21.2020)

c) (Repealed by Resolution n° 581, of 08.21.2020)

 d) certification of project modification, including validation of modification of imported aeronautical product;

e) certification of airworthiness within its area of incumbency; (Wording given by Resolution n° 581, of 08.21.2020)

f) (Repealed by Resolution n° 581, of 08.21.2020)

g) continued airworthiness, including the service difficulties system and airworthiness directives; (Wording given by Resolution $n^{\rm o}$ 581, of 08.21.2020)

 h) accreditation of people and companies to perform activities related to their incumbencies;

i) (Revoked by Resolution No. 581, dated 08.21.2020); and

j) normative act of another body, governmental or not, national or international, that has repercussions in its areas of incumbency, including omitted cases.

k) operational evaluation of aircraft models designed or to be operated in Brazil; (Included by Resolution n° 581, of 08.21.2020)

I) approval of the project and approval of the production of packaging for transporting dangerous articles; and (Included by Resolution n° 581, of 08.21.2020)

m) approval of airworthiness for export; (Included by Resolution n° 581, of 08.21.2020)

II – issuing, suspending and canceling a type certificate, supplementary type certificate, production organization certificate, project organization certificate, approved aeronautical product certificate, including the respective addenda and technical specifications, when applicable; (Wording given by Resolution n° 581, of 08.21.2020)

III – developing and proposing minimum safety requirements related to the design and manufacture of aeronautical products; (Wording given by Resolution n° 581, of 08.21.2020)

IV – issuing, suspending and canceling registration certificate and standard airworthiness certificate; (Wording given by Resolution n^o 581, of 08.21.2020)

V – issuing airworthiness approval for export;

VI – (Repealed by Resolution n° 581, of 08.21.2020)

VII – issuing, suspending and canceling other certificates, approvals and authorizations related to the activities within its scope of activity;

VIII – reviewing norms and recommendations, in its area of incumbency, of the International Civil Aviation Organization – ICAO and proposing measures to implement them, evaluating the result and suggesting necessary changes or proposing the notification of difference;

IX – evaluating the request for cancellation, suspension and/or revocation of any certificate issued;

X – reviewing, giving an opinion and taking action, as applicable, in its area of incumbency, on the flight safety recommendation related to the investigation of an aeronautical accident and incident; (Wording given by Resolution n° 581, of 08.21.2020)

XI – administering the Brazilian Aeronautical Registry;

XII – representing ANAC in discussions related to its area of incumbency, when determined by the Executive Board;

XIII – participating and supporting research and development activities that are of interest to the Superintendence;

XIV – coordinating actions, participating in negotiations, carrying out exchanges, seeking consensus and articulating with the other Superintendencies and other bodies of ANAC in activities involving these bodies;

XV – participating in negotiations, carrying out exchanges and articulating with foreign aeronautical authority for the mutual validation of activity related to its area of incumbency;

XVI – accrediting people, under the terms established in specific regulations, to perform activities related to their area of incumbency, as well as performing the continuous supervision of these people and suspending or revoking such accreditation; (Wording given by Resolution n° 581, of 08.21.2020)

XVII – delegating, when necessary, any of its attributions, except those that, due to its own nature or due to legal prohibition, can only be exercised by it privately;

XVIII - (Repealed by Resolution n° 581, of 08.21.2020)

XIX – providing technical and operational support for the fulfillment of the Agency's duties regarding noise emission, aircraft exhaust and fuel drainage;

XX - evaluating and granting an equivalent level of security and an

alternative means of demonstrating compliance with the requirement;

XXI – (Repealed by Resolution n° 581, of 08.21.2020)

XXII – with respect to continued airworthiness: (Included by Resolution n° 581, of 08.21.2020)

a) administering the system of difficulties in service; (Included by Resolution n° 581, of 08.21.2020)

b) issuing and revoking airworthiness directives and approve their alternative methods of compliance; and (Included by Resolution n^o 581, of 08.21.2020)

c) performing other functions inherent to the design and manufacture of aeronautical products; (Included by Resolution n^{0} 581, of 08.21.2020)

XXIII – issuing, suspending and canceling project approvals or production of packaging for the transport of dangerous articles; (Included by Resolution n^{0} 581, of 08.21.2020)

XXIV – issuing, suspending and canceling a special airworthiness certificate for manufacturers and designers of aeronautical products, holders or applicants for the certificates provided for in item II of this article; (Included by Resolution n° 581, of 08.21.2020)

XXV – issuing, suspending and canceling a special airworthiness certificate; and (Included by Resolution n° 581, of 08.21.2020)

XXVI – Operationally evaluating the aircraft models designed or to be operated in Brazil. (Included by Resolution n° 581, of 08.21.2020)

Sole paragraph. The Airworthiness Superintendent may delegate the powers provided for in this article to the bodies referred to in art. 2, item III, item "d".

SECTION VI

FISCAL ACTION SUPERINTENDENCE

<u>Art. 36.</u>

The Fiscal Action Superintendence is responsible for:

I – planning and executing ANAC's fiscal actions;

II – coordinating the special fiscal actions resulting from complaints that require action by more than one superintendency; III – proposing to the Executive Board improvements in the regulation inherent to fiscal action, through the development of procedures and methodologies that favor their integration;

IV – coordinating the activities of ANAC Airport Authorities;

V - (Revoked by Resolution No. 502, of 01/30/2019);

VI – (Revoked by Resolution No. 502, of 01/30/2019);

VII – coordinating the fulfillment of the assistance plan for victims and relatives in the event of an aviation accident;

VIII – coordinating ANAC's fiscal actions in cooperation with other public administration bodies, in particular the Federal Police Department (DPF), the Brazilian Intelligence Agency (ABIN) and the Brazilian Federal Revenue Secretariat (SRFB);

IX – developing and applying intelligence mechanisms in the identification and prevention of violations of the Agency's regulations carried out by regulated agents, as well as of possible illegal acts committed by agents in an activity regulated by ANAC;

X – coordinating the issuance, when necessary, of overflight authorization for foreign civil aircraft performing unpaid air transportation;

XI – coordinating and managing the Regional Administrative Units, with the exception of those that have organizational units of the superintendencies at the minimum level of Technical Management;

XII – proposing the signing of technical and administrative cooperation agreements with government agencies and entities, national or foreign, on issues related to fiscal action;

XIII – subsidizing ANAC's accountability process;

XIV – submitting to the Executive Board a proposal for a normative act on Fiscal Action, Intelligence, Crisis Management and Assistance to Victims in the event of aviation accidents; (Included by Resolution No. 525, of August 2, 2019)

XV – promoting studies, issuing an opinion, proposing rules and participating, by decision of the Executive Board, Technical Panels, Study Groups, Work Groups, and other similar national and international events related to Fiscal Action, Intelligence, Crisis Management and Assistance a Victims in the event of an aeronautical accident, including ANAC representation at the Brazilian Intelligence System – SISBIN. (Included by Resolution No. 525, of August 2, 2019)

§1 The SFI and the other ANAC supervisory bodies will coordinate their actions, with the preventive authority to issue notices of infraction to the body designated in the inspection plan or which first finds the fact characterized as an infraction.

§2 In exercising the powers to coordinate fiscal actions, SFI may have employees assigned to other ANAC bodies, in accordance with the guidelines of the Executive Board.

§3 SFI is the agency of ANAC responsible for fiscal actions, which are inspections to suppress unlawful acts with respect to the incumbencies of ANAC.

§4 The Fiscal Action Superintendent may delegate the powers provided for in this article to the bodies referred to in art. 2, item III, item "j".

SECTION VII

ADMINISTRATION AND FINANCE SUPERINTENDENCE

<u>Art. 37</u>

The Administration and Finance Superintendence is responsible for:

I – proposing, updating and monitoring the annual budget, the Budget Guidelines Law and the Agency's multi-annual law, in conjunction with the Ministry of Transport, Ports and Civil Aviation and other public bodies;

II – preparing, executing and monitoring the Agency's budget and financial programming, as well as the collection of the Agency's revenues from the final formalization of the credit;

III – accounting for the Agency's financial transactions and preparing the accounting, financial statements and financial management reports;

IV – developing instruments for transferring resources to other public/private bodies/entities on demand from other areas of ANAC;

V – supplying and supporting the areas of the Agency in the infrastructure, execution and management of information management necessary for the development of final activities and internal management;

VI – proposing rules for contracting goods and services;

VII – consolidating the Agency's resource needs and carrying out the activities of supplying materials, general services and administrative support;

VIII – preparing notices and terms of reference when requested, considering the incumbencies of the demanding areas, as well as executing the procedures related to purchases and contracts;

IX - managing supply contracts;

X – designating the inspection and monitoring the contracted services;

XI – administering the general services necessary for the performance of the Agency's activities and the system for granting per diem allowances and tickets;

XII – administering and controlling the Agency's assets;

XIII – subsidizing ANAC's accountability process; (Wording given by Resolution nº 581, of 08.21.2020)

XIV – applying the fine and warning penalties in cases of non-compliance with contractual clauses and applicable legislation, as well as proposing other penalties to the Executive Board;

XV – working in close coordination with the other Superintendencies and Bodies of the Agency's structure;

XVI – coordinating, regulating, standardizing and ruling the activities carried out by the Regional Administrative Units in technical areas of incumbency of the Administration and Finance Superintendence;

XVII – supervising the resources of the programs and projects according to the budget and financial availability, with due regard to the pertinent legislation and the estimated deadlines for execution;

XVIII – supervising accounting records of international technical cooperation programs and projects;

XIX – carrying out and monitoring the budget and financial execution, with regard to the transfer of resources, and reviewing the rendering of accounts, with regard to the issuance of financial opinions, agreements and/or similar instruments signed between the Agency and third parties;

XX – managing the Agency's service channels with civil aviation users and citizens; (Wording given by Resolution No. 525, of August 2, 2019)

XXI – coordinating the Citizen Information Service – SIC;

XXII – monitoring the availability and quality of the service provided, at the first level, through the channels of relationship with the citizen; (Wording given by Resolution No. 525, of August 2, 2019)

XXIII – hearing, in the first instance, the appeals related to the challenges of TFAC credits launched on their own, which may require a statement of the Superintendencies involved; and (Wording given by Resolution n° 581, of 21.08.2020)

XXIV – administering the Agency's bibliographic collection; and

XXV – coordinating, jointly with SPI, the preparation, review, monitoring and evaluation of the Annual Management Plan. (Included by Resolution n° 581, of 08.21.2020)

Sole paragraph. The Administration and Finance Superintendent may delegate the powers provided for in this article to the bodies referred to in art. 2, item III, item "e".

SECTION VIII

INSTITUTIONAL PLANNING SUPERINTENDENCE

<u>Art. 38.</u>

The Institutional Planning Superintendence is responsible for:

I – formulating, proposing, coordinating and supporting the implementation of programs, projects and integrated systemic actions aimed at institutional strengthening of the Agency;

II – coordinating and integrating the activities of the Agency's units with a view to complying with the established policies, goals and projects;

III – coordinating, guiding and supervising the Agency's strategic planning process; IV – proposing the development of policies and strategic guidelines for the Agency's activities;

V – promoting institutional articulation, fostering the capacity for strategic thinking, as well as the measurement, evaluation and dissemination of the Agency's results;

VI – guiding, monitoring, and supporting the realization of working groups, commissions and others, aiming at the integration of actions between the units of the Agency;

VII – preparing studies and strategic management reports on the Agency's results;

VIII – preparing proposals for actions aimed at assisting in articulating the actions carried out by the Regional Administrative Units with the guidelines issued by the Superintendencies;

IX – reviewing and proposing the improvement of the organizational structure and administrative processes and procedures aimed at institutional modernization, reducing bureaucracy and strengthening internal management;

X – coordinating the preparation of the Management Report;

XI – acting as the Agency's project office;

XII – planning and carrying actions related to obtaining and analyzing data for the production of knowledge related to the Agency's operating environment, including the operational safety area, aiming at advising the Executive Board;

XIII – identifying and proposing follow-up flows from potential sources of information for decision making;

XIV - (Repealed by Resolution No. 489, of 8/27/2018)

XV – reviewing indicators, targets and trends that assist the fulfillment of the Agency's mission;

XVI – defining and maintaining the Agency's process management governance model; (Wording given by Resolution No. 525, of August 2, 2019)

XVII – (Repealed by Resolution No. 489, of 08.27.2018)

XVIII – preparing and monitoring the Agency's Regulatory Agenda;

(Included by Resolution No. 489, of 8/27/2018)

XIX- watching over the normative quality and promote its improvement in articulation with the finalistic areas; (Included by Resolution No. 489, of 8/27/2018)

XX – formulating, proposing, coordinating and supporting the Agency's strategic risk management and organizational processes, through the implementation of methodology and other mechanisms necessary for its institutionalization; and (Wording given by Resolution n° 581, of 21.08.2020)

XXI – defining and maintaining the governance model for managing the services provided by the Agency. (Included by Resolution No. 525, of August 2, 2019)

XXII – coordinating, together with the SAF, the preparation, review, monitoring and evaluation of the Annual Management Plan; (Included by Resolution n° 581, of 08.21.2020)

XXIII – coordinating efforts to improve integrity management at ANAC; and (Included by Resolution n° 581, of 08.21.2020)

XXIV – promoting innovation and organizational transformation actions. (Included by Resolution n° 581, of 08.21.2020)

Sole paragraph. The Institutional Planning Superintendent may delegate the powers provided for in this article to the bodies referred to in art. 2, item III, item "f".

SECTION IX

INFORMATION TECHNOLOGY SUPERINTENDENCE

<u>Art. 39.</u>

The Information Technology Superintendence is responsible for:

I – establishing and formulating strategies and standards related to the management of information technology resources for the systematization and availability of management information, in order to support the Agency's decision-making process;

II – supplying and supporting the Agency's areas in infrastructure, execution and management of information technology projects necessary for the development of finalistic and internal management activities;

III – coordinating, supervising, monitoring, controlling and evaluating the execution of activities related to the information technology infrastructure, development of information systems and projects, information security and technological innovation within the scope of the Agency;

IV – preparing, proposing and maintaining the Information Technology Master Plan;

 V – organizing, directing, controlling and assessing the Agency's information security and technological innovation services;

VI – proposing partnerships and exchanges of resources, information, technologies, products and services with public and private companies, research and development institutions, and with other related organizations in matters within its scope of activity; and

VII – defining and regulating the execution of rules and procedures for access and use of communications services, corporate network infrastructure management activities, technical support services for local and remote networks, security policy and contingency plan, and service via technical support to users.

VIII – proposing, together with the Superintendencies, actions for organizing strategic information and its integration with other databases; and (Included by Resolution No. 489, dated 08/27/2018)

IX – reviewing, in support of the other organizational units, with regard to information technology, information systems or documentation relating to information systems that are used by regulated agents as a result of a normative act issued by ANAC and that depend on acceptance or approval by the Agency. (Included by Resolution No. 489, of 8/27/2018)

Sole paragraph. The Information Technology Superintendent may delegate the powers provided for in this article to the bodies referred to in art. 2, item III, item "g".

SECTION X

PEOPLE MANAGEMENT SUPERINTENDENCE

Art. 40.

The People Management Superintendence is responsible for:

I – proposing the Agency's personnel policies and guidelines to the Chief Executive Officer;

II – preparing studies for proposing the People Management Policy; (Wording given by Resolution n° 581, of 08.21.2020)

III – proposing and managing the Agency's benefit plan;

IV – proceeding to the selection and managing the admission, registration and payment of personnel;

V – managing the Agency's career plan, positions and salaries;

VI – proposing and administering a performance evaluation system for the Agency's staff;

VII – planning, carrying out and evaluating development and training programs for the Agency's employees;

VIII – planning and carrying out programs aimed at Quality of Life at Work and Organizational Climate Management;

IX – proposing methodologies aimed at measuring, monitoring and permanently improving the quality of services provided by the People Management area;

X – promoting coordination with the central and sectoral bodies of the Federal Administration Civil Personnel System – SIPEC;

XI – guiding and monitoring the people management activities of the Agency's organizational units;

XII – carrying out the budget and financial execution of the payroll;

XIII – proposing and managing the Agency's training budget;

XIV – controlling, evaluating, monitoring and performing the activities related to retirements and pensions;

XV – coordinating, guiding and monitoring the application of legislation aimed at people management;

XVI - performing the cataloging and maintenance activities of the da-

tabase on the legislation on people management;

XVII – promoting the training of the external public of the Civil Aviation System at events held by ANAC, in conjunction with the other Superintendencies;

XVIII – developing the exchange of knowledge and experiences with teaching and research entities, government agencies, private entities operating in the sector, in the country and abroad;

XIX – developing and managing information systems, in conjunction with the Information Technology Superintendence, for the proper functioning and improvement of people management processes;

XX – requesting and monitoring the acquisition of goods and services necessary for the maintenance of activities and the fulfillment of the duties of this Superintendence;

XXI – carrying out and maintaining the register of professionals involved in the Agency's educational process, of participants, of course approval, of the issuing and validity of training event certificates;

XXII – instructing processes and performing analysis on matters related to people management;

XXIII – coordinating, regulating, standardizing and ruling the activities carried out in technical areas within the incumbency of this Superintendence;

XXIV – developing strategies and integrated systemic knowledge management actions for institutional strengthening with an impact on the Agency's performance;

XXV – formulating, proposing, coordinating and supporting the implementation of programs, projects and actions aimed at improving the institutional capacity for identification, generation, organization, availability and dissemination of knowledge as a strategic support for the fulfillment of ANAC's mission;

XXVI – fostering a culture of knowledge management, focusing on valuing people, on intellectual capital and on commitment to results;

XXVII – proposing the development of institutional technical cooperation for the exchange of technology and expertise in knowledge management; XXVIII – encouraging the generation, execution and acceleration of ideas and opportunities that enable the production of innovations that benefit ANAC, its regulators and society; and

XXIX – formulating and applying policies and guidelines related to the management of interns, with due regard to the general guidelines of the Federal Government and the strategic guidelines of the Collegiate Board.

Sole paragraph. The People Management Superintendent may delegate the powers provided for in this article to the bodies referred to in art. 2, item III, item "h".

SECTION XI

SUPERINTENDENCE OF ECONOMIC REGULATION OF AIRPORTS

<u>Art. 41.</u>

The Superintendence of Economic Regulation of Airports is responsible for:

I - submitting to the Executive Board:

 a) proposal for granting authorization and concession for the operation of public civil airports;

b) opinion on prior consent for the transfer of corporate control or of shares representing the capital of companies that imply the transfer of the concession or corporate control of concessionaires for the operation of airport infrastructure;

c) proposal for the extension of the concession for the operation of airport infrastructure;

d) opinion on the intervention of the granting authority in the concession for the operation of airport infrastructure;

e) proposal for the cancelation or revocation of acts for granting the exploitation of airport infrastructure;

f) opinion on the proposal for a grant plan prepared by the Ministry of Transport, Ports and Civil Aviation;

g) proposal for application, to companies holding a concession for the exploitation of airport infrastructure, of penalties for suspension of the right to participate in bidding processes and contracts with the public administration and forfeiture of contracts, as well as applicable precautionary measures; h) proposal to establish an airport tariff regime;

 i) proposal for regulatory measures to improve airport infrastructure tariff regulation;

j) proposal for normative acts that govern the allocation and remuneration of airport areas;

k) proposal for normative acts regarding the quality of services provided by airport operators; and

I) proposal for normative acts related to the granting and operation of airport infrastructure granted.

II – issuing, with respect to its incumbencies, an opinion on the proposal for the issuance of standards or procedures;

III – complying with and enforcing, in the inspection of the operation of the airport infrastructure, the obligations of the granting authority and of the concession holders;

IV – monitoring the provision of airport infrastructure services;

V – settling, on administrative basis, conflicts of interest between:

a) airport infrastructure service providers among themselves; and

b) providers of air services and providers of airport infrastructure services, after hearing the Superintendence for Monitoring Air Services;

VI – applying the warning and fine penalties provided for in connection with the operation of airport infrastructure, as well as proposing to the Executive Board the application of other penalties;

VII – managing airport infrastructure concession contracts;

VIII – issuing prior consent for changes in corporate control or transfer of equity interest in airport infrastructure concessionaires, as well as in their parent companies, with the exception of those that imply the transfer of the concession or corporate control, which shall comply with the provisions of item I, item "b" of this article;

IX – monitoring airport infrastructure delegation projects;

X – setting, reviewing and readjusting the values of the ceilings of airport tariffs and specific prices related to the provision of airport infrastructure and related services;

XI – preparing studies on economic regulation of airport infrastructure;

XII – preparing regulatory models for the delegation to the airport infrastructure private enterprise;

XIII – preparing and keeping the regulations that deal with documents, financial statements, and standardized reports to be presented by airports updated;

XIV – preparing and maintaining an updated regulatory chart of accounts with a view to allowing the proper management of concession contracts;

XV – monitoring the specific prices related to the provision of airport infrastructure services;

XVI – receiving, supervising and structuring the statistical and accounting information received from airports;

XVII – promoting and disseminating measures to improve the quality of service provided by airport operators;

XVIII – communicating, with respect to their incumbencies, to the bodies and entities of the Brazilian System for the Defense of Competition a fact that constitutes or may constitute an infraction against the economic order, or that endangers the defense or promotion of competition;

XIX – implementing public policies to enable access to airport infrastructure;

XX – assessing the procedures for the economic and financial rebalancing of airport concession contracts, initiated by letter or at the request of the concessionaire; (Included by Resolution No. 525, of August 2, 2019)

XXI – deciding in the first instance the processes of economic and financial rebalancing of airport concession contracts, which, by merit or form, do not meet the criteria established in the norm and in the respective contracts; and (Included by Resolution No. 525, of August 2, 2019)

XXII – submitting to the decision of the Collegiate Board, in the first instance, the process of economic and financial rebalancing of airport concession contracts, when the assessment suggests the granting of the request. (Included by Resolution No. 525, of August 2, 2019)

Sole paragraph. The Superintendent of Economic Regulation of Airports may delegate the powers provided for in this article to the bodies referred to in art. 2, item III, item "i".

SECTION XI-A

CIVIL AVIATION PERSONNEL SUPERINTENDENCE

(INCLUDED BY RESOLUTION N° 581, OF 08.21.2020)

<u>Art. 41-A.</u>

The Civil Aviation Personnel Superintendence is responsible for: (Included by Resolution n° 581, of 08.21.2020)

I – submitting to the Collegiate Executive Board projects of normative acts on operational standards related to the certification and inspection of instructional organizations, of flight simulator equipment for the instruction and training of crew members, of doctors and medical clinics carrying out medical examinations for the issuance of medical certificates and of people who are part of the operational scenario; (Included by Resolution nº 581, of 08.21.2020)

II – carrying out studies, issuing an opinion, proposing rules and participating, through deliberation of the Collegiate Board, Technical Panels, Study Groups, Work Groups, and other similar national and international events related to: (Included by Resolution n° 581, of 08.21.2020)

a) standards related to crew health and ergonomics; (Included by Resolution n° 581, of 08.21.2020)

b) standards related to the activity of accredited doctors and medical clinics in order to prepare medical opinions for issuing an Aeronautical Medical Certificate (CMA); (Included by Resolution n° 581, of 08.21.2020)

c) operational standards related to the assessment of flight training devices for training crew members; (Included by Resolution n° 581, of 08.21.2020)

d) operational standards related to certification and continuous surveillance of flight simulator equipment for the instruction and training of crew members; and (Included by Resolution n° 581, of 08.21.2020) e) standards related to the assessment of crew members' language proficiency; (Included by Resolution n° 581, of 08.21.2020)

III – proposing the updating of the operational certification standards and establishing standards related to operation authorization processes based on the evolution of national and international operating standards and available aeronautical technology; (Included by Resolution n° 581, of 08.21.2020)

IV – issuing an opinion on: (Included by Resolution nº 581, of 08.21.2020)

a) minimum standards of performance and efficiency, in terms of operational safety, to be met by air operators, in conjunction with other Superintendencies; (Included by Resolution n° 581, of 08.21.2020)

b) air traffic control rules and procedures proposed by the Aeronautical Command, which have an impact on the operational practices and standards of air operators; and (Included by Resolution n° 581, of 08.21.2020)

c) interpretation of international standards and recommendations relating to the activities within its incumbency, in the technical sphere, including omitted cases. (Included by Resolution n° 581, of 08.21.2020)

V – proposing to the interested bodies measures to implement the ICAO standards and recommendations, evaluating the results and suggesting the necessary changes to improve air services, notifying the ICAO and publishing the differences in the area of incumbency of the Civil Aviation Personnel Superintendence, if applicable; (Included by Resolution n° 581, of 08.21.2020)

VI – participating in negotiations, carrying out exchange and articulating, where determined by the Executive Board, with foreign aeronautical authorities, for the mutual validation of activities related to the establishment of personnel certification standards in order to guarantee an acceptable level of operational safety; (Included by Resolution n^o 581, of 08.21.2020)

VII – proceeding with the certification and issuing, suspending, revoking or canceling certificates, certifications, approvals and authorizations, related to the activities under the responsibility of the Civil Aviation Personnel Superintendence, with due regard to the established standards and norms and, in particular: (Included by Resolution n° 581, of 08.21.2020)

a) recognize the foreign certification, with due regard to the interest of the Administration; (Included by Resolution n° 581, of 08.21.2020)

b) issuing, suspending, revoking and canceling personnel licenses and certificates of technical qualification and physical and mental capacity; (Included by Resolution n° 581, of 08.21.2020)

c) evaluating and qualifying flight simulator devices for the instruction and training of crew members, with a view to their qualification and the recurrent control of that qualification; (Included by Resolution n° 581, of 08.21.2020)

d) issuing, suspending, revoking and requalifying the level of English proficiency of crew members; (Included by Resolution n° 581, of 08.21.2020)

VIII – establishing routines pertinent to certification and continuous surveillance with regard to instructional organizations, personnel licenses, technical qualification and the physical and mental capacity of crew members, including inspections, surveys, audits, operational monitoring flights, technical proficiency checking flights, tests and other procedures relevant to compliance with established standards in order to ensure operational safety; (Included by Resolution n° 581, of 08.21.2020)

IX – accrediting, under the terms established in a specific rule, individuals or legal entities, public or private, of notorious specialization, in accordance with internationally accepted standards for civil aviation, for issuing appraisals, opinions or reports that demonstrate compliance with the necessary requirements for issuing certificates or attestations related to the activities within its incumbency, as well as suspending or revoking such accreditation; (Included by Resolution n° 581, of 08.21.2020)

X – delegating, when necessary, any of its assignments, except those that, due to their own nature or due to legal prohibition, can only be implemented by it privately; (Included by Resolution n^o 581, of 08.21.2020) XI – coordinating, regulating, standardizing and ruling the activities carried out by the Regional Administrative Units in technical areas of incumbency of the Civil Aviation Personnel Superintendence; (Included by Resolution nº 581, of 08.21.2020)

XII – reviewing, issuing an opinion and taking action, as applicable, on the flight safety recommendation related to the investigation of aeronautical accidents and incidents; (Included by Resolution n^{o} 581, of 08.21.2020)

XIII – defining the prerequisites, the minimum qualification and the training and retraining standard for civil servants and accredited employees in their area of incumbency; (Included by Resolution n° 581, of 08.21.2020)

XIV – defining the minimum program content and, where applicable, the workload and other normative provisions necessary to obtain licenses, qualifications or certificates issued according to RBAC 61, RBHA 63 and RBHA 65, or regulations that replace them; (Included by Resolution n° 581, of 08.21.2020)

XV – training and qualification of personnel authorized to perform activities related to maintenance; and (Included by Resolution n° 581, of 08.21.2020)

XVI – certifying AVSEC instruction centers and educational organizations specialized in the training of human resources for the Prevention, Rescue and Fire Fighting Service at Civil Airports. (Included by Resolution n^o 581, of 08.21.2020)

Sole paragraph. The Civil Aviation Personnel Superintendent may delegate the powers provided for in this article to the bodies referred to in art. 2, item III, item "k". (Included by Resolution n° 581, of 08.21.2020)

SECTION XII

COMMON DUTIES OF SUPERINTENDENTS AND HOLDERS OF OFFICES IN THE DIRECT AND IMMEDIATE ASSISTANCE BODIES DIRECTLY BOUND TO THE EXECUTIVE BOARD

<u>Art. 42.</u>

The Superintendents and the holders of offices in the Direct and Immediate Assistance Bodies directly bound to the Executive Board have the following common duties: I – plan, direct, coordinate and guide the execution of the activities of the respective units;

II – attend, when called, the Executive Board meetings, without the right to vote;

III – assess the administrative processes related to the activities within their incumbency, apply the penalties in case of non-compliance with the applicable legislation or contractual clauses, with due regard to the specific regulatory powers, as well as propose to the Executive Board the application of the penalties within their incumbency; (Wording given by Resolution n^o 502, of 01/30/2019)

IV – administer the personnel allocated to their respective units in accordance with the Agency's disciplinary and human resources management rules; and

V – prepare basic projects related to the contracting of goods and services related to their duties.

CHAPTER III

REGIONAL ADMINISTRATIVE UNITS

<u>Art. 43.</u>

Regional Administrative Units will be classified for purposes of administrative structuring according to an act of the Chief Executive Officer, subject to the powers defined in this Regulation and the incumbency of the Executive Board to create and terminate them.

Sole paragraph. The Regional Units and respective organizational structures will be created and terminated by a specific act of the Chief Executive Officer based on the proposal of the Superintendencies.

CHAPTER IV

INCUMBENCIES OF THE COLLEGIATE BODIES

<u>Art. 44.</u>

The Advisory Council is responsible for:

 I – advising the Executive Board, issuing opinions on matters submitted to its review; II – considering and issuing an opinion on the annual reports of the Executive Board; and

III – performing other activities as assigned by the Executive Board.

<u>Art. 45.</u>

The Plenary Body is responsible for assessing matters related to international civil aviation that will subsidize the decisions of the Executive Board.

Sole paragraph. The public hearing process may be initiated at Plenary meetings on matters pertaining to the Agency's international relations.

TITLE V

GENERAL AND FINAL PROVISIONS

CHAPTER I

THE DECISION-MAKING PROCESS

<u>Art. 46.</u>

ANAC's decision-making process will abide by principles of legality, impersonality, efficiency, morality and publicity, guaranteeing the right to adverse proceedings and broad defense.

CHAPTER II

BUDGET AND FINANCIAL MANAGEMENT

<u>Art. 47.</u>

ANAC will submit an annual budget proposal to the Ministry of Economy under the terms of the legislation in force. (Wording given by Resolution n° 581, of 08.21.2020)

<u>Art. 48.</u>

The annual rendering of accounts of the ANAC management, after being approved by the Collegiate Executive Board, will be sent to the Federal Audit Court – TCU, subject to the deadlines provided for in specific legislation. (Wording given by Resolution n^{o} 581, of 08.21.2020)

CHAPTER III GRANTING BENEFITS

<u>Art. 49.</u>

ANAC may organize and implement, for the benefit of its employees and their dependents, social assistance, medical, dental, hospital, food and transport services and programs, in accordance with the law.

Sole paragraph. The services and programs referred to in this article may be performed directly or by means of agreements and contracts with specialized entities, whether public or private.

CHAPTER IV

GENERAL PROVISIONS

<u>Art. 50.</u>

ANAC's activities will be developed according to plans and programs periodically updated.

<u>Art. 51.</u>

Coordination will be exercised at all levels of administration, especially with regard to monitoring the execution of plans, programs, projects and activities.

<u>Art. 52.</u>

All units must maintain reciprocal cooperation and exchange of information, in order to allow, in the best way, the achievement of ANAC's objectives.

AIRLINE COMPANIES

BRAZILIAN CIVIL AVIATION REGULATION -RBAC No. 119

AMENDMENT No. 07

CERTIFICATION: PUBLIC AIR TRANSPORT OPERATORS

SUBPART A

GENERAL

119.1 Applicability

(a) This Regulation establishes rules for certification of private legal entities to conduct public air transport of passengers, cargo or mail, whether scheduled or non-scheduled, domestic or international.

(1) The air operations to be certified will be subject to compliance with the requirements established in RBAC No. 121 or RBAC No. 135, as defined in this regulation.

(b) The holder of an air operator certificate (COA), issued in accordance with this regulation, can perform private air services in accordance with the rules of RBHA 91.

(c) This regulation does not apply to operations conducted under RBAC No. 129.

(d) This regulation does not apply to the following operations, even if conducted by the holder of a COA issued under this RBAC:

(1) student pilot flight instruction;

(2) ferry and training flights; (3) special aerial operations, including:(i) sprinkling, sowing or spraying plantations and chasing away birds;(ii) towing lanes;(iii) photography or aerial survey; (iv) fire fighting; (v) inspection of pipelines and transmission lines;

(4) tourism flights conducted in a hot air balloon;

(5) nonstop flights conducted within the 40 km (25 land miles) radius of the take-off airport transporting people or objects for the purpose of performing skydiving operations; and

(6) operations conducted under RBAC 133; and

(7) operations conducted under Subpart K of RBAC no. 91, where there is no provision of public air transport service.

(Wording given by Resolution no. 606, of 02.11.2021)

(e) Persons subject to this regulation must meet the requirements of the other RBACs, except when those requirements are changed by RBAC 119, 121 or 135 or when the latter RBAC imposes additional requirements.

119.3 [Reserved]

<u>119.5 Certifications, Authorizations</u> and Prohibitions

(a) Certifications

(1) An air operator must obtain a COA and its operating specifications (EO) before starting public air transport operations.

(b) Authorizations.

(1) The COA authorizes its holder to carry out transactions in accordance with:

(i) the requirements established in accordance with section 119.21 of this regulation;

(ii) the appropriate authorizations, limitations and procedures established in the EO and procedures specified for each operating characteristic.

(2) A person certified to engage in public air transport operations under RBAC No. 121, RBAC No. 135, or both will receive only one COA.

(c) Prohibitions.

(1) It is forbidden to carry out public air transport services without an appropriate COA and respective EO issued under this regulation. (2) A COA holder issued under this regulation is prohibited from carrying out operations that do not comply with the provisions of its EO.

(3) A COA holder can only conduct private air services for his/her own benefit (transfer, crew training, transportation of employees, etc.).

(4) It is forbidden to advertise or offer to perform an operation subject to this regulation, unless the operation is authorized by ANAC.

119.7 Operating specifications

(a) The EO issued to a COA holder will contain:

(1) the authorizations, limitations and procedures under which each public air transport operation must be conducted; and

(2) other procedures under which each aircraft class and size must be operated.

(b) Except for the paragraphs of the EO identifying authorized operating characteristics, the EO are linked, but are not part of the COA.

119.9 Use of the trade name

(a) No operator subject to this regulation may operate an aircraft under RBAC 121 or 135 using other trade name than the one contained in its operating specifications.

(b) No certificate holder may operate an aircraft under RBAC 121 or 135, unless its trade name is legibly written on the aircraft and is always clearly visible and understandable on the outside of the aircraft by a person on the ground. The form of writing the name on the aircraft and its legibility must be accepted by ANAC.

SUBPART B

APPLICABILITY OF OPERATIONAL REQUIREMENTS FOR THE DIFFERENT CHARACTERISTICS OF OPERATIONS ACCORDING TO RBAC 121 AND 135

<u>119.21 Air carriers engaged in</u> <u>public air transport services</u>

(a) An operator conducting public air transport services must meet the certification requirements and the limitations and procedures set out in the EO, and must conduct:

(1) its operations with airplanes with maximum certified seating configuration for passengers up to 19 seats and a maximum payload capacity of up to 3,400 kg (7,500 lb) in accordance with the applicable requirements of RBAC No. 135, and must have EO for its transactions issued in accordance with such requirements;

(2) its operations with airplanes with maximum certified seating configuration for passengers over 19 seats or a maximum payload capacity paid in excess of 3,400 kg (7,500 lb) in accordance with the applicable requirements of RBAC No. 121, and must have EO for its operations issued in accordance with such requirements;

(3) its operations with rotary-wing aircraft in accordance with the applicable requirements of RBAC No. 135, and must have EO for its operations issued in accordance with such requirements.

119.23 [Reserved]

119.25 [Reserved]

SUBPART C

CERTIFICATION, OPERATING SPECIFICATIONS AND OTHER REQUIREMENTS FOR OPERATIONS CONDUCTED ACCORDING TO RBAC 121 AND 135

119.31 Applicability

(a) This subpart provides:

(1) certification requirements;

(2) the content of the operating specifications; and

(3) other requirements applicable to operations under RBAC No. 121 and 135.

119.33 General requirements

(a) A person is only permitted to conduct a public air transport operation if it is Brazilian and:

(1) has the proper ANAC grant to operate public air transport (as applicable);

(2) obtains a COA under this regulation; and

(3) has EO where the authorizations, limitations and procedures are established according to which each operation must be conducted.

119.34 Statements

(a) Each applicant for a certificate issued in accordance with this regulation and, sections 121.163 of RBAC No. 121 and 135.145 of RBAC No. 135, each applicant for operating specifications authorizing a new operation of different characteristics than those already approved must conduct operational evaluation flights during the certification process to operate under RBAC No. 121 or 135.

(1) All operational evaluation flights must be carried out in an acceptable manner by ANAC. (2) All operational evaluation flights must be carried out according to the applicable operating and maintenance requirements of RBAC No. 121 or 135.

(b) ANAC will issue a letter of authorization (Letter of Authorization – LOA) for each applicant, defining the designated ANAC officers that will accompany the operational evaluation flights.

<u>119.35 Requirements for</u> <u>application for certification. All</u> operators

(a) A COA applicant, under this regulation, must submit an application:

(1) in the format and manner established by ANAC; and

(2) containing all information requested by ANAC to the applicant.

(b) The applicant must submit as an annex to its application an Initial Declaration of Compliance referencing all sections of RBHA 91 and, as applicable, of RBAC No. 135 or 121. This annex should be a complete listing of all sections and requirements of the RBAC corresponding to the operation intended by the applicant, with the corresponding method of compliance to be adopted by it or an indication that the requirement does not apply to it.

(c) Each applicant must submit the application to ANAC at least 120 days before the intended start date for operations.

<u>119.36 Economic, financial and</u> <u>legal requirements</u>

(a) The economic, financial and legal requirements necessary to obtain legal authorization for the operation of a public air transport company are established in specific rules of the Superintendency for Monitoring Air Services (SAS) of ANAC. ANAC requires that sufficient capital be demonstrated to cover the costs already generated or to be generated by the execution of the approved training and maintenance programs, including the expected operating costs, always considering a contingency reserve, in order to determine the applicant's financial health.

(b) If, for economic, financial or legal reasons, the certificate holder is no longer able to conduct a safe operation, its certificate will no longer be valid, giving rise to the sanctions provided for in paragraph (a)(2) of section 119.40.

<u>119.37 Content of the Air Transport</u> <u>Company Certificate</u>

(a) The Air Transport Company Certificate includes at least:

(1) Information on the State of the operator and the issuing authority;

(2) the certificate number;

(3) name, corporate name (if different from name) and the location of the certificate holder's operational headquarters;

(4) the certificate's effective date; and name, signature and position of the person responsible for issuing the certificate;

(5) the identification of the EsEC in charge of administering the certificate (if applicable).

(b) the information required in paragraph (a) of this section must, in the body of the certificate, be translated into English.

<u>119.39 Issuing, or refusing, a</u> <u>certificate</u>

(a) In order to issue a certificate, it is necessary that:

(1) after carrying out the necessary checks, ANAC finds that the applicant:

(i) meets the applicable requirements of this regulation; and

(ii) has a Concession or Authorization, as applicable, issued by ANAC; and

(iii) is duly and properly equipped in the form and manner established by ANAC, is capable of conducting safe operations in accordance with the applicable provisions of RBAC 121 or 135 and operating specifications issued in accordance with this regulation.

(iv) has:

(A) a suitable organization;

(B) a method of controlling and supervising its flight operations;

(C) a training program; and

(D) ground service and maintenance agreements at the airports where it operates according to the scale and size of its operations.

(v) has one aircraft or more aircraft of which it is an operator;

(vi) has taken out insurance to cover its liability in the event of accidents, in particular with regard to passengers, luggage, cargo and third parties.

(b) The issue of a certificate may be refused if:

(1) after carrying out the necessary checks, ANAC finds that:

(i) the applicant is not duly and properly equipped or is not able to conduct operations with the security required by the applicable RBAC; or

(ii) the applicant intends to place or has placed in an administrative position listed at 119.65 (a) or 119.69 (a), as applicable, a person with a proven track record of inadequate conduct and/or performance. For the purposes of the provisions of this paragraph, a history of inadequate conduct and/or performance is considered to be the case in which, for less than five years from the date of designation:

(A) as a result of finding an irregularity in which the designee has proven to be directly responsible for the cause of the irregularity, while occupying an administrative position required by ANAC, one of the following measures has been applied to a civil aviation service provider certified by ANAC:

(1) suspension or restriction of operations for more than 90 days by ANAC; or

(2) revocation, annulment or cancellation of certificates or authorizations; or

(B) the designee has suffered an administrative sanction provided for in art. 299, items I, V, VI or VII, of Law No. 7565, of December 19, 1986, although on those occasions he/she did not occupy an administrative position required by ANAC for a civil aviation service provider; or

(2) a person who will have control over the applicant, or who has a substantial equity interest in the company, has control over a certificate holder or similar equity interest of a company whose certificate has been suspended or revoked, and that person has materially contributed for the circumstances causing the suspension or forfeiture.

(a) A COA issued under this regulation is effective until:

(1) the COA holder returns it to ANAC; or

(2) ANAC suspends, revokes, annuls or, otherwise, terminates the COA.

(b) [Reserved]

(c) The certificate holder has an obligation to maintain, throughout the duration of a certificate, compliance with all legislation applicable to its operation and compliance with all procedures and requests made by ANAC.

(1) The certificate holder must, upon ANAC's determination, within 30 (thirty) days, extendable by ANAC for the same period, replace any person who occupies a management position listed in 119.65(a) or 119.69(a), as applicable, and that has a proven track record of inappropriate conduct and/ or performance, in accordance with the criteria in paragraph 119.39(b)(1) (ii).

(d) Failure to comply with the provisions of paragraphs 119.40(c) and (c)(1) entails the application of the sanctions provided for in paragraph (a)(2) of this section

<u>119.41 Amendments to the</u> <u>certificate</u>

(a) ANAC may amend any certificate issued under this regulation if:

(1) it is verified, after the necessary checks, that air transport security and the public interest require the amendment; or

(2) the certificate holder requests the amendment and ANAC verifies that air transport security and the public interest allow the amendment.

(b) If it is found through inspection, verification or other investigation that the public interest or the air transport security so require, ANAC may amend, suspend, revoke or annul, in whole or in part, a COA.

(c) When a certificate holder requests an amendment to his/her certificate, the following procedure applies:

(1) the certificate holder must submit an application to ANAC at least 45 days before the date for the proposed amendment to become effective, unless ANAC accepts a shorter period; and

(2) the application must be completed in the format and in the manner provided by ANAC.

(d) When a certificate holder requests reconsideration of a decision made by ANAC regarding amendments to its certificate, the following procedure is applicable;

(1) the petition for reconsideration must be made within 30 days after the date on which the holder received the notice of rejection; and

(2) the petition for reconsideration must be made to ANAC.

<u>119.43 Obligations of the</u> <u>certificate holder in relation to its</u> <u>operating specifications</u>

(a) Each certificate holder must maintain a complete set of its operating specifications at its operational headquarters.

(b) Each certificate holder must insert relevant extracts from its operating specifications, or references to them, in the General Operations Manual and must:

(1) clearly identify such extracts as parts of its operating specifications; and

(2) establish that compliance with the requirements of the operating specifications is mandatory.

(c) Each certificate holder must keep each person employed in its operations informed of the provisions of its operating specifications applicable to the person's duties and responsibilities.

(d) In its operations, each certificate holder must keep a copy of the relevant parts of its operating specifications on its aircraft. Operators that operate abroad must maintain a faithful copy translated into English of the relevant parts of its operating specifications on each aircraft that performs such operations.

119.47 Administrative

headquarters, operations base, maintenance base and change of address

(a) Each certificate holder must have administrative headquarters and a main operations base. It must also establish a main maintenance base that can be located in the same location as the main operations base or in a different location.

(b) At least 90 days before the proposed date for the change of address of its administrative headquarters, its main operations base or its main maintenance base, the certificate holder must provide written communication of its intentions to ANAC.

119.49 Content of the operating specifications

(a) Each certificate holder conducting regular or international operations must obtain operating specifications containing at least the information below:

(1) the specific location of the operational headquarters and;

(2) other trade names under which the certificate holder may operate, in accordance with its COA;

(3) reference to the concession for operating scheduled public air services issued or to be issued by ANAC;

(4) aircraft type, registration marks and serial number of each aircraft with authorized use and the identification of each regular and alternate airport to be used in scheduled operations. Additionally:

(i) subject to ANAC approval as to form and content, the certificate holder may incorporate, by reference, the items listed in paragraph (a)
(4) of this section by maintaining an updated document and by reference to such document in the applicable paragraph of the operating specification; and

(ii) the certificate holder cannot conduct operations using not listed aircraft or airports.

(5) characteristics of authorized operations;

(6) authorizations and limitations for routes and areas of operation;

(7) airport limitations;

(8) time limitations, or standards for determining time limitations, for general overhaul, inspections and checks on cells, engines, propellers, rotors, emergency components and equipment;

(9) authorization for the aircraft weight control and balance method;

(10) requirements for exchanging equipment between lines, if applicable;

(11) information on aircraft "wet leasing" as required by 119.53 (c);

(12) any authorization for deviation or exception regarding any RBAC requirement; and

(13) an authorization allowing or a ban on the acceptance, handling and transportation of dangerous articles in the form and manner established by ANAC; and

(14) any other item that ANAC deems necessary.

(b) Each certificate holder conducting supplemental operations under RBAC 121 must obtain operating specifications containing at least the information below:

(1) the specific location of the operational headquarters; and

(2) other trade names under which the certificate holder may operate, in accordance with its COA;

(3) reference to the authorization to operate non-scheduled public air services issued or to be issued by ANAC;

(4) aircraft type, registration marks and serial number of each aircraft for authorized use. Additionally:

(i) subject to ANAC approval as to form and content, the certificate holder may incorporate by reference the items listed in paragraph (b)(4) of this section by maintaining an updated document and by referring to such document in the applicable paragraph of the operating specification; and

(ii) the certificate holder cannot conduct an operation using unlisted aircraft.

(5) characteristics of authorized operations;

(6) authorizations and limitations for routes and areas of operation;

(7) special airport permits and limitations;

(8) time constraints, or standards for determining time constraints for overhaul, inspections checks on cells, engines, propellers, rotors, emergency devices and equipment;

(9) authorization for the aircraft weight control and balance method;

(10) information on aircraft "wet leasing" as required by 119.53 (c);

(11) authorizations or requirements to conduct supplemental operations as provided for in 119.21;

(12) any authorization for deviation or exception regarding any RBAC requirement; and

(13) an authorization allowing or a ban on the acceptance, handling and transportation of dangerous articles in the form and manner established by ANAC; and

(14) any other item that ANAC deems necessary.

(c) Each certificate holder conducting supplemental operations under RBAC 135 must obtain operating specifications containing at least the information below:

(1) the specific location of the certificate holder's operational headquarters; and

(2) other trade names under which the certificate holder may operate, in accordance with its COA;

(3) reference to the authorization to operate non-scheduled public air services issued or to be issued by ANAC;

(4) characteristics and areas of authorized operations;

(5) categories and classes of aircraft that can be used in those operations;

(6) aircraft type, registration marks and serial number of each aircraft that is subject to an airworthiness maintenance program required by 135.411 (a)(2). Additionally:

(i) subject to ANAC approval as to form and content, the certificate holder may incorporate by reference the items listed in paragraph (b)(4) of this section by maintaining an updated document and by referring to such document in the applicable paragraph of the operating specification; and

(ii) the certificate holder cannot conduct an operation using an non-listed aircraft or airport;

(7) nationality and registration marks of each aircraft to be inspected according to an inspection program as provided by 135.419;

(8) time constraints, or standards for determining time constraints for overhaul, inspections and checks on aircraft cells, engines, propellers, rotors, components and emergency equipment subject to an airworthiness maintenance program as required by 135.411(a)(2);

(9) additional maintenance items required by ANAC under 135.421;

(10) information on aircraft "wet leasing" as required by 119.53(c);

(11) any authorization for deviation or exception regarding any RBAC requirement; and

(12) an authorization allowing or a prohibition on the acceptance, handling and transportation of dangerous articles in the form and manner established by ANAC; and

(13) any other item that ANAC deems necessary.

<u>119.51 Amendments to operating</u> <u>specifications</u>

(a) ANAC may amend any operating specification issued under this subpart if:

(1) it is verified, after the necessary checks, that air transport security and the public interest require the amendment; or

(2) the certificate holder requests the amendment and ANAC verifies that air transport security and the public interest allow the amendment.

(3) If ANAC issues an amendment to the operating specifications, it shall enter into force not less than 30 days after the certificate holder is notified of it, unless: (i) ANAC considers that there is an emergency related to air transport security requiring immediate action.

(A)

(A) If ANAC approves the proposed amendment, it will become effective on the date of approval.

(B) ANAC will send a notification to the certificate holder, explaining the reasons why it considered an emergency regarding the security of operations requiring immediate action or making it impracticable or contrary to the public interest to wait for the amendment(s) to enter into force.

<u>119.53 Leasing of aircraft</u> with crew ("Wet leasing") and other arrangements for air transportation

(a) Unless otherwise authorized by ANAC, the holder of a certificate issued under this regulation before putting into effect a wet leasing agreement under which it shall assign a manned aircraft to another certificate holder issued under this regulation, both authorized to conduct public air transport operations under the same RBAC, must provide ANAC with a copy of the "wet leasing" agreement to be executed, under which it (lessor) will deliver the aircraft with crew to another person (lessee).

(b) No holder of a certificate issued under this regulation may enter into "wet leasing" agreements (as lessee) with a foreign airline or with any other foreign person, or even with any person not authorized to engage in public air transport services (as lessor).

(c) Upon receiving a copy of a "wet leasing" agreement, ANAC verifies whether the lessee is able to assume operational control of the aircraft and, if so, issues amendments to the operating specifications of each party to the agreement, as necessary. If it is found that the lessee is unable to assume operational control of the aircraft, the agreement cannot be performed. The lessor must provide at least the following information to be incorporated into the operating specifications of both parties:

(1) the names of the parties to the agreement and the duration of the agreement;

(2) the nationality and registration marks of each aircraft involved in the operation;

(3) the operating characteristics;

(4) airports or operating areas; and

(5) if the agreement allows the parties to perform intercalated flights under the operational control of either party, a statement specifying the party considered to have the operational control of the aircraft on each flight and the times, airports or areas in which such control is exercised.

(d) When analyzing the information provided for in paragraph (c) of this section, ANAC will consider:

(1) crew and training;

(2) airworthiness and maintenance performance;

(3) dispatch;

(4) ramp service to the aircraft;

(5) flight scheduling; and

(6) any other factor that ANAC considers relevant.

(e) Other arrangements for air transport:

(1) the holder of a COA issued under this regulation and operating under RBAC No. 121 or 135 may not conduct an operation for another COA holder or for a foreign air operator that operates under RBAC No. 129 or for a foreigner engaged in public air transport only outside Brazil, unless it has a license issued by ANAC to operate public air transport, as applicable, and is authorized by its EO.

(f) The holder of a COA issued under this regulation, if authorized by ANAC to conduct scheduled operations, may carry out one or more extra flights for passengers who have been stranded due to the cancellation of their scheduled flights. Such flights must be conducted according to the rules applicable to supplemental operations.

<u>119.54 Application of Art. 83-bis</u> of the International Civil Aviation <u>Agreement</u>

(a) Notwithstanding Articles 12, 30, 31 and 32(a) of the International Civil Aviation Agreement (Chicago, 1944), when an aircraft with valid registration from a contracting State is operated under a lease, charter or exchange aircraft or any other similar arrangement, by an operator that does not have its operational headquarters or does not have its permanent residence in that State, the State of registration, by agreement with that State, may transfer all or parts of its functions and obligations as a State of registration of that aircraft according to articles 12, 30, 31 and 32 (a). Accordingly, the State of registration will be exempt from the transferred functions and obligations.

(b) The transfer will not take effect in relation to the other contracting States until the said agreement is registered with the ICAO Council and published in accordance with Article 83 bis or when one of the parties to the agreement has directly communicated its existence and scope to the other contracting States.

(c) This section will apply in the form and manner established by ANAC.

<u>119.55 Obtaining diversion to</u> <u>conduct operations under a</u> <u>contract with the armed forces</u>

(a) ANAC may authorize a COA holder who is authorized to conduct supplemental operations to deviate from the applicable requirements of this regulation, RBAC No. 121 or 135, in order to carry out operations under a contract with the Brazilian Armed Forces.

(b) The certificate holder who has a contract with the Ministry of Defense must submit to this Ministry a request to obtain deviations from the RBAC, if necessary. The Ministry of Defense must carry out an analysis of the application received and forward a proposal to ANAC consolidating its needs with the needs of the certificate holder.

(c) ANAC may authorize diversions to carry out operations under a military contract under the following conditions:

(1) the Ministry of Defense communicates to ANAC that the operation is essential for national defense; and

(2) the Ministry of Defense communicates that the operation cannot be carried out without deviations being authorized; and

(3) the certificate holder executes the operation under a contract for the benefit of the Brazilian Armed Forces; and

(4) ANAC considers that the deviations are based on the public interest and not only on economic advantages for the certificate holder and for the country.

(d) In cases where ANAC authorizes deviations under this section, ANAC will issue an amendment that is appropriate to the certificate holder's operating specifications. (e) ANAC may, at any time, cancel any diversion authorization granted under this section.

<u>119.57 Obtaining diversion</u> <u>authorization to perform an</u> <u>emergency operation</u>

(a) In emergency conditions, ANAC may authorize deviations if:

(1) those conditions require the transportation of people or supplies to protect lives or property; and

(2) ANAC considers that deviations are necessary for the expeditious conduct of operations.

(b) When ANAC authorizes diversions for operations under emergency conditions:

(1) an amendment that is appropriate to the certificate holder's operating specifications must be issued; or

(2) if the nature of the emergency does not allow time for the issuance of this amendment:

(i) ANAC may authorize deviations orally; and

(ii) the certificate holder must send ANAC documentation describing the nature of the emergency within 24 hours after the end of the operation.

<u>119.59 Conducting tests and</u> <u>inspections</u>

(a) At any time or place, ANAC may carry out an inspection or test to verify that the holder of a certificate issued under this regulation complies with the Brazilian Aeronautical Code (CBA), with the applicable RBAC, with its certificate and its operating specifications.

(1) ANAC is represented in tests, inspections and surveillances by its designated officers who have their prerogatives provided for in Resolution No. 472, of June 6, 2018.

(b) The certificate holder must:

(1) keep available to ANAC at its operational headquarters:

(i) its COA and its EO; and

(ii) an updated listing that includes the location and the persons responsible for the upkeeping of each record, document and report, related to the operation of the certificate holder, whose upkeeping is required in the form and manner established by ANAC. (2) allow ANAC to make any tests or inspections necessary to determine compliance with any matter contained in paragraph (a) of this section.

(c) Each employee or each person employed by the certificate holder who is responsible for maintaining the certificate holder's records must make such records available to ANAC.

(d) ANAC may establish the certificate holder's ability and incumbency to maintain possession of its appropriate certificate and/or its operating specifications by reviewing the data contained in paragraph (a) of this section or any other applicable data.

(e) The failure of a certificate holder to promptly make available to ANAC, upon request, its appropriate certificate, its operating specifications or any required registration, document or report is a reason for the total or partial suspension of said certificate and operating specifications.

(f) The inspections and tests provided for in this section include inspections in the operator's economic and financial books and records.

<u>119.61 Validity of operating</u> <u>specifications</u>

(a) Operating specifications issued under this regulation are effective until:

(1) ANAC suspends, revokes, annuls or otherwise cancels the certificate;

(2) the operating specifications are amended as set out in 119.51;

(3) the certificate holder fails to conduct an operation of a certain characteristic for a period longer than the period specified in 119.63 or fails to follow the procedures of 119.63 when restarting that operation; or

(4) ANAC suspends or revokes the operating specifications.

(b) [Reserved]

119.63 Recent operation

(a) Except as provided in paragraph (b) of this section, no certificate holder may conduct an operation with a specific characteristic for which it is authorized in its operating specifications, unless it has conducted such an operation within the number of consecutive calendar days according to this paragraph;

(1) for scheduled operations – 60 days; and

(2) for supplemental operations – 90 days, except that this paragraph does not apply if the certificate holder is authorized to conduct scheduled operations and has conducted such operations within the previous 30 days.

(b) If a certificate holder does not conduct an operating characteristic for which it is authorized by its operating specifications, within the number of calendar days provided for in paragraph (a) of this section, it may not conduct the same operating characteristic, unless:

(1) it notifies ANAC at least 15 consecutive calendar days before resuming that operation feature; and

(2) it is available and accessible during the period provided for in (b)(1) in the event that ANAC decides to conduct an inspection and review to verify that the certificate holder remains duly and properly equipped and capable of conducting safe operations.

119.65 Administration personnel required for operations conducted under RBAC 121

(a) Each certificate holder must have sufficient and qualified technical and administrative personnel to ensure a high degree of security in its operations. The certificate holder must have qualified personnel serving in the following positions or equivalent positions:

(1) Operational Safety Director or Manager.

(2) Operations Director or Manager.

(3) Chief Pilot.

(4) Maintenance Director or Manager.

(5) Chief Inspector.

(6) Responsible Manager of the Air Transport Company.

(b) ANAC may approve positions or number of positions different from those listed in paragraph (a) of this section for a particular transaction, if the certificate holder or applicant demonstrates that it can carry out such transaction with the highest degree of security under the management of a smaller number or different categories of management personnel due to:

(1) the characteristic of the operation involved; (2) the number and type of aircraft involved; and

(3) the area of operations.

(c) The titles of the positions required by paragraph (a) of this section or the title and number of equivalent positions approved under paragraph (b) of this section must be in the operating specifications of the certificate holder.

(d) Persons serving in positions required or approved under paragraphs (a) or (b) of this section and any others in a position exercising control over operations conducted under the company's certificate must:

(1) be qualified through training, experience and incumbency;

(2) to the extent of their responsibilities, demonstrate an understanding of the following matters with respect to the certificate holder's operations:

(i) aviation safety standards and safe operating practices;

(ii) the Brazilian Civil Aviation Regulations – RBAC;

(iii) the certificate holder's operating specifications;

(iv) the applicable maintenance and airworthiness requirements contained in the legislation; and

(v) the manual required by RBAC 121.133; and

(3) perform its obligations in compliance with applicable legal requirements and maintain safe operations.

(e) Each certificate holder must:

(1) establish in the general policy provisions of the manual required by RBAC 121.133 the duties, responsibilities and authority of the personnel required by paragraph (a) of this section;

(2) list in the manual the names and business addresses of the individuals assigned to those positions; and

(3) notify ANAC, within 10 days, of any change in personnel or any vacancy in any of the listed positions.

(f) ANAC may refuse the nomination for a required management position if the nominee is included in one of the conditions referred to in 119.39(b)(1)(ii);

(g) Each company must adopt an administrative structure that allows the implementation and maintenance of the Operational Safety Management System (SGSO), aiming at reaching the acceptable level of security to be established by ANAC. The Director or Manager of Operational Safety is responsible for the administration of this system within the company.

<u>119.67 Administration personnel:</u> <u>gualifications for operations</u> <u>conducted under RBAC 121</u>

(a) The certificate holder must designate as Operational Safety Director or Manager, according to 119.65 (a), a person who meets the criteria of incumbency, experience and training established by the certificate holder to exercise this function before ANAC.

(b) To act as an Operations Director or Manager, pursuant to 119.65(a), a certificate holder must have:

(1) an Airline Pilot license, or

(2) a PC license, for certificate holders in whose operations the pilot-in-command needs only a Commercial Pilot (PC) license. If instrument flight qualification (IFR) is required for any pilot-incommand of the certificate holder, the Operations Director or Manager must also have IFR qualification.

(3) at least 3 years of experience, during the last 6 years, as a manager or supervisor in a position exercising operational control over any operation, using airplanes, certified by RBAC 25, conducted under RBAC 121 or 135; if the certificate holder only uses airplanes not certified by RBAC 25 in its operations, the required experience can be gained from operations on these airplanes, and

(i) additionally, at least 3 years of experience as a pilot-in-command of an airplane, certified by RBAC 25, operated under RBAC 121 or 135.

(4) without previous experience in the function, at least 3 years of experience, during the last 6 years, as a pilotin-command of an airplane, certified by RBAC25, operating according to RBAC 121 or 135; if the certificate holder has only airplanes not certified by RBAC 25, the required experience may have been obtained on these airplanes;

(5) the administrative experience requirements set out in paragraph (3) and of flight experience set out in paragraph (3)(i) of this section can be met by retired pilots of the Armed Forces who have exercised operational control functions in air units operating military aircraft that may be included in the definition of airplanes certified by RBAC 25 in terms of maximum take-off weight or that have performed INSPAC OPS activities for 3 years, during the last 9 years. (c) To act as Chief Pilot under 119.65(a) a person must hold a PLA license with the appropriate Technical Qualification Certificate (CHT) for the most complex aircraft used by the certificate holder in his/her operations; and

(1) in the case of a person with previous experience as Chief Pilot, have at least 3 years of experience as a pilotin-command of airplanes, certified by RBAC 25, operated under RBAC 121 or 135. If the certificate holder uses only airplanes not certified by RBAC 25 in their operations, the experience may have been obtained on these planes.

(2) in the case of a person with no previous experience as Chief Pilot, have at least 3 years of experience, during the last 6 years, as a pilot-in-command of airplanes, certified by RBAC 25, operated under RBAC 121 or 135. If the certificate holder uses only airplanes not certified by RBAC 25 in its operations, the experience may have been obtained on these planes.

(3) the flight experience requirements of paragraph (c)(1) of this section can be met by retired pilots from the Armed Forces, who have exercised operational control functions in air units operating military planes that may fall within the definition of airplanes certified by RBAC 25 in terms of maximum take-off weight or that carried out INS-PAC Pilot or Operations activities for 3 years, during the last 9 years.

(d) To act as Maintenance Director or Manager under 119.65(a) a person must:

(1) have a title – be it an industrial technician, a higher education technician (technologist) or an engineer – and be registered with the respective profession's supervisory board with a professional assignment consistent with the activity performed;

(2) have 1 (one) year of experience in positions of responsibility, with administrative authority, for aircraft maintenance services or aircraft modifications;

(3) have 3 (three) years of experience during the last 6 (six) years in professional activities related to the maintenance of aeronautical products for a certificate holder or aeronautical maintenance organization; and

(4) have taken a course on one of the most highly powered aircraft operated by the certificate holder or have practical experience in maintenance activities on aircraft of the same type certification category and similar engine operated by the certificate holder.

(e) To act as Chief Inspector under 119.65 (a) a person must:

(1) meet one of the following requirements:

(i) be qualified as in 119.67(d)(1) and have 3 (three) years during the last 6 (six) years of experience in the maintenance of large aircraft with 10 or more seats for a certificate holder or aeronautical maintenance organization; or

(ii) be an aircraft maintenance mechanic, qualified by ANAC in the cell groups and powerplant, for at least 3 years during the last 6 (six) years in the maintenance of large aircraft with 10 or more seats for an aeronautical maintenance certificate or organization, of which at least 1 year as a maintenance inspector.

(f) A certificate holder may apply for authorization from ANAC to employ a person who does not meet the experience requirements set out in this section, and ANAC will authorize if it considers that such person has comparable experience and can effectively perform the duties in accordance with requirements of this RBAC and the certificate holder's manuals. Any authorization granted in accordance with this paragraph will take into account the size and scope of the operations, as well as the qualification of the technical personnel of the certificate holder. Any authorization granted as provided for in this paragraph may be revoked by ANAC at any time.

(g) The certificate holder must designate a Responsible Manager, who is the sole and identifiable person in the certificate holder's organizational structure who, regardless of other duties, has the following prerogatives:

(1) has final authority over operations conducted under the regulations applicable to the certificate holder;

(2) decide on the allocation of human, financial and technical resources of the certificate holder; and

(3) be accountable for the certificate holder's operational safety performance.

(h) The designation of the Responsible Manager must reflect the prerogatives and responsibilities attributed to this function, in accordance with the organization acts of the certificate holder registered with ANAC.

119.69 Administration personnel required for operations conducted under RBAC 135

(a) Each certificate holder must have sufficient and qualified technical and administrative personnel to ensure a high degree of security in its operations. The certificate holder must have qualified personnel working in the following positions or equivalent positions:

(1) Operations Director or Manager;

(2) Chief Pilot;

(3) Maintenance Director or Manager;

(4) Operational Safety Director or Manager;

(5) Responsible Manager of the Air Transport Company.

(b) ANAC may approve positions and numbers of positions other than those listed in paragraph (a) of this section for a particular transaction if the certificate holder or applicant demonstrates that it can carry out the transaction with a high degree of safety under the direction of a fewer or different categories of management personnel, according to the specifications below:

(1) characteristics of the operation involved; (2) number and type of aircraft involved;

(3) the operations area;

(4) COA holders who use only one pilot and one aircraft with conventional engines in their operations must have a minimum administrative structure approved by ANAC.

(c) The titles of the positions required by paragraph (a) of this section or the title and number of equivalent positions approved under paragraph (b) of this section must be presented in the operating specifications of the certificate holder.

(d) Persons serving in positions required or approved under paragraphs (a) or (b) of this section, or anyone else in a position to exercise control over operations conducted under the certificate, must:

(1) be qualified through training, experience and skill;

(2) to the extent of their responsibility, have an understanding of the following matters with respect to the certificate holder's operations: (i) aviation safety standards and safe operating practices;

(ii) Brazilian Civil Aviation Regulations;

(iii) operating specifications of the certificate holder;

(iv) the airworthiness and maintenance requirements for the RBACs; and

(v) the manual required by 135.21.

(3) perform their obligations in compliance with applicable legal requirements and maintain safe operations.

(e) Each certificate holder must:

(1) establish in the general policy provisions of the manual required by 135.21 the duties, responsibilities and authority of the personnel required by paragraph (a) of this section;

(2) list in the manual the names and business addresses of the persons assigned to those positions; and

(3) notify ANAC, within 10 days, of any change in personnel or any vacancy in any of the listed positions.

(f) ANAC may refuse the nomination to a required management position if the nominee is included in one of the conditions referred to in 119.39(b)(1)(ii).

(g) Each company must adopt an administrative structure that allows the implementation and maintenance of an SGSO, aiming at reaching the acceptable level of safety to be established by ANAC. The Operational Safety Director or Manager is responsible for the administration of this system within the company.

119.71 Administration personnel: gualifications for operations conducted under RBAC 135

(a) The certificate holder must designate as Operational Safety Director or Manager, according to 119.69 (a), a person who meets the criteria of incumbency, experience and training established by the certificate holder to exercise this function before ANAC.

(b) To act as an Operations Director or Manager, pursuant to 119.69(a)(1) of a certificate holder, a person must have:

(1) an Airline Pilot license (PLA) if any operation requires the pilot-in-command to have an equal license;

(2) a Commercial Pilot (PC) license if operations only require the pilot-incommand to have only a Commercial Pilot license (PC); if qualification for instrument flight (IFR) is required for any pilot-in-command of the aircraft owner, the Operations Director or Manager must also have IFR qualification. Additionally, he/she must:

(i) have at least 3 years of experience as a manager or supervisor in a position exercising operational control over any operation conducted under RBAC 121 or 135; or

(ii) without previous experience in the function, have at least 3 years of experience, during the last 6 years, as a pilot-in-command of an aircraft operating according to RBAC 121 or 135;

(3) the administrative experience requirements set out in paragraph (b)(2) (i) and flight requirements set out in paragraph (b)(1) and (2) of this section can be met by retired pilots from the Armed Forces who have exercised operational control functions in air units operating military aircraft of any size and who have performed INSPAC OPS activities for 3 years, within the past 9 years.

(c) To act as Chief Pilot, pursuant to 119.69(a), for a certificate holder conducting any operation in which the pilot-in-command must have a PLA license, a person must hold a PLA license with the appropriate qualifications and must be qualified to work as a pilot-in-command on the most complex aircraft used by the certificate holder in his/her operations; and

(1) a person assuming the position of Chief Pilot with no previous experience in the function, having at least 3 years of experience, during the last 6 years, as a pilot-in-command of an aircraft operated under RBAC 121 or 135; or

(2) a person assuming the position of Chief Pilot with previous experience in the function, having at least 3 years of experience as a pilot-in-command of an aircraft operated under RBAC 121 or 135.

(3) the flight experience requirements of paragraph (c)(2) of this section can be met by retired pilots from the Armed Forces who have exercised operational control functions in air units operating military aircraft of any size and who have exercised INSPAC OPS activities for 3 years, during the last 9 years.

(d) To act as Chief Pilot, pursuant to 119.69(a), of a certificate holder conducting operations in which the pilot-in-command must have only a PC license, a person must have at least the same license. If an

IFR qualification is required for any pilotin-command of that certificate holder, the Chief Pilot must also have IFR qualification. The Chief Pilot must be qualified to work as a pilot-in-command on the most complex aircraft used by the certificate holder in its operations. In addition, the Chief Pilot must:

(1) in the case of a person with no previous experience in the function, have at least 3 years of experience, during the last 6 years, as a pilot-in-command of an aircraft operated under RBAC 121 or 135; or

(2) in case of a person with prior experience in the function, have at least 3 years of experience as a pilot-in-command of an aircraft operated under RBAC 121 or 135.

(3) the flight experience requirements of paragraph (c)(1) of this section can be met by retired pilots from the Armed Forces who have exercised operational control functions in air units operating military aircraft of any size and who have exercised INSPAC OPS activities for 3 years, during the last 9 years.

(e) To act as a Maintenance Director or Manager under 119.69(a), a person must:

(I) have a title – be it an industrial technician, a higher education technician (technologist) or an engineer – and be registered with the respective supervisory board of the profession with a professional assignment consistent with the activity performed;

(2) have 3 (three) years of experience during the last 6 (six) years in professional activities related to the maintenance of aeronautical products for a certificate holder or aeronautical maintenance organization;

(3) have taken a course on one of the aircraft of the highest type and engine certification category operated by the certificate holder or have practical experience in maintenance activities on aircraft of the same type and similar certification category operated by the certificate holder; and

(4) demonstrate to ANAC that there is compatibility of time and area of activity to work in more than one company.

(f) A certificate holder may apply for authorization from ANAC to employ a person who does not meet the experience requirements set out in this section, and ANAC will authorize if it considers that such person has comparable experience and can effectively perform the duties in accordance with requirements of this RBAC and the certificate holder's manuals. Any authorization granted in accordance with this paragraph will take into account the size and scope of the operations, as well as the qualification of the technical personnel of the certificate holder. Any authorization granted as provided for in this paragraph may be revoked by ANAC at any time.

(g) The certificate holder must designate a Responsible Manager, who is the sole and identifiable person in the certificate holder's organizational structure who, regardless of other duties, has the following prerogatives:

(1) has final authority over operations conducted under the regulations applicable to the certificate holder;

(2) decide on the allocation of human, financial and technical resources of the certificate holder; and

(3) be accountable for the certificate holder's operational safety performance.

(h) The designation of the Responsible Manager must reflect the prerogatives and responsibilities attributed to this function, in accordance with the organizational acts of the certificate holder registered with ANAC.

<u>119.72</u> Responsibilities of the accountable manager and the operational safety director or manager

(a) Regardless of other responsibilities towards the organization, the accountable manager has the following responsibilities:

(1) ensure that the SGSO is implemented effectively in all areas of the certificate holder's organization, in accordance with applicable requirements, in a manner compatible with the size and complexity of the operations;

(2) communicate to the entire organization the importance of conducting operations in compliance with applicable operational safety requirements;

(3) establish and sign the operational safety policy and communicate the importance of the commitment of all employees to that policy, ensuring that it remains appropriate for the certificate holder;

(4) ensuring the availability of the necessary resources to guarantee the achievement of operational safety objectives and for the management of the SGSO; (5) ensure that other managers' decision-making is guided by an institutionalized risk assessment process, considering the potential impacts of their decisions on operational safety;

(6) conduct critical analyzes of the management of the SGSO, in order to ensure continuous improvement of the system;

(7) regularly review the operational safety performance of the certificate holder, and take the necessary measures to deal with any unsatisfactory performance of operational safety;

(8) ensure that operational safety management prerogatives and responsibilities are clearly and objectively established and communicated in all areas of the certificate holder's organization;

(9) ensure that all personnel of the organization involved in activities with an impact on operational safety comply with the applicable requirements and internal criteria of incumbency, experience and training for the exercise of their prerogatives and responsibilities;

(10) ensure that operational safety objectives are established, and that they are measurable and aligned with the operational safety policy;

(11) ensure that strategic plans, systems, manuals and other internal normative documents related to the management of the SGSO are approved by the competent managers;

(12) ensure that effective mechanisms of internal communication and with the authorities are established, regarding the performance and continuous improvement of the SGSO; and

(13) ensure the integrity and performance of the SGSO, in face of internal changes (in the organization or in the SGSO) or external changes that have potential impacts on the operation of the certificate holder.

(b) Regardless of other responsibilities towards the organization, the operational safety director or manager has the following responsibilities:

(1) coordinate the implementation, maintenance and integration of the SGSO in all areas of the certificate holder's organization, in accordance with the applicable requirements;

(2) facilitate the identification of hazards and the analysis of risks to operational safety; (3) monitor the effectiveness of risk controls for operational safety;

(4) formalize with the Responsible Manager the need to allocate required resources for the implementation, maintenance and continuous improvement of the SGSO;

(5) plan and facilitate the promotion of operational safety in all areas of the certificate holder's organization;

(6) report regularly to the Responsible Manager about the performance of the SGSO and any need for improvement; and

(7) advise the Responsible Manager in the exercise of his/her responsibilities related to the management of operational safety, providing support for decision making.

119.73 Transitional provisions

(a) Holders of valid COAs will have until August 7, 2022 to comply with Amendment 06 of this Regulation.

(b) The transition process for aircraft that currently operate under the rules of RBAC 135 and that need to migrate to RBAC 121 should take place by August 7, 2022.

(c) COA holders authorized to carry out systematic air link operations (LAS) have until August 7, 2022 to conform to the operating characteristics under this RBAC, in accordance with an action plan to be established by the SPO and the SAR.

(d) Companies that are in the certification phase, should be evaluated on a caseby-case basis by the SPO, in view of the changes in section 119.21 introduced in Amendment No. 06 to this Regulation.

(e) Where there is a mention to any RBAC not yet enacted, consider the equivalent RBHA.

(f) The proposed changes are effective 120 days after their publication, in order to allow the market and the Agency's units to internalize and make any adjustments to the certification process.

NATIONAL CIVIL AVIATION AGENCY – RESOLUTION No. 139 OF MARCH 9, 2010

Regulates the marketing procedures for domestic and international air cargo services.

THE BOARD OF DIRECTORS OF THE NA-TIONAL CIVIL AVIATION AGENCY – ANAC, in the exercise of the powers granted to it by arts. 8, items I, IV and VII, and 11, section V, of Law No. 11.182 of September 27, 2005, and considering the resolution taken at the Board of Officers Deliberative Meeting held on 9 March 2010,

RESOLVES:

<u>Art. 1</u>

To regulate and discipline the procedures for the marketing of domestic and international air cargo transportation services, which will be governed under the terms of this Resolution.

<u>Art. 2</u>

This Resolution applies to air cargo transportation services with origin or destination in Brazil, marketed in the national territory, carried out by national and foreign companies, which operate scheduled or non-scheduled flights, domestic or international.

<u>Art. 3</u>

The tariff related to the air cargo transportation services must be expressed in a single amount and will represent the total to be paid by the contractor for providing the air transportation service according to the itinerary specified in the bill of lading document.

§ 1 It is forbidden to charge amounts relating to costs or services inseparable from the provision of air transport services apart from the tariff.

§ 2 For the purposes of this Resolution, inseparable costs or services are those without which it is not possible to carry out the air transport service.

§ 3 In accordance with the regulation in force, only the amount of optional or additional services provided to the customer by the air carrier or freight agent, in addition to airport and government fees, may be charged separately from the tariff price.

<u>Art. 4</u>

The companies must present to the consumer, during all phases of the marketing process of air transport services, the tariff expressed in a single amount, regardless of the marketing channel to be used, guaranteeing the possibility of direct comparison between the prices of the services available in the market.

<u>Art. 5</u>

Failure to comply with the provisions of this Resolution will characterize infraction, as provided for in art. 302, item III, item "u", of Law No. 7.565, of December 19, 1986.

<u>Art. 6</u>

This Resolution comes into force ninety (90) days after its publication.

SOLANGE PAIVA VIEIRA

Chief Executive Officer

NATIONAL CIVIL AVIATION AGENCY – RESOLUTION No. 255 OF NOVEMBER 13, 2012

Sets forth rules on the availability of Advance Passenger Information (API) and the Passenger Name Record (PNR).

THE BOARD OF DIRECTORS OF THE NA-TIONAL CIVIL AVIATION AGENCY - ANAC. in exercising the jurisdiction granted to it by art. 11, item V, of Law No. 11,182, of September 27, 2005, in light of Articles 22 and 37 of the International Civil Aviation Convention, promoted in Brazil by Decree No. 21,713, of August 27, 1946, 7th subsection, items I and XI and sole paragraph of the National Program for Civil Aviation Security against Acts of IIlegal Interference (PNAVSEC), Annexed to Decree No. 7,168, of May 5, 2010, and 8th subsection, item X, of the aforementioned Law, and in considering process No. 00058.048990/2012-43, which was discussed and approved at the Deliberative Meeting of the Board of Directors held on November 13, 2012. (Wording given by Resolution No. 595 of 11.11.2020)

RESOLVES:

CHAPTER I GENERAL PROVISIONS

<u>Art. 1</u>

This Resolution establishes the rules on the availability of Advance Passenger Information (API) and the Passenger Name Record (PNR).

§ 1 The purpose of making API and PNR available for international flights is to prevent and stop acts that illegally interfere with civil aviation, carry out research of interest to public health, and facilitate passenger and baggage processing for international flights with regard to migratory, customs, sanitary, and agricultural control authorities. (Wording given by Resolution No. 595 of 11.11.2020)

§ 1-A The purpose of making API and PNR available for domestic flights is to prevent and stop acts that illegally interfere with civil aviation and to carry out research of interest to public health with regard to the competent authorities. (Included by Resolution No. 595, of 11.11.2020) § 2 Airlines must transmit API and PNR data by secure electronic messages, in compliance with the requirements established by the Federal Police and the provisions of this Resolution, for the use of public agencies and entities with the jurisdiction to exercise activities provided for in §§ 1 and 1-A of this article. (Wording given by Resolution No. 595 of 11.11.2020)

<u>Art. 2.</u>

For the purposes of this Resolution, the following definitions are considered:

I – Advance Passenger Information System – API): an electronic communication system that collects required data on passengers and crew members and transmits it to the competent authorities for border security and control prior to the departure or arrival of the flight, and made available to the public entities competent for the exercise of the activities provided for in §§ 1 and 1-A of art. 1 of this Resolution; and (Wording given by Resolution No. 595 of 11.11.2020)

II – Passenger Name Record (PNR): registration of the data of each trip booked by or on behalf of a passenger, created by the airlines or their authorized agents for their own use.

CHAPTER II

ADVANCE PASSENGER INFORMATION (API) FOR INTERNATIONAL FLIGHTS

(WORDING GIVEN BY RESOLUTION NO. 595 OF 11.11.2020)

<u>Art. 3</u>

Brazilian and foreign companies that operate public air transportation services, except for non-scheduled public air transportation companies with aircraft of up to 30 (thirty) seats, must make the API data of passengers and crew members on board their aircraft on international flights available, including the destination, origin, stopover or connection in Brazilian territory. (Wording given by Resolution No. 595 of 11.11.2020) § 1 The information referred to in the caput of this must be transmitted prior to takeoff by a standardized electronic message according to the EDIFACT/UN/PAXLST, provided for in Annex 9 to the International Civil Aviation Convention. (Wording given by Resolution No. 595 of 11.11.2020)

§2 Data elements as follows are mandatory in API messages, subject to the applicable flight legislation:

I – the data specified in items 1 and 2 of Exhibit I of this Resolution; and

II – the data specified in item 3 of Exhibit I of this Resolution, only when collected by the airline and available in its Departure Control System (DCS).

63 When travel documents that do not have all the data specified in Exhibit I, item 2 of this Resolution are accepted, it will be mandatory to send messages containing only the data available in the travel document used.

§ 4 In order to facilitate the processing of passengers and baggage with regard to migratory, customs, sanitary and agricultural authorities, non-scheduled public air transportation companies with aircraft of up to 30 (thirty) seats and those responsible for operations that do not constitute public air transportation of passengers or cargo are permitted to receive the information referred to in the caput. (Wording given by Resolution No. 595 of 11.11.2020)

§ 5 Airlines and other aircraft operators may forward this article>s information by means of an air transport data communication network or other channels made available by the Federal Police. (Wording given by Resolution 595 of 11.11.2020)

CHAPTER III

PASSENGER NAME RECORD (PNR) FOR INTERNATIONAL FLIGHTS

(WORDING GIVEN BY RESOLUTION NO. 595 OF 11.11.2020)

<u>Art. 4</u>

Brazilian and foreign companies that operate public air transportation services, except for non-scheduled public air transportation companies with aircraft of up to 30 (thirty) seats, must make the PNR data of passengers on board its aircraft for international flights available in their reservation systems (Computer Reservation System – CRS), including destination, origin, stopovers or connections in Brazilian territory. (Wording given by Resolution No. 595 of 11.11.2020)

Sole paragraph. Mandatory data elements in the PNR messages are the data specified in Exhibit II of this Resolution only when collected by the airline and available in its reservation system, respecting the laws applicable to the flight.

<u>Art. 5</u>

The first PNR message must be transmitted seventy-two (72) hours before the flight departure time, with updates, preferably incremental:

I - twenty-four (24) hours in advance;

II – six (6) hours in advance; and

 III – when the flight is closed for check-in.

CHAPTER III-A

ADVANCE PASSENGER INFORMATION (API) FOR DOMESTIC FLIGHTS

(INCLUDED BY RESOLUTION NO. 595, OF 11.11.2020)

<u>Art. 5-A</u>

Regarding scheduled domestic flights, air transportation companies that operate public air transport services must make the API data of passengers on board their aircraft available, including the destination, origin, stopovers or connections in Brazilian territory. (Included by Resolution No. 595 of 11.11.2020)

§ 1 In domestic flights that connect with international flights, the legislation is applicable to international flights. (Included by Resolution No. 595 of 11.11.2020)

§ 2 the information referred to in the caput must be transmitted before the aircraft takes off via a secure electronic message according to standards established between the Federal Police and the air transportation companies. (Included by Resolution No. 595 of 11.11.2020)

§ 3 The data elements specified in Annex III of this Resolution are mandatory for API messages, except where the data is indicated to be optional. (Included by Resolution No. 595 of 11.11.2020)

CHAPTER III-B

PASSENGER NAME RECORD (PNR) FOR DOMESTIC FLIGHTS

(INCLUDED BY RESOLUTION NO. 595, OF 11.11.2020)

<u>Art. 5-B</u>

Regarding scheduled domestic flights, air transportation companies that operate public air transport services must make the PNR data of passengers on board their aircraft available, including the destination, origin, stopovers or connections in Brazilian territory. (Included by Resolution No. 595 of 11.11.2020)

§ 1 In domestic flights that connect with international flights, the legislation applicable to international flights shall be respected. (Included by Resolution No. 595 of 11.11.2020)

§ 2 The deadlines for transmitting data referred to in the caput must follow the provisions of art. 5 of this Resolution. (Included by Resolution No. 595 of 11.11.2020)

§ 3 The data elements specified in Annex IV of this Resolution are mandatory for PNR messages when collected by the airline company and made available in its reservation system. (Included by Resolution No. 595 of 11.11.2020)

CHAPTER IV FINAL PROVISIONS

<u>Art. 6</u>

Failure to send API and PNR data shall result in the air transportation company operating the service being subject to applicable penalties. (Wording given by Resolution No. 595 of 11.11.2020)

§ 1 For the purposes of this article, failure is defined as not sending API and PNR data, sending it after the deadline, sending it by non-established means or sending incomplete API and PNR data. (Wording given by Resolution No. 595 of 11.11.2020)

§ 2 If the Federal Police accepts a justification for any failures or unavailable systems, including information on the extent of failure and reestablishment deadlines, this may justify not adopting the penalties provided for in the caput. (Redefined by Resolution No. 595 of 11.11.2020)

§3 The occurrence of failure, even if justified, does not exempt the airline company from the obligation to send the API and PNR data later on, as soon as possible.

<u>Art. 7</u>

The airlines must include in their transport agreements the information that the passenger reservation data will be made available to the competent bodies and entities for the exercise of the activities provided for in §1 and §1-A of art. 1 of this Resolution. (Wording given by Resolution No. 595 of 11.11.2020)

<u>Art. 8</u>

The provisions of this Resolution do not preclude formal requests for additional data by authorities mentioned in paragraphs 1 and 1-A of art. 1 of this Resolution, in exercising their jurisdiction as provided for in the law. (Wording given by Resolution No. 595 of 11.11.2020)

Sole paragraph. Without prejudice to the direct requirements of the caput, other data can be added to the API and/or PNR, should the competent authorities deem their inclusion necessary in Annexes I to IV, and forward claims with due grounds, which will observe the due process of law established by this Agency. (Included by Resolution No. 595 of 11.11.2020)

<u>Art. 8-A</u>

Violations of the provisions in this Resolution subject the offender to the penalties listed in art. 289 of Law No. 7,565 of December 19, 1986, to be established in accordance with procedures described in Resolution No. 472 of June 6, 2018, or other regulations replacing them, as of December 1, 2021. (Included by Resolution No. 595 of 11.11.2020)

<u>Art. 9</u>

This Resolution enters into force on July 22, 2014. (Wording provided by Resolution No. 328, dated 6.25.2014)

MARCELO PACHECO DOS GUARANYS Director-President

* THE EXHIBITS TO THIS RESOLUTION ARE NOT TRANSCRIBED IN THIS VERSION.

NATIONAL CIVIL AVIATION AGENCY – RESOLUTION No. 280 OF JULY 11, 2013

Provides for procedures related to the accessibility of passengers requiring special assistance to air transport and provides other measures.

THE BOARD OF DIRECTORS OF THE NA-TIONAL CIVIL AVIATION AGENCY – ANAC, in the exercise of the powers granted to it by arts. 8, items IV and X, and 11 of Law n° 11182 dated September 27, 2005, in view of the provisions of Laws n°s 10048, dated November 8, 2000, and 10098 dated December 19, 2000, and of Decrees n° 5296, dated December 2, 2004, and 6949, dated August 25, 2009, and considering what is contained in process n° 60800.174362/2011-11, voted on and approved at the Deliberative Meeting of the Board of Directors held on July 11, 2013,

RESOLVES:

<u>Art. 1</u>

Establish, under the terms of this Resolution, the procedures related to the accessibility of passengers requiring special assistance (PNAE) to public air transport.

<u>Art. 2</u>

This Resolution applies to passengers, airport operators, air operators and their agents, in domestic or international public passenger air transport services, whether regular or non-regular, except air taxi services.

 \S 1 – The provisions of this resolution do not apply to the embarkation and disembarkation procedures performed outside the national territory and procedures prior to the trip and during the flight of a stage departing from outside the country.

§ 2 – The provisions of this resolution should not imply any prejudice to national or foreign legislation applicable to the security of civil aviation against acts of unlawful interference, operational safety, or facilitation of air transport.

§ 3 – The provisions of Annex II of this resolution applies only to aircrafts registered in Brazil.

CHAPTER I GENERAL PROVISIONS

<u>Art. 3</u>

For the purposes of this Resolution, PNAE is defined as a person with a disability, a person aged 60 (sixty) years or over, pregnant woman, breastfeeding mother, person carrying young children, person with reduced mobility or anyone who, due to a specific condition has limited autonomy as a passenger.

<u>Art. 4</u>

Communications between airport operators, air operators and their agents must use the codes contained in Annex I of this Resolution.

<u>Art. 5</u>

Airport operators, air operators and their agents must adopt the necessary measures to guarantee the physical and moral integrity of the PNAE.

<u>Art. 6</u>

The PNAE is entitled to the same services that are provided to users in general, but under conditions of priority service, in all phases of their trip, including with precedence over frequent passengers, during the term of the air transport contract, subject to their special needs service, including access to information and instructions, airport facilities, aircrafts and vehicles available to other air transport passengers.

 \S 1 – There may be restrictions to services provided when there are no conditions to guarantee the health and safety of PNAE or other passengers, based on the conditions provided for in ANAC normative acts, in the general operations manual or in the operational specifications of the air operator.

§ 2 – The air operator shall disclose the general conditions and restrictions to the transport of PNAE and his/her technical aids and medical equipment.

<u>Art. 7</u>

It is assured to PNAE the dismissal of special assistance to which he/she is entitled to, except for what is provided in § 2 of art. 2.

<u>Art. 8</u>

The provision of special assistance referred to in this Resolution should not impose any burden on the PNAE.

§ 1 – Except for the assistances provided for in items I and II of art. 10

§ 2 – The provisions of the caput do not prevent the collection:

I – for additional seats required to accommodate the PNAE, his/her technical aids or medical equipment, the occupation of which is prevented by another passenger, and

II – for the transportation of baggage above allowance limit, subject to the provisions of art. 23.

§ 3 – While billing for services specified in§ 2 of this article, air operator must:

I – charge for each additional seat required to service, an amount equal to or less than 20% (twenty percent) of the value of the air ticket purchased by the PNAE; and

II – offer a discount of at least 80% (eighty percent) on the amount charged for excess baggage, exclusively for the transport of technical aids or essential medical equipment used by the PNAE.

CHAPTER II PRE-TRAVEL PROCEDURES

<u>Art. 9</u>

The air operator, at the time of contracting the air transport service, should ask the PNAE about the need for a companion, technical aids, communication resources and other assistance, regardless of the marketing channel used.

§ 1 – The PNAE must inform the air operator of the special assistance required:

I – when contracting the air transport service, in response to questions from the air operator;

II – at least 72 (seventy-two) hours in advance of the scheduled flight departure time, for the PNAE that requires a companion, pursuant to art. 27, or the presentation of medical documents, pursuant to art. 10; or

III – at least 48 (forty-eight) hours before the scheduled flight departure time for the PNAE that requires other types of assistance not mentioned in item II of this paragraph.

 \S 2 – The absence of information about special assistance within the deadlines specified in this article should not make the transportation of the PNAE unfeasible when the passenger agrees to be transported with the assistance that is available, also subject to the provisions of § 2 of art. 2.

<u>Art. 10</u>

For assessment of the conditions referred to in § 1 of art. 6, the air operator is allowed to require the production of the Medical Information Form (MEDIF) or other medical document with information about the PNAE health conditions who:

 I – needs to travel on a stretcher or an incubator;

II – needs to use oxygen or other medical equipment; or

III – presents health conditions that may result in risk for himself/herself or for the other passengers or requires extraordinary medical attention in the event of air travel.

§ 1 – The medical document and the MEDIF should be evaluated by the medical service of the air operator, specialized in aviation medicine, having a deadline of 48 (forty-eight) hours to answer.

§ 2 – For transport of passenger in the conditions mentioned in items I and II of this article, a certificate may be required pursuant to specific regulations.

§ 3 – The air operator must adopt measures to enable the exemption from requirement to present the medical document or MEDIF when the conditions, which characterize the person as PNAE, are of a permanent and stable character and documents have already been submitted to the air operator.

<u>Art. 11</u>

The refusal to provide the air transport service to the PNAE must be justified in writing within 10 (ten) days, exclusively based on the conditions provided for in § 1 of art. 6.

Sole paragraph. Any discomfort or inconvenience caused to other passengers, or crew members, is not a justification for refusing to provide air transport services.

<u>Art. 12</u>

The air operator cannot limit the amount of PNAEs on board.

<u>Art. 13</u>

The air operator must provide the PNAE with information regarding the procedures to be adopted in all phases of air transport.

Sole paragraph. The PNAE must inform, under the terms of art. 9, the communications resources he/she needs.

CHAPTER III ASSISTANCE DURING TRAVEL

SECTION I

GENERAL PROVISIONS

<u>Art. 14</u>

The air operator must assist the PNAE in the following activities:

I -check-in and baggage check;

II – transfer from the check-in counter to the aircraft, passing through border and security controls;

III – embarking and disembarking from the aircraft;

IV – seating arrangements, including mobility inside the aircraft;

V – stowing carry-on-luggage inside the aircraft;

VI – transfer from the aircraft to the baggage claim area;

VII – collection of checked baggage and monitoring at border controls;

VIII – exit from the Arrivals area and access to the public area;

IX – assistance in accessing the lavatories;

X - assistance to the PNAE using guide dogs or accompanying guide dogs;

XI – transfer or connection between flights; and

XII – individual demonstration to the PNAE of emergency procedures, when requested.

Sole paragraph. The air operator is responsible for providing the necessary technical assistance for the execution of the assistance provided for in this article, except for the provisions of § 1 of art. 20 of this Resolution.

<u>Art. 15</u>

The special assistance during the trip must be made available by the air operator to the PNAE upon his/her presentation for check-in.

Sole paragraph. If the PNAE checks by any means other than in-person service, he/she must, upon arrival at the airport, identify himself/herself to a representative of the air operator.

<u>Art. 16</u>

The PNAE must show up for check-in within the same deadline as other passengers.

Sole paragraph. For the cases provided for in items I and II of art. 10, the air operator may establish different presentation times and must inform the passenger of the required advance.

<u>Art. 17</u>

The air operator must carry out the PNAE boarding in priority over all other passengers.

<u>Art. 18</u>

The disembarkation of the PNAE must be carried out immediately after the disembarkation of all other passengers, except when the time available for a connecting flight, or other circumstances, justify the prioritization.

<u>Art. 19</u>

The responsibility for assisting the PNAE, pursuant to art. 14, on connecting flights, remains with the air operator that performed the arrival stage until the PNAE is presented to the operator of the departure stage.

<u>Art. 20</u>

The embarkation and disembarkation of the PNAE who depends on assistance of STCR, WCHS or WCHC type should preferably be carried out by embarkation bridges and can also be carried out by ascending and descending equipment or ramp.

§ 1 – The ascent and descent equipment or ramp provided for in the caput must be made available and operated by the airport operator, and the specific price of air operators may be charged.

§ 2 – The air operator is allowed to provide and operate his own ascent and descent equipment or ramp.

 \S 3 – The air and airport operators are authorized to enter into contracts, agreements or other legal instruments with other operators or with companies that support air transport services for the provision and operation of the ascending and descending equipment or ramps provided for in §§ 1 and 2 of this article.

 \S 4 – The embarkation or disembarkation of the PNAE in aircrafts with a maximum height of the lower part of the access door to the passenger cabin in relation to the ground does not exceed 1.60m (one meter and sixty centimetres) is excluded from the provision of the caput.

§ 5 – In the cases specified in § 4 of this article, the embarkation and disembarkation of the PNAE can be achieved by other means, since his/her safety and dignity are guaranteed, and being prohibited to manually load the passenger, except in situations that require emergency evacuation of the aircraft.

§ 6 – For purposes of the § 5 of this article, manually load the passenger means to sustains him/her, holding directly on parts of his/her body, with the effect of raising or lowering him/ her from the aircraft to the level necessary to embark or disembark.

§ 7 – The air operator is responsible for providing the means for embarkation or disembarkation of the PNAE in the cases specified in §§ 4 and 5 of this article.

<u>Art. 21</u>

The air operator must provide the airport operator, in a timely manner, with the necessary information to attending the PNAE at the airport, in particular for the purpose of allocating boarding bridges to the aircrafts carrying the PNAE who depends on the assistance provided for in the caput of art. 20.

 \S 1 – The airport operator must establish procedures and terms for the supply of information mentioned in the caput.

§ 2 – The airport operator must keep available to the public the information on the methods which can be employed in each airport for embarking and disembarking of the PNAE who depends on assistance provided in art. 20.

SECTION II

TECHNICAL AIDS AND MEDICAL EQUIPMENT

<u>Art. 22</u>

The technical aids used by the PNAE to assist in his/her locomotion and the medical equipment can be used in the restricted security area and taken to the aircraft door, as long as they are submitted to verification at the airport security inspection channel.

<u>Art. 23</u>

The air operator must transport the technical aid used at the locomotion of the PNAE free of charge, limited to 1 (one) piece:

I - in the aircraft cabin, when there is adequate space; or

II – in the aircraft's luggage compartment, which must be made available to the PNAE at the time of disembarking the aircraft.

<u>Art. 24</u>

When necessary, the medical equipment to be used during the flight must be transported in the cabin.

Sole paragraph. The PNAE can use his/ her own medical equipment, subject to provision of § 2 of art. 2.

<u>Art. 25</u>

The PNAE's technical aids and medical equipment, when dispatched, must be considered fragile and priority items, and must be transported on the same flight as the PNAE.

§ 1 – The technical aid or the medical equipment must be reported, identified and presented to the air operator, who must hand over proof of receipt to the PNAE.

§ 2 – In the event of loss or damage to technical aids or medical equipment, the air operator must provide, upon disembarkation, an immediate replacement with an equivalent item.

 \S 3 – The loss, or uselessness, is verified when technical aids or medical equipment have not been returned to the

PNAE in the same conditions that were presented to the air operator after 48 (forty-eight) hours of disembarking.

§ 4 – As loss or uselessness is verified, the air operator must pay indemnification to the PNAE at market value of the technical aid or medical equipment lost or render useless within fourteen (14) days.

§ 5 – The technical aid or medical equipment provided by the air operator within the terms of § 2 of this article should remain at the disposal of the PNAE until he/she purchases or replaces the technical aid or medical equipment, limited to the term of 15 (fifteen) days as of indemnity payment.

 \S 6 – Other forms of compensation to the PNAE may be established by specific agreement between the parties, and, in this case, the air operator must previously inform the PNAE about his/her rights provided in §§ 2 to 5 of this article.

<u>Art. 26</u>

The transportation of technical aids, medical equipment or any other equipment involving items classified as dangerous for air transport must be carried out in accordance with the technical requirements of the Brazilian Civil Aviation Regulation No. 175 – RBAC No. 175, entitled "Transport of Dangerous Goods in Civil Aircraft". (Wording given by Resolution No. 608, dated February 11, 2021)

SECTION III

COMPANION

<u>Art. 27</u>

The PNAE with disability or reduced mobility must be accompanied whenever:

I - travels on a stretcher or incubator;

II - due to mental or intellectual impairment, cannot understand the flight safety instructions; or

III – cannot meet his/her physiological needs without assistance.

§ 1 – In the cases provided for in items I to III of this article, the air operator must provide a companion, without additional charge, or require the presence of the companion chosen by the PNAE and charge an amount equal to, or less than, 20% (twenty per percent) of the value of the air ticket purchased by the PNAE for the companion seat.

 \S 2 – The air operator must provide a written response, within 48 (forty-eight) hours, to requests for companion set forth in this article.

<u>Art. 28</u>

The travel companion must be over 18 (eighteen) years old and able to assist the PNAE with the necessary aids, including those provided for in art.14.

Sole paragraph. The companion must travel in the same class and in a seat adjacent to the one of the PNAE he/she is assisting.

SECTION IV

GUIDE DOG OR ACCOMPANYING GUIDE DOG

<u>Art. 29</u>

The PNAE using a guide dog or an accompanying guide dog can enter and remain with the animal in the passenger terminal building and in the aircraft cabin, upon presentation of the identification of the guide dog and proof of user training.

§ 1 – The dog guide or the accompanying guide dog must be carried free of charge in the aircraft cabin floor, adjacent to its owner and under his/her control, since it is equipped with harness, the use of muzzle being dismissed.

§ 2 – The guide dog or the accompanying guide dog shall be accommodated so as not to obstruct, totally or partially, the aisle of the aircraft.

§ 3 – The guide dog or accompanying guide dog in training phase must be admitted in the form of the caput when in the company of a trainer, instructor or qualified companion.

§ 4 – The air operator is not obliged to offer food to the guide dog or the accompanying guide dog, this being the passenger's responsibility.

<u>Art. 30</u>

For the transport of a guide dog or an accompanying guide dog in an aircraft, the requirements of the national health and of the country of destination authorities must be complied with, when applicable.

SECTION V

DESIGNATION OF SEATS AND CONTAINMENT MECHANISMS

<u>Art. 31</u>

The Brazilian air operator must provide:

I – child restraint system or allow the person responsible for the child to provide it, provided that in accordance with the technical requirements of paragraph 121.311 (b) of RBAC n° 121, entitled "Operational Requirements: Domestic, Flag and Supplementary";

II – special seats, next to the aisle, located at the front and rear of the aircraft, as close as possible to the exits, equipped with movable armrests, arranged in a minimum quantity in accordance with Annex II of this Resolution, being prohibited its location in the emergency exits; and

III – additional retention mechanism to the PNAE that presents a limitation preventing him/her from standing upright on the aircraft's backrest.

§ 1 – The PNAE may use his/her own additional retention mechanism, and, in this case he/she must file an authorization request with ANAC at least 20 (twenty) days before the date of embarkation.

§ 2 – Once a specific additional retention mechanism has been authorized by ANAC, the PNAE is exempted from requesting authorization for its use in other trips; he/she should only present at the time of embarkation, to the air operator, the corresponding authorization, provided that is valid, if applicable.

<u>Art. 32</u>

If the PNAE has a limitation that requires maintaining the backrest of the seat in the reclined position in all phases of the flight, including landing and takeoff, the occupation of the seat located immediately behind, and the seats with access to the corridor (s) obstructed by the seat with backrest in the reclined position, is prohibited.

<u>Art. 33</u>

The PNAE depending on WCHR, WCHS or WCHC assistance type, the PNAE accompanied by a guide dog or accompanying guide dog and the PNAE whose knee joint does not allow the maintenance of a flexed leg must be allocated by the air operator in rows with extra spaces, or seats with specific devices, if available, to meet their needs, in a location compatible with the chosen class and the purchased air ticket.

Sole paragraph. The PNAE depending on WCHC assistance type must occupy prior to other passengers the seats next to the aisle located in rows close to the main embarkation and disembarkation doors of the aircraft and lavatories.

<u>Art. 34</u>

The air operator may not accommodate the PNAE in a seat adjacent to an emergency exit or in a manner that promotes total or partial obstruction of the aircraft's corridor.

CHAPTER IV

QUALITY CONTROL OF SPECIAL ASSISTANCE SERVICES

<u>Art. 35</u>

Air and airport operators must establish a training program for their ground and on-board teams who assist passengers and for the person in charge of accessibility under art. 39, with the objective of training them to proper assist the PNAE and, when requested by ANAC, must provide the supporting documentation.

Sole paragraph. The training program mentioned in the caput must comply with the provisions of Annex III of this Resolution.

<u>Art. 36</u>

Air and airport operators must implement a quality control system for the service rendered to PNAE, based on the services provided.

<u>Art. 37</u>

Air and airport operators must carry out and maintain, for 2 (two) years, the records of attendance to the PNAE, for monitoring and statistical control, and the following information must be registered, according to each case:

I – for each PNAE air transport service performed:

a) execution date;

b) airports of origin, destination and connection;

c) type (s) of aircraft (s) that performed the transport;

d) type (s) of assistance provided, in accordance with the codes of Annex I of this Resolution;

e) technical aid (s), medical equipment (s) or other equipment made available;

f) establishment or not of prior communication, pursuant to art. 9 or art. 21; and g) presence or absence of companion, guide dog or accompanying guide dog; and

II – for each PNAE, air transport service requested and not performed:

a) date of service request; and

b) reason of refusal or failure to provide the service.

<u>Art. 38</u>

Air and airport operators must carry out and keep, for 2 (two) years, the record on information exchange between operators and with the PNAE, including the time of receipt and transmission of each information.

<u>Art. 39</u>

Whenever there is operation of regular flights, air operators and airport operators must keep, for the full period of their operations, an employee responsible for accessibility to be consulted with for the solution of occasional occurrences related to PNAE service provision.

§ 1 – The person responsible for accessibility should be available for in person contact or to be contacted by other means which allow for immediate service.

 \S 2 – The guidance of the person responsible for accessibility may not oppose a decision based on operational safety adopted by the pilot-in-command.

CHAPTER V FINAL PROVISIONS

<u>Art. 40</u>

ANAC may request, at any time, information related to arts. 35 to 38.

<u>Art. 41</u>

Annex III to Resolution n° 25, dated August 25, 2008, is effective with the following changes:

I – in table IV – AIR TRANSPORT FA-CILITATION – Airline:

a) items 1, 5, 6, 9, 13 and 14 become effective with the wording given in Annex IV of this Resolution;

b) items 16 to 27 are added, in the form of Annex IV of this Resolution; and

c) items 4, 7, 8, 10, 11, 12 and 15 are hereby revoked;

II – in table IV – FACILITATION OF AIR TRANSPORT – Airport Administration:

a) items 7 and 15 become effective with the wording given in Annex IV of this Resolution;

b) items 18 to 23 are added, in the form of Annex IV of this Resolution; and

c) items 1, 5, 6, 8, 13, 14 and 16 are hereby revoked;

III – in the header of the table in Annex III, the text "BRAZILIAN CODE OF AERONAUTICAL COMMAND – ART.1 thereof, 63 C/ARTS C. 12 AND 289".

<u>Art. 42</u>

The equipment referred to in art.20 shall be provided by the airport operator, pursuant to § 1, according to the following schedule:

I – until December 2013: airports that handled 2,000,000 (two million) passengers or more per year;

II – until December 2014: airports that handled more than 500,000 (five hundred thousand) and less than 2,000,000 (two million) passengers per year; and

III – until December 2015: airports that handled 500,000 (five hundred thousand) passengers or less per year.

§ 1 – The number of passengers handled will be calculated by adding up embarkations, disembarkation, and connections recorded in the immediately preceding year.

 $\S 2$ – Until the expiration of the deadlines mentioned in this article, the air operator remains responsible for the provision of equipment specified in $\S 1$ of art. 20 of this Resolution.

<u>Art. 43</u>

The Annexes to this Resolution are published in the Personnel and Service Bulletin – BPS of this Agency (electronic address www.anac.gov.br/transparencia/ bps.asp) and also available on its page "Legislation" (electronic address www. anac.gov.br/legislacao), on the world wide web.

<u>Art. 44</u>

This Resolution comes into force 180 (one hundred and eighty) days after its publication.

<u>Art. 45</u>

The resolution n° 9 dated June 5, 2007, published in the Official Gazette dated June 14, 2007, section 1, pages 18 and 19 is hereby revoked.

MARCELO PACHECO DOS GUARANYS Director-President

ANNEX I

TO RESOLUTION NO. 280, OF JULY 11, 2013.

CLASSIFICATION AND CODING OF PASSENGERS REQUIRING SPECIAL ASSISTANCE

MEDA – Medical case. Medical authorization and/or follow-up may be required. It is not applicable to passengers who only need special assistance at the airport and during boarding and disembarking operations. It is preferentially applied to the following passengers: injured, with a part of the body in a cast, people who need oxygen during the flight, newborns in an incubator, etc.

STCR – Passengers transported on a stretcher.

WCHR – Wheelchair – R for ramp. The passenger can go up and down stairs and walk to and from his/her seat, but he/she/she needs a wheelchair to move over longer distances (through the ramp, boarding bridge, etc.).

WCHS – Wheelchairs – S for steps (steps). The passenger cannot go up or down stairs, but he/she/she can walk to and from his/her seat, but he/she/she needs a wheelchair to move over longer distances (through the ramp, boarding bridge, etc.). He/she needs adequate equipment to embark or disembark when the aircraft is parked on the ramp.

WCHC – Wheelchair – C for cabin seat. The passenger who is unable to move. He needs a wheelchair to move to the aircraft and to and from his/her/her seat and adequate equipment to embark and disembark when the aircraft is parked on the ramp.

MAAS – (meet and assist) – special cases. Passengers requiring special individual attention during boarding and disembarking operations that are not usually provided to other passengers. They are as follows: pregnant women, the elderly, convalescents, etc. BLND – Passenger with visual impairment (specify if accompanied by a trained dog for his/her/her assistance).

DEAF – Passenger with hearing impairment (specify if accompanied by a trained dog for his/her/her assistance).

INF - lap child.

OXYG – Oxygen for passengers traveling, both seated and on a stretcher, who require oxygen during the flight.

WCBD - Wheelchair powered by dry battery.

WCBW – Wheelchair powered by wet battery.

ANNEX II

TO RESOLUTION NO. 280, OF JULY 11, 2013. AIRCRAFT CONFIGURATION

 Aircraft that are going to enter service for the first time or that have to undergo a major remodeling must be adequate in accordance with the ABNT accessibility standards, with regard to the preferential location of seats reserved for wheelchair passengers, on-board equipment, including seats with movable armrests (removable or retractable), on-board wheelchairs (especially with regard to their suitability for the aircraft's configuration), adequate lavatory, lighting and signage, except when the suitability is deemed impractical by the body certifier.

1.1. For the adjustments mentioned in item 1, the following parameters must also be complied:

a) aircraft with 30 (thirty) or more seats must have at least half of their aisle seats with movable armrest; and

b) aircraft with 100 (one hundred) or more seats must have at least one on-board wheelchair.

1.2. Air carriers are not required to provide aisle seats with movable armrests in a row of seats in which the PNAE is prevented from occupying, due to the fulfillment of any requirement issued by ANAC that covers cabin safety aspects.

1.3. The seats mentioned in item "a" of item 1.1 must be available in all classes of service of the aircraft, in proportion to the number of aisle seats belonging to each class of service.

1.4. Air carriers are not required, under this Resolution, to modify their aircraft to meet the requirements set out in this Annex. However, if air operators replace their aircraft seats with newly manufactured seats, they must have a movable armrest next to the aisle(s). In no event is the operator required to install seats with a movable armrest in excess of the amount established in item "a" of item 1.1.

1.5. Air carriers, whether domestic or foreign, must comply with the requirements set out in item "a" of item 1.1 and items 1.2 and 1.4 with respect to aircraft that were initially ordered after April 5, 1990 and delivered after April 5, 1992 Item 1.3 applies to air operators with respect to aircraft that were initially ordered after May 13, 2009 or that were delivered after May 13, 2010.

1.6. Compliance with item 1.4 applies to new seats ordered after May 13, 2009.

1.7. With due regard to the rule established in items 1.1 to 1.6, in the event of impractical installation of seats with a movable armrest in a certain class of aircraft service, due to the seat model not offering this option (for example, first class seats with retractable tables integrated into the armrest), it is accepted as an alternative method to provide sufficient space between the seat in question and the seat/partition immediately in front, in order to allow the wheelchair provided by the operator to enter the mentioned space. In this way, the PNAE is transferred to the seat without hindrance due to the arm being in the trajectory.

ANNEX III

TO RESOLUTION NO. 280, OF JULY 11, 2013. TRAINING PROGRAM

1. The training should include an understanding of the diversity of needs and disabilities, as well as helping the team to develop an awareness of appropriate responses to the PNAE, and should cover, at a minimum, the following content:

1.1. physical, sensory, intellectual and non-apparent disabilities;

- 1.2. people with mental disorders;
- 1.3. cognitive disabilities;

1.4. people in need of technical assistance;

1.5. people with reduced mobility;

- 1.6. hearing impaired people;
- 1.7. visually impaired people;
- 1.8. deafblind people;
- 1.9. people with speech disorder;

1.10. people who need companions and the function of companions; and

1.11. people traveling with a guide dog or accompanying guide dog.

2. For the development of the content of the training program established in item 1, air operators and airport operators can consult organizations that represent people with disabilities, as well as consider the involvement of these organizations in the evaluation of the content of their programs or in the formation of their teams.

3. The deepening of the content and the training methodology must be compatible with the functions to be performed by the person being trained.

4. The training program should consider the need for refresher courses, which should incorporate information about new equipment, procedures and policies.

* ANNEX IV OF THIS RESOLUTION IS NOT TRANSCRIBED IN THE PRESENT VERSION

NATIONAL CIVIL AVIATION AGENCY – RESOLUTION No. 400 OF DECEMBER 13, 2016

Provides for the General Conditions of Air Transport.

THE BOARD OF DIRECTORSOF THE NA-TIONAL CIVIL AVIATION AGENCY - ANAC. in the exercise of the powers granted to it by art. 11, item V, of Law No. 11.182, of September 27, 2005, in view of the provisions of arts. 8, paragraphs I and X of said law, 222 to 260 and 302 of Law No. 7.565, dated December 19, 1986 in the Laws Nos 10.406 of 10 January 2002. 8.078, September 11, 1990 and Decree Nos 5.910, of September 27, 2006, and 6.780, of February 18, 2009, and considering the provisions of process No 00058.054992/2014-33, deliberated and approved at the 26th Meeting Board Decision, held on December 13, 2016,

RESOLVES:

<u>Art. 1</u>

To establish the general conditions applicable to scheduled air transport of passengers, domestic and international.

Sole paragraph. The general air transport conditions also apply to non-scheduled flights where seats are sold individually and offered to the public.

CHAPTER I

OBLIGATIONS PRIOR TO EXECUTION OF THE AIR TRANSPORT AGREEMENT

SECTION I

SERVICE OFFERING

<u>Art. 2</u>

When offering air transport services, the air carrier may determine the price to be paid for its services, as well as its applicable rules, under the terms of the regulations issued by ANAC.

Sole paragraph. The air carrier must provide clear information about all its services offered and the applicable rules available at the ticket sales points, whether physical or electronic, in order to allow immediate and easy understanding.

<u>Art. 3</u>

The air carrier must offer the passenger at least one airfare option in which the fine for reimbursement or rescheduling does not exceed five percent (5%) of the total value of air transport services, in due compliance with to the provisions of arts. 11 and 29, sole paragraph, of this Resolution.

<u>Art. 4</u>

The offer of air passenger transport services, in any marketing channel, combined or not with tourism services, must display the total value of the airline ticket to be paid by the consumer.

§ 1 The total value of the airline ticket will comprise the following items:

I - value of air transport services;

II - airport tariffs; and

III – amounts due to government entities to be paid by the airline ticket purchaser and collected through the air carrier.

§ 2 The final price to be paid will be added by any optional services (opt-in rule) contracted by the consumer in the airfare selling process.

<u>Art. 5</u>

In the selling process of the airline ticket, from the choice of origin, destination, date of travel and before payment is made for its services, the air carrier must provide the following information to the user:

I – total price of the airline ticket to be paid in national currency, with a breakdown of all items provided for in art. 4 § 1 of this Resolution;

II – no-show rules for boarding, rescheduling and refunding, with possible fines;

III – connection time and possible change of airports; and

IV – baggage transport rules and prices.

§1 For the purposes of this Resolution, a marketing process is that performed in the national territory or through electronic means directed to the Brazilian market.

§2 Any charge for an optional service or product that has not been requested by the user is prohibited (opt-in rule).

§3 The information about products and services relating to air transport and marketed by the air carrier should be available in Portuguese language, in a clear and objective manner.

SECTION II

AIRLINE TICKET

<u>Art. 6</u>

The air carrier must show the passenger, in physical or electronic medium, the proof of the acquired airline ticket containing, in addition to the information contained in art. 5 of this resolution, the following items:

I – name and surname of the passenger;

- II time and date of the flight, if any;
- III boarding procedure and time;
- IV acquired products and services; and
- V validity of the airline ticket.

<u>Art. 7</u>

In cases where the air carrier issues proof of airline ticket without a predefined date for use, the validity period will be one (1) year, counted from the issuance.

<u>Art. 8</u>

The error in filling in the passenger's name, surname or agnomen should be corrected by the air carrier without charge to the passenger.

§1 It will be incumbent upon the passenger to request correction until the time of check-in.

§2 In the case of international flight involving different operators (interline), the costs of correction can be passed on to the passenger.

§3 The provisions in §2 of this article are not applicable in cases where the error is attributed to the carrier.

§ Correction of the name does not change the personal and non-transferable character of the airline ticket.

SECTION III

ALTERATION AND TERMINATION OF THE AIR TRANSPORT AGREEMENT BY THE PASSENGER

<u>Art. 9</u>

Contractual fines cannot exceed the value of air transport services.

Sole paragraph. Airport fares paid by the passenger and amounts due to government entities cannot be included in the calculation basis of possible fines.

<u>Art. 10.</u>

In case of rescheduling the airline ticket, the passenger must pay or receive:

I - the variation in the airport tariff related to the airport at which the new departure will take place, based on the price shown in the table in force on the date on which the airline ticket is rescheduled; and

II – the difference between the price of airline transport services originally paid by the passenger and the price offered at the time of rescheduling.

<u>Art. 11.</u>

The user can withdraw from the acquired airline ticket, free of charge, as long as he/she/she does it within twenty-four (24) hours, from the receipt of his/her/her receipt.

Sole paragraph. The rule described in the caption of this article only applies to purchases made at least seven (7) days before the departure date.

SECTION IV

ALTERATION OF THE AIR TRANSPORT AGREEMENT BY THE AIR CARRIER

<u>Art. 12.</u>

The changes made in a programmed manner by the air carrier, especially regarding the originally contracted time and route, must be informed to passengers at least seventy-two (72) hours in advance.

§1 The air carrier shall provide re-accommodation alternatives and full refund; the choice is of the passenger, if:

 I – information about the alteration is provided in a shorter period than that specified in the caption of this article; and

II – departure or arrival time change is more than thirty (30) minutes on domestic flights and one (1) hour on international flights in relation to the originally contracted time, if the passenger does not agree with the time after the change.

§2 If the passenger arrives at the airport as a result of failure in receiving the information, the air carrier must offer material assistance, as well as the following alternatives, to be chosen by the passenger

If the passenger attends the airport due to failure in the provision of information, the air carrier shall provide the material assistance as well as the following alternatives to passenger choice:

I - reaccommodation;

II – full refund; and

III – execution of the service by another mode of transport.

SECTION V

BAGGAGE INFORMATION

<u>Art. 13.</u>

The transportation of checked baggage will be an accessory contract offered by the air carrier.

§1 Checked baggage may be severely restricted under this Resolution and other rules relating to civil aviation security.

§2 The rules concerning the transport of checked baggage, even if carried out by more than one air carrier, should be uniform for each segment.

<u>Art. 14.</u>

The air carrier must allow a minimum allowance of ten (10) kilos of carry-on luggage per passenger according to the sizes and number of items defined in the transport agreement.

§1 Carry-on luggage is considered to be that carried in the cabin, under the responsibility of the passenger.

§2 The air carrier may restrict the weight and content of carry-on luggage for reasons of safety or capability of the aircraft.

<u>Art. 15.</u>

The air carrier must inform users which baggage will be subjected to special check-in procedures, due to its handling conditions or its dimensions.

§1 Baggage not falling within the rules established by the air carrier as provided for in the caption of this article may be rejected or subject to a cargo transport agreement. §2 Transport of cargo and animals must comply with a contracting regime and own check-in procedure.

CHAPTER II

PASSENGER CHECK-IN AND PERFORMANCE OF THE AIR TRANSPORT AGREEMENT

SECTION I

CHECK-IN AND BOARDING

<u>Art. 16.</u>

For boarding on domestic and international flights, the passenger must present a civil identification public-faith document, valid throughout the Brazilian territory, in due compliance with that provided for in Decree No. 5.978, of December 4, 2006.

§1 Once the identification of the passenger is assured and in the case of a domestic flight, the original or certified copy of the civil document referred to in the caption of the article must be accepted.

§2 The foreign passenger must present a valid foreign passport or other travel document for boarding, pursuant to Decree No. 5.978 of 2006.

§3 Passengers under twelve (12) years of age may be admitted to board on a domestic flight upon presentation of their birth certificate, subject to the requirements of Law No. 8.069, of July 13, 1990.

§4 In cases of theft or loss of the passengers identification document, the police report on domestic flight, issued by a competent public safety authority will have to be accepted

<u>Art. 17.</u>

In the baggage check, if the passenger intends to transport goods whose value exceeds the indemnity limit of one thousand and one hundred and thirty-one (1.131) Special Drawing Rights – DES, he/ she/she may make a special declaration of value with the air carrier.

§1 The special value statement should be made by filling in the form provided by the air carrier, a copy of which is given to the passenger.

§2 The special value statement will declare the value of the checked baggage and enable increasing the amount of reimbursement in case of loss or violation. §3 Other indemnity limits must be observed in international transport, according to the applicable international treaty, and should be duly informed to the passenger.

<u>Art. 18.</u>

For the execution of the transport agreement, the passenger must meet the following requirements:

I – present for boarding with a civil identification document and at a time established by the air carrier;

II – meet all requirements related to the transport, such as obtaining the correct entry, stay, transit and vaccination certificates required by the legislation of the countries of destination, scale and connection;

III – comply with the notices transmitted by the air carrier.

Sole paragraph. Failure to comply with any of the requirements of this article will authorize the air carrier to deny boarding to the passenger and apply any fines.

<u>Art. 19.</u>

If the passenger does not use the initial leg for round-trip tickets, the air carrier may cancel the return leg.

Sole paragraph. The rule on the caption of this article does not apply if the passenger informs, up to the time originally set for the outward leg of the domestic flight, that he/she wishes to use the return leg, and the collection of a contractual fine for this purpose is prohibited.

SECTION II

SERVICE DELAY, CANCELLATION, INTERRUPTION AND DENIED BOARDING

<u>Art. 20.</u>

The air carrier must immediately inform the passenger through the available means of communication:

I – that the flight will be delayed in relation to the originally agreed time, indicating the new departure time forecast; and

II – about the flight cancellation or service interruption.

§1 The air carrier shall keep the passenger informed, at least, every thirty (30) minutes as the of the new flight schedule starting in cases of delay.

§2 Information about the reason of the delay, cancellation, interruption of the

service and denied boarding should be provided by the air carrier in writing, whenever requested by the passenger.

<u>Art. 21.</u>

The air carrier must offer alternatives for reaccommodation, compensation and execution of the service by another mode of transport, the choice being that of the passenger, in the following cases:

I – flight delay for more than four hours in relation to the originally agreed time;

II – flight cancellation or service interruption;

III – passenger is denied boarding; and

IV – loss of subsequent flight by the passenger, on connecting flights, including in cases of airport change, when the cause of loss is attributable to the air carrier.

Sole paragraph. The alternatives provided for in the caption of this article must be immediately offered to passengers when the air carrier has in advance the information that the flight will delay more than four (4) hours in relation to the originally agreed time.

<u>Art. 22.</u>

Denied boarding will be configured when the air carrier does not to transport a passenger who has presented himself for boarding on the flight originally agreed upon, except in the cases provided for in Resolution No. 280, of July 11, 2013.

<u>Art. 23.</u>

Whenever the number of passengers for the flight exceeds the number of seats available on the airplane, the air carrier must look for volunteers to be accommodated on another flight upon compensation negotiated between the volunteer passenger and the air carrier.

§1 The reaccommodation of volunteer passengers on another flight by accepting compensation will not constitute denied boarding.

§2 The air carrier may make the payment of compensation subject to the signature of a specific acceptance document.

<u>Art. 24.</u>

In the case of denied boarding, the air carrier must, without prejudice to the provisions of art. 21 of this Resolution, immediately make the payment of financial compensation to the passenger, which may be by bank transfer, voucher or in kind, in the amount of:

I – two hundred and fifty (250) DES, in the case of domestic flight; and

II - five hundred (500) DES, in the case of international flight.

<u>Art. 25.</u>

The cases of delay, flight cancellation and service interruption provided for in this Section are not to be mixed up with the contractual change made by the air carrier and represent contingency situations that occur on the date of the originally agreed upon flight.

SECTION III

MATERIAL ASSISTANCE

<u>Art. 26.</u>

Material assistance to passengers must be offered in the following cases:

I – flight delay;

II – flight cancellation;

III - service interruption; or

IV - passenger is denied boarding.

<u>Art. 27.</u>

Material assistance consists of satisfying the needs of the passenger and must be offered free of charge by the air carrier, depending on the waiting time, even though passengers are on board the aircraft with open doors, according to the following terms:

I - more than one (1) hour: communication facilities;

II – more than two (2) hours: food, according to the time, through the supply of a meal or individual voucher; and

III – more than four (4) hours: hosting service, in case of overnight stay, and transfer to and from the airport.

§1 The air carrier may not offer hosting service for the passenger who resides in the airport town of origin, guaranteeing the free shuttle to and from the airport.

§2 In case of Passenger with Special Needs – PNAE and his/her/her companions, in accordance with the resolution No 280, 2013, the assistance referred to in section III of the caption of this article should be provided regardless of overnight requirement, except if it can be replaced by accommodation in a location that meets his/her/her needs and upon the agreement of the passenger or companion. §3 The air carrier may cease to offer material assistance when the passenger chooses to reaccommodate on the air carriers own flight to be carried out on the date and time convenient to the passenger or to the full refund of the airline ticket.

SECTION IV

REACCOMMODATION

<u>Art. 28.</u>

The reaccommodation will be free of charge, will not replace transport agreements already entered into and will take precedence over the execution of new transport agreements, and must be made, at the passenger's discretion, according to the following terms:

 I – on own-or third-party flight to the same destination, at the first opportunity; or

II – on the air carrier's own flight to be carried out on the date and time convenient to the passenger.

Sole paragraph. PNAEs, under the terms of Resolution No. 280, of 2013, will have priority in the reaccommodation.

SECTION V

REIMBURSEMENT

<u>Art. 29.</u>

The reimbursement period will be seven (7) days, counting from the date of the request made by the passenger, and the payment methods used in the purchase of the airline ticket must be observed.

Sole paragraph. In cases of reimbursement, the amounts provided for in art. 4 § 1 °, sections II and III of this Resolution must be fully refunded.

<u>Art. 30.</u>

In cases of flight delay, flight cancellation, service interruption or passenger denied boarding, reimbursement should be refunded according to the following terms:

I – full, if requested at the airport of origin, stopover or connection, ensuring, in these two (2) last cases, the return to the airport of origin;

II – proportional to the unused section, if the displacement already made takes advantage of the passenger.

<u>Art. 31.</u>

If the passenger agrees, reimbursement may be made in credits for the purchase of a new airline ticket.

§1 The credit of airline ticket and its validity shall be informed in written form to the passenger on physical or electronic means.

§2 In the event of that included in the caption of this article, free credit use will have to be ensured, including the purchase of airline ticket to third parties.

CHAPTER III

OBLIGATIONS AFTER THE EXECUTION OF THE AIR TRANSPORT AGREEMENT

<u>Art. 32.</u>

Receipt of checked baggage, without complaint by the passenger, will constitute presumption that it was delivered in good condition.

§1 After confirming the loss of baggage, the passenger shall immediately complain to the air carrier.

§2 The air carrier must restore the lost luggage, at the place indicated by the passenger, according with the following limits:

I – within seven (7) days, in the case of a domestic flight; or

II – within twenty-one (21) days, in the case of an international flight.

§3 If the baggage is not located within the terms set out in § 2 of this article, the air carrier must indemnify the passenger within seven (7) days.

§4 In cases where the passenger finds a violation of the contents of baggage or its damage, he/she/she must send the complaint to the air carrier in up to seven (7) days of receipt.

§5 The air carrier shall, within seven (7) days from the date of the complaint, take one of the following measures, as appropriate:

I - repair the damage, if possible;

II – replace damaged baggage with an equivalent one;

III – indemnify the passenger in case of violation.

<u>Art. 33.</u>

In case of loss of luggage, any expenses incurred will be reimbursed to the passenger who is outside his/her home.

§1 The reimbursement of expenses must be made within seven (7) days from the presentation of proof of expenses.

§2 The contractual rules must establish the form and the daily limits of the reimbursement.

63 If the baggage is not found:

I – the reimbursement of expenses may be deducted from the amounts paid as a final indemnity, subject to the limits provided for in art. 17 of this Resolution.

II – the air carrier must refund to passenger any additional amounts eventually paid for the transportation of baggage.

§4 The air carrier may offer credits for purchase of tickets and services by way of compensation, at the discretion of the passenger.

<u>Art. 34.</u>

Any damage caused to a fragile item checked may no longer be compensated by the air carrier, under the terms stipulated in the transport agreement.

CHAPTER IV

SERVICE TO USERS OF AIR TRANSPORT

<u>Art. 35.</u>

The air carrier must provide the user with at least one electronic service channel for receiving complaints, requesting information, changing contracts, terminating and refunding.

<u>Art. 36.</u>

The air carrier that registers less than one million (1.000.000) passengers transported in the previous year may maintain the operation of the Customer Service – SAC for telephone assistance on the days when it is operating flights in the Brazilian territory and during business hours, according to that provided for in art. 5 of Decree No. 6.523 of July 31, 2008.

Sole paragraph. Air carriers will be allowed to use SAC for telephone service in a shared manner.

<u>Art. 37.</u>

The air carrier must provide personal assistance at the airport to deal with requests for information, questions and complaints from the user, as well as its duties resulting from flight delay, flight cancellation, service interruption and passenger denied boarding.

§1 The call may be held at a separated and properly identified place or at the check-in counter, at the air carrier´s discretion.

§2 The service referred to in the caption of this article shall run for at least two (2) hours before each take-off and two (2) hours after each landing and stay as long as operation is needed in case of flight delay, flight cancellation, service interruption and passenger denied boarding.

<u>Art. 38.</u>

The information requested by the user must be provided immediately and their complaints resolved within a maximum period of ten (10) days from the registration, except for the specific periods contained in this Resolution.

<u>Art. 39.</u>

The air carrier must respond, within ten (10) days, the user's claims sent by the electronic service system adopted by ANAC.

CHAPTER V

FINAL AND TRANSITIONAL PROVISIONS

<u>Art. 40.</u>

The air carrier must ensure compliance with this rule by its representatives.

<u>Art. 41.</u>

In the administrative processes for investigating violations of the requirements established in this Resolution, the general procedure provided for in Resolution No. 25, of April 25, 2008, and in Normative Instruction No. 8, of June 6, 200 8 will apply. (Wording given by Resolution No. 434, dated June 27, 2017)

<u>Art. 42.</u>

The Superintendence of Air Services Monitoring – SAS shall submit to the Board of Officers, after (5) years of the effectiveness of this Resolution, a report on its application, effectiveness and results, indicating possible points for review. Sole paragraph. The Board of Officers will decide to approve the report and review the regulation.

<u>Art. 43.</u>

Failure to comply with the requirements set out in this Resolution will characterize the violation set forth in art. 302, item III, subitem "u", of Law No. 7.565, of December 19, 1986, subjecting violators to fines set forth on the table referred to in the Exhibit to this Resolution. (Wording given by Resolution No. 434, dated June 27, 2017)

<u>Art. 44.</u>

This Resolution enters into force ninety (90) days after its publication.

<u>Art. 45.</u>

The following are revoked:

I – Civil Aviation Instruction 2203-0399
 (IAC 2203-0399), denominated "Information for Air Transport Users";

II – Ordinance DAC No. 155/DGAC, of March 22, 1999, published in the Federal Official Gazette of March 24, 1999, Section 1, page 48, which approved the aforementioned IAC;

III – Resolution No. 130, of December 8, 2009, published in the DOU of December 9, 2009, Section 1, page 13;

IV – Resolution No. 138, of March 9, 2010, published in the DOU of March 12, 2010, Section 1, pages 13 and 14;

V – Arts. 4, 5, 9 and 10 of Resolution No 140, 9 March 2010, published in the DOU of 12th March 2010, section 1, page 14;

VI – Resolution No. 141, of March 9, 2010, published in the DOU of March 15, 2010, Section 1, pages 7 and 8;

VII – Resolution No. 196, of August 24, 2011, published in the DOU of August 29, 2011, Section 1, pages 8 and 9;

VIII - the 662 and 3 art. 10 of Resolution No. 350, of December 19, 2014; and

IX - the International Air Service Rules -NOSAI CT - 011, CT - 012, TP - 005, TP - 024.

JOSÉ RICARDO PATARO BOTELHO DE QUEIROZ

Director-President

EXHIBIT TO RESOLUTION NO. 400, OF DECEMBER 13, 2016.

(INCLUDED BY RESOLUTION NO. 434, DATED 06/27/2017)

FINES ARISING FROM BREACH OF RESOLUTION

Minimum value (expressed in BRL) (20,000); Intermediate (35,000); and Maximum (50,000).

NATIONAL CIVIL AVIATION AGENCY – RESOLUTION No. 377 OF MARCH 15, 2016

Regulates the granting of public air services to Brazilian companies and takes other measures.

THE BOARD OF DIRECTORS OF THE NA-TIONAL CIVIL AVIATION AGENCY – ANAC, in the exercise of the powers granted to it by art. 11, item V, of Law No. 11.182, of September 27, 2005, in view of the provisions of art. 8, items XIII, XIV and XLVI, of said law, and Law No. 7.565, December 19, 1986,

Considering that the concessions and authorizations for the operation of public air services must be regulated by the Executive Power, as established in art. 183 of Law No. 7.565, of December 19, 1986, and

Considering the procedure set out in paragraph No. 00058.046781/2013-46, approved and resolved on the 9th Board of Officers Deliberative Meeting, held on March 15, 2016,

RESOLVES:

<u>Art. 1</u>

To regulate, under the terms of this Resolution, the process of granting public air services to Brazilian companies, according to definitions includes in the Exhibit to this Resolution.

CHAPTER I

REQUIREMENTS FOR THE OPERATION OF PUBLIC AIR SERVICES

<u>Art. 2</u>

The concession or authorization will only be given to a Brazilian legal entity that complies with the requirements related to registered office, participation of foreign capital and administration defined by the law: (Wording given by Resolution n° 479, of 06/07/2018)

<u>Art. 3</u>

Public air service companies must adopt the main air activity they intend to operate under their corporate name and include all the air activities intended in their corporate purpose. Sole paragraph. The Articles of Incorporation of corporations must expressly prohibit the conversion of non-voting preferred shares into voting shares.

<u>Art. 3-A</u>

Public air services specialized with the operation of remotely piloted aircraft – Class 1 are subject to grant. (Included by Resolution n° 419, of 05/02/2017)

CHAPTER II

PUBLIC AIR SERVICE GRANTING PROCESS

<u>Art. 4</u>

For the operation of public air service, the interested party must:

I – obtain from ANAC prior approval of its articles of incorporation and/or amendment thereof and attest its filing with the Commerce Registry;

II – complete the approval and certification process, when required, in accordance with the applicable Brazilian Civil Aviation Regulations – RBAC and the Brazilian Aeronautical Approval Regulations – RBHA; and

III – obtain a concession or authorization, as applicable.

Sole paragraph. The operation of the public air service can only begin after the completion of all phases described in this article.

SECTION I

PRIOR APPROVAL OF ART.S OF INCORPORATION AND AMENDMENTS THERETO

<u>Art. 5</u>

The articles of incorporation of companies that operate or intend to operate public air services, as well as the amendments thereof, depend on prior approval by ANAC to be presented to the Commerce Registry.

§1 The acts mentioned in art. 185, §2, of Law No. 7.565, dated December 19, 1986, also depend on prior approval of ANAC to be submitted to the Commerce Registry. §2 The amendments to the articles of incorporation that do not deal with the shareholding structure, transformation, incorporation, merger or spin-off are deemed as approved and may be submitted for registration directly to the Commerce Registry.

§3 The articles of incorporation registered in the Commerce Registry described in §2 of this article should be forwarded to the knowledge and supervision of ANAC in up to thirty (30) days after the effective registration in the Commerce Registry.

 $\S4$ If later on it is found that the act described in $\S2$ of this article has been registered in the Commerce Registry in violation of legal provisions, an administrative sanctions procedure will be filed with the purpose of calculating a fine to be applied or cancellation of the authorization or the granted concession.

<u>Art. 6</u>

The company must present a copy of the approved act included in the filing record in the Commerce Registry within three (3) months, from the receipt of an express statement from ANAC that informs about the approval.

§1 The company must provide and update the address for receiving notifications, summons or any other type of correspondence whenever such address is different from that of headquarters included in the last articles of incorporation filed in the Commerce Registry and presented to ANAC.

§2 In case of waiver of filing of the approved act, the company expressed itself in the same period provided for in the caption.

§3 In the case of approval of the articles of incorporation, the company shall present, within the same period included in the caption, the Proof of Registration in the General Taxpayers> Register – CNPJ.

<u>Art. 7</u>

The request for prior approval of the articles of incorporation or amendment thereof must be made in the manner established by ANAC.

HOMOLOGATION AND CERTIFICATION

<u>Art. 8</u>

The proof of filing in the Commerce Registry of the articles of incorporation or amendment thereof previously approved under the terms of Section I of this Chapter enables the company to request the approval of its aircrafts and start the process to obtain the Air Operator Certificate, if applicable.

SECTION III

CONCESSION AND AUTHORIZATION TO OPERATE PUBLIC AIR SERVICES

<u>Art. 9</u>

For the granting of a public air service concession or authorization, the applicant must be an aircraft operator in an airworthy situation and compatible with the intended service and hold an Air Operator Certificate in a regular situation, when required.

Sole paragraph. For the grant application to be admissible, the applicant must be an aircraft operator in an airworthy situation and compatible with the intended service and have completed phase 3, or equivalent to the Document Evaluation phase, of the process to obtain the Air Operator Certificate, when required.

<u>Art. 10.</u>

For the granting of a public air service concession or authorization, the applicant's direct and indirect shareholding structure composition must be updated with ANAC.

<u>Art. 11.</u>

For the granting of concession or authorization to operate public air services, the company must prove its tax, social security and labor regularity. (Wording given by Resolution n° 490, of 08.28.2018)

§1 Show the regularity: (Wording given by Resolution No. 490 of 08.28.2018)

a) CNPJ registration number; (Wording given by Resolution nº 490, of 08.28.2018)

b) maintenance of regularity with the National Treasury, this regularity being confirmed by a joint certificate issued by the Federal Revenue Service of Brazil – RFB and by the Attorney General's Office of the National Treasury – PGFN, which covers the situation of the taxpayer within the scope of the RFB and PGFN and even the social contributions provided for in art. 11, sole paragraph, subitems "a" to "d", of Law No. 8.212, of July 24, 1991; and (Wording given by Resolution no 490, of 08.28.2018)

c) maintenance of regularity of FGTS payments, this regularity being confirmed through the certificate issued by Caixa Econômica Federal, according to art. 27, subitem "a", of Law 8,036, of May 11, 1990, duly updated. (Wording given by Resolution No 490, of 08.28.2018)

§2 For concessionaires of scheduled air public services, the follwoing should also be proven: (Wording given by Resolution No. 490 of 08.28.2018)

a) proof of registration in the state taxpayers' register related to the registered office, relevant to the line of activity that it exercises and compatible with the corporate purpose; (Wording given by Resolution n° 490, of 08.28.2018)

b) proof of regularity before the State, Municipal, or District Treasury, in accordance with the provisions of art. 29, item III, of Law No. 8.666, of June 21, 1993, within the validity period; and (Wording given by Resolution No. 490, of 08.28.2018)

c) maintenance of regular labor, this regularity being confirmed by a certificate of no-overdue labor debts or a certificate of suspended labor debts, under the regulation of the Superior Labor Court – TST. (Wording given by Resolution n° 490, of 08.28.2018)

§3 The supporting documents related to the situation of regularity of the interested that appear in the official database of federal public administration, will be obtained directly by ANAC. (Wording given by Resolution No 490, of 08.28.2018)

<u>Art. 12.</u>

Public air service companies can explore air activities concurrently, with prior approval from ANAC.

<u>Art. 13.</u>

The authorization to operate will be valid for up to 5 (five) years, counted from the date of publication of the granting act, and may be renewed, in whole or in part, depending on the fulfillment of the social objective related to air activities and other activities. applicable laws and regulations.

<u>Art. 14.</u>

The concession to operate will remain valid as long as the company maintains all the technical and operational conditions defined by ANAC and complies with other applicable laws and regulations. (Wording given by Resolution No. 505, of February 13, 2019)

<u>Art. 15.</u>

The company must present the application and the relevant documentation for the renewal of the grant within 3 (three) months prior to its expiration.

Sole paragraph. Failure to comply with the term established in the caput may result in the timely non-renewal of the grant.

<u>Art. 16.</u>

The request for a grant to operate public air services, as well as their renewals, must be carried out in the manner established by ANAC.

CHAPTER III

CLOSURE OF BUSINESS COMPANIES THAT OPERATE PUBLIC AIR SERVICES

<u>Art. 17.</u>

The company must arrange for the articles of dissolution and/or liquidation of the company or contractual amendment removing the public air service from the company's object and corporate name, in case of:

 I – failure to obtain or withdraw from obtaining a license to operate public air service; or

II – termination of the authorization or concession to operate.

Sole paragraph. In case of dissolution of the company, the articles of dissolution must be previously approved by ANAC before being submitted to the Trade Registry.

CHAPTER IV

ADMINISTRATIVE PROVISIONS

<u>Art. 18.</u>

The concession or authorization to operate public air services may be terminated in the following situations:

I - request by the company;

II – operational conditions unacceptable from the point of view of operational safety risk;

III – repeated non-compliance with the legislation and rules in force, as well as the conditions defined in the operating authorization or in the concession contract;

IV- present of a bankruptcy petition to a court;

V - judicial or extrajudicial liquidation; or

VI – if the company has its Air Operator Certificate revoked or cancelled, if applicable.

CHAPTER V

FINAL PROVISIONS

<u>Art. 19.</u>

The company must remain regular as regards its tax, social security and labor situation, and ANAC may carry out such verification at any time. (Wording given by Resolution No. 490, of 28.08.2018)

<u>Art. 20.</u>

In order to maintain the concession or authorization grant, the company must comply with all applicable laws or regulations, even if determined from other bodies.

<u>Art. 21.</u>

The rules for the authorization and operation of Systematic Air Connections by air taxi companies will be subject to specific ANAC regulations.

<u>Art. 22.</u>

Inapplicability is hereby declared:

I – Ordinance No. 190/GC-5, of March 20, 2001, published in the Federal Official Gazette of March 21, 2001, Section 1, pages 5 and 6;

II – Ordinance No. 536/GC-5, of August 18, 1999, published in the Federal Official Gazette of August 19, 1999, Section 1, page 3; and

III – of Ordinance 890/GC-5, of November 26, 2001, published in the Official Gazette of December 11, 2001, section 1, page 13.

<u>Art. 23.</u>

This Resolution takes effect on the date of its publication.

<u>Art. 24.</u>

DAC Ordinance No. 597/DGAC, of June 28, 2005, published in the Official Gazette of July 4, 2005, Section 1, page 14, is hereby revoked.

CLÁUDIO PASSOS SIMÃO

Deputy Chief Executive Officer

EXHIBIT TO RESOLUTION NO. 377, MARCH 15, 2016.

PUBLIC AIR SERVICES CONCEPTS

1. Public air service means the provision of air service upon remuneration, which covers the provisions of art. 175 of Law No. 7.565, of December 19, 1986, which provides for the Brazilian Aeronautical Code:

1.1 Public air transport means the public air service for the transportation of passengers, cargo or mail, scheduled or nonscheduled, domestic or international:

1.1.1 Scheduled public air transport means the public air transport service, granted by means of a concession, open for use by the general public and operated according to a previously published schedule or on a regular basis that constitutes a systematic series of easily identifiable flights.

1.1.2 Non-scheduled public air transport means the public air transport service, granted by means of authorization, which is not characterized as a scheduled air service.

1.1.2.1 Air Taxi means non-scheduled public air transport, performed by an operator subject to operational certification under the terms of the Brazilian Civil Aviation Regulation No. 135 (RBAC No. 135).

1.1.2.1.1 Systematic Air Connection means the domestic public air transport service, open to the general public and operated according to a published schedule, carried out by a Brazilian air taxi company with the proper authorization and certification.

1.2 specialized public air service (SAE) means public air service other than public air transport. In accordance with art. 201 of the Brazilian Aeronautical Code, the definitions of SAE activities are detailed below:

1.2.1 aerial agricultural means aerial activity performed under the terms of the Brazilian Civil Aviation Regulation No. 137 (RBAC No. 137). 1.2.2 aerial cinematography means aerial activity that has the objective of making aerial filming, without the use of equipment that characterizes aerial surveying, air reporting or air advertising.

1.2.3 aerial demonstration means aerial activity designed to carry out special maneuvers, with aircraft, aiming to attract the public at events.

1.2.4 aerial photography means aerial activity that aims to take aerial photographs, without the use of equipment that characterizes aerial surveying, air reporting or air advertising.

1.2.5 aerial inspection means aerial activity that aims to carry out inspections, such as inspections on oil and gas pipelines, high voltage lines, engineering works and reforestation.

1.2.6 aerial survey means a set of operations for obtaining information from land, air or sea in the national territory, by means of a sensor installed on an aerial platform, complemented by the registration and analysis of the collected data, using resources from the platform or station located at the distance comprising the following operations:

1.2.6.1 aerial prospection; or

1.2.6.2 aerial photogrammetry;

1.2.7 aerial advertising means aerial activity for the purpose of commercial advertising, through the use of aircraft, comprising the following operations:

1.2.7.1 lane towing;

1.2.7.2 smoke inscription; and

1.2.7.3 display of neon signs;

1.2.8 aerial reporting means aerial activity that aims to record or monitor events, in compliance with the media.

1.2.9 firefighting means aerial activity that aims to fight fires in general.

1.2.10 Operation with external cargo means aerial activity performed by rotating wing aircraft to transport external cargo, under the terms of the Brazilian Civil Aviation Regulation No. 133 (RBAC No. 133).

1.2.11 artificial rain provocation or climate change means aerial activity that aims to artificially provoke rain or change the climate.

1.2.12 sports experimentation flight, means any paid activity for exclusively sporting purposes, carried out on properly certified equipment and by qualified personnel, with the objective of playful experimentation of the sport related to that equipment. (Wording given by Resolution No. 479, of 06/07/2018)

1.2.13 launching of parachutists, means any paid activity, carried out in properly certified equipment and by qualified personnel, with the objective of launching parachutists. The operation of launching parachutists carried out within the scope of associations and clubs, by own personnel, where practitioners share the costs of the operation to make the practice feasible, is not considered a specialized aerial service. (Wording given by Resolution No. 479, of 06/07/2018)

1.2.14 glider trailer, means any paid activity, carried out in properly certified equipment and by qualified personnel, with the purpose of towing gliders or motor gliders. The glider towing operation carried out within the scope of associations and clubs, by its own staff, where practitioners share the costs of the operation to make the practice feasible, is not considered a specialized aerial service. (Wording given by Resolution No. 479, 06/07/2018)

1.2.15 education and training mean the flight activity of instruction provided by a certified entity for the training of aviation personnel. (Wording given by Resolution No. 514, of April 25, 2019)

1.2.16 panoramic flight means paid air service, which aims to provide tourist air travel to the general public, carried out in properly certified equipment and by qualified personnel, with take-off and landing at the same point, without landing at intermediary points. (Wording by resolution No. 567, of 23.06.20 20)

1.2.17 another, for the purposes of this Resolution, means any SAE not specified above. (Included by Resolution No. 567 of 23.06.20)
NATIONAL CIVIL AVIATION AGENCY – RESOLUTION No. 461, OF JANUARY 25, 2018

Provides for the boarding and disembarking of armed passengers, checking of firearms and ammunition, and transportation of passengers in custody on board civil aircraft.

THE BOARD OF DIRECTORS OF THE NATIONAL CIVIL AVIATION AGENCY – ANAC, in the exercise of the attributions granted to it by art. 11, item V, of Law No. 11.182, of September 27, 2005, in view of the provisions of art. 8, sections X, XI and XLVI, of said law, and considering the provisions set out in process No. 00058.061038/2016-69, approved by the 2nd Deliberative Board Meeting, held on January 23, 2018,

RESOLVES:

<u>Art. 1</u>

Sets forth the procedures for boarding armed passengers, checking firearms and ammunition and transporting passengers in custody on board of civil aircraft, taking into account the aspects related to the need, operational safety and security of civil aviation against unlawful interference acts.

CHAPTER I

GENERAL PROVISIONS

<u>Art. 2</u>

For the purposes of this Resolution, it is considered:

I – demobilized weapon: weapon without ammunition in the drum, in the case of a revolver, or without ammunition in the explosion chamber, in the case of a semiautomatic and automatic weapon;

II – unloaded weapon: weapon without ammunition in the drum, in the case of a revolver, or without a magazine and without ammunition in the explosion chamber, in the case of a semi-automatic and automatic weapon; and

III – surveillance technique: uninterrupted monitoring of a person during their access to the Restricted Security Area – ARS, boarding and landing the aircraft and during the flight.

CHAPTER II

ARMED PASSENGERS BOARDING IN DOMESTIC SCHEDULED PUBLIC AIR TRANSPORT OPERATIONS

SECTION I

GENERAL PROVISIONS

<u>Art. 3</u>

The boarding of passengers carrying a weapon on board of aircraft must be restricted to public agents who have a gun license and need to have proven access to a weapon in the period between the time of entry into the boarding room at the airport of origin and arrival at the landing area at the destination airport.

§1 Armed persons on board are not allowed in case of retired public officials, servants or reserve agents.

§2 For the purposes of this Resolution, the foreign dignitary protection officer designated by foreign authorities and recognized by diplomatic authorities ranks equally with a public agent while composing a protection team that includes public agents of the Brazilian government.

<u>Art. 4</u>

The need of access to the weapon for boarding purposes is limited to the events in which the public agent, during the period mentioned in the caption of art. 3 of this Resolution, carries out any of the following activities:

I - escort of authority or witness;

II - escort of a passenger in custody;

III - execution of surveillance technique; or

IV – displacement after being called to report to the destination airport prepared for the service, due to an operation that may be impaired if the weapon and ammunition are checked.

§1 In the event of that provided for in items I and II of the caption, the need to access the weapon covers the flight in which the escorted person is transported and possible displacement of flights of public officers to the place where the escorted person is located.

§2 In the case of a displacement flight provided for in § 1 of this article, the need for access to the weapon will be configured when the boarding of that flight occurs within a period of up to twenty-four (24) hours before the boarding time of the flight on which the escorted person will be transported.

§3 The need for access to a weapon is evidenced by presenting a specific document from the institution with which the public agent has a relationship, indicating the dates and legs of the trip and the cases in which the agent is among those listed in items I to IV of the caption.

<u>Art. 5</u>

The carrying of firearms on board aircraft is limited to two short weapons (pistol or revolver) per authorized passenger, demobilized and accompanied by ammunition limited to one (1) main cargo and two (2) reserves for each weapon.

§1 Carrying of long firearms on board aircraft will be limited to 2 (two) per passenger, only if the weapon is a sniper rifle.

§2 Long firearms must be unloaded, disassembled and packed in locked cases, suitable for transportation, weight and dimensions restrictions established by the airline operator.

<u>Art. 6</u>

The ammunition of the weapons referred to in art. 5 of this Resolution shall comply with the prohibitions and the weight limits stipulated in the Brazilian Civil Aviation Regulation No. 175 (RBAC No 175).

<u>Art. 7</u>

In the absence of any of the conditions established in this Section, the procedure for checking firearms and ammunition provided for in this Resolution must be complied with.

SECTION II

ARMED PASSENGER BOARDING AUTHORIZATION

<u>Art. 8</u>

The boarding of an armed passenger must be authorized by the Federal Police – Federal Police unit present at the airport or responsible for the airport limited area.

§1 With formal approval by the Federal Police and as set forth in the Programa de Segurança Aeroportuária – PSA (Airport Security Program) the authorization provided for in the caption may be issued by a public security body.

§2 The armed passenger boarding permit issued by a public security body will valid only for boarding at an airport situated in the area of the issuing body and for subsequent domestic connections.

<u>Art. 9</u>

The authorization for boarding an armed passenger must be preceded by filling in the form for the authorization for armed boarding by the passenger, according to the means and forms defined by the Federal Police.

SECTION III

ARMED PASSENGERS: BOARDING PROCEDURES

<u>Art. 10.</u>

For boarding armed passengers on domestic scheduled public air transport flights, the passenger must attend the Federal Police unit at the airport, prior to check-in, provided with:

I – completed armed boarding authorization form;

II – airline ticket containing the date and number of the flight, as well as the origin and destination of the leg to be covered;

III – a functional identity document that grants him/her the firearm license due to his/her office;

IV – documentation that proves the legality of the weapons to be transported, when required in the legislation related to the registration and possession of firearms;

V – documentation that proves the authorization for carrying the weapon (traffic form) issued by the Army Command, when required in the legislation related to the registration and license of firearms; VI – documentation that proves the need for access to the weapon, under the terms of art. 4 of this Resolution; and

VII – the foreign dignitary protection officer designated by foreign authorities and recognized by diplomatic authorities comprises the protection team that includes public agents of the Brazilian government, in the case of art. 3, §2 of this Resolution.

Sole paragraph. Attendance at the Federal Police unit must take place in advance to carry out the verification procedure for the armed passenger boarding authorization form at the Federal Police and check-in with the air operator, observing the minimum advance time established in the air transport agreement.

<u>Art. 11.</u>

For authorization of armed boarding, the Federal Police will check the documentation listed in art. 10, observing the restrictions established in arts. 3 to 5 of this Resolution

§1 The armed boarding authorization may be exceptionally denied by the Federal Police based on the risk assessment duly substantiated in writing, even though all the requirements of this Resolution have been complied with.

§2 The Federal Police may set forth procedures and infrastructure so as to verify h documentation provided for in the caption and authorize the armed passenger boarding via the computerized system, and may even waive the passenger's attendance at the local unit of the Federal Police at the airport.

<u>Art. 12.</u>

The demobilization of firearms is the passenger's responsibility and must take place prior to arrival at the airport, in a location provided by the airport operator, observing the instructions of the Federal Police and the weapon manufacturer and the following safety procedures:

I – the handling of the firearm must take place exclusively on the place destined for its demobilization, in the case the procedure is carried out at the airport;

II – during demobilization, the firearm barrel must always be pointed at a sandbox or equivalent safety device, in the case the procedure is carried out at the airport;

III – during demobilization of a revolver, all ammunition must be removed from its barrel, followed by visual inspection; IV – during demobilization of automatic and semi-automatic weapons, the magazine and ammunition from the blast chamber must be removed, followed by visual, tactile and material inspection; and

V – during demobilization of automatic and semi-automatic weapons, the magazine can be inserted back into the weapon after the ammunition is removed from the blast chamber.

Sole paragraph. The airport operator must provide a reserved place for demobilization and unloading, which contains a sandbox or equivalent device that guarantees safety in case of accidental shooting.

<u>Art. 13.</u>

After demobilization of the firearm, in order to issue the authorization for armed boarding, the person responsible for verifying the documentation must sign, physically or electronically, the armed boarding authorization form.

§1 A copy of the form of armed boarding authorization will be retained by the body responsible for the inspection, one copy will have to be presented by the passenger to the air operator, in case the procedure adopted by digital means is not adopted, and the other copy will remain with the passenger.

§2 The Federal Police, together with the air operators, may establish procedures and infrastructure for sending the authorizations issued for armed passenger boarding to the air operators by digital means, as well as creating a procedure that dispenses with the need of in-person check-in.

<u>Art. 14.</u>

The Federal Police, when deemed necessary, at any time between the request for authorization for armed boarding and the departure of the ARS passenger at the destination airport may require the passenger to provide proof of the items being carried by him/her and that the firearms are properly demobilized.

<u>Art. 15.</u>

Once the authorization has been issued, the passenger must go to the air operator's counter for the check-in and inform the need for armed boarding.

§1 The air operator must require, for the check-in, the presentation of the armed boarding authorization form and verify

whether the authorization was issued by the body in charge and the passenger identification document duly attested and valid in the entire Brazilian territory, for the purpose of issuing the boarding pass.

§2 The air operator must verify whether the information provided in the armed boarding authorization form comply with the articles 5 and 6 of this Resolution and not allow armed boarding in case on noncompliance.

§3 The air operator, at the check-in, should retain a copy of the armed board-ing authorization form that should be kept under Art. 77 of this Resolution.

§4 The air operator must provide priority service to armed passenger at the check-in, except for passengers requiring special assistance, according to ANAC specific regulation.

§5 The air operator, at the time of checkin, must inform the armed passenger about the identification procedures for access to the departure lounge.

<u>Art. 16.</u>

To access the boarding room, the armed passenger must present the armed boarding authorization form and his/her identification document, duly attested and valid in the whole Brazilian territory, to the Civil Aviation Protection Agent – APAC.

Sole paragraph. To allow the armed passenger to access the ARS, APAC must reconcile the data on the passenger identification document with the data on the authorization form and confirm that the air operator has been notified and that the armed boarding authorization has been issued, as defined by the Federal Police.

<u>Art. 17.</u>

To access the ARS, the armed passenger must submit his/her goods that are carried as carry-on luggage to the civil aviation security inspection, according to ANAC regulations.

Sole paragraph. The armed passenger who, in case of connection, leaves the ARS, must undergo a new identification and inspection procedure, requiring coordination with the air operator, pursuant to art. 15, § 5 of this Resolution.

<u>Art. 18.</u>

The passenger authorized to go aboard armed, in addition to the firearm and am-

munition, may carry other items considered prohibited for access to the ARS provided that they are part of his/her operational equipment, with the exception of tear gas, similar disabling gases or other items prohibited to air transport according to RBAC No. 175 and other limitations of this Resolution.

Sole paragraph. All items that the armed passenger is carrying and that are considered prohibited by the specific regulations must be listed on the armed boarding authorization form.

<u>Art. 19.</u>

Throughout the entire armed passenger boarding process, in the event of suspected non-compliance with the rules, the air operator and the airport operator must inform the public security body responsible for verifying the armed boarding authorization forms.

<u>Art. 20.</u>

The information regarding the armed passenger boarding must be transmitted by the air operator to the entire crew of the aircraft in a discreet manner, limited to the passenger's name and seat number, in order to safeguard the confidentiality of the existence of a weapon on board and the condition of its holder.

<u>Art. 21.</u>

The air operator, by means of the aircraft crew, must inform, in a private way, to the passenger who is armed on the existence and the seat of other passengers who are in this same condition.

<u>Art. 22.</u>

In case of transfer of an armed passenger from one aircraft to another, the air operator must notify the crew of the other aircraft about the presence and identification of the armed passenger(s), as provided for in articles 20 and 21 of this Resolution.

<u>Art. 23.</u>

The air operator must notify its base of destination about the presence of an armed passenger on the flight.

<u>Art. 24.</u>

The air operator and the aircraft captain, exceptionally, may deny armed passenger boarding when they consider, in a justified and written manner, that armed boarding poses a potential threat to operational safety, civil aviation security against unlawful interference acts or the safety of other passengers.

<u>Art. 25.</u>

The procedures for boarding an armed passenger must be carried out discreetly and quietly, both by the air operator at the time of check-in and boarding the aircraft and by the airport operator during access to the departure lounge and safety inspection.

<u>Art. 26.</u>

When the authorization for boarding an armed passenger is issued by a public security body, according to art. 8, § 1, such body will be responsible for the activities assigned to Federal Police in articles 11, except §2, 13 except §2 and 14 of this Resolution.

<u>Art. 27.</u>

When the authorization for armed boarding is issued by the Federal Police via a computerized system, pursuant to art. 11, § 2 of this Resolution, passenger boarding will be performed even when the Federal Police or other body of public safety is not physically present at the airfield.

Sole paragraph. In the case provided for in the caption, the air operator and the airport operator must follow the procedures established in this Section.

SECTION IV

ARMED PASSENGER BEHAVIOR

<u>Art. 28.</u>

When issuing an armed boarding authorization, the public security body responsible for verifying the documentation must inform the passenger of the following obligations, restrictions and guidelines related to armed boarding:

I - sealing the carrying of a firearm inside the aircraft;

II – it is mandatory to remain in the seat designated on the boarding pass, except when the change of seat is coordinated with the crew and with the consent of the aircraft captain;

III – prohibition of consumption of alcoholic beverages within eight hours prior to departure and throughout the journey;

IV – mandatory to carry the firearm and other prohibited items in a discreet manner, under constant guard and, in the

case of short weapons, carry them close to the body, in ARS and inside the aircraft;

V – mandatory that his/her performance inside the aircraft, in case of turmoil or in any other circumstance of this nature, only occurs under the coordination of the aircraft captain;

VI – mandatory that the firearm, after landing, is loaded outside the ARS and in a safe and reserved place, preferably the same provided by the airport operator for the unloading and demobilization of the firearm; and

VII – warning that firing on board can cause depressurization of the aircraft and damage to fuel lines, control cables, electrical wires and hydraulic systems, which can result in accidents of catastrophic proportions.

§1 The air operator or airport operator who verifies that the armed passenger failed to comply with any of the obligations or restrictions set forth in the caption shall forthwith communicate to Federal Police or body of public safety responsible for the airport of police activities, without prejudice to adoption of other appropriate measures.

§2 Failure by the passenger to comply with the obligations and restrictions provided for in this article will imply his/her compulsory landing, with no prejudice to the adoption of other measures deemed appropriate by the Federal Police.

CHAPTER III

PROCEDURE FOR CHECKING FIREARM AND AMMUNITION IN SCHEDULED DOMESTIC FLIGHT

SECTION I

GENERAL PROVISIONS

<u>Art. 29.</u>

The checking of arms and ammunition for transport on domestic public air transport flights is restricted to passengers whose weapon(s) and respective transport are in regular condition, according to specific legislation.

<u>Art. 30.</u>

The checking of arms and ammunition for transport on aircraft must respect the prohibitions and weight limits established in RBAC No. 175.

SECTION II

AUTHORIZATION FOR CHECKING OF WEAPONS

<u>Art. 31.</u>

Checking of firearms and ammunition for transport in aircraft must be authorized by the Federal Police unit present at the airport or responsible for the airport area.

§1 With the Federal Police formal approval and as set forth by the Airport Security Program – PSA, the authorization provided for in the caption may be issued by a public security body.

§2 The authorization to check firearms and ammunition for transport, issued by a public security body, will be valid only for checking held in an airport situated in the district of the issuing body and for subsequent domestic connections.

<u>Art. 32.</u>

The authorization for checking firearms and ammunition for transport in aircraft must be preceded by filling out the authorization form for checking of firearms by the passenger for transport, according to the means and models defined by the Federal Police.

SECTION III

DISPATCH PROCEDURE

<u>Art. 33.</u>

So as to check firearms and ammunition for transport on domestic public air transport flights, the passenger must attend the Federal Police unit at the airport, prior to the check-in, provided with:

I – completed firearm checking authorization form;

II – airline ticket containing the date and number of the flight, as well as the origin and destination of the leg to be covered;

III – a document giving the passenger a firearm license or authorizing him/her to carry it;

IV – documentation that proves the legality of the weapons to be transported, when required by the legislation related to the registration and possession of firearms; and

V – documentation that proves the authorization to carry the firearm (traffic guide) issued by the Army Command, when required by the legislation related to the registration and possession of firearms. Sole paragraph. The attendance at the Federal Police unit must take place in advance so as to verify the authorization form for checking a firearm and subsequent check-in and register of the items at the air operator, observing the minimum advance established in the air transport contract.

<u>Art. 34.</u>

To issue the authorization for checking of weapons and ammunition, the Federal Police will check the documentation listed in art. 33 of this Resolution.

Sole paragraph. The Federal Police may establish procedures and infrastructure to verify the documentation provided for in the caption and authorize the checking of firearms and ammunitions for transport via a computerized system, and may even exempt the passenger from attending the local Federal Police unit at the airport.

<u>Art. 35.</u>

Once the authorization for checking the weapon for transport has been issued, the person responsible for verification must sign, physically or electronically, the authorization form for checking the firearm for transport.

§1 One copy of the firearm checking authorization for transport form will be retained by the body responsible for the inspection, one copy will have to be presented by the passenger to the air operator, if sending via digital means is not adopted, one copy must accompany the weapon and ammunition until the final destination and another copy must remain with the passenger.

§2 The Federal Police, together with the air operators, may set forth procedures and infrastructure for delivery of firearm checking authorization for transports to air operators via digital means.

<u>Art. 36.</u>

Passengers authorized to check firearms and ammunition for transport must go to the check-in counter of the air operator with unloaded weapons.

§1 The air operator shall require, for the checking of firearms and ammunitions for transport, the presentation of the firearm checking authorization for transport form, verifying that the authorization has been issued by the agency in charge and a passenger identification document, duly attested and valid throughout the Brazilian territory.

§2 The air operator must ensure that a copy of firearm checking authorization for transport form follows the firearms and ammunitions until the final destination and that another copy is maintained in accordance with art. 77 of this Resolution.

§3 The air operator must provide priority service to passengers to check firearms and ammunition for transport, except for passengers requiring special assistance, according to the ANAC specific regulation.

<u>Art. 37.</u>

The unloading of the checked firearms is the responsibility of the passenger and must take place prior to arrival at the airport or at the airport, at a location provided by the airport operator.

§1 The unloading of the firearm to be checked should be performed by observing the provisions of Art. 12, items I to IV, of this Resolution.

§2 At no time the employee of the air operator or of the airport operator will handle the passenger gun and ammunitions.

§3 The Federal Police, when deemed necessary, may require the passenger to evidence that the firearms are properly unloaded.

<u>Art. 38.</u>

The passenger must present the firearms and ammunitions for checking properly packaged, according to the following options:

I - packed in rigid cases that can be sealed;

II – packaged in packages provided by the air operator; or

III - for long weapons, packed in appropriate packaging, provided by the passenger, which can be sealed.

§1 In the case of using packages provided by the air operator, passengers, prior to the check-in, should remove the package at the check-in counter and package the firearms and ammunitions separately in separate containers at a place indicated by the airport operator to unload the firearm.

§2 The air operator must deny the checking of firearms and ammunitions for transport which are not packed in accordance with the provisions of this section.

<u>Art. 39.</u>

The air operator must designate an employee to carry the firearms and ammunitions discreetly and safely to the aircraft. §1 After delivery of the firearm and ammunitions to the employee of the air operator, if the transport of such firearm and ammunitions cannot be immediate, the firearm and ammunitions shall remain in a storage area of the air operator under controlled access.

§2 The information related to the presence of firearm and ammunitions on board the aircraft must be transmitted by the air operator to the aircraft captain.

<u>Art. 40.</u>

In order to authorize access to the ARS of the employee of the air operator in possession of the firearm and ammunitions, the airport operator must require the presentation of the employee's airport credential and the authorization form for the checking of a firearm for transport, to APAC.

§1 APAC must confirm whether the authorization to check a firearm and ammunitions for transport was issued, as defined by the Federal Police.

§2 The air operators employee must undergo security inspection to ensure that he/she is not carrying prohibited items other than those specified in the firearm checking authorization for transport form.

<u>Art. 41.</u>

The air operator will be responsible for the custody of firearms and ammunitions checked as from receipt at the time of check-in until their return to the passenger at final destination.

§1 In the absence or impossibility of using a safe-box, the air operator must specify another safe place on the aircraft for the transportation of firearm and ammunitions, which is out of the reach of passengers.

§2 The air operator must keep his/her employees informed about the safe places where firearm and ammunitions will be packed in the aircraft.

<u>Art. 42.</u>

The air operator must return the firearm and ammunitions to the passenger within a maximum period of one (1) hour from the time the aircraft is choked.

§1 The air operator must inform the local on which the firearm and ammunitions will be returned to the passenger at the time of check-in of the firearm or any time before the passenger landing. §2 The return of the firearm and ammunitions should be performed by the aircraft operator discreetly and out of ARS, preferably in a controlled area, directly to the passenger, upon verification of the identity document and the firearm checking authorization for transport form.

<u>Art. 43.</u>

The air operator must reimburse the passenger for any expenses resulting from the loss of a firearm or ammunition, according to the rules established in the regulation that provides for the General Conditions of Air Transport.

Sole paragraph. Failure to return a firearm or ammunition to the passenger within one (1) hour after the aircraft chock time characterizes the loss.

<u>Art. 44.</u>

In the event of loss of firearm and ammunitions, the air operator must immediately report the occurrence to the passenger, to the Federal Police and to the airport operators of origin and destination of the firearm.

§1 In the absence of the Federal Police at the airport of origin or destination, the communication must also be sent to the public security agency that replaces it.

§2 If the firearm or the ammunitions are not returned to the passenger within forty-eight (48) hours, the air operator shall prepare a Civil Aviation Security Document – DSAC and send it to ANAC, reporting the conditions under which the loss occurred and the contingency procedures that were adopted.

§3 The air operator shall ensure that, after the lost firearms and ammunitions are located, the transport of these objects by air is previously communicated to the public bodies responsible for police activities in the airports of origin, destination and connection.

<u>Art. 45.</u>

The air operator must indemnify the passenger in the event of loss or destruction of checked firearms and ammunitions.

§1 Loss or destruction are confirmed when the firearms or ammunitions have not been returned to the passenger under the same conditions that they were presented to the air operator after fortyeight (48) hours of landing. §2 As of confirmation of loss or destruction, within fourteen (14) days, air operator must:

I – return to the passenger the firearm and ammunitions in the state in which they were presented for checking; or

II – make the payment of indemnity to the passenger at the market value of the firearm and ammunitions lost or destructed.

<u>Art. 46.</u>

The air operator and the aircraft captain, exceptionally, may deny the transport of checked firearms and ammunition when they consider, in a justified and written manner, that the transport poses a potential threat to operational safety, to the safety of civil aviation against acts of interference or the safety of other passengers.

<u>Art. 47.</u>

In cases where the authorization for checking firearms and ammunition is issued by a public security agency, as per art. 31, §1, this body will be responsible for the activity attributed to the Federal Police in articles 34, except sole paragraph, 35, except §2 and 37 of this Resolution.

<u>Art. 48.</u>

In cases where the authorization for checking of firearms and ammunitions for transport is issued by the Federal Police via a computerized system, pursuant to art. 34, sole paragraph, of this Resolution, the checking will be carried out even when the Federal Police or other public security body is not physically present at the airport.

Sole paragraph. In the case provided for in the caption, the air operator and the airport operator must follow the procedures set forth in this Section.

CHAPTER IV

TRANSPORT OF FIREARMS IN NON-SCHEDULED DOMESTIC PUBLIC AIR TRANSPORT OPERATIONS, GENERAL AVIATION AND PUBLIC BODIES

<u>Art. 49.</u>

The boarding of armed passengers in non-scheduled domestic public air transport operations and in general aviation operations, when the passenger circulates in ARS, must be authorized by a Federal Police unit, present at the airport or responsible for the airport area, observing the provisions of Section I of Chapter II of this Resolution.

§1 With formal approval of the Federal Police the authorization provided for in the caption may be issued by a public security body.

§2 The boarding of armed passengers as provided for in the caption will have to be known and authorized by the aircraft captain.

<u>Art. 50.</u>

Checking of firearms and ammunitions for transport in domestic non-scheduled public air transport operations and in general aviation operations, when the aircraft loading flow involves circulation of the firearms and ammunitions in ARS, must be authorized by a Federal Police unit, present at the airport or by a person responsible for the airport area, in cue compliance with the provisions of Section I of Chapter III of this Resolution.

§1 With a formal approval by the Federal Police, the authorization provided for in the caption may be issued by a public security body.

§2 The aircraft captain will be responsible for defining the location for the packaging of firearms and ammunitions, considering the operational safety aspects and the provisions of RBAC No 175, as well as the need to keep the weapons inaccessible to passengers, when the characteristics of the aircraft so allow.

<u>Art. 51.</u>

The air operator is responsible for ensuring that the transport of firearms and ammunitions in accordance with articles 49 and 50 of this Resolution observe the prohibitions and weight limits provided for in RBAC No. 175.

<u>Art. 52.</u>

In domestic non-scheduled public air transport operations and general aviation operations involving the presence of firearms and ammunitions in ARS, the airport operator shall carry out the control and follow-up of the operation, adopting the following procedures:

§1 In the case of boarding of an armed passenger involving access to ARS, the airport operator shall designate an official to accompany the passenger to the aircraft and inform the captain of the aircraft in which the transport will occur about the presence of a firearm carried by a passenger.

§2 In the case of armed passenger arrivals involving access to ARS, the airport operator shall designate an official to accompany the passenger from the aircraft to the ARS exit.

§3 In the case of checking of firearms and ammunitions for transport that involves access to ARS, on boarding operations, the airport operator shall designate an official to carry the firearms and ammunitions to the aircraft and deliver them to the captain of the aircraft that will transport them.

§4 In the case of checking of firearms and ammunitions for transport that involves access to ARS, on landing operations, the airport operator shall designate an official to carry the firearms and ammunition from the aircraft to a point outside of the ARS and return them to the passenger.

<u>Art. 53.</u>

In the case of public agents engaged in air operations of the police, fire, civil defense, inspection and similar agencies, the airport operator will allow armed access by these agents to the ARS provided that:

I – the airport operator and the public security body responsible for the police activities at the airport have been notified;

II – the public agents are duly identified, by presenting a functional identity at the time of the security inspection;

III – armed access to the ARS is intended exclusively for boarding public civil aircraft from public agencies, aircraft required by the public power or aircraft at the service of the public power; and

IV – boarding is authorized by the aircraft captain.

§1 It is not necessary to fill in an armed boarding authorization form or a firearm checking authorization for transport form for the transportation of firearms and ammunitions carried out as set forth in the caption of this article.

§2 The airport operator must monitor the boarding and disembarking by means of a professional or by CFTV.

<u>Art. 54.</u>

In the case of transport of firearms and ammunitions in domestic non-scheduled public air transport operations, in general aviation operations and in the operations of the police, fire, civil defense, inspection and the like, which involve circulation of firearms in ARS, the air operator must, before landing or immediately after parking the aircraft, inform the operator of the destination airport about the existence of firearms and ammunitions on board.

CHAPTER V

TRANSPORT OF FIREARMS ON INTERNATIONAL FLIGHTS

SECTION I

GENERAL PROVISIONS

<u>Art. 55.</u>

The transportation of firearms and ammunitions on international flights will comply with the provisions of international treaties, conventions and agreements, considering the principle of reciprocity.

Sole paragraph. The transport of firearms and ammunitions on international flights must be carried out with authorization from the Army Command, except for dignitary security officers and in-flight security officers.

<u>Art. 56.</u>

Subject to the assumptions provided for in international treaties, conventions and agreements and in Chapter VI of this Resolution, armed passengers are not allowed to board international flights, and the transport of firearms and ammunitions must be carried out in accordance with the procedures provided for in this Resolution elated to the checking of firearms and ammunitions for transport.

CHAPTER VI

FOREIGN DIGNITARY SAFETY AND FLIGHT SECURITY OFFICERS

SECTION I

FOREIGN DIGNITARY SECURITY OFFICERS

<u>Art. 57.</u>

The transportation of firearms by security officers for the protection of government officials or foreign diplomats on flights operating in Brazil will be subject to an advance request from the Ministry of Foreign Affairs – MRE.

Sole paragraph. The transport notification must contain the data required by the MRE, including, among others, full name, passport number and nationality of security officers, quantity and characteristics of firearms and ammunitions transported and period of stay in national territory.

<u>Art. 58.</u>

The conditions for the transport of firearms in aircraft will be informed to the requesting country by the MRE, according to the guidelines defined by ANAC and the Federal Police.

<u>Art. 59.</u>

The boarding and landing of foreign dignitary security officers must be coordinated by the Federal Police, by the air operator, by the airport operator and, for customs control purposes, by the Federal Revenue Service, with interaction, when necessary, with other public bodies.

SECTION II

FOREIGN FLIGHT SAFETY OFFICERS

<u>Art. 60.</u>

The authorization and conditions for operation with foreign flight security officers for the protection of international flights by foreign air operators, must be established in a specific agreement, mediated by the MRE, with the participation of ANAC and Federal Police, taking into account aspects related to the need, the specific training of officers, operational safety, civil aviation security against unlawful interference acts and their levels of threat.

<u>Art. 61.</u>

Operations with foreign flight safety officers must be previously notified to the Federal Police, that will coordinate the performance of each operation at the respective airports.

Sole paragraph. The boarding and landing notification must contain the full name and passport number of the security officers, quantity and characteristics of the firearms and ammunitions carried, name of the air operator responsible for transportation, number of flights, dates, times and places of boarding and landing in the national territory.

<u>Art. 62.</u>

Foreign security officers transporting firearms on a flight are not allowed to land on the national territory; the firearms must be deposited in an appropriate place, according to understandings ratified between the Federal Police, the IRS, ANAC, the airport operator and the State concerned.

CHAPTER VII

TRANSPORTATION OF PASSENGERS UNDER CUSTODY

SECTION I

PROCEDURE

<u>Art. 63.</u>

Air transportation of passengers in custody must be coordinated by the escort agency and the airport operator, the air operator and the Federal Police representative, in order to establish, in accordance with the escort team's needs, the special safety measures and procedures for boarding and landing, as well as for conduct on board the aircraft.

§ 1 With formal approval by the Federal Police, the procedures in charge of the Federal Police, provided in this Section may be performed by a public security body.

§ 2 The coordination provided for in the caption is the initiative of the body responsible for the escort and should be initiated at least forty-eight (48) hours before the time planned for the flight except for an agreement between the organizations involved in the operations.

<u>Art. 64.</u>

The escort team must identify itself to the personnel of the Federal Police unit for the airport and to the employees of the air operator and present the formal document that authorizes the transport of the custodian.

Sole paragraph. The air operator must grant priority service to the escort team during the face-to-face check-in procedure, except for passengers with special assistance needs, according to specific ANAC regulations.

<u>Art. 65.</u>

In an extraordinary meeting of the Airport Security Commission – CSA, the Federal Police, the airport operator, the air operators and the bodies that carry out custody transport may establish different procedures and flows for the boarding and landing custodian passengers and escort teams, which may include, among other solutions:

I – possibility of check-in without the custodian presence at the air operator's counter; and

II – access by the custodian and the escort team to the aircraft yard through vehicle accesses at the airport, including differentiated procedures for safety inspection.

<u>Art. 66.</u>

The air operator will not be able to transport more than two passengers in custody, with their respective escort teams, on the same flight, in due compliance with the guidelines of the Federal Police regarding the assessment of their dangerousness and security risks against unlawful interference acts.

Sole paragraph. The air operator must inform the captain of the presence and location on the aircraft of the passenger in custody and the escort team.

<u>Art. 67.</u>

The air operator and the aircraft captain may deny boarding a passenger in custody when they consider, in a justified and written manner, that he/she represents a potential threat to operational safety, security against unlawful interference acts or the safety of other passengers.

<u>Art. 68.</u>

The boarding and landing of passengers in custody must be carried out discreetly, and quietly, with no inconvenience to other passengers.

SECTION II

SPECIAL AIRCRAFT SAFETY, CONDUCT AND RESTRICTIONS ON AIRCRAFT

<u>Art. 69.</u>

The air operator must deny boarding a passenger in custody on civil aircraft if the escort team is not composed of at least two professionals per passenger in custody.

<u>Art. 70.</u>

The escorted passenger escort team must be provided with containment equipment, being prohibited from carrying tear gas or similar incapacitating gas and other articles prohibited to civil air transport according to RBAC No. 175 and other limitations of this Resolution.

<u>Art. 71.</u>

The onboard service that will be provided to the passenger in custody and to the escort team must not contain alcoholic beverages, metal utensils or sharp or cutting instruments.

<u>Art. 72.</u>

The escort team must ensure that the passenger in custody:

I – do not carry prohibited or dangerous material, according to ANAC regulations;

II – wait for boarding in a safe and discreet place;

III – boarding before and landing after other passengers;

IV – occupy a seat at the end of the passenger cabin, away from the emergency exits, in rows with two or more seats and, at least, with an escort team professional seated between him/her and the aisle;

V - do not be handcuffed to fixed parts of the aircraft, except in situations where the passenger exhibits behavior that characterizes him/her as an unruly passenger; and

VI – always be accompanied and kept under surveillance, including when using the toilets.

<u>Art. 73.</u>

The air operator must advise the escort team on the proper procedures and conduct on board the aircraft, prior to takeoff.

SECTION III

PASSENGER TRANSPORTATION IN CUSTODY ON BOARD AN INTERNATIONAL FLIGHT

<u>Art. 74.</u>

Federal Police will assess the risks of transporting a person in custody on international flights, to ensure that he/she does not constitute a danger to civil aviation security against unlawful interference acts and that appropriate security measures are taken.

<u>Art. 75.</u>

Passengers in custody transported on a scheduled international public air transport operation must be accompanied by

an escort team organized by the Federal Police.

<u>Art. 76.</u>

In cases of impeded, repatriated, deported or expelled passenger, the need for an escort team will be at the discretion of the Federal Police, based on risk assessment, and the escort may also be attributed to the unarmed private escort team, in charge of the person responsible for removal of the foreigner from the national territory.

Sole paragraph. In the case of an escort assigned to the national private security company, the need for valid registration with the Federal Police must be complied with.

CHAPTER VIII

FINAL PROVISIONS

<u>Art. 77.</u>

The air operator must keep physical or electronic records of passengers transported under the conditions of this Resolution on scheduled public air transport flights, for a minimum period of thirty (30) days.

Sole paragraph. The records provided for in the caption include copies of the authorizations and justifications for denied boarding of armed passenger and checking of firearm, as well as the justification for denied boarding for passenger in custody.

<u>Art. 78.</u>

The air operator must inform, in the air transport agreement, the procedures to be adopted for boarding an armed passenger, dispatching a firearm and transporting a passenger in custody.

<u>Art. 79.</u>

The hypotheses for the authorization of armed boarding of federal police officers will be established according to requirements and procedures defined by the Federal Police, observing the provisions of §1 of article 3 of this Resolution.

<u>Art. 80.</u>

The Federal Police may establish complementary security procedures and computerized issuing of armed boarding authorizations and firearms checking authorizations, including the possibility of replacing the printed copies of the forms with digital files.

<u>Art. 81.</u>

Boarding while being armed and checking of weapons when involving electroshock weapons must comply with the provisions of this Resolution and additional requirements contained in specific ANAC regulations.

<u>Art. 82.</u>

In addition to the provisions provided for in this Resolution, to be highlighted is the competence of the Federal Police to regulate the matters covered by its jurisdiction, in the exercise of the airport police function, conferred by art. 144, § 1°, III of the Brazil Federal Constitution of 1988.

<u>Art. 83.</u>

Violations of the provisions of this Resolution subject the violator to the penalties set out in art. 289 of Law No. 7.565, Brazilian Aeronautical Code, of December 19, 1986, to be determined in accordance with the procedure described in Resolution No. 25, of April 25, 2008, and Normative Instruction No. 8, of June 6, 2008, or in other regulations that replace them, adopting, for the infractions practiced after the entry into force of this Resolution, the penalties provided for in its Exhibit.

<u>Art. 84.</u>

This Resolution enters into force one hundred and eighty (180) days after its publication.

<u>Art. 85.</u>

The following are revoked:

I – Civil Aviation Instruction No. 107-1005 (IAC 107-1005), entitled "Procedures for Boarding Armed Passengers";

II – Ordinance DAC No. 244/DGAC/R, of June 14, 2005, published in the Aeronautical Command Bulletin of June 22, 2005, which approved the aforementioned IAC; and

III – item 29 of Table III – CIVIL AVIATION SAFETY – Airport Operator of Annex III of Resolution No. 25, of April 25, 2008.

RICARDO SÉRGIO MAIA BEZERRA

Deputy Chief Executive Officer

* THE EXHIBIT TO THIS RESOLUTION IS NOT TRANSCRIBED IN THIS VERSION.

BRAZILIAN CIVIL AVIATION REGULATION -RBAC No. 108

AMENDMENT No. 04

CIVIL AVIATION SECURITY AGAINST UN-LAWFUL INTERFERENCE ACTS – AIR CARRIER

SUBPART A

GENERAL

108.1 Terms and definitions

(a) For the purposes of this Regulation, the terms and definitions set out below apply, as well as those available in RBAC No. 01, called "Definitions, writing rules and units of measurement"; in the Annex to Decree No. 7168, of May 5, 2010, which provides for the National Civil Aviation Security Program against Unlawful Interference Acts; and Law No. 7565, of December 19, 1986, which provides for the Brazilian Aeronautical Code.

(1) Risk assessment means the process applied in the management of Civil Aviation Security against Unlawful Interference Acts by an organization, covering at least the stages of identification of threats, vulnerabilities and the level of exposure of operations to the risk of unlawful interference acts.

(2) Accompanied baggage means baggage checked in with the intention of being carried on the same aircraft on which the passenger or crew member to whom it belongs travels and, therefore, is not covered by air waybill.

(3) Unaccompanied baggage means baggage checked in without the intention of being carried on the same aircraft as the person to which it belongs.

(4) High risk cargo or mailbag means such cargo or mailbag that:

(i) contains intelligence information that indicates that it may pose a threat;

(ii) shows signs of tampering with an anomaly that is suspected; or

(iii) is delivered by an unknown entity and is of such a nature that only the usual security measures are not sufficient to detect prohibited items that could put civil aviation at risk.

(5) Cargo or mailbag in transfer means cargo or mailbag transferred from an operator's aircraft to the aircraft of the same or another operator, during transportation between its origin and destination.

(6) Known cargo or mailbag means cargo or mailbag that is subjected to security controls since its security inspection or from its origin, in the latter case, cargo handled by (or under the responsibility of) the dispatcher accredited consignor or accredited air cargo agent.

(7) Unknown cargo or mailbag means any cargo or mailbag that does not meet the definition of known cargo or mailbag.

(8) Declaration of Security means the document that recognizes the responsibilities for the implementation of security measures applied to air cargo from the moment the cargo is designated as known and in the custody of its declarant until the moment of transfer of its custody.

(9) Civil Aviation Security Guideline against Unlawful Interference Acts means the document issued by ANAC that contains additional security measures and/or operational restrictions in order to guarantee the acceptable level of civil aviation security against unlawful interference acts.

(10) Accredited Dispatcher means the legal entity that dispatches cargo or other consignments and provides security control approved by the accredited air cargo agent, with respect to the cargo, parcels by couriers and express or by mail.

(11) Airport Area Operator means the person, whether natural or legal, who, under contract with the airport operator, operates airport facilities or areas (corresponding to the term "concessionaire", described in Article 4, item LV, of the Annex to Decree 7168, of 2010).

(12) Safety Measure Inclusion means the safety measure not provided for in regulation, which, due to a justified need for continuous implementation by the air operator, is formalized through the approval of the Safety Measure Inclusion List and Alternative Procedures, under the Air Operator Safety Program (PSOA).

(13) Listing of Inclusion of Security Measures and Alternative Procedures means the document that contains the Inclusion of Security Measure(s) and/or Alternative Security Procedure(s), approved by ANAC, and which makes up the air operator's security program.

(14) Additional Security Measure means the security measure not implemented in ordinary threat scenarios, which aims at addressing a special threat or contingency situation.

(15) Security Plan for Ancillary Services Company or Area Operator

Airport (PSESCA) means the plan developed by ancillary service companies or airport area operators, in coordination with airport administrations, in which security measures and practices are consolidated, aiming at protecting civil aviation against unlawful interference acts.

(16) Alternative Safety Procedure means a way of complying with a requirement provided for in RBAC other than that contained in a Supplementary Instruction (IS), formalized through approval of the Inclusion List of Safety Measure and Alternative Procedures, within the scope of the Security Program by ANAC.

(17) Air Operator Safety Program (PSOA) means the program that sets out the guidelines, general instructions, procedures, duties and responsibilities related to the protection of civil aviation against unlawful interference acts by the air operator.

(18) Known Consignor Security Program (PSER) means the program developed by the Known Consignor, in which the security measures and practices adopted by it are applied, with regard to areas and facilities, people and air cargo;

(19) Civil Aviation Security against Unlawful Interference Acts (or just security) means the combination of measures, human resources and materials designed to protect civil aviation against unlawful interference acts.

(Wording given by Resolution No. 604, of January 29, 2021

108.3 Acronyms and abbreviations

(a) For purposes hereof, the abbreviations set forth below, as well as the abbreviations available in RBAC No. 01 and Article 3 of the Annex to Decree No. 7168, of 05 May 2010:

(1) ARS: Restricted Security Area;

(2) AVSEC: Civil Aviation Security against Unlawful Interference Acts;

(3) DAVSEC: Civil Aviation Security Guideline against Unlawful Interference Acts;

(4) PSER: Known Consignor Security Program;

(5) PSESCA: Security Plan for Ancillary Services Company or Airport Area Operator;

(6) PSOA: Air Operator Safety Program.

108.5 Rationale

(a) Law No. 11182, of September 27, 2005 - art. 2; art. 8, items IV, X and XXI.

(b) Decree No. 7168, of May 5, 2010 – art. 7 of the Annex, paragraphs I and XI.

108.7 Applicability

(a) This Regulation applies to the air operator whose responsibilities related to security of civil aviation against unlawful interference acts are provided for in Articles 10 and 11 of the National Civil Aviation Security Program Against Unlawful Interference Acts, approved by Decree No. 7168, of May 5, 2010.

(b) The air operator subject to this Regulation must comply with the requirements in accordance with the classification in paragraph 108.11 (b).

(c) The requirements of this Regulation applicable to each class of air operator are set out in Appendix A.

(d) Failure to comply with the requirements set out in this Regulation is liable to administrative penalties, in accordance with Law No. 7565, of December 19, 1986 (Brazilian Aeronautical Code – CBA), as well as Law No. 9784, of January 29, 1999, without prejudice to other types of liability.

108.9 Purpose

(a) Establish the requirements to be applied by air operators to guarantee the integrity of passengers, crew, ground personnel, the general public, aircraft and airport facilities, in order to protect civil aviation operations against unlawful interference acts.

108.11 Classification of air operators

(a) The universe of air operators covered by paragraph 108.7 (a) is classified, for the purposes of applying this Regulation, according to the type of air service performed, as provided for in paragraph 108.11 (b) of this Regulation.

(b) The classes defined for air operators are:

(1) Class I, covering those who perform private air transportation service, including special public aviation operations carried out by public bodies and entities, according to RBAC n^{o} 90; (Wording given by Resolution n^{o} 604, of 01.29.2021);

(2) Class II, covering those that operate specialized public air service or non-scheduled public air transport in an aircraft with up to 30 seats, being: (Wording given by Resolution n° 604):

(i) Class II-A those that operate a specialized public air service.

(ii) Class II-B those that operate nonscheduled public air transport service in aircraft of up to 30 seats. (Wording given by Resolution n° 604, of 01.29.2021)

(3) Class III, covering those that operate public air transport services on domestic flights, exclusively for cargo or mail (excluding the non-schedule public air transport in aircraft with up to 30 seats); (Wording given by Resolution n° 604, of 01.29.2021);

(4) Class IV, covering those that operate public air transport services for passengers (excluding non-scheduled public air transport in aircraft with up to 30 seats) on domestic flights, being: (Wording given by Resolution n° 604, of 01.29.2021): (i) Class IV-A, those operating aircraft with a capacity of less than 30 passengers;

(ii) Class IV-B, those operating an aircraft with a capacity equal to or greater than 30 passengers.

(5) Class V, covering those that exclusively operate international public air transport service for cargo (excluding non-scheduled public air transport in aircraft with up to 30 seats); (Wording given by Resolution No. 604, of January 29, 2021;

(6) Class V, covering those that exclusively operate international public air transport service for cargo (excluding non-schedule public air transport in aircraft with up to 30 seats); (Wording given by Resolution No. 604, of January 29, 2021).

(c) ANAC may classify any air operator in a class other than that applicable to it under paragraph 108.11 (b), as long as previously justified, based on risk assessment carried out by ANAC.

(d) Regardless of class, ANAC can establish specific requirements for any air operator, provided that it is previously justified, based on risk assessment carried out by ANAC.

(e) If the air operator operates more than one type of air service and falls into two or more classes, it must comply separately with the requirements applicable to each class, according to the type of operation performed.

(1) in this situation, the air operator shall maintain only one security program, that presents a description of its security features and procedures applied in all its operations. (Wording given by Resolution No. 604, of January 29, 2021.

108.13 Activities and professionals

(a) The air operator must establish procedures, in coordination with the airport operator, to ensure the application of security controls, as provided in the following subparts of this Regulation, and to prevent the introduction of weapons, explosives, CBRN artifacts or substances and materials prohibited in ARS or on board aircraft that may endanger safety.

(b) The air operator must designate a qualified professional(s), in accordance with requirements established in specific regulations on the matter, responsible for performing the security control procedures referred to in this Regulation.

(Wording given by Resolution No. 500, of 12.12.2018)

(c) The air operator must ensure that the ancillary air transport service companies and other operators of contracted airport areas have PSESCA approved by the airport operator, when PSESCA is mandated by specific regulations, keeping a copy of the PSESCA of each contractor.

(d) The air operator must designate, on a local level, a qualified professional(s) in accordance with requirements established in specific regulations on the matter, responsible for supervising the execution of the security controls referred to in this Regulation, ensuring the implementation of the duties of the air operator in contingency actions and participate in activities relevant to AVSEC, when necessary, at the discretion of the airport operator.

(1) The air operator must ensure that at least one professional as referred to in paragraph 108.13 (d), duly trained, is working at the airport at the times the company is operating, and participates in the meetings of the Airport Security Commission (CSA) and security exercises. (Wording given by Resolution No. 500, of 12.12.2018)

(2) The air operator must formalize with the airport operator the designation of the aforementioned professional(s).

(3) The professionals responsible for AVSEC at the local level in the air operator's operating bases are responsible for applying the PCQ/AVSEC in the respective bases. (Included by Resolution No. 500, of 12.12.2018)

(e) The air operator must designate, on a national level, a trained and alternate professional(s), in accordance with requirements established in specific regulations on the matter, responsible for managing the application of the safety controls referred to in this Regulation in the set of airports in question in which the operator acts.

(1) There is no impediment for the person responsible for the air operator at the national level to also be designated as the person responsible at the local level at a given airport. (Wording given by Resolution No. 500, of 12.12.2018)

 (f) The air operator must designate professionals – permanent and alternate(s)
– at the national level, who will be responsible for managing the processes related to AVSEC quality control. (Wording given by Resolution No. 500, of 12.12.2018)

(1) The designated professional will not be able to act in the operator's AVSEC operational activities, in order to guarantee its independence. (Included by Resolution No. 500, of 12.12.2018)

(g) The air operator must keep ANAC updated on the designated professionals required under items 108.13 (d); 108.13 (e) and 108.13 (f), by the means that the Agency makes available, within 30 days after any change.

(h) The air operator must designate AV-SEC Auditors to perform AVSEC internal audit activities, with the following selection criteria to be complied with by the professional:

(1) not having a criminal and social background that endangers the credibility of their professional activities, the verification being carried out in accordance with the requirements for granting airport credentials;

(2) meeting the requirements for performance of AVSEC quality control activities provided for in PNIAVSEC;

(3) proven experience in the field of civil aviation security against unlawful interference acts for at least 3 (three) years; and

(4) signing the Code of Conduct taking responsibility for the confidentiality of the information resulting from the performance of his/her duties and other required conduct, with the compliance of the following conduct:

(i) respect people with whom he/she has contact;

(ii) be discrete in his/her performance;

(iii) not to interfere in the exercise of the company's functions;

(iv) not accepting or requesting special treatment;

(v) respect the confidentiality of the information received;

(vi) be honest with the auditee; and

(vii) not making threats of any kind to the auditee.

(Included by Resolution No. 500, of 12.12.2018)

(i) The air operator must ensure that the professionals who perform the security control procedures provided for in this regulation as being the responsibility of the air operator, act within their duties and capabilities. (Included by Resolution No. 500, of 12.12.2018)

(j) In compliance with paragraphs 108.13 (h), foreign air operators may use AVSEC Auditors from their headquarters, with due regard to the qualification criteria and selection of their State of origin to act as AVSEC Auditor. (Included by Resolution No. 500, of 12.12.2018)

108.15 Risk Assessment

(a) The air operator must develop and implement a continuous risk assessment process, with the objective of guiding safety planning in its operations and complementing the safety measures provided for in a standard.

(Included by Resolution No. 604, of January 29, 2021)

108.17 Cybersecurity

(a) The air operator must identify information, data and communication technology systems deemed critical for its operation and implement measures to protect them, through a risk assessment in accordance with 108.15 (a).

(Included by Resolution No. 604, of January 29, 2021)

108.19 to 108.23 [Reserved]]

SUBPART B

SAFETY MEASURES RELATING TO PASSENGER AND HAND BAGGAGE

108.25 Passenger and Carry-on Baggage Check-in Process

(a) The air operator must inform the passenger, when selling the air ticket, of the documentation that can be accepted as valid for the passenger check-in process.

(b) The air operator must, at the time of the passenger check-in process:

(1) inform the passenger about materials considered prohibited in carryon baggage and checked baggage for boarding the aircraft; and

(2) instruct the passenger to refuse to carry packages or objects received from strangers in carry-on baggage and checked baggage.

(c) The air operator must provide for in the air transport contract:

(1) the information and guidelines set out in paragraph 108.25 (b); and

(2) the information that the passenger will be denied access to the ARS, as well as boarding the aircraft, in the event of refusal to submit to civil aviation security inspection under the responsibility of the airport operator, or if in possession of material considered prohibited.

(d) The air operator, during boarding procedures, must carry out passenger identification in order to ensure that, when boarding the aircraft, the passenger is the holder of the air ticket and is in possession of a valid identification document, in accordance with that established in specific regulations on the matter (Wording given by Resolution no. 604, of 01.29.2021).

(e) The air operator must ensure that the route of passengers between the boarding area and the aircraft is carried out without contact with persons not inspected for the flight and following the route established by the airport operator.

(1) If any inspected passenger comes into contact with an uninspected person, the air operator, in coordination with the airport operator, must ensure that another inspection is carried out before boarding the aircraft.

(f) The air operator must provide representatives in the areas of embarkation and disembarkation to guide and assist its passengers, in order to avoid acts or situations that may affect safety, observing those that may affect the facilitation of air transport.

(1) The air operator must ensure the protection of the boarding area(s) under its responsibility, preventing undue access to the operational areas of the airport.

(g) The data on reservations, tickets, cargo, luggage, identification, origin and destination of passengers and crew, recorded by the air operators, must be made available to the public bodies and their authorized representatives, in accordance with the requirements established in specific regulations on the matter.

(h) The air operator must guarantee the protection of tickets, boarding passes, baggage tags and any other documents related to boarding that are in its possession, with the purpose of preventing them from being lost or stolen, making it impossible for them to be lost or stolen, preventing their use by third parties in unlawful interference acts.

(i) The air operator may implement security measures related to passengers and their luggage in operations not performed in Restricted Security Areas, based on the risk assessment performed for their operations, as provided in paragraph 108.15 (a). (Included by Resolution No. 604, of January 29, 2021)

(1) The training and certification requirements provided for by RBAC 110 are not applicable in compliance with paragraph 108.25(i). (Included by Resolution No. 604, of January 29, 2021)

108.27 Transit or connecting passengers

(a) The air operator, in coordination with the airport operator, must ensure that transit or connecting passengers and their respective carry-on luggage do not come into contact with persons not inspected for the flight, performing supervision of the circulation areas and the arrival and departure aisles.

(1) If any transit or connecting passenger contacts an uninspected person, the air operator, in coordination with the airport operator, must ensure that another inspection is carried out before boarding the aircraft.

(b) The air operator must ensure the removal of carry-on luggage and belongings abandoned by a passenger inside the aircraft and subject them to security controls.

(c) The air operator must ensure that a connecting passenger arriving from an airport with inferior security inspection standards to that of the intermediate airport is directed to the security inspection point of the airport before accessing the connecting boarding area. (Wording given by Resolution No. 626 of 06.14.2021)

(1) Airports that have equivalent safety controls will be determined by ANAC and informed to air operators and airport operators through DAVSEC.

(d) In the case of a passenger in transit, the air operator shall direct the passenger to the airport security inspection point in the cases provided for in the DAVSEC cited in paragraph 108.27(c) (1). (Included by Resolution No. 626 of 06.14.2021)

108.29 Armed passenger

(a) The air operator must include in the air transport contract the procedures to be

adopted for the transport of firearms in aircraft.

(b) The air operator must board the armed passenger following the requirements and procedures established in specific regulations on the matter.

108.31 Passenger in custody

(a) The air operator must include in the air transport contract the procedures to be adopted for boarding a passenger in custody of a police authority.

(b) The air operator must board the passenger in custody following the requirements and procedures established in specific regulations on the matter.

108.33 Unruly passenger

(a) The air operator must ensure unruly passenger control through the following actions:

- (1) include in the air transport contract information on the measures that will be taken by the air operator to prevent typical conduct of unruly passengers;
- (2) prevent the boarding of unruly passengers, recording such occurrence in a report that must be attached to the AVSEC Dispatch of the respective flight; and (Wording given by Resolution No. 500, of 12.12.2018)
- (3) disembark the unruly passenger at the most appropriate airport, depending on the assessment carried out by the captain, taking into account the risk to flight safety.

(b) If necessary, in order to ensure compliance with the actions, the air operator must contact the airport security sector and the Federal Police or, in their absence, the public security body responsible for the police activities at the airport.

108.35 to 108.53 [Reserved]

SUBPART C

SAFETY MEASURES RELATING TO CHECKED BAGGAGE

<u>108.55 Identification (conciliation)</u> and acceptance of checked baggage

(a) The air operator must ensure that only baggage of crew members designated for flight and of passengers identified and in possession of a transport contract (air ticket) will be accepted to be checked. (Wording given by Resolution No. 604, of January 29, 2021.

(b) The air operator must identify, upon acceptance, each volume of baggage to be checked, containing data (information) that enable the reconciliation process, using specific forms for checking baggage and locating baggage.

(c) Transferred baggage, originating from another air operator, can be accepted if identified with the appropriate information.

(1) The air operator that transfers the luggage must communicate, in advance, the passenger information and its volumes transported to the operator that will receive the luggage.

(d) The air operator may establish baggage clearance procedures at a location other than the airport check-in counter (remote check-in), in which case security controls must be applied from the point where the baggage is identified and accepted for transport up to the moment it is placed on board the aircraft.

108.57 Protection of checked baggage

(a) The air operator must guarantee the protection of checked baggage from the moment it is accepted until the moment it is returned to its owner at the destination or transferred to another air operator. (Wording given by Resolution No. 604, of January 29, 2021.

(b) The air operator must ensure, in coordination with the airport operator, that access to checked baggage, checked baggage consolidation areas and checked baggage transfer points remains restricted to authorized and accredited personnel, and prevent any baggage from being tampered with the intention of being subject to the introduction of materials that could be used for unlawful interference acts.

<u>108.59 Inspection of checked</u> <u>baggage</u>

(a) The air operator shall conduct screening of checked baggage departing from a restricted security area for onward international flights, including connecting baggage, and if it is removed from the aircraft during the stopover at the intermediate airport, transit baggage.

(1) Checked-in baggage for onward departure on an international flight that has been subject to an equiva-

lent security check at the aerodrome of origin does not need to be rescreened at the transit or connecting airport unless there is suspicion about its contents.

(i) Airports with equivalent security controls will be determined by ANAC and communicated to air operators and airport operators through DAVSEC.

(b) The air operator must conduct an inspection of checked baggage departing from a restricted security area to proceed on domestic flights, as required by ANAC through DAVSEC.

(1) At the air operator's base, the air operator must start performing inspections of checked baggage where security inspection to go on domestic flights becomes mandatory within a specific timeframe defined in DAVSEC.

(c) The air operator must inspect checked baggage via means made available by the airport operator or, if preferable, its own means, provided that it meets the requirements established in specific regulations and is constantly coordinated with the airport operator.

(d) In case of any doubts about the contents of checked baggage, after the security inspection, the owner must be requested to witness the manual baggage inspection, in person or through images, and if:

(1) the owner fails to be present for the manual inspection of their baggage, the baggage shall be considered suspect baggage and processed as set forth in section 108.67; and

(2) explosive materials, prohibited in checked baggage for air transport, are suspected to be present, the air operator must keep the baggage isolated and, instead of requesting the presence of the owner, notify the airport's security and the Federal Police or, in their absence, the public security body responsible for police activities at the airport.

(Wording given by Resolution No. 626 of 14.06.2021)

<u>108.61 Reconciliation of</u> passengers and accompanied

baggage

(a) The air operator must ensure that the accompanied baggage is carried only after confirmation of its owner's boarding, including in cases of transit or connection.

(1) In the event that the passenger or crew member does not embark or disembark on a stop prior to his/her/ her final destination, his/her/her luggage must be removed from the aircraft and subjected to security controls, including security inspection.

(Wording given by Resolution no. 604, of 01.29.2021)

108.63 Unaccompanied baggage

(a) The air operator must ensure that baggage unaccompanied since its origin, intentionally, is treated as unknown cargo, by issuing air waybills.

(b) The air operator must ensure that baggage that unintentionally becomes unaccompanied during its check-in process, is identified as such, inspected and protected, before being loaded for transport on an aircraft.

(1) In this case, security inspection must be carried out in a way that guarantees a higher level of security than that of accompanied baggage.

108.65 Lost luggage

(a) Lost luggage must be identified as such and subjected to security controls, including security inspection, and the air operator must analyze the circumstances that caused the separation.

(b) The air operator, in coordination with the airport operator, must provide safe areas for storing lost luggage, when necessary.

108.67 Suspicious baggage

(a) The air operator must ensure that any baggage that is unidentified, abandoned, violated, noisy, exhaling odor or signs of leakage of any liquid, solid or gaseous substance not identifiable as a permitted substance for transport is considered suspect.

(b) The air operator must keep suspicious baggage isolated and activate its contingency plan.

108.69 Transport of firearms or ammunition

(a) The air operator must include in the air transport contract the procedures to be adopted for checking firearms or ammunition to be transported in aircraft.

(b) The air operator must transport firearms or ammunition following the requirements and procedures established in specific regulations on the matter.

108.71 to 108.93 [Reserved]

SUBPART D

SAFETY MEASURES RELATING TO ONBOARD SUPPLIES AND ONBOARD SERVICE

108.95 Protection measures for onboard supplies and onboard service in Restricted Security Areas (ARS)

(a) The air operator must ensure that in the activities of storage and transport of onboard supplies and onboard service in Security Restricted Areas (ARS), security controls are applied that prevent the introduction of weapons, explosives, CBRN artifacts or prohibited substances and materials in any of these stages.

(Wording given by Resolution no. 604, of 01.29.2021)

108.97 Identification and acceptance of supplies

(a) The air operator must ensure that the on-board supplies and on-board service supplies to be loaded are correctly intended to that aircraft and have not been breached, using a specific form for controlling on-board supplies.

<u>108.99 Safety inspection and</u> secure chain of on-board supplies and on-board service supplies

(a) The air operator must guarantee the inspection of the on-board supplies and on-board service when accessing the ARS or implement a secure chain on these inputs.

(1) The secure chain is implemented by measures that ensure that in the activities of production, storage and transport of onboard supplies and onboard service security controls are applied that prevent the introduction of weapons, explosives, CBRN artifacts or substances and materials prohibited at any of these stages.

(2) The recognition of the secure chain is formalized through an initial internal audit by the air operator and approval of PSESCA by the airport operator, which must cover the activities described in paragraph 108.99 (a) (1).

(WORDING GIVEN BY RESOLUTION N° 604, OF 01.29.2021)

108.101 to 108.121 [Reserved]

SUBPART E

SAFETY MEASURES RELATING TO CARGO, MAILBAG AND OTHER ITEMS

108.123 Cargo terminal protection

(a) If the air operator operates a cargo terminal, it must comply with the PSESCA requirement in accordance with specific regulations.

108.125 Acceptance of cargo and mailbag

(a) When accepting cargo or mailbag, the air operator must:

(1) require documented information that allows identification of the person(s) delivering the cargo item(s);

(2) require documented information, physically or electronically, sufficient to characterize the item to be received and processed as a known or unknown cargo;

(3) verify the conditions of the item to be received, in order to guarantee that the items with indications of violation or tampering are identified, notified and denied for shipment;

(4) classify the item as known cargo, unknown cargo or high risk cargo;

(i) the item must be classified as known cargo, if it comes from a known consignor, accredited consignor or accredited air cargo agent, and is accompanied by a Declaration of Security.

(ii) the item of cargo from the airport operator can also be classified as a known cargo, provided that that operator confirms, through documentary information, in physical or electronic support, that it has been received by one of the entities described in paragraph 108.125(a)(4)(i).

(iii) the item accepted as an unknown cargo can be reclassified as a known cargo after the application of security inspection.

(5) process the items received by means of segregated flows, depending on their characterization as known cargo, unknown cargo or high risk cargo, avoiding contamination of cargo item; and

(6) issue an air waybill according to specific procedures established by ANAC. (b) The air operator can certify a legal entity as a known consignor, through the approval process of the Known Consignor's Security Program (PSER), which includes internal audit of the following measures: security applied to areas and facilities; security applied to people; and security applied to the cargo.

(Wording given by Resolution no. 604, of 01.29.2021).

(1) The consignor is considered to be recognized upon ratification by ANAC of the accomplishment of its certification and registration by the air operator.

(i) The air operator must keep ANAC up to date on the certification and compliance with the PSER of each known consignor.

(2) The air operator must perform audits and tests on the known consignor, taking into account the frequency determined in its AVSEC Quality Control Program (PCQ) in function of risk assessment, which respect the minimum frequency of an audit every 2 (two) years and an annual test.

(3) Maintaining a known consignor condition is subject to the presentation to ANAC, when requested, of the test and audit reports within the deadlines stipulated in the PCQ, and to the fulfillment of its PSER.

(i) The criteria for disqualifying the consignor as being known must be included in the PSOA and PSER, including cases of recurrent non-compliance with the PSER and identification of serious vulnerability, which must be reported to ANAC by the air operator when verified.

108.127 Cargo and mailbag inspection

(a) The air operator must inspect the cargo or mailbag not classified as a known cargo or mailbag, including cargo in transfer, by means made available by the airport operator or, if preferable, by its own means, provided that it meets the requirements established in specific regulations on the matter and also in constant coordination with the airport operator.

(1) On international flights, all cargo and mailbag not classified as known cargo, and cargo and mailbag classified as high risk cargo must be subjected to security inspection. (2) On domestic flights, the amount of cargo or mailbag to be inspected will be determined by ANAC and informed to air operators and airport operators through DAVSEC.

(3) The security inspection of the cargo and mailbag should consider using the method appropriate to the nature of each shipment.

(4) The known cargo or mailbag must be subjected, at random, to the security inspection process.

(5) The cargo and mailbag that has not been subjected to equivalent security control at the airport of origin needs to be re-inspected at the airport for transferring the cargo.

(i) The recognition of equivalent security controls will be determined by ANAC and informed to air operators and airport operators through DAV-SEC.

(b) Cargo or mailbag classified as high risk must be subjected to a secondary security inspection, using a method appropriate to the nature of the shipment, sufficient to mitigate the related threat, and may use different security inspection technologies.

(c) When security controls are applied in its own facilities, the air operator must acquire and maintain the equipment intended for inspection, in accordance with the requirements established in specific regulations on the matter.

(d) In case of doubt regarding the contents of the cargo or mailbag after the security inspection, the shipment must be subjected to a secondary security inspection, which may use different security inspection technologies.

(1) If after the secondary security inspection the doubt regarding the content remains, the shipment should be considered suspicious, and treated in accordance with section 108.133.

108.129 Cargo and mailbag protection

(a) The air operator must ensure that all cargo and mail, whose storage and handling are under its responsibility, are protected in a safe environment and under constant surveillance, protected against unauthorized access, and must also ensure the identification of each cargo with the appropriate information.

108.131 Transport and loading of cargo and mailbag

(a) The air operator must ensure that the cargo and the mailbag are not subject to undue interference from their removal from the airport's storage area to their loading onto the aircraft.

108.133 Suspicious cargo and mail

(a) The air operator shall ensure that any cargo and mail that is unidentified, abandoned, violated, presents a noise, emits a strong odor or shows signs of leakage of any liquid, solid or gaseous substance not identifiable as a permitted substance for transport is considered suspicious.

(b) The air operator must refuse boarding, keep the suspicious cargo and mailbag isolated and activate its contingency plan.

108,135 Hazardous Art.s and controlled products

(a) The air operator must ensure that the transport of dangerous articles and controlled products follows the specific regulations on the matter, ensuring the proper identification and segregation of the other volumes, in order to prevent the intentional use of these objects in unlawful interference acts.

108.137 Airline operator's materials and mail (COMAT and COMAIL)

(a) Air operator's materials and mail (CO-MAT and COMAIL) must be subjected to the same security controls applied to cargo and mail.

108,139 Air transport of valuables

(a) The air operator must perform the transportation of valuables following safety procedures provided for in a specific security plan for the air transportation of valuables of the airport, compatible with the valuables to be transported and with prior communication with the operators of the airports involved.

(b) The valuables to be transported must be described, without using generic words, on the Declaration of Air Transportation of Valuables, a confidential document according to the model established in ANAC Supplementary Instruction (IS).

(c) In operations originating from a Brazilian airport, air transportation of valuables in the form of national or foreign currency is not permitted. (d) In domestic operations, the air transportation of valuables, in the form of telephone cards, travelers' checks, bearer securities, meal vouchers, transportation vouchers, colored gems, diamonds, jewelry, gold, silver, platinum and other precious metals, must not exceed the equivalent of R\$ 630,000.00 (six hundred and thirty thousand reais).

108.141 to 108.163 [Reserved]

SUBPART F

SAFETY MEASURES FOR AIRCRAFT ON THE GROUND

108.165 Aircraft access control

(a) In the case of aircraft parked and in operation:

(1) the air operator must ensure constant surveillance of the aircraft, including:

(i) access control, by identifying each person who approaches or boards the aircraft and verifying the need for their presence; and

(ii) verification of any service material carried on board or aviation supplies that will be carried by the aircraft; (Wording given by Resolution no. 604, of 01.29.2021).

(2) [Reserved] ((Wording given by Resolution no. 604, of 01.29.2021).

(3) approach to and access to the aircraft from the beginning of the security inspection or verification process until the aircraft doors are closed must be recorded using an aircraft access control form;

(4) in case of doubt or suspicion in the identification of people approaching or boarding the aircraft, the air operator must activate the airport security sector and the Federal Police or, in their absence, the public security body responsible for the activities of police at the airport; and

(5) the air operator must supervise, from the perspective of AVSEC, the cleaning, supply, maintenance and loading of the aircraft.

(b) In the case of aircraft parked and out of operation:

(1) in the aircraft that is not in service, the air operator must keep the aircraft disconnected from ladders and/or boarding bridges and, also, locked and sealed or under constant surveillance;

(2) if there is no surveillance, landing gear and other aircraft access points that need to remain open, such as engine access and inspection panels, must be protected with special covers or visually inspected before aircraft operation;

(3) for aircraft under maintenance (even outside the hangar), the air operator must assign responsibilities to maintenance personnel, with the aim of preventing unauthorized persons from accessing the aircraft; and

(4) in case of doubt or suspicion in the identification of people approaching or boarding the aircraft, the air operator must activate the airport security sector and the Federal Police or, in their absence, the public security body responsible for the activities of police at the airfield.

108.167 Aircraft security check

(a) The air operator shall perform the aircraft safety check prior to all flights in which the aircraft safety inspection is not performed, as well as in the cases provided in DAVSEC. (Wording given by Resolution No. 626 of 06.14.2021)

(b) The air operator must develop a form of verification (checklist) for checking the activity of the aircraft, according to each type of aircraft in service, and its use should be considered as a safety precaution to be complied with by crew.

108.169 Aircraft security inspection

(a) The air operator must perform the aircraft security inspection when:

(1) the aircraft undergoes maintenance activity outside the aircraft yard located in ARS;

(2) the aircraft is out of operation for a period exceeding 6 (six) hours, considering the aircraft's chock and barefoot hours;

(3) undue access to the aircraft is suspected; or

(4) a sealing violation is found.

(b) The air operator must develop an inspection form (check-list) for the aircraft inspection activity, according to each type of aircraft in service.

108.171 Flight AVSEC dispatch

(a) The air operator must produce the AV-SEC Dispatch of the flight, by means of a designated and trained professional(s) according to paragraph 108.13(b), which must comprise the documentation that proves the accomplishment of the AV-SEC activities necessary for the flight. Each form that makes up the AVSEC Dispatch must have the identification of the professional who prepares it.

(b) The AVSEC Dispatch must contain the following forms, when applicable for the flight:

(1) Aircraft Access Control Form, according to section 108.165;

(2) Aircraft Security Verification Form, according to section 108.167;

(3) Aircraft Safety Inspection Form, according to section 108.169;

(4) Checked Baggage Control Form, according to section 108.55;

(5) Checked Baggage Location Form, according to section 108.55; (Wording given by Resolution No. 500, of 12.12.2018)

(6) Shipped Provisions Control Form, according to section 108.97; and (Wording given by Resolution No. 500, of 12.12.2018)

(7) Report of impediment of boarding of unruly passenger, according to section 108.33. (Included by Resolution No. 500, of 12.12.2018)

(c) The templates for the AVSEC Dispatch forms are established in ANAC Supplementary Instruction (IS), and a digital registration model may be adopted by the air operator that includes the information required in the forms.

(d) The air operator must keep the AVSEC Dispatch for each flight stored for possible checks, for a minimum period of 30 (thirty) days.

108,173 to 108,193 [Reserved]

SUBPART G

SAFETY MEASURES RELATING TO THE AIRCRAFT IN FLIGHT

108.195 Initial AVSEC crew meeting

(a) The air operator must ensure that the captain includes in the crew briefing

matters related to unlawful interference acts, seeking:

(1) to define tasks, recommend actions and behaviors to the entire crew;

(2) to resolve individual crew doubts regarding the actions to be taken inside the aircraft to prevent or respond to unlawful interference acts; and

(3) to establish codes of communication between the crew, according to the analysis of the situation and specific criteria.

108.197 Access to the cockpit

(a) An air operator operating an aircraft with a segregated cockpit must ensure that only persons authorized in accordance with specific operating regulations access the cockpit of its aircraft in flight.

(b) The air operator must keep the cockpit door locked during the flight, opening it only for entry and exit of authorized personnel.

108.199 Armed or custody passenger

(a) The air operator must guarantee the application of security controls for armed or custody passengers during the flight, following the requirements and procedures established in specific regulations on the matter.

108.201 to 108.223 [Reserved]

SUBPART H

CONTINGENCY AND COMMUNICATION ACTIONS

108.225 Contingency plan

(a) The air operator must establish, for each airport where it operates, a contingency plan, in coordination with the airport operator and other public agencies and entities involved, in order to respond to an unlawful interference act or threat that may affect the security.

(1) The air operator must maintain for each airport where it operates an updated list of the emergency contacts required to activate its contingency plan.

(b) The contingency plan must contain:

(1) duties of the air operator;

(2) a description of the communication system available for contingency actions; (3) standardized procedures for receiving, disseminating and processing information; and

(4) measures to be taken to mitigate and/or eliminate the consequences of threats and unlawful interference acts.

(c) The air operator is responsible for:

(1) act in accordance with the actions established in the contingency plan, when receiving information that gives rise its use;

(2) apply standardized procedures for receiving, disseminating and processing information, pre-established through activation flows;

(3) establish communication systems that ensure that the procedures for disseminating information under its responsibility during contingency actions are effective, so that the competent bodies and persons receive the information in a timely manner, enabling the mitigation of the consequences or even the solution of the interference act;

(4) create the Risk Assessment Advisory Group (AAR) and implement the necessary additional security measures, according to the threat assessment;

(5) participate in the Decision Groups and the Operational Group for Crisis Management, when requested by the airport operator;

(6) collect as much data as possible to support AAR and other crisis management groups;

(7) guarantee the confidentiality of information about the facts giving rise to the contingency action and its consequences, such as tactics employed by the person or group responsible for the unlawful interference act or the group responsible for combating the act;

(8) support the crisis management groups by making necessary supplies, equipment and human resources available, including those that are within the exclusive reach of the air operator;

(9) ensure that employees are aware of their responsibilities in the actions of the contingency plan;

(10) make available in each operation base an updated contingency plan, containing the triggering flows and their contacts; (11) participate in the exercises of AVSEC promoted by operators of airports where it performs its air operations; and

(12) keep a copy of the contingency plan of the operator of the airport where it operates.

108.227 Additional security measures

(a) [Reserved] (Wording given by Resolution No. 626, of 06.14.2021)

(b) When carrying out its activities, if the air operator finds substances or objects suspected of containing explosive devices, CBRN devices or other dangerous material, the area must be isolated and the fact must be reported to the Federal Police or, in its absence, to the public security body responsible for police activities at the airport and, further, to the airport operator.

(c) When the national threat level is classified as amber or red or when a given airport or flight is under threat, the air operator must ensure that additional security measures are provided for in its contingency plan or in DAVSEC.

(d) The air operator must comply with other additional security measures that may be required by ANAC, due to the appearance of a punctual threat at a given airport(s) or flight(s) or, also, depending on a risk assessment.

(e) The air operator must comply with specific protection procedures that may be required by the Federal Police, in coordination with ANAC and the airport operator, in the event of an increase in the level of national threat or the occurrence of a specific threat.

(f) In the event of an unplanned landing at a Brazilian airport not listed in the air operator's operating specifications, unless the airport has Brazilian authorities to enforce safety standards applicable to the operation, the air operator must be responsible for compliance with these rules before the Brazilian Government.

108.229 Communication

(a) The air operator must communicate to ANAC within a maximum period of 30 (thirty) days of its verification, evidence of vulnerabilities in the civil aviation protection system or unlawful interference acts against civil aviation, through DSAC.

(1) When the vulnerability is identified at an airport, the respective airport operator must also be notified by the air operator, within a maximum period of 30 (thirty) days from the verification.

(b) The air operator must ensure that its communications on AVSEC matters are reserved, and that they are carried out by means appropriate to the situation.

(c) The air operator must ensure effective communication between crew members, between the crew and the air operator, between the crew and control bodies, and between the air operator and control bodies, in order to ensure perfect aircraft operation and cooperation with the command of response actions.

(d) The air operator must maintain the communication records related to paragraph 108.229 (a) and preserve the evidence, for a period of not less than 12 (twelve) months, in order to assist the investigations.

108,231 to 108,235 [Reserved]

SUBPART H-I

AVSEC QUALITY CONTROL SYSTEM

(SUBPART INCLUDED BY RESOLUTION NO. 500, OF 12.12.2018)

108.237 Air Operator Responsibilities

(a) The following are the responsibilities of air operators regarding AVSEC quality control:

(1) submit themselves to the quality control activities carried out by ANAC, assisting those responsible for the application of quality control activities in the requests that are made in order to fulfill its objectives;

(2) establish, implement and maintain an AVSEC quality control system in order to monitor, review and improve the protection of civil aviation against unlawful interference acts;

(3) meet the requests of ANAC and the Federal Police concerning respect to application of AVSEC tests;

(4) ensure the availability of human and material resources for the application of the PCQ/AVSEC within the sphere of its responsibility, with due regard to the characteristics and dimensions of the operations, such as the number of contracted companies, processes employed, number of passengers served, locations of operation, among others; and

(5) maintain a confidential reporting system.

108.239 Guidelines and Structure of the AVSEC Quality Control System

(a) The AVSEC Quality Control System must meet the following guidelines:

 be a continuous process that incorporates internal procedures, such as audit techniques and inspections, with the objective of guaranteeing the quality of civil aviation security against unlawful interference acts;

(2) be able to identify deficiencies and develop standardized means of correction to address them;

(3) be the primary accountability of the top management of the air operator, who must evaluate the annual report on quality control activities and establish guidelines and goals for future actions related to the air operator's AVSEC quality control;

(4) foresee actions that aim at implementing the AVSEC culture at all levels of the company, especially its managers and professionals who act directly in the application of security procedures;

(5) be structured in such a way as to facilitate reliable information to be obtained in all administrative and operational spheres of the operator;

(6) consider risk assessment concepts when processing information obtained during the execution of its operations and quality control activities; and

(7) consider both the procedures implemented by the air operator itself and those developed by companies contracted or related to the air operator and which directly perform security measures and procedures.

108.241 AVSEC Quality Control Activities

(a) The air operator must carry out the following quality control activities, with due regard to the minimum frequencies established in Appendix A:

(1) internal audits;

(2) internal inspections; and

(3) tests.

(b) In addition to meeting the minimum frequency established in Appendix A, the air operator must carry out AVSEC quality control activities when ANAC requests it.

(c) In carrying out internal audits, the air operator must comply with the following provisions:

(1) the scope of the internal audit must encompass all AVSEC requirements applicable to the air operator under current regulations and the PSOA;

(2) the audit must be carried out at each air operator base and cover both the measures and procedures operated by the air operator itself and those operated by related third parties; (Wording given by Resolution no. 604, of 01.29.2021).

(3) the audit must be conducted by an AVSEC Auditor(s) who does(do) not perform AVSEC operational activity under the responsibility of the air operator on the audited basis; and

(4) the audit must include, at a minimum, interviews with the professionals responsible for AVSEC, professionals directly involved in the execution of security procedures, in addition to the verification of documents and procedures described in the PSOA and in the current regulations.

(d) When carrying out internal inspections, the air operator must comply with the following provisions:

(1) the scope of the inspection must be defined by the AVSEC responsible for the base where the activity will take place, in a substantiated manner in the inspection report, seeking to focus on security measures and procedures related to the most significant vulnerabilities and threats, to any previous corrective actions and those that have undergone recent changes;

(2) the inspection must be carried out at each base of the air operator and be conducted by the local person responsible for AVSEC in that base, the national person responsible for AV-SEC or a trained professional, under the terms of the PNIAVSEC; and

(3) the inspection must use techniques similar to the audit, such as document review, interviews and direct observations. (e) When performing AVSEC tests, the air operator must comply with the following provisions:

(1) AVSEC tests operated by the air operator can only be performed with formal authorization from the professional responsible for AVSEC at the national level;

(2) the AVSEC tests must be coordinated with the public security body responsible for the police activities at the airport where the activity will take place, at least 10 (ten) days in advance;

(3) the air operator must prepare and follow an internal procedure manual, work instruction or similar document, describing the way in which AVSEC tests are carried out, in order to standardize the activity and extract reliable and comparable results, in addition to guaranteeing safety of its executors;

(4) the team responsible for scheduling, coordinating and executing the AVSEC tests must ensure that the date of completion is not known to the teams working on the procedures to be tested;

(5) the simulations of prohibited items used in the tests cannot pose a risk to the safety of the people involved in carrying out the activity and the general public;

(i) the simulations must be stored in locked cabinets and in a controlled access location.

(ii) the simulations used in the AVSEC tests must have varied characteristics over time, in order to prevent them from becoming obvious to the professionals to be tested.

(6) observing the frequency established in Appendix A, the air operator must perform at least the following AVSEC tests:

(i) testing procedures for controlling access of people to aircraft;

(ii) testing the aircraft security verification and inspection procedures, in each base that operates international flight;

(iii) testing the safety procedures related to the onboard supplies and onboard service, when the concept of security chain is used; (Wording given by Resolution n° 604, of 01.29.2021); (iv) testing in checked baggage, cargo and mailbag inspection systems, at each base where inspection is mandatory under Sections 108.59 and 108.127; and

(A) In the case of sharing the same human and material resources for inspecting checked baggage, cargo and mail on a given base, the air operators involved may organize themselves to carry out a single battery of tests.

(v) testing at the facilities of known consignors registered by the air operator.

(A) In the event of known consignors being registered by more than one air operator, operators may organize themselves to carry out a single battery of tests.

(7) AVSEC tests must be coordinated and monitored by a trained professional(s), in accordance with PNIAVSEC.

(f) The air operator must participate in the security exercises performed by the airport operators at each base where it has scheduled flight operations, with due regard to the provisions of item 108.13(d)(1).

108.243 Record of Quality Control Activities

(a) The air operator must prepare and maintain reports on the quality control activities carried out, with due regard to the following provisions:

(1) The reports of internal audit, internal inspection and AVSEC tests must indicate all AVSEC requirements evaluated by the air operator, the dates of the activities, the performing professionals and the results verified; and

(2) In relation to safety exercises, the air operator must keep a copy of the attendance lists for these activities, as a way of proving its participation.

(b) At least annually, the person responsible for the air operator's PCQ/AVSEC must prepare and submit to the air operator's senior management a report containing a summary of all AVSEC quality control activities carried out during the previous year.

(c) Reports on quality control activities must be filed by the air operator for at least 5 (five) years, in physical or digital format. (d) Any information derived from AVSEC quality control activities, such as reports and test results, which contain real data on the safety of civil aviation against unlawful interference acts, must be treated by the air operator in such manner as to prevent their improper disclosure.

(e) The air operator, when requested by ANAC, must forward to the Agency a copy of the reports of the quality control activities performed by it.

(1) The forms and deadlines for forwarding will be determined by ANAC when requested.

(2) The information received through this source will not be subject to sanction by ANAC, except when there is another source with the same information.

108.245 Address of Non-Compliance

(a) The air operator is responsible for planning and complying with corrective actions regarding the security procedures and measures that apply to it, including the procedures and measures that are performed through contracted companies and airport area operators.

(b) The air operator must apply internal procedures to identify, document and deal with non-compliance related to the current AVSEC regulations.

(1) Both non-compliance detected in AVSEC quality control activities carried out by the air operator and in activities conducted by ANAC must be addressed.

(c) The air operator must develop and maintain an updated plan to address corrective actions detected during quality control activities, including the following minimum content:

(1) detected non-compliance and respective causes;

(2) actions required to correct each non-compliance;

(3) deadline for definitive resolution of each non-compliance;

(4) mitigation measures until the final solution, when necessary to guarantee security; and

(5) photos and documentation capable of proving that the non-compliance has been remedied.

(d) The corrective action plan, in the case of AVSEC quality control activity carried out by ANAC, must be sent to the Agency within a period not exceeding 30 (thirty) days.

(1) The term determined above also applies to updates to the plan and may be reduced or extended by ANAC, in a substantiated manner.

(e) The corrective action plans resulting from internal quality control activities must be filed by the air operator for at least 5 (five) years, in physical or digital format.

(f) The minimum performance standards for AVSEC testing protocols will be established by ANAC, by means of a reserved act of the Superintendency responsible for AVSEC.

(g) If an AVSEC test protocol, carried out by ANAC or by the air operator, obtains results below the minimum standard established by the Agency, the air operator, in addition to adopting corrective actions, must proceed to perform the test protocol with twice the frequency stipulated in Appendix A until the results reach the minimum standards.

<u>108.247 Confidential Reporting</u> System

(a) The air operator must maintain a communication channel to receive AVSEC reports and information provided by different sources, such as crew members, ground support staff and protection officers.

(b) The communication channel implemented by the air operator must comply with the following provisions:

(1) be easily accessible, allowing reports and information to be forwarded quickly to the air operator;

(2) making it possible to receive information without identifying the sender; and

(3) be disclosed to professionals related to the air operator.

(c) The air operator must review the information received and mitigate vulnerabilities or threats that pose a risk to aviation security.

(1) The reports and information received by the air operator through the confidential reporting system, as well as the resulting actions implemented by the air operator, must be documented and filed for a minimum period of 2 (two) years, in physical or digital format.

108.249 to 108.253 [RESERVED]

SUBPART I

AIR OPERATOR SAFETY PROGRAM

<u>108.255 Implementation of the Air</u> <u>Operator Safety Program</u>

(a) The air operator must adopt the means and procedures provided for in its Air Operator Safety Program (PSOA), which is defined by ANAC through Supplementary Instruction (IS).

(1) If the air operator intends to implement inclusion of a security measure or alternative procedure in relation to the provisions of the IS, it must previously inform ANAC of the intended changes for purposes of approval.

(2) In the event of paragraph 108.255(a)(1), the air operator must submit only the intended changes to ANAC, accompanied by justification.

(3) The alternative means or procedure presented must guarantee a security level equal to or higher than that established to the applicable requirement or achieve the objective of the standard procedure in the IS.

(4) Prior to operating a public air transport service, the air operator must demonstrate access to the IS content that defines its PSOA.

(b) The records and documents required by this Regulation may be kept on file in physical or digital media.

(c) In addition to complying with the requirements of this Regulation, as described in the PSOA, as applicable in section 108.7, the air operator must also know and comply with the AVSEC measures established by the airport operator where it operates.

(d) The air operator must keep at least one copy of its PSOA in each operational base, in physical or digital format. (Included by Resolution No. 500, of 12.12.2018)

(1) The latest version of the List of Inclusion of Safety Measures and Alternative Procedures, approved by ANAC, is an integral part of the PSOA. (Included by Resolution No. 500, of 12.12.2018)

(Wording given by Resolution no. 604, of 01.29.2021).

<u>108.257 Air Operator Safety</u> <u>Program Content</u>

(a) The PSOA must contain the security measures and procedures to be adopted by the air operator, in order to ensure that:

(1) the requirements of this Regulation are met; and

(2) when reading the procedures, it is possible to clarify, at least, the following questions:

(i) "who performs the procedure?";

(ii) "when is the procedure performed?";

(iii) "where is the procedure performed?"; and

(iv) "how is the procedure performed?".

(b) The PSOA must have the following plans and programs in place as an integral part:

(1) Air Operator´s AVSEC contingency plan;

(2) Air Operator´s AVSEC Instruction Program; and

(3) Air Operator's AVSEC Quality Control Program.

(c) The person responsible for the air operator at the national level for AVSEC, provided for in paragraph 108.13(e), is responsible for the custody, distribution and control of the PSOA, so as to guarantee the due confidentiality of the document.

<u>108.259 Air Operator´s AVSEC</u> <u>Quality Control Program</u>

(a) The air operator must develop, implement and maintain an AVSEC Quality Control Program (PCQ/AVSEC) in order to conduct AVSEC quality control activities in a standardized, efficient and safe manner and to improve aviation protection against unlawful interference acts.

(b) The PCQ/AVSEC must include the following minimum content:

(1) the duties of those responsible for the PCQ/AVSEC, as well as the professionals designated to act in the development of AVSEC quality control activities, including training, selection and conduct criteria;

(2) the definition of the sources (regulations, manuals, instructions, among others) used by the air operator to establish the standards of material resources, safety measures and procedures, which will be the subject of AVSEC quality control activities; (3) the description of the quality control activities performed by the air operator;

(4) the description of the processes of the quality control activities, including their planning, execution, reporting, implementation of corrective actions and monitoring;

(5) a description of how the annual report on quality control activities is produced, if applicable;

(6) the description of the confidential reporting system provided by the air operator;

(7) the description of the quality control activities carried out in the process of contracting and maintaining the record of known consignors and companies supplying onboard supplies and onboard service, which use the concept of secure chain; and (Wording given by Resolution No. 604, of January 29, 2021).

(8) the procedures for archiving documentation related to AVSEC quality control activities. (Included by Resolution No. 500, of 12.12.2018)

108.261 to 108.273 [Reserved]

SUBPART J

FINAL AND TRANSITIONAL PROVISIONS

<u>108.275 Final and transitional</u> provisions

(a) Until the publication of specific regulations providing for accredited air cargo agents, postal operators may be considered as such, with regard to the transport of mail, by air operators, provided that ANAC recognizes the compliance by the postal operator with the following paragraphs, applicable when the mailbag is under their responsibility: 108.123; 108,127; 108,129; 108,131; 108,133; 108,135; in addition to the provisions provided for in RBAC No. 110 applicable to cargo agents.

(1) The postal operator must designate an AVSEC Officer, a professional with valid certification in the AVSEC Basic course and with the management responsibility for the application of the security controls referred to in paragraph 108.275(a).

(2) The provisions provided for in the Supplementary Instructions (IS) re-

garding the requirements mentioned in paragraph 108.275(a) applicable to the postal operator, as forms of compliance are hereby established.

(3) If ANAC identifies the non-compliance with paragraph 108.275(a) by the postal operator, this is subject to loss of recognition by ANAC as an accredited cargo agent, either temporarily or permanently.

(Wording given by Resolution No. 604, of January 29, 2021).

(b) The implementation of control measures involving accredited air cargo agents will only be possible after specific regulation on the matter.

(c) In the event that the air operator is interested in operating on an airport where the airport operator does not carry out the civil aviation security inspection on passengers and carry-on luggage, or where equipment for the inspection carried out on checked or loaded baggage and mail, the air operator may do so, provided that:

(1) the procedures and resources for the inspection are in accordance with the requirements established in specific regulations on the matter; and

(2) the procedures have been approved by ANAC.

(d) Violations of the provisions of these Regulations subject the offender to the penalties in art. 289 of Law No. 7,565, of December 19, 1986, which provides for the Brazilian Aeronautical Code, to be established in accordance with the procedure described in Resolution No. 472 of June 6, 2018, or other regulations that replace them, adopting the fines provided in its Appendix B for the violations committed. (Wording given by Resolution No. 626 of 06.14.2021)

(e) Air operators must assess whether the changes brought about by this Amendment entail changes to their safety programs. If so, operators must submit requests to the ANAC for inclusion of a security measure or alternative procedure, by August 2, 2021. (Wording provided by Resolution No. 604, of 01.29.2021)

(1) Changes to the terms "Additional Security Measure" by "Addition of Security Measure" and "Listing of Additional Security Measure or Alternative Procedure" by "Listing of Addition of Security Measure or Alternative Procedure" do not justify the change of the Air Operator Safety Program. (Included by Resolution No. 604, of January 29, 2021) * THE APPENDICES TO THIS BRAZILIAN CIVIL AVIATION REGULATION ARE NOT TRANSCRIBED IN THIS VERSION.

BRAZILIAN CIVIL AVIATION REGULATION -RBAC No. 121

AMENDMENT No. 14

PUBLIC AIR TRANSPORT OPERATIONS WITH AIRCRAFT WITH MAXIMUM CERTI-FIED SEAT CONFIGURATION FOR PAS-SENGERS OF MORE THAN 19 SEATS OR MAXIMUM PAYLOAD CAPACITY OVER 3,400 KG (TITLE WORDING GIVEN BY RESOLUTION No. 526, of 08.06.2019)

SUBPART A GENERAL

121.1 Applicability

(a) This regulation establishes rules for:

(1) the operations of an applicant or holder of an air operator certificate (COA) under RBAC No. 119 that operates airplanes with a maximum certified seat configuration for passengers of more than 19 seats or a maximum payload capacity in excess of 3,400 kg; (Wording given by Resolution No. 526, of 08.06.2019)

(2) each person employed or used by a certificate holder conducting operations under this regulation, including aircraft maintenance, preventive maintenance, modifications and repairs;

(3) each person who provisionally requests approval for an Advanced Qualification Program Curriculum or curriculum segment under this regulation, and each person employed by an airline under this regulation to perform training, qualification or assessment functions under an Advanced Qualification Program;

(4) each person on board an airplane being operated under this regulation;

(5) each person who has applied for a COA under RBAC 119, when conducting operational assessment flights. (Wording given by Resolution No. 526, of 08.06.2019)

(b) This regulation also establishes requirements for operators in actions to support the continued airworthiness of each aircraft.

<u>121.2 [Reserved] (Wording given by</u> <u>Resolution No. 526, of 08.06.2019)</u>

121.3 [Reserved]

<u>121.4 Applicability of rules for</u> <u>unauthorized operators</u>

The rules in this regulation that refer to a person certified under RBAC 119 also apply to anyone who engages in operations governed by this regulation without the appropriate certificate and operating specifications required by RBAC 119.

121.7 Definitions

The following definitions apply to the sections of the RBAC 121 that deal with ETOPS operations:

(a) Adequate Airport means an airport listed in the operating specifications of a certificate holder, approved by ANAC, which meets the landing restrictions in section 121.197 and also:

(1) [reserved];

(2) an active and operational military airport;

(b) Alternate airport en route ETOPS means an Adequate and Convenient Airport on which an airplane can land after experiencing an engine stop or other abnormal or emergency condition that occurs en route during an ETOPS operation;

(c) ETOPS Operations Area means:

(1) for airplanes with two turbine engines, an area more than 75 minutes away from an Adequate Airport, considering the cruising speed with one inoperative engine under standard atmosphere and calm air;

(2) for airplanes with more than two turbine engines, an area more than 180 minutes from an Adequate Airport, considering the cruising speed with one inoperative engine under standard atmosphere and calm air;

(d) ETOPS entry point means the first route point on a given ETOPS flight, considering cruising speed with an inoperative engine under standard atmosphere and calm air and: (1) more than 75 minutes away from an Adequate Airport for two-engine airplanes;

(2) more than 180 minutes away from an Adequate Airport for airplanes with more than two engines;

(e) ETOPS qualification means the qualification that a person, responsible for maintaining the certificate holder, has achieved by successfully completing the certificate holder's ETOPS training program;

(f) Maximum deviation time, for ETOPS route planning purposes, means the longest deviation time authorized for a certificate holder's ETOPS operation calculated considering cruising speed with an inoperative engine under standard atmosphere and calm air;

(g) Cruising speed with an inoperative engine means the speed, within the limits of operation, certified for the aircraft, specified by the certificate holder and approved by ANAC for:

(1) calculating fuel reserve requirements in the event of an inoperative engine;

(2) determining whether an alternate airport on an ETOPS route is within the maximum authorized diversion time for an ETOPS flight.

<u>121.11 Rules applicable to</u> operations in foreign countries

Each certificate holder must, while operating an airplane in a foreign country, maintain compliance with the air traffic rules of the country involved and with the local rules of airports, except when a rule in this regulation is more restrictive and can be followed without violating the rules of that country.

<u>121.15 Transport of narcotic drugs,</u> <u>marijuana and other depressive or</u> <u>stimulant drugs or substances</u>

If a certificate holder, operating under this regulation, allows an airplane owned or leased by it to be engaged in any operation that it, the certificate holder, knows to be in violation of paragraph 91.19 (a) of RBAC 91, such operation may serve as a basis for suspension or revocation of the certificate. (Wording given by Resolution No. 612, of 03.09.2021)

SUBPART B [RESERVED]

SUBPART C [RESERVED]

SUBPART D [RESERVED]

SUBPART E APPROVAL OF ROUTES FOR SCHEDULED OPERATIONS (TITLE OF SUBPART WITH WORDING GIVEN BY RESOLUTION NO. 526, OF 08.06.2019)

121.91 Applicability

This subpart establishes rules for obtaining route approval by certificate holders conducting scheduled operations. (Wording given by Resolution No. 526, of 08.06.2019)

121.93 Route requirements. General

(a) Each certificate holder conducting scheduled operations seeking approval of a route must demonstrate:

(1) that it is able to satisfactorily conduct scheduled operations between each regular airport, or refueling operations, along that route or route segment; and

(2) that the facilities and services required by 121.97 through 121.107 are available and suitable for the intended operations.

ANAC may approve a route outside controlled airspace, provided that it considers that the traffic density is such that an adequate level of safety can be ensured. (Wording given by Resolution No. 526, of 08.06.2019)

(b) Paragraph (a) of this section does not require a real demonstration flight along a route or segment of a route if the certificate holder demonstrates that such a flight is not essential to safety, considering the availability and suitability of airports, in particular regarding signaling and luminous aids, aircraft maintenance, refueling, communications, aids to the navigation of the ground and the plane and the proficiency of the personnel involved in the intended operations.

121.95 Route width

Routes and segments of routes approved entirely on Brazilian or foreign airways (and on advisory routes in the case of certificate holders conducting international operations) have the width regulated through a specific rule of the Aeronautical Command. (Wording given by Resolution No. 526, of 08.06.2019)

121.97 Airports. Required information

(a) Each certificate holder conducting scheduled operations must demonstrate that each route submitted for approval is supported by airports in adequate quantity and quality, considering aspects such as dimensions, strength and surface of the runways, obstructions, facilities, protection to the public (*security*), signaling and lighting aids, navigation and approach aids, communication, opening hours and traffic control. (Wording given by Resolution No. 526, of 08.06.2019)

(b) Each certificate holder conducting scheduled operations must demonstrate that it has an approved system to collect, update and disseminate to the appropriate personnel valid aeronautical information for each airport used by it, in order to ensure the safety of operations at them. Aeronautical information must include the following: (Wording given by Resolution No. 526, of 08.06.2019)

(1) airports:

(i) facilities;

(ii) security against illegal acts;

(iii) aid to navigation and communications;

(iv) buildings affecting takeoffs, landings or ground operations;

(v) air traffic control facilities.

(2) runways and landing, clearways and stopways:

(i) dimensions;

(ii) type of surface and its resistance;

(iii) lighting and signaling system;

(iv) altitude and gradients.

(3) displaced thresholds:

(i) location;

(ii) dimensions;

(iii) take-off, or landing, or both.

(4) obstacles:

(i) those that affect the take-off and landing calculations provided for in subpart I of this regulation;

(ii) relevant obstacles.

(5) instrument flight procedures:

(i) take-off procedures;

- (ii) approach procedures;
- (iii) go-around procedures.
- (6) additional information:

(i) runway visual reach equipment (RVR);

(ii) prevailing winds in low visibility conditions.

(c) If ANAC considers that the system for collecting, updating, disseminating and using aeronautical information approved for a certificate holder must be changed to meet new circumstances, that holder will be notified in writing and must implement the required changes. Within 30 days after receiving the notification, the certificate holder may request reconsideration of ANAC's decision. The filing of an appeal causes the deadline for complying with the amendment to be suspended pending ANAC's decision on the matter. However, if it is considered that an emergency situation requires immediate action in the interest of air transport security, ANAC can determine, justifying its decision, a modification with immediate effectiveness.

121.99 Communications facilities

(a) Each certificate holder conducting scheduled operations must demonstrate that along their routes (directly or via point-to-point circuit) there is a reliable and fast bilateral plane-to-ground communications system that, under normal operating conditions, ensures radio contact of each aircraft with the appropriate dispatch center and between each aircraft and the appropriate air traffic control radio station, except as specified in 121.351(c). (Wording given by Resolution No. 526, of 08.06.2019)

(b) The communication systems between each aircraft and the appropriate dispatch center must be independent from any system operated by DECEA.

(c) Each certificate holder conducting international operations must provide means of communication by voice, for ETOPS operations, where these facilities are available. To determine whether these facilities are available, the certificate holder should consider potential routes and altitudes for diversion to alternate airports on the ETOPS route. Where these facilities are not available or are of such low quality that voice communication is not possible, another communication system must be made available. (Wording given by Resolution No. 526, of 08.06.2019) (d) Each certificate holder involved in conducting ETOPS operations beyond 180 minutes must have an additional communication system, in addition to that required by paragraph (c) of this section. This system must provide voice communication via satellite with the same fidelity as a terrestrial telephone system, in addition it must be able to provide communications between the crew and the air traffic control services and between the crew and the certificate holder. To determine the availability of these communications, the certificate holder should consider potential routes and altitudes necessary in the event of detours to alternate airports on the ETOPS route. If the satellite communication system is not available or is of poor quality, another communication system should be made available.

121.101 Weather information services

(a) Each certificate holder conducting scheduled operations must demonstrate that along each route there are sufficient meteorological information services to ensure a minimum of meteorological data and forecasts required for the operation.

(b) Except as provided in paragraph (d) of this section, each certificate holder who conducts scheduled operations must use meteorological information so that:

(1) for operations within Brazilian airspace, such information and forecasts are prepared by the Aeronautical Command or by agencies approved by it; or

(2) for operations carried out abroad, such information and forecasts are prepared by bodies and agencies approved by the country overflown.

(c) Each certificate holder conducting scheduled operations must use meteorological forecasts prepared from the meteorological information specified in paragraph (b) of this section or from information from an approved source under paragraph (d) of this section.

(d) Each certificate holder conducting scheduled operations must adopt and put in place an approved system to obtain and disclose to its personnel forecasts and information on adverse atmospheric phenomena, such as turbulence in clear skies, storms and low windshear, which may affect flight safety on each route to be flown and each airport to be used. (Wording given by Resolution No. 526, of 08.06.2019)

121.103 Route navigation facilities

(a) Except as provided in paragraph (b) of this section, each certificate holder conducting scheduled operations must demonstrate that on each of the proposed routes the non-visual ground aids are: (Wording given by Resolution No. 526, 06.08.2019)

(1) available along the route in order to guarantee navigation within the degree of precision required by air traffic control; and

(2) located to allow navigation to and from any regular airport, or alternatively, within the degree of precision required by the operation involved. With the exception of radio aids required on routes to alternate airports, all non-visual ground aids required for routes approved outside controlled airspace will be listed in the certificate holder's operating specifications.

(b) non-visual ground aids are not required for:

(1) daytime VFR operations that the certificate holder can demonstrate can be safely conducted by contact navigation in view of the terrain characteristics;

(2) nightly VFR operations on routes where the certificate holder demonstrates the existence of well-lit, reliable and suitable ground references for safe operation; and

(3) operation on route segments where the use of astronomical navigation or other specialized means of autonomous navigation is approved by the aeronautical authorities.

121.105 Ramp service and maintenance facilities

Each certificate holder conducting scheduled operations must demonstrate that competent personnel and suitable facilities and equipment (including spare parts, supplies and materials) are available at specific airports along each of their routes, as needed, in order to provide adequate ground care services, maintenance and preventive maintenance to planes and ancillary equipment. (Wording given by Resolution No. 526, of 08.06.2019)

<u>121.106 Alternate airport on ETOPS</u> route: prevention, rescue and fire fighting services

(a) Except as provided in paragraph (d) of this section, the following fire prevention, rescue and fire fighting service must be available at each alternate airport on the ETOPS route listed in an order or flight plan:

(1) in ETOPS operations up to 180 minutes, each alternative ETOPS airport must have the service described in paragraph (a) of this section equivalent to that specified by ICAO as category 4 or higher;

(2) for ETOPS operations beyond 180 minutes, each alternate airport on an ETOPS route must have the service described in paragraph (a) of this section equivalent to that specified by ICAO as category 4 or higher. Additionally, the aircraft must remain within the ETOPS diversion authorization of an Adequate Airport that has a rescue and fire fighting service equivalent to that specified by ICAO as category 7 or higher.

(b) If the equipment and personnel required by paragraph (a) of this section are not immediately available at the airport, the certificate holder will still be able to list it in his/her dispatch or flight plan if he/she can count on the assistance of local fire-fighting forces. A response time of 30 minutes for the availability of assistance from local forces is adequate, if these forces can be notified while the aircraft is diverting to the airport. Local fire-fighting forces must remain as long as the aircraft requires such services.

121.107 Flight Dispatch Centers

Each certificate holder conducting scheduled operations must demonstrate that it has enough flight dispatch centers to serve the operations to be conducted and that such centers are located at the points necessary for the operational control of each flight. (Wording given by Resolution No. 526, of 08.06.2019)

SUBPART F

APPROVAL OF ROUTES AND AREAS FOR SUPPLEMENTAL OPERATIONS (TITLE OF THE SUBPART WITH WORDING GIVEN BY RESOLUTION NO. 526, OF 08.06.2019)

121.111 Applicability

This subpart establishes rules for obtaining approval of routes and areas of operation for certificate holders conducting supplemental operations. (Wording given by Resolution No. 526, of 08.06.2019)

121.113 Requirements for routes and areas. General

(a) Each certificate holder conducting supplemental operations and seeking approval of area and routes must demonstrate: (Wording given by Resolution No. 526, of 08.06.2019)

(1) that it is entitled to conduct operations within Brazilian airspace, in accordance with paragraphs (a)(3) and (4) of this section;

(2) that it is qualified to conduct operations in accordance with the requirements applicable to each area outside of Brazil for which authorization is requested;

(3) that it is equipped and qualified to conduct operations within the system of Brazilian airways, foreign airways and advisory routes (ADR's) to be flown, using the navigation and communication facilities associated with them; and

(4) that it will conduct all of its night IFR or VFR operations within Brazilian airways, foreign airways, controlled airspace or on advisory routes (ADR's).

(b) Notwithstanding paragraph (a) (4) of this section, ANAC may approve routes outside controlled airspace if the certificate holder conducting supplemental operations demonstrates that the route is safe for the operation and ANAC considers that the traffic density is such that an adequate level of security can be ensured. The certificate holder cannot use such routes unless they are approved by ANAC and listed in the certificate holder's operating specifications. (Wording given by Resolution No. 526, of 08.06.2019)

121.114 Minimum flight altitudes

(a) ANAC may allow the certificate holder to establish minimum flight altitudes for the routes it operates provided that they are not lower than those established by Brazil or by the States overflown, unless they have been expressly approved.

(b) On routes on which the States mentioned in (a) have not established minimum flight altitudes, the certificate holder shall specify the method employed for such calculation. The minimum flight altitudes determined by the aforementioned method must not be less than those specified in Annex 2 to the International Civil Aviation Convention.

(c) The method for establishing the certificate holder's minimum flight altitudes must be approved by ANAC.

121.115 Route width

Routes and segments of approved routes of Brazilian or foreign airways have the width provided for in the relevant letters and publications of the Aeronautical Command.

121.117 Airports. Required information

(a) No certificate holder conducting supplemental operations may use an airport, unless it is registered and properly equipped and suitable for the proposed operation, considering aspects such as dimensions, runway surface, obstructions, facilities, public protection, lighting, aids to navigation and approach, communication, opening hours and ATC. (Wording given by Resolution No. 526, of 08.06.2019)

(b) Each certificate holder conducting supplemental operations must demonstrate that it has an approved system in place for collecting, updating and disseminating to the appropriate personnel valid aeronautical information for each airport it uses, in order to ensure the safety of operations at those airports. Aeronautical information must include: (Wording provided by Resolution No. 526, of 08.06.2019)

(1) airport:

(i) facilities;

(ii) protecting the public;

(iii) aid to navigation and communications;

(iv) buildings affecting takeoffs, landings and ground operations;

(v) air traffic facilities.

(2) runways and landing, clearways and stopways:

(i) dimensions;

(ii) type of surface and its resistance;

(iii) lighting and signaling system;

(iv) altitude and gradients.

(3) displaced thresholds:

(i) location;

(ii) dimensions;

(iii) take-off, landing or both.

(4) obstacles:

(i) those that affect the take-off and landing calculations provided for in subpart I of this regulation;

(ii) relevant obstacles.

(5) instrument flight procedures:

(i) take-off procedures;

(ii) approach procedures;

(iii) rush procedures.

(6) additional information:

(i) visual runway reach equipment (RVR);

(ii) prevailing winds in low visibility conditions;

(iii) special procedures in case of engine failure during take-off.

(c) If ANAC considers that the system for collecting, updating, disseminating and using aeronautical information approved for a certificate holder must be changed to meet new circumstances, that holder will be notified in writing and must implement the required changes. Within 30 days after receiving the notification, the certificate holder may request reconsideration of ANAC's decision. The filing of an appeal causes the deadline for complying with the amendment suspended pending ANAC's decision on the matter. However, if it is considered that an emergency situation requires immediate action in the interest of air transport security, ANAC can determine, justifying its decision, a modification with immediate effectiveness.

121.119 Weather information services

(a) No certificate holder conducting supplementary operations may use meteorological information to conduct its flights, unless such information has been prepared by the Aeronautical Command or another agency recognized by it. For operations outside Brazil, the certificate holder must demonstrate that the available meteorological information and forecasts are prepared by sources considered satisfactory by ANAC.

(b) Each certificate holder conducting supplementary operations that uses meteorological forecasts to guide flight movements must use forecasts prepared from the meteorological information specified in paragraph (a) of this section.

121.121 Route navigation facilities

(a) Except as specified in paragraph (b) of this section, no certificate holder conducting supplemental operations may conduct any operation along a route, unless the non-visual ground aids are: (amended by Resolution No. 526, of 06.06.2019)

(1) available along the route in order to guarantee navigation within the degree of precision required by the ATC; and

(2) located to allow navigation to and from any regular, refueling or alternate airport, within the degree of precision required by the operation involved.

(b) Non-visual ground aids are not required for:

(1) daytime VFR operations that the certificate holder can demonstrate can be safely conducted by contact navigation in view of the terrain characteristics;

(2) nightly VFR operations on routes where the certificate holder demonstrates the existence of well-lit, reliable and suitable ground references for safe operation; and

(3) operation on route segments where the use of astronomical navigation or other specialized means of autonomous navigation is approved by the aeronautical authorities.

(c) With the exception of radio aids required on routes to alternate airports, all non-visual ground aids required for routes approved outside controlled airspace will be listed in the certificate holder's operating specifications.

121.122 Communication facilities: supplemental operations

(a) Each certificate holder when conducting supplemental operations, other than cargo operations, on airplanes with more than two engines must demonstrate that they have a two-way radio system or other means of communication approved by ANAC. This system must guarantee immediate and reliable communications on the entire route (direct or point-to-point circuit) between each aircraft and the certificate holder and the certificate holder and the appropriate ATC service, except as specified in section 121.351(c).

(b) Each certificate holder involved in conducting supplemental operations,

other than cargo operations, with airplanes with more than two engines must have a voice communication system, for ETOPS, where this facility is available. To determine the availability of these communications, the certificate holder must consider potential routes and necessary altitudes in the event of detours to the alternative ETOPS airports. In places where this facility is not available or is of low quality, another communications system must be made available.

(c) Each certificate holder involved in conducting ETOPS operations beyond 180 minutes with aircraft with more than two engines must have an additional communication system, in addition to that required by paragraph (b) of this section. This system must provide voice communication via satellite with the same fidelity as a terrestrial telephone system, in addition it must be able to provide communications between the crew and the air traffic control services and between the crew and the certificate holder. To determine the availability of these communications, the certificate holder must consider potential routes and necessary altitudes in the event of detours to the alternative ETOPS airports. If the satellite communication system is not available or is of poor quality, another communication system should be made available. (Wording given by Resolution No. 526, of 08.06.2019)

121.123 Service facilities and ramp services

Each certificate holder conducting supplemental operations must demonstrate that they have competent personnel and adequate facilities and equipment (including spare parts, supplies and materials) in order to ensure appropriate ground handling, maintenance and preventive maintenance services for airplanes and ancillary equipment. (Wording given by Resolution No. 526, of 08.06.2019)

121.125 Flight tracking system

(a) Each certificate holder conducting non-scheduled air operations must demonstrate that it has: (Wording given by Resolution No. 526, of 08.06.2019)

(1) a flight monitoring system, approved and established in accordance with subpart U of this regulation, which is suitable for monitoring each flight, considering the operations to be conducted; and

(2) flight tracking centers located at those points necessary to:

(i) ensure the proper monitoring of the progress of each flight with respect to its departure from the point of origin and its arrival at the point of destination, including intermediate landings, detours for alternatives and delays due to mechanical or maintenance problems that may occur in those locations; and

(ii) ensure that the pilot-in-command will receive all necessary information for flight safety.

(b) A certificate holder conducting non-scheduled air operations may use third party flight tracking facilities. However, the primary accountability for the operational control of each flight cannot be delegated to anyone. (Wording given by Resolution No. 526, of 08.06.2019)

(c) A flight tracking system does not need to provide plane-tracking center contact during the flight.

(d) The certificate holder's specifications must include the authorized flight tracking system, as well as the location of the control centers.

<u>121.127 Flight tracking system.</u> <u>Requirements</u>

(a) Each certificate holder when conducting non-scheduled air operations using a flight tracking system must demonstrate that: (Wording given by Resolution No. 526, of 08.06.2019)

(1) the system has adequate personnel and equipment to provide the necessary information for the safe start and continuation of each flight to:

(i) the flight crew of each aircraft; and

(ii) the persons designated by the certificate holder to perform the operational control of the flight; and

(2) the system has private or public means of communication (such as telephone, telex or radio) suitable for monitoring the progress of each flight with regard to its departure from the airport of origin and its landing at the airport of destination, including intermediary landings and alternative landings, as well as eventual delays due to mechanical or maintenance problems that occurred at these points.

(b) The certificate holder conducting non-scheduled air operations must demonstrate that the personnel specified in paragraph (a) of this section and those designated for the operational control of the airplane are qualified to perform their duties. (Wording given by Resolution No. 526, of 08.06.2019)

SUBPART G MANUALS SYSTEM REQUIREMENTS

121.131 Applicability

This subpart establishes requirements for the preparation and updating of the manual system for all certificate holders.

121.133 Preparation of the manual system

(a) Each certificate holder must develop and submit to ANAC, for prior acceptance, a manuals system for the use and guidance of its ground and flight personnel in the conduct of their activities.

(b) Each revision of each manual that is part of the operator's manuals system must be submitted to ANAC for prior acceptance, except those exempted from this act by the manual already accepted.

(c) For the purposes of this subpart, the certificate holder may prepare a portion of the manuals system containing maintenance instructions and information, in whole or in part, in printed form or other forms acceptable to ANAC.

121.135 Contents of the manual system

(a) Each manual system required by RBAC 121.133 must:

(1) contain instructions and information necessary for the personnel involved, in order to allow each person to carry out their duties and responsibilities with a high degree of security;

(2) have a composition that facilitates revisions;

(3) have the date of the last revision on each of its pages; and

(4) not contradict any current Brazilian legislation and, in the case of international operations, no applicable foreign legislation, nor contradict what is contained in the COA and respective operating specifications. (Wording given by Resolution No. 526, of 08.06.2019)

(b) The manual may consist of two or more separate volumes, and may contain copies of original publications by the aircraft and component manufacturers, provided that the set contains all the information below, and each volume must contain all the information concerning each specific group of people:

(1) the certificate holder's general policy; and

(i) a specific policy of the certificate holder that will cover approved normal, abnormal and emergency maneuvers, actions and procedures, provided for in its operational training program, which include those aimed at avoiding low altitude windshear and CFIT – Controlled Flight into Terrain.

(2) roles and functional responsibilities of each crew member, appropriate members of the ground handling organization and management personnel;

(3) references to the Regulations and other appropriate documents;

(4) flight dispatch and operational control, including flight dispatch coordination and operational control procedures or flight tracking procedures, as applicable;

(5) en-route flight, communications and navigation procedures, including procedures for dispatch or continuation of flight if any item of equipment, required for a particular type of operation, becomes inoperative or useless on route, additionally:

(i) instructions on acceptance and confirmation of air traffic control (ATC) authorizations, particularly when they relate to separation from the ground.

(6) for scheduled operations, appropriate information about flights en route, taken from the operating specifications, including, for each approved route, the types of aircraft authorized to fly it, the type of operation approved as VFR, IFR, day, night, etc. for the same and any other pertinent information, additionally: (Wording given by Resolution No. 526, of 08.06.2019)

(i) a route guide to be used by the flight crew for each flight.

(7) for supplemental operations, appropriate information, taken from the operating specifications, including the authorized operating area, the types of aircraft authorized, the types of operation approved such as VFR, IFR, daytime, nighttime, etc. and any other pertinent information, additionally: (Wording given by Resolution No. 526, of 08.06.2019)

(i) a route guide to be used by the flight crew for each flight.

(8) information about the airports of the operating specification, including for each:

(i) its location (for scheduled operations only); (Wording given by Resolution No. 526, of 08.06.2019)

(ii) its designation: normal, interim or alternative (for scheduled operations only); (Wording given by Resolution No. 526, of 08.06.2019)

(iii) the types of aircraft authorized to use it (for scheduled operations only); (Wording given by Resolution No. 526, of 08.06.2019)

(iv) instrument approach and landing procedures;

(v) landing and take-off meteorological minima; and

(vi) any other information deemed pertinent;

(9) limitations on aircraft certification and operation, take-off weight, route and landing;

(10) performance data for all phases of ETOPS operations;

(11) procedures to familiarize passengers with the use of emergency equipment during the flight;

(12) emergency equipment and procedures;

(13) method of designating the succession of the crew in charge of the flight;

(14) procedures for determining the feasibility of runways for landings and takeoffs and for the dissemination of relevant information to operations personnel;

(15) procedures for operating on ice, hail, storm, turbulence and other potentially dangerous weather conditions;

(16) each required training program curriculum including the appropriate ground, flight and emergency phases;

(17) procedures and instructions on maintenance, preventive maintenance and ramp services;

(18) timeouts, or standards for determining timeouts for general overhauls, inspections and checks of cells, powertrains and normal and emergency equipment;

(19) procedures for refueling aircraft, eliminating fuel contamination, preventing fires (including electrostatic protection) and protecting passengers during refueling;

(20) instructions covering inspectors' responsibilities and authority in airworthiness inspections;

(21) methods and procedures for maintaining aircraft weight and center of gravity within approved limits;

(22) where applicable, procedures for qualifying flight crew and dispatchers on routes and airports;

(23) procedures for notification of accidents and incidents under the specific legislation of the Aeronautical Accident Investigation and Prevention System (SIPAER);

(24) in ETOPS operations, for passenger transport, if it exceeds 180 minutes a plan must be drawn up for the passengers to continue their journey; (Wording given by Resolution No. 526, of 08.06.2019)

(25) procedures and instructions on the transport of dangerous goods, in accordance with Subpart Z, including actions to be taken in case of emergency; (Wording given by Resolution No. 608, of 02.11.2021)

Note: guidance on the development of policies and procedures to deal with occurrences of dangerous articles on aircraft is contained in a specific ANAC standard. (Included by Resolution n° 608, of 02.11.2021).

(26) the name and duties of management personnel required by RBAC 119; (Wording given by Resolution No. 334, of 07.01.2014)

(27) must contain standard operating procedures (SOP) that provide flight operations personnel with guidance for operations, at all stages of flight, in a safe, efficient, logical and predictable manner;

(28) components and elements related to the certificate holder's operational safety management system (SGSO), as follows:

(i) operational safety policy and objectives;

(ii) management of operational safety risks; (iii) guarantee of operational safety;

(iv) promoting operational safety.

(29) description of policies and procedures related to the routine reporting of meteorological conditions and observations en route, in climb and in other phases of the flight (AIREP);

(30) obligation of information, by AIREP SPECIAL of the crew members, when encountering phenomena related to volcanic activities.

(c) The manual system may only contain copies of original publications from aircraft and equipment manufacturers, as provided for in paragraph (b) of this section, if:

(1) such copies comply with the provisions of paragraph (a) of this section; and

(2) the original is in Portuguese or English. If in English, the certificate holder must demonstrate that the personnel to whom the copies will be distributed in accordance with paragraphs (a)(1) and (2) of section 121.137 of this regulation, are able to perfectly read and understand the instructions contained therein.

(d) Each certificate holder must keep a complete set of its manual on its main operation base.

(e) The matters mentioned in this section constitute items in the certificate holder's manuals system that are not specifically required in other sections of this regulation, in order to complete the set of information required by Appendix 2, Part I of Annex 6 to the Convention of Chicago. (Wording given by Resolution No. 334, of 07.01.2014)

<u>121.137 Availability and distribution</u> of the manual system

(a) Each certificate holder must provide copies of the manuals system, or its appropriate parts, required by 121.133 (and its amendments and/or addenda) or appropriate parts thereof, to:

(1) its ground operations and maintenance personnel;

(2) its crew; and

(3) the bodies determined by ANAC.

(b) Each person to whom the manual system (or the applicable part thereof) is distributed in accordance with paragraph (a) of this section must keep it updated with the changes and addenda provided to it and must maintain the manual system or the appropriate volumes in an accessible location when performing the tasks assigned to him/her/her.

(c) In order to comply with paragraph (a) of this section, the certificate holder may provide the part of the manual system related to maintenance in printed form or another form approved by ANAC that allows retrieving the information.

(d) Notwithstanding the provisions of paragraph (b) of this section, in the case of crew members, the certificate holder may choose to keep copies of the manual system (or applicable parts thereof) up to date and in quantity appropriate to the number and types of crew on board. The positioning and quantity of these manual systems (or applicable parts thereof) in the passenger cabin of each type of airplane and for each internal configuration of that cabin (if applicable) must be approved by ANAC.

121.139 Requirements for manual on board aircraft. Supplemental operations

(a) Except as provided in paragraph (b) of this section, each certificate holder conducting supplemental operations must transport all or appropriate parts of its manual system on each of its airplanes that are outside the operational headquarters. Such parts must be available for use by flight and ground personnel. If any portion of the part referring to maintenance is in a form other than printed, the airplane must also carry a device for reading them that provides a clearly legible image of the information and maintenance instructions or a system that allows retrieving such information.

(b) If the certificate holder conducting supplemental operations is able to perform all scheduled maintenance in specific locations, where it keeps the maintenance parts of the manual, there will be no need to have such parts on board when the airplane is flying to such locations. (Wording given by Resolution No. 526, of 08.06.2019)

121.141 Aircraft flight manual

(a) Each certificate holder must have an updated Airplane Flight Manual (AFM) or Airplane Operations Manual (AOM) for each type of airplane it operates, except for non-certified types in the transport category before January 1, 1965.

(b) On each airplane that paragraph (a) of this section requires a flight manual to be carried, the certificate holder may

carry on board both the manual required by 121.133, if it contains the information required by the applicable flight manual and such information are clearly identified as AFM requirements, or an Airplane Operations Manual (AOM). If the certificate holder chooses to carry the manual required by 121.133 on board, he/she can review the sections of the operational procedures and modify the presentation of the performance data contained in the AFM if such modifications are:

(1) approved by ANAC; and

(2) clearly identified as AFM requirements.

SUBPART H AIRCRAFT REQUIREMENTS

121.151 Applicability

This subpart establishes requirements for airplanes for all certificate holders.

121.153 Aircraft requirements: general

(a) Except as provided in paragraph (c) of this section, no certificate holder may operate an airplane, unless such airplane:

(1) is registered as a civil aircraft in the Brazilian Aeronautical Registry (RAB) and has a valid airworthiness certificate, issued in accordance with the applicable RBAC; and

(2) is in airworthy condition and meets applicable airworthiness requirements, including those related to identification and equipment.

(b) In order to meet airworthiness requirements and comply with operational limitations, a certificate holder may use an approved method for weight and balance control of their aircraft, based on average, assumed or estimated weight.

(c) A certificate holder operating under this regulation must have the exclusive use of at least one airplane that meets the requirements of paragraph 121.157 (b) of this regulation. "Exclusive use" means having possession, control and use of the aircraft through a cash or term purchase registered with the RAB or through a lease agreement under the terms of paragraph (d) of this section.

(d) A certificate holder operating under this regulation may only operate an airplane leased by it if:

(1) the lease agreement complies with the Brazilian Aeronautical Code

and is registered with the Brazilian Aeronautical Registry;

(2) the lessor meets one of the conditions below:

(i) is a certificate holder operating under this regulation;

(ii) is a foreign air transport company headquartered in a country affiliated to ICAO; or

(iii) is a national or foreign aircraft leasing company (or other natural or legal person), subject to ANAC approval.

(3) the airplane is a certified type, with a type certificate issued or recognized as provided for in RBAC 21;

(4) the airplane meets the requirements of this regulation or, if imported, meets the requirements of equivalent regulation in the country of origin and accepted by ANAC, except that it must comply with the provisions of section 121.317 of this regulation;

(5) the airplane is operated by a crew employed by the certificate holder; and

(6) except in the cases provided for in section 121.569, the aircraft is registered in Brazil. (Wording given by Resolution No. 334, of 07.01.2014)

121.155 [Reserved]

<u>121.157 Aircraft certification</u> requirements

(a) Aircraft with a type certificate issued before July 1, 1942. No certificate holder may operate an airplane that has received a type certificate before July 1, 1942, unless:

(1) the airplane meets the requirements of 121.173(c); or

(2) the aircraft and all other aircraft of the same or related type operated by the certificate holder meet the performance requirements of sections 4a.737-T through 4a.750-T of the United States Civil Air Regulation of America, effective January 31, 1965 or sections 25.45 through 25.75 of RBAC 25 and 121.173 (a), (b), (d) and (e) of this regulation.

(b) Airplanes with a type certificate issued after June 30, 1942. Except as provided in paragraphs (c), (d), (e) and (f) of this section, no certificate holder may operate an airplane that has received a type certificate after June 30, 1942, unless such aircraft has been certified in the transport category and meets the requirements of 121.173 (a), (b), (d) and (e).

(c) Type C-46 aircraft: No certificate holder may operate a C-46 aircraft in operations carrying passengers, unless that aircraft is operated in accordance with the operational limitations for transport category airplanes and meets the requirements of paragraph (b) of this section or meets the requirements of Part 4b of the "Civil Air Regulation" of the United States of America, effective July 20, 1950 and the requirements of 121.173 (a), (b), (d) and (e), except that:

(1) the requirements of sections 4b.0 through 4b.19, effective on May 18, 1954 must be met;

(2) the bird proof windshield requirements of section 4b.352 do not need to be met;

(3) the provisions of sections 4b.480 through 4b.490 (except 4b.484(a)(1) and 4b.487(e), effective on July 20, 1953, must be met; and

(4) the provisions of paragraph 4b.484(a)(1), effective on July 20, 1950, must be met.

In determining the take-off path according to section 4b.116 and the climb with an inoperative engine in accordance with section 4b.120(a) and (b), it can be assumed that the propeller of the inoperative engine is flagged if the airplane is equipped with an approved means to automatically indicate the failure of a particular engine or an approved means to automatically flag the propeller of the inoperative engine. ANAC may authorize deviations from compliance with sections 4b.130 through 4b.190 and with subparts C, D, E and F of Part 4b (as designated in this paragraph) if it is considered that (considering the effect of changes in the project) compliance is extremely difficult to achieve and experience in service with C-46 aircraft justifies deviations.

(d) Type C-46 aircraft. Loading operations. No certificate holder may use a C-46 type aircraft, not included in the transport category, in cargo operations, unless it:

(1) is certified for a maximum gross weight that is not greater than 48,000 lb;

(2) complies with the requirements of 121.199 through 121.205, using the performance data in Appendix I of this regulation;

(3) before each flight, each engine contains at least 25 gallons of oil; and

(4) after December 31, 1964:

(i) is motorized with an engine type and model established in Appendix I of this regulation, when certified for maximum gross take-off weight greater than 45,000 lb; and

(ii) meets the special airworthiness requirements established in sections 121.213 through 121.287 or Appendix I, all of these regulations.

(e) [Reserved].

(f) Other airplanes not included in the transport category. No certificate holder may operate under this regulation an airplane with a certified type certificate issued after December 31, 1964, not included in the transport category.

(g) [Reserved].

(h) No one may operate an airplane whose type certification application was submitted after March 29, 1995 under this regulation, unless the airplane type has been certified under RBHA 25 or RBAC 25, as applicable.

121.159 Prohibition of operation with single-engine aircraft

No certificate holder may operate single-engine aircraft in operations under this regulation.

121.161 Aircraft limitations. Route type

(a) Unless approved by ANAC in accordance with Appendix P of this regulation and authorized in the operating specifications, no certificate holder may operate an airplane with turbine engines on a route that has a point:

(1) more than one flight time, from an Adequate Airport (at cruising speed, in standard conditions and calm air with one inoperative engine) at 75 minutes for a twin-engine airplane or 180 minutes for an airplane with more than two engines carrying passengers;

(2) in the North polar area; or

(3) in the South polar area.

(b) No one may operate a land plane over large extensios of water, unless the plane is certified or approved, as applicable, for sea landing under provisions of RBAC 25.

(c) [Reserved].

(d) Unless authorized by ANAC based on the characteristics of the terrain, the type of operation or the performance of the airplane to be used, no certificate holder may operate an airplane with conventional engines on a route that has a point at more than 75 minutes of flight (at cruising speed, standard conditions and calm air, with an inoperative engine) from an Adequate Airport.

121.162 Type approval basis for ETOPS operations

Except for passenger transport operations with airplanes with more than two engines manufactured before February 17, 2015 and except for a plane with two engines being used on ETOPS flights of up to 75 minutes, no certificate holder may conduct ETOPS operations unless that the aircraft type design has been approved for such operations and that each aircraft meets its CMP document, as follows:

(a) twin-engine airplanes whose airplane-engine combination that received ANAC approval for ETOPS up to 180 minutes before February 15, 2007, the CMP document for the airplane-engine combination in effect on February 14, 2007.

(b) twin-engine airplanes whose airplane-engine combination has not received ANAC approval for ETOPS up to 180 minutes before February 15, 2007, the CMP document for that new airplane-engine combination issued in accordance with section 25.3(b)(1) of RBAC 25.

(c) airplanes with two engines approved for ETOPS operations beyond 180 minutes, the CMP document for that airplane-engine combination model issued in accordance with section 25.3(b)(2) of RBAC 25.

(d) airplanes with more than two engines manufactured after February 17, 2015, the CMP document for that airplane-engine combination model issued in accordance with section 25.3(c) of RBAC 25.

<u>121.163 Operational assessment</u> <u>flights</u>

(a) Initial operational assessment flights. No one may operate an aircraft that does not have the type of operation previously approved under this regulation or according to RBAC 135, unless this aircraft has a minimum of 100 flight hours in addition to those of certification, acceptable to ANAC, including a representative number of flights to en route airports. The requirement for an additional 100 hours can be reduced by ANAC if it is shown that an adequate level of proficiency has been achieved. At least 10 hours of flight time must be flown at night, and these hours are unavoidable. (Wording given by Resolution No. 526, of 08.06.2019)

(b) Assessment flights for operations. Unless otherwise authorized by ANAC, for each type of aircraft the certificate holder must conduct operational assessment flights, acceptable to ANAC, for the operations it intends to conduct, including a representative number of flights to en route airports.

(c) Operational assessment flights on materially modified aircraft. Unless otherwise authorized by ANAC, for each type of aircraft that has been materially modified, a certificate holder must conduct operational assessment flights acceptable to ANAC for the operations it intends to conduct with that aircraft, including a representative number of flights to en route airports.

(d) Definition of materially modified. For the purposes of paragraph (c) of this section, an airplane type is considered to have its design materially modified if the modifications include:

- (1) installations of engines other than those with which the type has been certified;
- (2) changes to the airplane or its components that materially affect flight characteristics.

(e) No certificate holder may carry out operations carrying passengers on airplanes performing operational assessment flights, except those necessary for the assessment and those designated by ANAC. However, it can carry cargo, mailbags or conduct crew training when approved.

SUBPART I AIRPLANE PERFORMANCE. OPERATIONAL LIMITS

121.171 Applicability

(a) This subpart establishes operational limitations on aircraft performance valid for all certificate holders.

(b) For the purposes of this regulation, "effective runway length", for landing, means the distance from the point defined by the intersection of the obstacle clearance plane (associated with the runway threshold to be used) with the runway center line to the end of the same runway.

(c) For the purpose of this regulation, "obstruction clearance plane" means an inclined plane, rising from the runway with a gradient of 1:20 with the horizontal and tangent plane, or above, of all obstacles within a specific area around the runway, as shown in a profile view of that area. In plan view, the center line of the specific area coincides with the center line of the runway, starting at the point defined by the intersection of the obstacle clearance plane with the center line of the runway and proceeding to at least a point 460m (500 feet) away from the starting point. After that, this central line coincides with the projection of the take-off path on the ground (in the case of take-off), or with the projection of the approach path on the ground (in the case of landing) or, if these paths are not defined for the airport, it continues, consistent with curves of at least 1,200 m (4,000 feet) in radius, until it reaches a point from which the obstacle clearance plane clears all obstacles. This area extends laterally 60m (200 feet) to each side of the center line at the point of intersection of the obstacle clearance plane with the center line of the path and remains at this width while on the path; from the runway threshold, it rises evenly to 150 m (500 ft) on either side of the center line to a point 460 m (1500 ft) from its beginning; after that, it extends laterally 150 m (500 feet) to either side of the center line.

121.173 General

(a) Except as provided in paragraph (c) of this section, each certificate holder operating an airplane with conventional engines must meet the requirements of 121.175 through 121.187.

(b) Except as provided in paragraph (c) of this section, each certificate holder operating an airplane with turbine or turboprop engines must meet the applicable provisions of 121.189 through 121.197, except when it operates:

(1) A turboprop aircraft of certified type after August 29, 1959, but previously certified with the same number of conventional engines, when it can opt for the requirements of 121.175 to 121.187; or (2) until December 20, 2010, for operations with an airplane with turboprop engines described in section 121.157 paragraph (f) a certificate holder must comply with the applicable requirements of Appendix K of this regulation.

(c) Each certificate holder operating a large aircraft not included in the transport category, of a certified type before January 1, 1965, must meet the requirements of 121.199 through 121.205 and any determination of conformity should be based solely on data from performance standards.

(d) The performance data contained in the Airplane Flight Manual (AFM) apply in determining compliance with 121.175 through 121.197. Where conditions differ from those on which the performance data is based, compliance is determined by interpolation or by computing the effects of changes on specific variables, if the results of the interpolation or computation are substantially as accurate as the direct test results.

(e) Except as provided in paragraph (c) of this section, no one may take off with an airplane with conventional engines weighting more than the allowable weight for the runway being used (determined in accordance with the runway limitations for take-off of the operational rules of subpart I of this regulation), after taking into account the operating temperature correction factors of the applicable Airplane Flight Manual (AFM).

(f) ANAC may authorize, in the operating specifications, deviations from the requirements of this subpart if, in extraordinary circumstances, the literal observance of one or more of these requirements does not affect the security of operations. (Wording given by Resolution No. 334, of 07.01.2014)

(g) The 10-mile width specified in 121.179 to 121.183 can be reduced to 5 miles, for no more than 20 miles, in VFR operations or when navigation facilities provide reliable and accurate identification of elevations and obstructions located between 5 and 10 miles, for each side of the intended course.

<u>121.175 Airplanes with</u>

conventional engines: weight limitations

(a) No one may take off with an airplane with conventional engines from an airport located at an altitude outside the altitude range for which the maximum take-off weights for that airplane have been determined.

(b) No one may take off with an airplane with conventional engines to an airport that is located at an altitude outside the altitude range for which the maximum landing weights for that airplane have been determined.

(c) No one may specify, or have specified, an alternate airport that is located at an altitude outside the altitude range for which the maximum landing weights for that aircraft have been determined.

(d) No one may take off with an airplane with conventional engines weighting more than the maximum authorized take-off weight for the altitude of the airport.

(e) No one can take off with an airplane with conventional engines if its weight on arrival at the destination airport is greater than the maximum authorized landing weight for the altitude of that airport, considering the normal consumption of oil and fuel en route.

(f) This section does not apply to large aircraft not included in the transport category operated under 121.173 (c).

121.177 Airplanes with

conventional engines: take-off limitations

(a) No one can take off with an airplane with conventional engines unless it is possible:

(1) to stop the plane safely on the runway, as shown by the acceleration and stop data, at any time during take-off until the critical engine failure speed is reached;

(2) if the critical engine fails at any time after the airplane reaches the critical engine failure speed, V1, to continue to take off and reach a height of 50 feet, as indicated by the take-off path data, before passing through the end of the runway: e

(3) to clear all obstacles by at least 50 feet vertically (as indicated by the take-off path data) or 200 feet horizontally within the limits of the airport and 300 feet horizontally after such limits, without tilting before reaching the height of 50 feet (as indicated by the take-off path data) and, afterwards, with a pitch not exceeding 15 degrees.

(b) In applying this section, corrections must be made for the actual gradient

of the runway. To consider the effects of wind, take-off data based on calm air must be corrected taking into account up to 50% of any reported headwind component and more than 150% of any reported tailwind component.

(c) This section does not apply to large aircraft not included in the transport category operated under 121.173 (c).

121.179 Aircraft with conventional engines: en-route limitations with all engines operating

(a) No one can take off with an airplane with conventional engines, considering normal fuel and oil consumption, if it is not possible to maintain a rate of climb (in feet per minute), with all engines running, of at least 6.90 VSO (that is, the number of feet per minute obtained by multiplying the number of knots by 6.9) at an altitude of at least 1000 feet above the highest obstruction within 10 miles on each side of the intended course.

(b) This section does not apply to airplanes certified under Part 4a of the United States' Civil Air Regulations.

(c) This section does not apply to large aircraft not included in the transport category operated under 121.173(c).

121.181 Aircraft with conventional engines: limitations en route with an inoperative engine

(a) Except as provided in paragraph (b) of this section, no one can take off with an airplane with conventional engines weighting such that, considering normal fuel and oil consumption, it does not allow a rate of climb (in feet per minute), with an inoperative engine, at least

(0.079 - 0.106/N) VSO2

(where N is the number of engines installed and VSO is expressed in knots) at an altitude of at least 1000 feet above the highest obstruction within 10 miles on each side of the intended course. However, for the purposes of this paragraph, the rate of climb, for airplanes certified under Part 4a of the United States of America's Civil Air Regulations, will be 0.026 VSO2.

(b) Instead of the requirements in paragraph (a) of this section, a person may, under an approved procedure, operate an airplane with conventional engines at an altitude, with all engines operating, which allows the plane to proceed, after a failure of engine, to an alternate airport where a landing can be made in accordance with 121.187, considering normal fuel and oil consumption. After the failure, the flight path must clear the ground and any obstructions within 5 miles for each side of the intended course by at least 2000 feet.

(c) If an approved procedure is used under paragraph (b) of this section, the certificate holder must comply with the following:

(1) the rate of climb (as established by the AFM for an appropriate weight and altitude) used in calculating the airplane's flight path must be decreased by a value, in feet per minute, equal to:

(0.079 - 0.106/N) VSO2

(where N is the number of engines installed and VSO is expressed in knots) for airplanes certified according to RBAC 25 and for 0.026 VSO2 for airplanes certified according to part 4a of the United States of America "Civil Air Regulations";

(2) the altitude, with all engines in operation, must be sufficient so that, in the event of the critical engine becoming inoperative at any point along the route, the flight can proceed to a predetermined alternate airport using such a procedure. In determining the take-off weight, it is assumed that the plane will pass over the critical obstruction after the engine failure at a point farther from that obstruction than the nearest navigation radio position fix. ANAC can approve a procedure established on a different basis if it is considered that there are adequate operational guarantees;

(3) the airplane must meet the provisions of paragraph (a) of this section at 1000 feet above the airport used as an alternative in the procedure;

(4) the procedure must include an approved method for taking into account winds and temperatures that may adversely affect the flight path;

(5) fuel jetting can be used to achieve compliance with the procedure, provided that the certificate holder demonstrates having in place an appropriate training program, that appropriate instructions are provided to flight crew members and that all other precautions are taken into account to ensure a safe procedure;

(6) the certificate holder must specify an alternate airport in the dispatch or

clearance of the flight that meets the requirements of 121.625.

(d) This section does not apply to large aircraft not included in the transport category operated under 121.173 (c).

121.183 Transport category aircraft (RBAC 25) with four or more conventional engines: en-route limitations with two inoperative engines

(a) No one may operate an airplane certified under RBAC 25 that has four or more conventional engines unless:

(1) there is no location along the intended course that is more than 90 minutes away (with all engines operating at cruise power) from an airport that meets the requirements of 121.187; or

(2) is operated at a weight that allows the airplane, with the two critical engines inoperative, to rise to 0.013 VSO2 feet per minute (that is, the number of feet per minute is obtained by multiplying the square of the number of knots by 0.013) at an altitude of 1000 feet above the highest elevation or obstruction within 10 miles on either side of the intended course or at an altitude of 5000 feet, whichever is higher.

(b) For the purposes of paragraph (a)(2) of this section it is assumed that:

(1) the two engines fail at the most critical point on the route, taking into account the take-off weight;

(2) fuel and oil consumption are normal with all engines operating to the point where the two engines fail and the remaining engines continue to operate beyond that point;

(3) when it is assumed that the engines fail above the established minimum altitude, compliance with the rate of climb established at the established minimum altitude does not need to be demonstrated on the descent from the cruising altitude to the established minimum altitude, if such requirements can be met when the minimum established altitude is reached, assuming that the descent will be along a net flight path and that the descent rate will be 0.013 VSO2 greater than the ratio of the approved performance data;

(4) considering the jettisoning of fuel, the weight of the airplane at the point of failure of the two engines is greater than that needed, with sufficient fuel, to proceed to an airport that meets the requirements of 121.187, reaching an altitude of at least 1000 feet directly over that airport.

121.185 Aircraft with conventional engines: landing limitations at the destination airport

(a) Except as provided in paragraph (b) of this section, no one can take off with an airplane with conventional engines unless its weight on arrival, considering normal fuel and oil consumption on the flight, allows a complete landing at the intended destination within 60% of the effective length of each runway described below, from a point 50 feet directly above the intersection of the obstacle clearance plane with the runway. For the purposes of determining the permissible landing weight at the destination airport, the following is assumed:

(1) the plane lands on the runway and in the most favorable direction with calm air;

(2) the plane lands on the most suitable runway considering the probable wind direction and speed (predicted for the expected arrival time), the ground handling characteristics of the aircraft type, other conditions such as landing aids and terrain and considering for landing and rolling path effects up to 50% of the headwind component or more than 150% of the tailwind component.

(b) An airplane that is prohibited from taking off because it does not meet the requirements of paragraph (a)(2) of this section may do so if an alternate airport is indicated, meeting all the requirements of this section, considering that the total landing may be done at 70% of the actual runway length.

(c) This section does not apply to large aircraft not included in the transport category operated under 121.173(c).

<u>121.187 Aircraft with conventional</u> engines: landing limitations at the alternate airport

(a) No one may designate an airport as an alternate airport in a flight dispatch or clearance, unless the airplane (at the estimated weight at the time of landing at the airfield), based on the assumptions of 121.185, can be brought to a complete stop. after landing within 70% of the actual runway length. (b) This section does not apply to large aircraft not included in the transport category operated under 121.173(c).

121.189 Airplanes with turbine engines: take-off limitations

(a) No one may take off with an airplane with turbine engines weighting more than the weight provided for in the Airplane Flight Manual (AFM) for the altitude of the airport and the ambient temperature existing at take-off.

(b) No one can take off with an airplane with turbine engines, of a type certified between August 26, 1957 and August 30, 1959 (SR422, 422A of the FAA), with a weight greater than the weight foreseen in the AFM for the distances required for take-off. In the case of an aircraft type certified after September 30, 1958 (FAA SR422A 422B), the take-off distance may include a "clearway" but the length of this "clearway" cannot be greater than half the length of the take-off run.

(c) No one can take off with an airplane with turbine engines, of a type certified after August 26, 1959 (FAA SR422B), with a weight greater than the weight provided for in the AFM, to meet the following requirements:

(1) The available acceleration and stopping distance (ASDA) must not exceed the length of the runway plus the length of the stopway, if any;

(2) the take-off distance available (TODA) cannot exceed the length of the runway plus the length of the "clearway", if any, and the length of the included "clearway" cannot be greater than half the length of the runway;

(3) the take-off runway available (TORA) cannot be greater than the runway length.

(d) No one can take off with an airplane with turbine engines weighting more than that stipulated in the AFM:

(1) in the case of an airplane certified between August 26, 1957 and October 1, 1958 (FAA SR422), which allows for a take-off path that clears all obstacles for a minimum of (35 + 0.01D) feet vertically or for a minimum of 60m (200 feet) horizontally while at the boundaries of the airport and a minimum of 90 m (300 feet) horizontally beyond such limits. ("D" is the distance in feet along the intended flight path, from the end of the runway); or (2) in the case of an aircraft type certified after September 30, 1958 (SR422A, SR422B of the FAA), which allows a net take-off path clearing all obstacles by a minimum height of 35 feet vertically or a minimum of 60m (200 feet) horizontally while within the limits of the airport and a minimum of 90m (300 feet) horizontally after passing such limits.

(e) In determining maximum weights, minimum distances and flight paths, in accordance with paragraphs (a) through (d) of this section, the corrections required by the airport altitude, effective runway gradient, ambient temperature and wind component at take-off must be made and, if the airplane flight manual contains information on wet runway performance, the runway surface conditions (whether dry or wet). Distances on wet runways associated with runways with a porous friction layer or grooves, if provided in the AFM, can only be used provided the operator verifies that they are designed, built and maintained in an acceptable manner by ANAC.

(f) For the purposes of this section, it is assumed that the airplane is not tilted laterally before reaching a height of 50 feet, as shown in the take-off or net take-off path data (as applicable) in the Flight Manual of the Airplane (AFM), and, after that, that the lateral inclination does not exceed 15°.

(g) For the purposes of this section, the terms "take-off distance", "take-off run", "net take-off flight path" and "take-off distance" "take-off path" have the same meanings as those adopted in the rules under which the airplane was certified.

<u>121.191 Aircraft with turbine</u> engines: route limitations with an inoperative engine

(a) No one can take off with an airplane with turbine engines weighting more than that (according to the data of the en route net path with an inoperative engine, contained in the Approved Flight Manual for the Airplane-AFM), considering normal consumption of fuel and oil, which allows compliance with paragraph (a)(I) or (2) of this section, based on the expected ambient temperature en route:

(1) there is a positive gradient at an altitude of at least 1000 feet above any elevation or obstacle within a 5-mile range on either side of the intended path and, in addition, if the aircraft has been certified after August 29 1959 (FAA SR422B), provide

a positive gradient at 1500 feet over the vertical of the airport where the plane is supposed to land after the engine failure;

(2) the net flight path allows the airplane to continue flying from cruising altitude to an airport where a landing can be performed, in accordance with 121.197, clearing all elevations and obstructions within a 5-mile range on each side of the path intended by at least 2,000 feet high and with a positive gradient at 1000 feet high over the vertical of the airport where the plane is supposed to land after the engine failure. If the aircraft type was certified after September 30, 1958 (FAA SR422A, 422B), the positive gradient must exist at 1500 feet above the vertical of the airport;

(b) For the purposes of paragraph (a)(2) of this section, it is assumed that:

(1) engine failure occurs at the most critical point on the route;

(2) the airplane clears the critical obstruction, after the engine failure, at a point farther from the said obstruction than the nearest navigation fixed point or airway axis, unless ANAC authorizes a different procedure based on adequate guarantees given to operational safety;

(3) an approved method is used to consider adverse winds;

(4) jettisoning of fuel can be authorized if the certificate holder demonstrates that the crew members are properly trained, that the training program is adequate and that all precautions have been taken to ensure a safe procedure;

(5) in the dispatch of the flight, an alternate airport was indicated within the meteorological minimum of appropriate approach and landing; and

(6) the oil and fuel consumption after the engine failure is the same consumption as provided for in the aircraft's AFM net flight path data.

121.193 Transport category aircraft with turbine engines: route limitations with two inoperative engines

(a) Airplanes certified between August 26, 1957 and October 1, 1958 (SR422). No one can operate an airplane with turbine engines along a route, unless one of the following two conditions is met:

(1) there is no point along the route that is farther than 90 minutes of flight (with all engines operating at cruise power) from an airport that meets the requirements of 121.197;

(2) its weight, according to the data of the net flight path en route with two inoperative engines provided for in the AFM, allows the airplane to fly from the point where the simultaneous stop of two engines is assumed to an airport that meets the requirements of 121.197, with a net flight path (taking into account the expected temperatures along the route) having a positive gradient at an altitude of 1000 feet above the highest elevation or obstacle in the 5-mile range on either side of the intended route or at the altitude of 5000 feet, whichever is higher.

For the purposes of paragraph (a)(2) of this section, it is assumed that the two engines fail simultaneously at the most critical point on the route and that, if fuel jetting is permitted, the weight of the airplane at the point where the engine fails includes enough fuel to fly to the airport and reach 1000 feet in height from the airport and that the fuel and oil consumption, after engine failure, is the same consumption predicted in the AFM net flight path data of the plane.

(b) Airplanes certified after September 30, 1958 but before August 30, 1959 (SR422A). No one can operate an airplane with turbine engines along a route, unless one of the following two conditions is met:

(1) there is no point along the route that is farther than 90 minutes of flight (with all engines running at cruise power) from an airport that meets the requirements of 121.197;

(2) its weight, according to the data of the net flight path en route with two inoperative engines provided for in the AFM, allows the airplane to fly from the point where the simultaneous stop of two engines is assumed up to an airport that meets the requirements of 121.197, with a net flight path (taking into account the expected temperatures along the route) having a positive gradient at an altitude of 1000 feet above the highest elevation or obstacle in the 5-mile range for each desired route data or at an altitude of 2000 feet, whichever is higher.

For the purposes of paragraph (b)(2) of this section, it is assumed that the two engines fail simultaneously at the most critical point on the route, that the weight of the plane at the point where the engines fail includes enough fuel to fly to the airport, reaching the vertical point of the same at 1500 feet of height and, after that, fly another 15 minutes with cruise power or cruise and that the consumption of fuel and oil, after the failure of the engines, is the same consumption predicted in the AFM data of net flight path provided for the plane.

(c) Airplanes certified after August 29, 1959 (SR422B). No one can operate an airplane with turbine engines along a route, unless it meets one of the following two conditions:

(1) there is no point along the route that is more than 90 minutes into the flight (with all engines running on cruise power) from an airport that meets the requirements of 121.197;

(2) its weight, according to the data of the net flight path en route with two inoperative engines provided for in the AFM, allows the airplane to fly from the point where the simultaneous stop of two engines is assumed up to an airport that meets the reguirements of 121.197, with a net flight path (taking into account the expected temperatures along the route) having a positive gradient in the altitude of 2000 feet above the highest elevation or obstacle in the 5-mile range on each side of the intended route. For the purposes of this paragraph, it is assumed that:

(i) the two engines fail simultaneously at the most critical point on the route;

(ii) the net flight path presents a positive gradient at 1500 feet above the airport where the airplane is supposed to land after engine failure;

(iii) jettisoning of fuel can be approved if the certificate holder demonstrates that its crew members are properly trained, that the training program is adequate and that all precautions have been taken to ensure a safe procedure;

(iv) the weight of the plane at the point where the two engines are simultaneously stopped includes enough fuel to proceed to the airport, reaching its vertical point at least 1500 feet high and then flying another 15 minutes with cruise power or thrust; and (v) fuel and oil consumption, after engine failure, is the same consumption indicated in the AFM net flight path data for the airplane.

121.195 Aircraft with turbine engines: landing limitations at the destination airport

(a) No one may take off with an airplane with turbine engines weighting (assuming normal consumption of fuel and oil on the flight to the destination and alternate airport) such that, upon arrival, it exceeds the landing weight provided for in the AFM for the altitude of the destination or alternate airport and the expected ambient temperature at the estimated landing time.

(b) Except as provided for in paragraphs (c), (d) or (e) of this section, no one may take off with an airplane with turbine engines, unless its weight on arrival, considering normal fuel and oil consumption in flight (and according to the AFM landing distance data, taking into account the altitude of the destination airport and the expected wind conditions at the estimated landing time), allow to perform a complete landing at the destination airport using 60% of the effective length of each of the runways mentioned below, considering that the airplane passes 50 feet above the vertical point of the intersection of the obstacle clearance plane with the runway. To determine the permissible landing weight at the destination airport, it is assumed that:

(1) the plane lands on the runway and in the most favorable direction, with calm air;

(2) the plane lands on the most convenient runway, considering the probable direction and speed of the wind, the maneuverability characteristics of the plane type on the ground and other variables such as landing aids and terrain.

(c) A turboprop airplane that would be prohibited from taking off for failing to comply with paragraph (b)(2) of this section may do so if an alternate airport is indicated that meets all the requirements of this section and, in addition, that can perform a complete landing at that airport using 70% of the effective runway length.

(d) Unless, based on demonstration of actual operations with landing techniques on wet runways, if a shorter landing distance (but never shorter than required by paragraph (b) of this section) has been approved for a specific type and airplane model and included in its AFM, no one can take off with a jet propelled airplane when forecasts or weather information indicate that the runway at the destination airport may be wet or slippery at the estimated time of landing at that airport, unless the effective runway length at the destination airport is at least 115% of the runway length required by paragraph (b) of this section.

(e) A jet-propelled airplane that would be prohibited from taking off because it does not meet the requirements of paragraph (b)(2) of this section may do so if it indicates an alternate airport that meets all the requirements of paragraph (b) of this section.

121.197 Aircraft with turbine engines. Landing limitations at the alternate airport

No one may designate an airport as an alternate airport in the flight dispatch of an airplane with turbine engines, unless (based on the assumptions of 121.195 (b)) that airplane, with the estimated weight for the landing time at the airport, can perform a complete landing using 70% of the effective runway length for turboprop aircraft, and 60% of the effective runway length for jet-propelled airplanes, considering that the plane passes vertically from the intersection of the obstacle clearance plane with the runway at a 50 feet height. In the case of an alternate airport for takeoffs, as provided for in 121.617, fuel jettisoning, in addition to normal fuel and oil consumption, can be considered in determining the expected weight at the estimated landing time.

121.198 Freighter transport aircraft: increase in zero fuel and landing weights

(a) Notwithstanding the applicable structural provisions of airworthiness requirements, but subject to paragraphs (b) through (g) of this section, a certificate holder may operate (in cargo services only) any of the following aircraft (of a type certified by part 4b of the "Civil Air Regulation" of the United States of America effective before March 13, 1965) with increased fuel and landing weights:

(1) DC-6A, DC-6B, DC-7B and DC-7C; and

(2) L1049B, C, D, E, F and H and L1049A when modified according to supplementary type certificate SA 4-1402.

(b) Zero fuel weight (maximum weight of the airplane with fuel and oil that cannot be drained) and the structural landing weight can be increased above the maximum approved in full compliance with the applicable regulations, only if ANAC considers that:

(1) the increase is not such as to seriously reduce structural strength;

(2) the probability of sudden fatigue failure is not noticeably increased;

(3) the characteristics of "flutter", vibrations and deformations do not fall below those required by applicable regulations; and

(4) all other applicable weight limits will be complied with.

(c) No zero fuel weight can be increased by more than 5% and the increase in the structural landing weight cannot exceed the amount, in pounds, of the increase in zero fuel weight.

(d) Each airplane must be inspected in accordance with special inspection procedures, approved for operation with increased weights and designed and issued by the manufacturer of the airplane type.

(e) Each airplane must be operated, according to this section, in accordance with the operational performance limitations for passenger transportation established in this regulation.

(f) The Airplane Flight Manual (AFM) for each airplane operated under this section should be appropriately revised to include operational limitations and information necessary for operations with increased weight.

(g) Except as provided for the transportation of persons under section 121.583, each airplane operated with increased weights under this section must, before being used in service with passengers, be inspected using special inspection procedures for return to passenger service prepared by the manufacturer and approved by ANAC.

121.199 Airplanes not included in the transport category: take-off limitations

(a) No one may take off with an airplane not included in the transport category with a weight greater than that which allows the airplane to be brought to a complete stop within the effective runway length from any point during take-off before reaching 105% of the minimum
control speed (the lowest speed at which the airplane can be safely controlled, in flight, after an engine becomes inoperative) or 115% of the stall speed without power in take-off configuration, whichever is greater.

(b) For the purposes of this section:

(1) it can be assumed that the take-off power is used on all engines during acceleration;

(2) up to 50% of the reported headwind component and at least 150% of the reported tailwind component must be taken into account;

(3) the average runway gradient (the difference in altitude between the runway ends divided by the total length) should be considered if it is greater than 0.5%;

(4) the airplane is assumed to operate in a standard atmosphere; and

(5) effective runway length for take-off means the distance measured from the start of the runway at which take-off was initiated to the point at which the obstacle release plane associated with the other end of the runway intersects the runway center line.

121.201 Aircraft not included in the transport category: route limitations with an inoperative engine

(a) Except as provided in paragraph (b) of this section, no one may take off with an airplane not included in the transport category with a weight that does not allow a rate of climb of at least 50 feet per minute with the critical engine inoperative, at an altitude of at least 1000 feet above the highest obstruction within 5 miles on either side of the intended course, or 5000 feet, whichever is higher.

(b) Notwithstanding paragraph (a) of this section, if ANAC considers that the safety of the operation is not impaired, a person may operate the aircraft at an altitude that allows, in the event of an engine failure, to clear all obstructions within 5 miles for each side of the intended course. If such a procedure is used, the rate of descent to the appropriate weight and altitude is assumed to be 50 feet per minute greater than the ratio of the approved performance data. Before approving such a procedure, ANAC must take into consideration for the route, route segment or area the following: (1) the reliability of wind and weather forecasts;

(2) the location and types of navigation aid;

(3) the prevailing weather conditions, particularly the frequency and amount of turbulence normally encountered;

(4) characteristics of the terrain;

(5) air traffic control problems;

(6) any other operational factor that affects the operation.

(c) For the purposes of this section it is assumed that:

(1) the critical engine is inoperative;

(2) the propeller of the inoperative engine is in the minimum drag position;

(3) the wing flaps and the landing gear are in the most favorable position;

(4) the engines in operation are running at the maximum continuous power available;

(5) the plane is operating in a standard atmosphere; and

(6) the weight of the plane is progressively reduced by the expected fuel and oil consumption.

121.203 Aircraft not included in the transport category: landing limitations at the destination airport

(a) No one may take off with an airplane not included in the transport category with a weight that:

(1) considering the estimated consumption of fuel and oil, it is greater than the weight that allows a landing with a total stop within 60% of the effective length of the most appropriate runway of the destination airport; and

(2) is greater than the allowable weight if landing is made on the run-way:

(i) with the longest effective length in calm air; and

(ii) required in view of the likely wind, taking into account up to 50% of the headwind component and at least 150% of the tailwind component.

(b) For the purposes of this section, it is assumed:

(1) the airplane passes directly over the intersection of the obstacle clearance plane and the runway at a height of 50 feet, in a stable approach plane and with a true speed of at least 1.3 VSO;

(2) landing does not require exceptional pilot skill; and

(3) the plane is being operated in a standard atmosphere.

<u>121.205 Aircraft not included in</u> <u>the transport category: landing</u> <u>limitations at the alternate airport</u>

No one may list, in a flight dispatch or clearance, an airport as an alternate airport for an airplane not included in the transport category, unless that airplane (at the expected weight of expected arrival time), based on the premises of 121.203, can be brought to a complete stop after landing within 70% of the actual runway length.

<u>121.207 Operating limitations</u> of aircraft with provisional type certificate

Unless otherwise authorized by ANAC, in addition to the limitations provided for in section 91.317 of RBAC 91, the following limitations apply to the operation, by certificate holders, of airplanes with an airworthiness certificate issued based on a provisional type certificate:

(a) in addition to the crew, each certificate holder may carry on such aircraft only the persons listed in paragraph 121.547(c) of this regulation or those persons specifically authorized not only by the certificate holder but also by ANAC.

(b) each certificate holder must keep a record of each flight conducted in accordance with this section and must keep complete and accurate records of each inspection performed and of any maintenance performed on the airplane. The certificate holder must make such records available to ANAC, whenever required.

121.208 Airplane performance control system

(a) The operator shall establish a system, approved by ANAC, to obtain, keep and make available to the appropriate operations personnel performance data and obstacles.

(b) In preparing procedures to comply with the requirements of this section, the operator must:

(1) obtain performance and obstacle data from authorized sources; and

(2) consider the accuracy of the letters.

SUBPART J SPECIAL AIRWORTHINESS REQUIREMENTS

121.211 Applicability

(a) This subpart establishes special airworthiness requirements applicable to certificate holders as set out in paragraphs (b) through (e) of this section.

(b) Except as provided in paragraph (d) of this section, each airplane of a type certified according to "Aero Bulletin 7A" or part 04 of the "Civil Air Regulation", both from the United States of America, effective before November 1, 1946, must meet the special requirements provided for in 121.215 through 121.283.

(c) Each certificate holder must meet the requirements provided for in 121.285 through 121.291.

(d) If ANAC considers that, for a particular model of aircraft used in cargo services, full compliance with any requirement under paragraph (b) of this section would be extremely difficult and that such compliance would not materially contribute to the desired objective, compliance may only be required with those requirements that are necessary to achieve the basic objectives of this regulation.

(e) No one may operate, under this regulation, an airplane not included in the transport category, of a type certified after December 31, 1964, unless the airplane meets the special airworthiness requirements of 121.293.

121.213 [Reserved]

121.215 Cabin interiors

(a) Except as provided in 121.312, each crew or passenger cabin must meet the requirements of this section.

(b) The materials must be at least resistant to violent combustion (see RBAC 01).

(c) The lining of walls and ceilings and the covering of armchairs, floors and furniture must be at least flame resistant (see RBAC 01).

(d) In all areas of the cabin where smoking is prohibited, they must be appropriately marked with "no smoking" signs and the remaining areas must be equipped with self-contained ashtrays. (e) Each container for used towels, paper and debris must be made of fire-resistant material (see RBAC 01) and must have a lid or other means capable of containing fire started therein.

121.217 Internal doors

Whenever the internal doors have shutters or other means of ventilation, there must be a convenient way for the crew to close the air flow through them, when necessary.

121.219 Ventilation

Each cockpit or passenger cabin must be adequately ventilated. The concentration of carbon monoxide cannot be greater than one part in 20,000 parts of air and there must be no fuel vapors. Whenever separations between cabins have shutters or other devices that allow airflow between them, there must be a convenient way for the crew to close that airflow, if necessary.

121.221 Fire precautions

(a) Each compartment when used to store cargo or baggage must be designed to meet the following requirements:

(1) no compartment may include controls, wiring, piping or accessories that could, in the event of failure or damage, affect the safe operation of the airplane unless the item is adequately shielded, insulated or otherwise protected, so that it may not be damaged by moving cargo in the compartment and that damage or failure of the item does not create a fire hazard in the compartment;

(2) cargo or luggage must not impair the function of the compartment's fire protection devices;

(3) the materials used in the construction of the compartments, including mooring equipment, must be at least flame-resistant;

(4) each compartment must include fire protection provisions in accordance with the classifications set out in paragraphs (b) through (f) of this section.

(b) Class A. Cargo or luggage compartments are classified in category "A" if:

(1) a fire inside them is readily discernible by a crew member from his/ her/her normal service station; and

(2) all parts of the compartment are easily accessible in flight. A manual

fire extinguisher must be available for each class A compartment.

(c) Class B. Cargo or luggage compartments are classified in category "B" if their access, in flight, is sufficient to allow a crew member to effectively reach the entire compartment and its contents with a manual fire extinguisher and the compartment is designed so that when in-flight access is being used, there is no flow of dangerous amounts of smoke, flames or extinguishing agent into any part of the cabin occupied by passengers or crew. Each class B compartment must meet the following requirements:

(1) must have a separate and approved fire or smoke detection system, providing alert at the pilot's or flight mechanic's station;

(2) there must be a manual fire extinguisher available for the compartment;

(3) the compartment must be lined with fire-resistant material, except that additional flame-resistant protective lining can be used.

(d) Class C. Cargo and luggage compartments are classified in category "C" if they do not meet the requirements of Categories "A", "B" or "E". Each class C compartment must meet the following:

(1) must have a separate and approved fire or smoke detection system, providing alert at the pilot's or flight mechanic's station;

(2) must have a permanent fire extinguishing system, approved, controlled from the pilot or flight mechanic station;

(3) it must be designed to prevent dangerous amounts of smoke, flames or extinguishing agent from reaching the cockpit or passengers cabin;

(4) must have ventilation and controlled air flow, in order to ensure that the extinguishing agent can control any fire started in the compartment;

(5) must be lined with fire-resistant material, except that additional protective flame-resistant material can be used.

(e) [Reserved].

(f) Class E. In airplanes used for the exclusive transportation of cargo, the area of the passenger cabin can be considered as an "E" class compartment. Each class E compartment must meet the following requirements:

(1) must be completely lined with fire-resistant material;

(2) must have its own fire or smoke detection system, approved, alerting the pilot or flight mechanic seated in his/her normal service station;

(3) it must have a means of cutting the ventilation air flow to and within the compartment. The control of this means must be accessible to flight crew members, in their cabin;

(4) it must have a means of preventing dangerous amounts of smoke, flames or toxic gases from entering the cockpit;

(5) emergency exits for crew members must be accessible, whatever the cargo arrangement on board.

121.223 Proof of compliance with the 121.221 requirements

Compliance with the provisions of 121.221 with regard to the accessibility of the compartment, the entry of dangerous amounts of smoke or extinguishing agent into the cabin occupied by crew or passengers and the distribution of extinguishing agent in class "C" compartment must be demonstrated in flight. During these tests it must be demonstrated that there is no inadvertent operation of fire or smoke detectors in other compartments of the airplane as a result of fire contained in any compartment either during or after the fire fighting, unless the extinguishing agent fills these compartments simultaneously

121.225 Propeller defrost fluid

Section 121.255 must be met if fuel fluid is used to defrost the propeller.

121.227 Pressure cross-feed system

(a) Pressurized cross-feed pipes may not pass through parts of the plane used to transport cargo or persons, unless:

(1) there are means that allow crew members to cut off the flow of fuel from these pipes; or

(2) the pipes are contained in fuel and vapor proof compartments, ventilated and drained to the outside of the plane. However, such compartments do not need to be used if the pipelines do not incorporate any connections within the areas for transporting people or cargo and are properly positioned and protected to prevent accidental damage.

(b) Pipes that can be isolated from the rest of the fuel system by valves placed at each end must incorporate provisions for relieving excessive pressure resulting from the exposure of such pipes, when insulated, to high temperatures.

121.229 Location of fuel tanks

(a) Fuel tanks must be located in accordance with 121.255.

(b) No part of the engine nacelle liner that is immediately behind a larger air outlet from the engine compartment may be used as the wall of an integral fuel tank.

(c) Fuel tanks must be isolated from the cabin by means of fuel and vapor proof separations.

121.231 Fuel system pipes and connections

(a) Fuel pipes must be installed and secured in order to prevent excessive vibration and must be suitable to withstand loads due to system pressure and conditions of flight acceleration.

(b) Pipes connected to components of the airplane between which there may be relative movements must incorporate provisions for flexibility.

(c) Flexible connections between pressurized pipes and those subjected to axial loads must be flexible hoses with screw terminals instead of flexible hoses with clamps.

(d) Flexible hoses must be of an acceptable type and of proven suitability for the particular application.

121.233 Pipes and connections of the fuel system in designated fire zones

Pipes and connections of the fuel system passing through designated fire zones must comply with the provisions of 121.259.

121.235 Fuel valves

Each fuel valve must:

(a) meet 121.257;

(b) have appropriate stop positions or markings in the "on" and "off" positions; and

(c) be fixed so as to support the loads of its operation and the conditions of

acceleration in flight, not transmitting them to the pipes connected to it.

121.237 Oil pipes and connections in designated fire zones

Oil pipes and connections passing designated fire zones must comply with the provisions of 121.259.

121.239 Oil valves

(a) Each oil valve must:

(1) meet 121.257;

(2) have positive stop positions or appropriate markings in the "on" and "off" positions; and

(3) be fixed in order to support the loads of its operation and the conditions of acceleration in flight, not transmitting them to the pipes connected to it.

(b) The closing of an oil shut-off valve cannot prevent the propellers from flagging, unless equivalent safety provisions are incorporated.

121.241 Drains of the oil system

There must be accessible drains to drain all the oil from the system. Each drain must have means, automatic or manual, of effective locking in the "closed" position.

121.243 Engine breather lines

(a) The engine's breathing lines must be configured in such a way that condensed water vapor, which can freeze and obstruct the lines, does not accumulate at any point.

(b) The engine's breathing lines must discharge at a point that does not present a fire hazard in the event of foaming, or at a point where the oil emitted from these lines does not reach the pilot's windshield.

(c) The engine's breathing lines must not discharge into the engine's air induction system.

121.245 Fire walls

Each engine, auxiliary power unit, fuel-burning heater, or other item of combustion equipment to be used in flight must be isolated from the rest of the aircraft by means of a fire wall, shield or equivalent means.

121.247 Fire wall construction

(a) Each fire wall or shield must:

(1) be made in such a way as to prevent dangerous amounts of air, fluids or flames from passing from the engine compartment to other parts of the airplane;

(2) have all openings through it sealed with appropriate eyelets, with fire-proof bushings or with special connections for fire walls;

(3) be made of fireproof material;

(4) be protected against corrosion.

121.249 Engine hood

(a) The engine hood must be made and secured so as to withstand vibrations, inertia loads and aerodynamic loads to which it is normally subjected.

(b) Provision must be made for complete draining of the hood in any attitude of the aircraft on the ground and in flight. Drains cannot discharge into places that present a fire hazard. The parts of the hood subject to high temperatures because they are close to the exhaust system of the engine or because they are impacted by the exhaust gases must be built with fireproof material. Unless otherwise specified in this regulation, all other parts of the hood must be made of at least fire-resistant material.

121.251 Diaphragm of the engine accessories section

Unless equivalent protection can be demonstrated by other means, there must be a diaphragm (which meets 121.247) for insulation between the accessory compartment and the power section and all parts of the exhaust system of any air-cooled engine.

121.253 Fire protection in engines

(a) The designated fire zones must be protected against fire in accordance with 121.255 to 121.261.

(b) The designated fire zones are:

(1) engine accessories section;

(2) installations where there is no insulation between the engine and the accessories compartment;

(3) areas containing auxiliary power units, heaters burning fuel and other combustion equipment.

121.255 Flammable fluids

(a) No tank or reservoir that is part of a system containing flammable liquids or gases may be located in designated fire zones, unless the fluid contained, the system design, the materials used in the tank, the shut-off valves, the pipes, connections and controls of the system allow equivalent security.

(b) There must be a free space of at least 1.25 cm (0.5 in) between any tank or reservoir and the fire wall or shield isolating a designated fire zone.

121.257 Flow shut-off valves

(a) Each engine must have a means of cutting (or otherwise preventing) the flow of dangerous quantities of fuel, oil, defrosting liquid and other flammable liquids that may flow inward, circulate inside, or pass through a designated zone of fire. However, there is no need to cut the flow in pipes that are an integral part of the engine.

(b) The flow cut-off means must allow an emergency operation sequence compatible with the emergency operation of other equipment, such as propeller flapping, in order to facilitate rapid and effective fire control.

(c) The flow cut-off means must be located outside designated fire zones, unless equivalent security is provided. It must be demonstrated that, after the flow cut, no amount of flammable liquid is drained into a designated fire zone.

(d) Adequate provisions must be provided to protect against the inadvertent operation of a flow cutter and to make it possible for the crew to reopen said cutter medium after its closure.

121.259 Pipes and connections

(a) Each pipe and its connections carrying liquid or flammable gases under pressure located in a designated fire zone, fixed directly to the engine or subject to relative movements between components (except pipes and connections forming an integral part of the engine) must be flexible and resistant to fire, with terminals fixed by the manufacturer or detachable, but resistant to fire.

(b) Pipes and connections that are not subject to pressure or relative movement between components must be made of fire-resistant material.

121.261 Ventilation and drain pipes

All ventilation and drain pipes and their connections that transport flammable liquids or gases and are located in designated fire zones, provided that ANAC considers that their rupture or breakage could constitute a fire hazard, must comply with the provisions of 121.259.

121.263 Fire extinguishing systems

(a) Fire extinguishing systems must be in place for all designated fire zones. However, if it is demonstrated that the use of fireproof material in the nacelle and other components subject to fire provides equivalent protection against the destruction of the airplane in the event of fire, extinguishing systems can be dispensed with.

(b) The materials of the fire extinguishing systems must not react chemically with the extinguishing agent, becoming an additional danger.

121.265 Fire extinguishing agents

Only methyl bromide, carbon dioxide and other agents that have been shown to provide equivalent extinguishing action can be used as a fire extinguishing agent. If methyl bromide or another toxic agent is used, provision should be made to prevent dangerous concentrations of fluid or vapor from entering the cabin during normal operation or accidental discharge of fire extinguishers, on the ground or in flight. If methyl bromide extinguishers are used, the cylinders must be loaded with dry agent and sealed by the extinguisher manufacturer or by an authorized person who has adequate refilling equipment. If carbon dioxide extinguishers are used, it must not be possible to discharge an amount of gas that creates a choking hazard for the cabin occupants.

121.267 Pressure relief in fire extinguisher cylinders

The fire extinguisher cylinders must have pressure relief valves to avoid accidental discharge thereof due to excessive internal pressures. The discharge lines of the relief valves must end outside the aircraft, in a place of easy inspection on the ground. There should be an indicator at the end of the discharge line, providing a visual indication when the cylinder is discharging through the relief valve.

121.269 Temperature of the cylinder compartment of fire extinguishers

Precautions must be taken to ensure that the fire extinguishing system cylinders are installed in places where reasonable ambient temperatures can be maintained, ensuring the effective use of the system in any situation.

121.271 Materials used in the fire extinguishing system

(a) Except as provided in paragraph (b) of this section, each component of the fire extinguishing system that is in a designated fire zone must be made of fireproof material.

(b) Connections that are subject to relative movement between components must be made of flexible material, at least fire resistant, and located so as to minimize the likelihood of failure.

121.273 Fire detection system

A sufficient number of fast-acting fire detectors must be placed in each designated fire zone to ensure detection of any fire that may occur in that area.

121.275 Fire detectors

Fire detectors must be manufactured and installed in such a way as to ensure their ability to withstand all vibration, inertia and other loads that they may normally be subject to without fail. Fire detectors cannot be affected by gases, oil, water or other fluids that can reach them.

<u>121.277 Protection of other</u> airplane components from fire

(a) Except as provided in paragraph (b) of this section, the entire surface of the airplane behind the nacelles, in the area comprised by a nacelle diameter on both sides of the center line of each nacelle, must be constructed of at least fire-resistant material.

(b) Paragraph (a) of this section does not apply to the warping surfaces behind the nacelles, unless the plane's dimensional configuration is such that the warping surfaces can be affected by heat, flames or sparks emanating from a designated fire zone or engine compartment of any nacelle.

121.279 Engine speed control

(a) Except as provided in paragraph (b) of this section, each airplane must have

its own means of stopping and restarting the rotation of any engine in flight.

(b) In the case of airplanes with turbine engines, a means is only necessary to stop the rotation of the engines if it is believed that the rotation could impair the safety of the airplane.

121.281 Independence of the fuel system

(a) Each aircraft fuel system must be configured in such a way that the failure of any of the components does not result in irretrievable loss of power from more than one engine.

(b) A separate fuel tank is not required for each engine, provided it is demonstrated that the fuel system includes features that provide equivalent safety.

<u>121.283 Prevention of frost in the</u> <u>air induction system</u>

Each airplane must have a system that prevents malfunction of each engine due to the accumulation of ice in the air induction system of that engine.

121.285 Cargo transportation in the passenger cabin

(a) Except as provided in paragraph (b) or (c) of this section, no certificate holder may carry cargo in the passenger cabin of an airplane.

(b) Cargo can be carried anywhere in the passenger cabin, provided it is carried in an approved compartment that meets the following requirements:

(1) the compartment must withstand the load factors and emergency landing conditions applicable to the passenger seats of the airplane in which it is installed multiplied by a factor of 1.15 using the combined weight of the compartment with the maximum load weight that can be transported in it;

(2) the maximum load weight that the approved compartment can carry, as well as the instructions necessary for the proper distribution of mass inside the compartment, must be clearly written on it;

(3) the compartment may not impose any load on the floor or on another airplane structure that exceeds the loading limitations of that structure;

(4) the compartment can be attached to the seat rails or the aircraft floor structure and this attachment must withstand the load factors and emergency landing conditions applicable to the passenger seats of the aircraft in which it is installed, multiplied by the factor of 1.15 or by the seat fixation factor specified for the aircraft, whichever is greater, using the combined weight of the compartment with the maximum load weight that can be carried on it;

(5) the compartment may not be installed in a location that restricts access and use of any required emergency exit or the passenger cabin aisle;

(6) the compartment must be completely closed and made of at least flame resistant material;

(7) adequate safety devices must be installed to prevent the load inside the load carrier from slipping under emergency landing conditions;

(8) the cargo carrier cannot be installed in a location that obstructs the view of any passenger in relation to the "no smoking", "wear seat belts" or any required exit signs, unless there are auxiliary signs or other approved means of adequate notice to passengers.

(c) Cargo may be carried behind closed caves or passenger cabin partitions, provided that cargo is properly secured to withstand the load factors provided for in section 25.561(b)(3) of RBAC 25 and is placed as follows:

(1) is properly fastened with a seat belt or other type of mooring that has sufficient strength to eliminate the possibility of movement under any conditions expected in flight or on the ground;

(2) is properly packed or covered in order to avoid possible injury to passengers in the passenger cabin;

(3) does not impose any load on seats or floor structures that exceeds the structural limits of these components;

(4) its location does not restrict access to and use of any required emergency or normal exit, or the aisle of the passenger cabin;

(5) its location does not impair any passenger's view of a "no smoking", "wear seat belts" and "exit" sign required, unless there are auxiliary signs or other approved means of adequate warning to passengers.

121.287 Transporting cargo in the cargo hold

Cargo carried in cargo compartments, designed to require the physical entry of a crew member to fight any fire that may occur in flight, must be distributed in such a way as to allow a crew member to effectively reach all parts of the compartment with a manual fire extinguisher.

121.289 Landing gear audible alarm

(a) Except for airplanes that meet the provisions of section 25.729 of RBAC 25, from January 6, 1992 onwards, each aircraft must have a landing gear audible alarm device that operates continuously under the following conditions:

(1) for airplanes with a pre-established position of the flaps for approach, whenever the flaps are extended beyond the maximum certified position for descent in the approach configuration provided for in the AFM, and the landing gear is not fully lowered and locked;

(2) for airplanes without a pre-established flap position for approach, whenever the flaps are extended beyond the position in which the lowering of the landing gear is normally performed and the landing gear is not fully lowered and locked.

(b) The alarm system required by paragraph (a) of this section:

(1) cannot have manual override command;

(2) must exist in addition to the lever-operated device and be installed in accordance with normal certification requirements, and

(3) can use any part of the system controlled by the levers, including the audible device.

(c) The flap position sensor can be installed in an appropriate place on the plane.

121.291 Demonstration of procedure for emergency evacuation

(a) Except as provided in paragraph (a) (1) of this section, each certificate holder must conduct a real demonstration of emergency evacuation procedures in accordance with paragraph (a) of Appendix D to this regulation, demonstrating that each airplane type and model with configuration for passengers with more than 44 seats, to be used in its operations carrying passengers, allows a total

evacuation of passengers and crew in 90 seconds or less:

(1) an actual demonstration need not be carried out if the aircraft type and model comply with this paragraph as valid on or after October 24, 1967 or if, during the aircraft type certification period, they comply with the requirements of section 25.803 of RBAC 25, effective from December 1, 1978;

(2) any actual demonstration conducted after September 27, 1993 must be made in accordance with paragraph (a) of Appendix D to this regulation valid as of that date or in accordance with the requirements of section 25.803 effective from the same date.

(b) Each certificate holder conducting operations with airplanes with a capacity of more than 44 passenger seats must conduct a partial demonstration of emergency evacuation procedures in accordance with paragraph (c) of this section by:

(1) introducing a new type or model of aircraft into its operations carrying passengers, unless a demonstration in accordance with paragraph (a) of this section has been carried out;

(2) changing the number, location or emergency evacuation duties and procedures of flight attendants required by 121.391; or

(3) changing the number, location and type of emergency exits, or the type of emergency opening mechanism for exits available for evacuation.

(c) In conducting the partial demonstration required by paragraph (b) of this section, each certificate holder must:

(1) demonstrate to ANAC the effectiveness of the emergency training of its crew and its evacuation procedures through a demonstration, without using passengers, in which the flight attendants of this type and model, using normal operational procedures, open 50% of the required emergency exits at floor level and 50% of the other required emergency exits, whose opening by a flight attendant is defined as an emergency evacuation duty according to 121.397, and deploy 50% of the exit slides. The exits and slides will be selected at random by ANAC and must be ready for use within 15 seconds;

(2) request and obtain follow-up from ANAC for the demonstration;

(3) use in the demonstration commissioners who have been chosen at random by ANAC, who have completed the training program approved by ANAC for the airplane type and model and who have passed a written test or practice of emergency procedures and equipment; and

(4) request and obtain approval from ANAC before starting operations with this type and model of airplane.

(d) Each certificate holder operating or intending to operate one or more land planes over large extensions of water or which, by mandatory provision in the regulations or optionally, has the equipment required in section 121.339, must demonstrate, carrying out a mooring simulation in accordance with paragraph (b) of Appendix D of this regulation, that it has the capacity to efficiently execute its procedures for this type of emergency. For certificate holders subject to paragraph 121.2(a)(1), this paragraph only applies when a new type or model of aircraft is included in its operating specification after January 19, 2001. (Wording provided by Resolution No. 334, of 07.01.2014)

(e) If a certificate holder subject to RBAC 121 conducts a simulated lashing, as specified in paragraph (d) of this section, for an airplane type and model, the requirements of paragraphs (b) (2), (b) (4) and (b) (5) of Appendix D to this regulation will be considered to be met if each lifeboat is removed from its place, if a lifeboat is launched off the plane and inflated (or a slide is inflated) and if the crew members assigned to the inflated boat demonstrate to know and use each item of required emergency equipment. The boat or slide to be inflated will be chosen by ANAC.

121.293 Special requirements for airworthiness for aircraft of categories not included in the transport category, of a type certified after December 31, 1964

No certificate holder may operate an aircraft of a category not included in the transport category after December 20, 1999, unless the aircraft has a take-off alarm system that meets the requirements of section 25.703 of RBAC 25. However, the take-off alarm system does not have to cover the function of any device for which it has been shown that take-off with this device, in the most unfavorable position, will not create a hazardous condition.

121.295 [Reserved]

SUBPART K INSTRUMENT AND EQUIPMENT REQUIREMENTS

121.301 Applicability

This subpart establishes instrument and equipment requirements for all certificate holders.

121.302 [Reserved]

<u>121.303 Aircraft equipment and</u> instruments

(a) Unless otherwise specified, the instrument and equipment requirements provided for in this subpart apply to all operations under this regulation.

(b) The instruments and equipment required by 121.305 to 121.359 must be approved and installed in accordance with the airworthiness requirements applicable to them.

(c) Each speedometer must be calibrated at knots and each speed limitation, each item of AFM information on speed and each relevant sign must be expressed at knots.

(d) Except as provided for in 121.627 (b) and 121.628, no one can take off with any airplane unless the following instruments and equipment are operational:

(1) instruments and equipment required to achieve compliance with the airworthiness requirements under which the aircraft type was certified and those required by paragraphs 121.213 through 121.283 and 121.289;

(2) instruments and equipment specified in paragraphs 121.305 to 121.321, 121.359, 121.360 for any type of operation and equipment and instruments specified from 121.323 to 121.351 for the characteristics of the authorized operation, whenever these items are no longer required by paragraph (d)(1) of this section. (Wording given by Resolution No. 526, of 08.06.2019)

121.305 Flight and navigation equipment

No one may operate an airplane that is not equipped with the following flight and navigation equipment and instruments:

(a) an airspeed indication system with a heated pitot tube, or an equivalent

means of preventing malfunction due to ice formation, per pilot required.

(b) a sensitive barometric altimeter ("drum pointer altimeter" instruments are not acceptable), per pilot required.

(c) a stopwatch with a central commandable second hand (or approved equivalent), visible from each pilot position.

(d) an external air temperature indicator.

(e) a gyroscopic attitude indicator (artificial horizon), per pilot required.

(f) a gyroscopic curve ratio indicator combined with a turn-and-bank indicator per pilot required, except that only one required pilot indicator is required when there is a third usable attitude indicator in 360 degrees of pitch and bearing variations, installed in accordance with paragraph (k) of this section.

(g) a gyroscopic direction indicator (gyro-directional or equivalent), per pilot required.

(h) a magnetic compass.

(i) a vertical speed indicator (rate of climb indicator), per pilot required.

(j) on the planes described in this paragraph, in addition to two gyroscopic attitude indicators (artificial horizon) for use by each of the pilots, a third similar instrument is installed according to paragraph (k) of this section:

(1) on each airplane with reaction engines;

(2) on each turboprop aircraft having a passenger configuration of more than 30 seats, excluding any crew seats, or payload capacity greater than 7,500 lb;

(3) On each turboprop aircraft that has a configuration of 30 seats for passengers or less, excluding any seats for crew members, and payload capacity of 7500 lb or less that has been manufactured after March 20, 1997, inclusive;

(4) After December 20, 2010, each turboprop aircraft that has a configuration of 10 to 30 seats for passengers and a payload capacity of 7500 lb or less that has been manufactured after March 20, 1997.

(k) when required by paragraph (j) of this section, a third gyroscopic attitude indicator (artificial horizon) that:

(1) is powered by a source independent of the electricity generation system;

(2) continue to have reliable operation for a minimum of 30 minutes after total failure of the electrical generation system;

(3) operates independently of any other attitude indication system;

(4) go into operation after the total failure of the electrical generation system without requiring pilot command;

(5) is located on the instrument panel in an acceptable position and which makes it easily visible and usable by any of the pilots in their normal workstation; and

(6) is properly lit during all phases of the flight.

121.306 Portable electronic devices

(a) Except as provided for in paragraph (b) of this section, no one may use and no operator or pilot-in-command of an airplane may authorize the use of any portable electronic device on any civil aircraft registered in Brazil operating under this regulation. (Wording given by Resolution No. 334, of 07.01.2014)

(b) Paragraph (a) of this section does not apply to:

(1) portable voice recorders;

- (2) hearing aids;
- (3) pacemakers;
- (4) electric shavers; or

(5) portable oxygen concentrators that comply with the requirements of section 121.574; or (Wording given by Resolution No. 549, of 03.20.2020)

(6) any other portable electronic device that a certificate holder issued under RBAC 119 has determined not to cause interference with the communications or navigation systems of the airplane on which it is being used. (Included by Resolution No. 549, of 03.20.2020)

(c) the determination required by paragraph (b)(6) of this section must be made by the holder of a certificate issued under RBAC 119 who intends to authorize the operation of the particular device on board its aircraft, and must establish adequate procedures for the use of each portable electronic device that it has authorized on board its aircraft, and such procedures must be included in the manual required by 121.133. (Wording given by Resolution No. 549, of 03.20.2020)

121.307 Engine instruments

Unless ANAC allows or requires different instrumentation for airplanes with turbine engines to provide equivalent safety, no one can conduct any operation under this regulation without the following engine instruments:

(a) a carburetor air temperature indicator for each engine;

(b) a cylinder head temperature indicator for each air-cooled engine;

(c) a fuel pressure indicator for each engine;

(d) a fuel flow meter or fuel mixture indicator for each engine not equipped with an automatic altitude control;

(e) devices to indicate the amount of fuel in each fuel tank to be used.

(f) an inlet pressure indicator for each engine;

(g) an oil pressure indicator for each engine;

(h) an oil quantity indicator for each oil tank, when a transfer tank or separate reservoir is used;

(i) an oil temperature indicator inside each engine;

(j) a tachometer for each engine;

(k) an independent fuel pressure alarm device for each engine or a central alarm device for all engines, with a means of isolating each individual alarm circuit from the central device;

(I) a device for each propeller with a reversible pitch that informs the pilot when the propeller is in the reverse pitch and meets the following:

(1) the device can be activated at any point in the reverse cycle between the minimum step stop and the total reversal stop, but cannot give any indication at or above the normal minimum step stop;

(2) the indication source must be driven by the propeller blade angle or must respond directly to that angle.

121.308 Lavatory protection against fire

(a) No one may operate an airplane carrying passengers, unless each lavatory on that airplane is equipped with a smoke detector system or equivalent system that provides a light alarm in the cockpit or a light or audible alarm in the passenger cabin that can be promptly detected by a flight attendant, taking into account the position of flight attendants along the passenger cabin during the various phases of the flight.

(b) No one may operate an airplane carrying passengers, unless each lavatory on that aircraft is equipped with a permanent fire extinguishing system capable of extinguishing fire in each container of used towels or papers in the lavatory. Such a fire extinguishing system must be designed to automatically discharge into each container as soon as a fire occurs.

(c) Until December 22, 1997, a certificate holder described in paragraphs 121.2(a)(1) or (2) may operate an airplane with a configuration of 30 or less passenger seats that does not meet the requirements of the smoke detector system described in paragraph (a) of this section and the requirements of fire extinguishers described in paragraph (b) of this section.

(d) After December 22, 1997, no one can operate a non-transport category aircraft of type certified after December 31, 1964, with a 10 to 19 passenger seat configuration, unless this aircraft meets the requirements of the smoke detector system described in paragraph (a) of this section, except that this smoke detector system or equivalent must provide an alert light in the cockpit or an aural alert that is immediately recognized by the crew.

121.309 Emergency equipment

(a) General. No one can operate an airplane unless it is equipped with the emergency equipment listed in this section and in 121.310.

(b) Each item of emergency and flotation equipment listed in this section and in 121.310, 121.339, 121.340 and 121.353:

(1) it must be inspected regularly, according to the inspection periods established in the operating specifications, ensuring its condition of continuous validity and immediate availability for operation in emergencies; (2) it must be readily accessible by the crew and when located in the passenger cabin, by the passengers;

(3) it must be clearly identified and marked with indications of its method of operation; and

(4) when stored in a compartment or enclosure, such compartment or enclosure must have an indication of its contents. In addition, the compartment, container or item itself must have the date of the last inspection required for this section.

(c) Portable fire extinguishers for use in the cockpit, passenger cabin, cargo compartments and galleys. Portable fire extinguishers of an approved type must be available for use in the cockpit, passenger cabin, cargo compartment and galleys, in accordance with the following:

(1) the type and amount of extinguishing agent must be suitable for the types of fire that may occur in the compartment in which it is intended to be used and, in the passenger cabin, must be designed to minimize the danger of toxic gas concentration;

(2) cargo compartments – At least one portable fire extinguisher must be available for use in each class E cargo compartment, located so as to be easily accessible to the flight crew;

(3) "galley" compartment – At least one portable fire extinguisher must be conveniently positioned to be used in each "galley" located in a compartment other than passenger cabin, cockpit or cargo compartment;

 (4) cockpit – at least one portable fire extinguisher must be located in the cockpit for use by the flight crew;

(5) passenger cabin – Portable fire extinguishers for use in passenger cabins must be conveniently located and, when two or more are required, evenly distributed throughout each area of the cabin. Passenger cabins must be provided with portable fire extinguishers in the following quantities:

(i) for airplanes with a passenger seating capacity of more than 6 but less than 31 seats, at least one fire extinguisher;

(ii) for airplanes with a passenger seating capacity of more than 30, but less than 61 seats, at least two fire extinguishers;

(iii) for airplanes with seating capacity of more than 60, there must be at least the following quantities of fire extinguishers: [table deleted from this version]

(6) notwithstanding the requirement for uniform distribution of portable fire extinguishers set out in paragraph (c)(5) of this section, for those cases where the "galley" is located in the passenger cabin, at least one of the extinguishers must be conveniently positioned to be easily accessible for use on said "galley";

(7) at least two of the portable fire extinguishers required by an airplane carrying passengers must contain halon 1211 (bromine-chloro-difluoro-methane) or equivalent as an extinguishing agent. At least one portable fire extinguisher in the passenger cabin must contain 1211 halon (bromo-chloro-difluoro-methane) or equivalent as an extinguishing agent.

(d) Each airplane must have first aid kits, medical care equipment and protective gloves as follows:

(1) approved first aid kits and an emergency medical kit for treating injuries and ailments that may occur in flight or in minor accidents. Such assemblies must meet the specifications and requirements of Appendix A of this regulation;

(2) pairs of latex protective gloves, or equivalent waterproof gloves, in number equal to the number of first aid kits on board. Such gloves should be distributed throughout the plane as uniformly as practicable;

(e) Hatchet – Except for airplanes not included in the transport category of type certified after December 31, 1964, each plane must be equipped with a hatchet

(f) Megaphones – Each airplane carrying passengers must have one or more portable, battery-powered megaphones, readily accessible to crew members assigned to guide emergency evacuations and installed as follows:

(1) a megaphone for each airplane with a seating capacity for more than 60 and less than 100 passengers, located at the most rear of the passenger cabin as possible, where it can be quickly accessible from a normal flight attendant seat. However, ANAC can authorize another location deemed more convenient for evacuation during an emergency; (2) two megaphones in the passenger cabin of aircraft with seating capacity for more than 99 passengers, one installed at the front and one at the rear, where they can be quickly accessible from a normal flight attendant seat.

121.310 Additional emergency equipment

(a) Means for emergency evacuation -Each emergency exit of a land plane carrying passengers (excluding wing emergency exits) that is more than 1.80 mt (6 feet) away from the ground, with the plane on the ground and lowered landing gear, must have an approved means of assisting occupants to descend to the ground. The means of assistance for floor-level emergency exits must meet the requirements of paragraph 25.809(f) (1) of RBAC 25, effective April 30, 1972, except that any aircraft whose type certification application has been submitted after that date must comply with the requirements according to which the airplane has been certified. A means of assistance that opens and positions itself automatically must be armed during the taxi, take-off and landing. However, if it is considered that the design of an outlet makes opening and automatic positioning of the aid impracticable, a partial deviation from the automation requirement may be authorized, provided that the aid means, after being manually opened, positions itself and provided that an emergency evacuation demonstration, according to 121.291(a), be conducted using such an exit. This paragraph does not apply to the rear emergency exit window of DC-3 aircraft authorized for use by passengers and operated with less than 36 occupants, including crew members, and with less than 5 exits.

(b) Internal indications for emergency exits. Each airplane carrying passengers must meet the following requirements:

(1) each passenger emergency exit, its access and its opening process must be clearly indicated. The identification and location of each passenger emergency exit must be easily recognizable from a distance equal to the width of the passenger cabin. The location of each passenger emergency exit must be signaled by an indication visible by an occupant approaching along the aisle of the passenger cabin. There must be a location sign: (i) above the aisle, next to each emergency exit on the wings or in another location on the cabin roof if it is more practical due to its low height;

(ii) close to each floor level emergency exit, except that a single indicator can serve two of these exits if both are readily identifiable from the signal location; and

(iii) in each bulkhead or partition of the passenger cabin that obstructs the view forward or backward along the cabin, to indicate emergency exits beyond them. If this positioning of the signals is not possible, they can be placed in another appropriate location.

(2) each passenger emergency exit location indication and signal must meet the following:

(i) except as provided in paragraph (b) (2)(iii) of this section, for an airplane whose type certification application was submitted before May 1, 1972, each indication and each sign of passenger emergency exit location must be manufactured in compliance with the requirements of paragraph 25.812(b) of RBAC 25, effective on April 30, 1972. In these planes, no signal can continue to be used if its luminescence drops below 100 microlamberts. Colors can be inverted if the emergency lighting of the cabin improves. However, deviations from the requirement of 5 cm (2 in.) of width of the bottom plate may be allowed, if it is considered that there are special circumstances that make compliance with the requirement impractical and that the proposed solution provides an equivalent level of security;

(ii) for a transport category airplane whose type certification application was submitted on or after May 1, 1972, each indication and each sign of passenger emergency exit location must be manufactured in compliance with the requirements under which the plane has been certified. In these planes, no signal can continue to be used if its luminescence drops below 250 microlamberts;

(iii) for a turboprop aircraft, other than a transport category, of a type certified after December 31, 1964, each marked passenger emergency exit and each sign indicating those exits must be manufactured to have white letters with a height of 1 inch (25.4 mm), be self-illuminating or be electrically illuminated independently and have a luminescence of at least 160 microlamberts. The color can be reversed if the lighting in the passenger compartment is essentially the same. In these planes, no placard should continue to be used if its luminescence drops below 100 microlamberts. (Wording given by Resolution No. 524, of August 2, 2019)

(c) Lighting system of the internal indicators of the emergency exits. Except for airplanes not included in the certified transport category after December 31, 1964, each aircraft carrying passengers must have an emergency lighting system independent from the main lighting system. However, normal cabin lighting sources (lamps) can be common to both systems, as long as the emergency lighting power source is independent from the normal lighting power source. The emergency lighting system must:

(1) light each emergency exit location indicator and sign;

(2) provide sufficient general lighting for the passenger cabin, so that the average brightness, when measured at 100 cm (40 in.) intervals and at the height of the armrests, on the center line of the passenger cabin aisle, is at least 0.54 lumens/m2 (0.05 candle-feet); and

(3) for aircraft of type certified after January 1, 1958, after November 26, 1986 they must have indications of the path to the emergency exits, close to the floor, which meet the requirements of paragraph 25.812(e) of RBAC 25, effective on November 26, 1984.

(d) Operation of emergency lighting – Except for lamps forming part of emergency lighting subsystems in accordance with paragraph 25.812(h) of RBAC 25, which serve as lighting to no more than an escape aid, which are independent from the aircraft's main emergency lighting system and which are automatically activated when the assistance device is activated, each lamp required by paragraphs (c) and (h) of this section must meet the following:

(1) each emergency light must:

 (i) be operable manually both from the cockpit and from a point in the passenger cabin readily accessible from a flight attendant seat;

(ii) have a device that prevents inadvertent manual control; and (iii) when switched on or armed from any of the predicted points, it remains on or lights up, respectively, as soon as the cut of normal electrical power of the airplane occurs.

(2) each light must be armed or switched on during roll-off, take-off and landing. In demonstrating compliance with this paragraph, it is not necessary to consider the hypothesis of a transversal fuselage break;

(3) each emergency light must provide the required level of lighting for at least 10 minutes, in critical environmental conditions, after an emergency landing;

(4) Each emergency light must have a control device, in the cockpit, with the positions "armed" ("armed"), "on" ("on") and "off" ("off").

(e) Operation of emergency exit devices:

(1) For an airplane carrying passengers whose type certification application was submitted before May 1, 1972, the location of each emergency exit opening device and instructions on how to operate it must be shown by a sign at the exit or near it that is readable from 76 cm (30 in.) away. In addition, for each Type I or Type II exit, with an opening mechanism by rotating a lever, the opening instructions must be illustrated by:

(i) a red circular arrow with a body at least 2 cm (3/4 in.) wide and a tip twice the width of the body, extending through an arch of 70 degrees and with a radius approximately equal to 3/4 of the length of the opening lever; and

(ii) the word "open", in red letters 2.5 cm (1 in.) high, placed near the arrowhead.

(2) For an airplane carrying passengers whose type certification application was submitted on or after May 1, 1972, the location of each emergency exit opening device and instructions on how to operate it must be shown according to the requirements against which the airplane has been certified. In these planes, no opening device and its protective cover can continue to be used if its luminescence falls below 100 microlamberts.

(f) Access to emergency exits. Each airplane carrying passengers must provide access to the emergency exits in accordance with the following: (1) each passage between individual passenger areas or leading to a Type I or Type II emergency exit must be unobstructed and at least 50 cm (20 in.) wide;

(2) there must be sufficient space close to the Type I and Type II exits, which are included in paragraph (a) of this section, to allow a crew member to assist in the evacuation of passengers without reducing the clear passage width required by paragraph (f)(1) of this section. However, ANAC may authorize deviations from this requirement for an airplane of a certified type according to the provisions of part 4b of the "Civil Air Regulations", of the United States of America, in effect before December 20, 1951, if it is considered that circumstances exist providing an equivalent level of security:

(3) Main aisles must be accessible for each Type III or Type IV exit. The aisle access to these exits must not be obstructed by seats, beds or other obstacles that, in one way or another, may reduce the effectiveness of the exit; additionally:

(i) for airplanes whose type certification application was submitted before May 1, 1972, access must comply with the requirements of paragraph 25.813(c) of RBAC 25, effective on April 30, 1972; and

(ii) for an airplane whose type certification application was submitted on May 1, 1972, or at a later date, access must meet the requirements according to which the airplane received type certification, except that:

(A) after December 3, 1992 access to an aircraft certified after January 1, 1958 must meet the requirements of paragraph 25.813(c) of RBAC 25, effective on June 3, 1992.

(iii) ANAC may authorize deviations from the requirements of paragraph (f)(3)(iii) of this section if it is found that special circumstances make compliance impractical. Such special circumstances include, without limitation, the following conditions, when it is impossible to achieve compliance with paragraph 25.813(c)(1) (i) or(ii) of RBAC 25, without reducing the total number of seats for passengers: emergency exits placed very close to others; fixed installations such as lavatories, galleys, etc.; permanent installation partitions; insufficient number of rows of seats in front of or behind the exit, preventing compliance without reducing the distance between two rows of seats by more than 2.5 cm (1 in.) or reducing the total distance between two rows less than 76 cm (30 in.). The application for obtaining the deviation must include plausible reasons to justify not fully complying with the requirements of paragraph 25.813(c)(1)(ii) or(iii) of RBAC 25, and a description of the measures taken to achieve a safety level as close as practicable to that provided by compliance with said requirements.

(4) if in order to reach any required emergency exit from any passenger cabin seat, it is necessary to cross a passage connecting two areas of the passenger cabin, such passage must be unobstructed. However, curtains can be used as long as they allow free transit through the passage;

(5) no door can be installed in any separation between the areas of the passenger cabin;

(6) if it is necessary to go through a door separating the passenger cabin from other areas to reach a required emergency exit, starting from any passenger seat, the door must have a locking device in the open position and must remain open and locked at takeoffs and landings. The locking device in the open position must withstand the loads imposed on it when the door is subjected to the final inertia loads related to neighboring structures listed in paragraph 25.561(b) of RBAC 25;

(g) External marks of exits. Each passenger emergency exit and its external means of opening must be marked on the external surface of the airplane. There should be a colored strip 5 cm (2 in.) wide, surrounding the outer perimeter of each emergency exit on the side of the fuselage. If the airplane has areas of its external covering that can be cut to facilitate the rescue of people, these areas should be marked by a segmented strip, each segment 3 cm (1 in) wide and 9 cm (3.5 in). of length; the corners of the area should be marked by two continuous segments forming right angles and the interval between segments should not exceed 2m (79 in.). Each external mark, including the strips, must be readily distinguishable from the surrounding areas in the fuselage by color contrast. Marking must meet the following:

(1) if the reflectance of the darkest color is 15% or less, the reflectance of the lightest color must be at least 45%;

(2) if the reflectance of the darkest color is greater than 15%, there must be a difference of at least 30% in reflectance between it and the lighter color;

(3) exits not located on the side of the fuselage must have external opening devices and the applicable instructions clearly marked in red or, if red is not distinguishable against the background color, in bright orange. When the opening device for such an exit is located only on one side of the fuselage, a visible indication of this fact must be placed on the opposite side. "Reflectance" is the ratio between the luminous flux reflected by a body and the luminous flux it is receiving.

(h) External emergency lighting and escape routes:

(1) Except for airplanes not included in the transport category whose type certification application was submitted before December 31, 1964, each aircraft carrying passengers must be equipped with external emergency lighting complying with the following requirements:

(i) for an airplane whose type certification application was submitted before May 1, 1972, the requirements of paragraphs 25.812(f) and (g) of RBAC 25, effective on April 30, 1972;

(ii) for an airplane whose type certification application was submitted on or after May 1, 1972, the external emergency lighting requirements under which the airplane was certified.

(2) each airplane carrying passengers must have an escape route on its wings, non-slip, which meets the following requirements:

(i) for airplanes whose type certification application was submitted before May 1, 1972, the requirements of paragraph 25.803(e) of RBAC 25, effective on April 30, 1972;

(ii) for airplanes whose type certification application was submitted on or after May 1, 1972, the escape route requirements under which the airplane was certified.

(i) Floor level exits. Each floor-level door or exit on the fuselage side (except those leading to cargo compartments not accessible from the passenger cabin) that are 112 cm (44 in.) high or more and 51 cm (20 in.) wide or more, but not more than 117 cm (46 in.) wide, each ventral passenger exit (except the ventral exits of the M-404 and CV-240 aircraft) and each tail cone exit must meet the requirements for emergency exits at the floor level of this section. However, ANAC may authorize deviations from this paragraph, provided that it is considred that special circumstances make full compliance with them impracticable and that an acceptable level of security can be maintained.

(j) Additional emergency exits. Approved passenger cabin emergency exits that exceed the minimum required number of emergency exits must comply with all applicable provisions of this section, except paragraphs (f) (1), (2) and (3), and must be promptly accessible.

(k) In each large airplane with jet engines carrying passengers each ventral exit or exit through the tail cone must be:

- (1) designed and constructed so that it cannot be opened in flight; and
- (2) marked with a sign that is readable 76 cm (30 in) away, visibly installed near the exit opening device, stating that it cannot be opened in flight.

(I) Portable flashlights – No one may operate an airplane carrying passengers, unless that aircraft is equipped with portable flashlights stored in locations that are readily accessible from each flight attendant seat.

(m) Except for an airplane that was in use for operations under this regulation on October 16, 1987 and having an emergency exit configuration installed and approved before that date, on an airplane for which there is a requirement for more than one passenger emergency exit on each side of the fuselage, no passenger emergency exit can be located more than 18 m (60 feet) away from any other passenger emergency exit on the same side and in the same fuselage cabin, this distance being measured parallel to the plane's longitudinal axis between the ends closest to the exits.

121.311 Seats, seat belts and shoulder belts

(a) No one may operate an airplane unless the following is available during take-off, cruise and landing: (1) a seat or bed for each person over two years of age on board the aircraft; and

(2) a seat belt for individual use by each person on board who is more than two years old. However, two people using the same bed or two people sitting in a double chair or sofa may, only when cruising, wear a single approved seat belt.

(b) Except as provided in this paragraph and in paragraphs 121.317(f) and 121.391(c), each person on board an airplane operated under this regulation must occupy an approved seat or bed, with an individual seat belt properly adjusted over his/her or her seat, during movements on the ground, takeoffs and landings. The seat belt provided for the occupant of a seat cannot be used by more than one person. Notwithstanding this requirement, a child can:

(1) be held by an adult who is occupying an approved seat or bed, provided that the child is not yet two years old and does not occupy or use any restraint device; or

(2) notwithstanding any other RBAC requirement, occupy an approved child restraint system provided by the certificate holder or one of the persons referred to in paragraph (b) (2)(i) of this section, provided that:

 (i) the child is accompanied by a parent, guardian or person designated by the parent or guardian to ensure the child's safety during the flight;

(ii) the restraint system used by the child has a label, or similar, showing its approval for aeronautical use by a country affiliated to ICAO; and

(iii) the certificate holder is responsible for complying with the following requirements:

(A) the restraint system must be attached to an approved seat facing the front of the airplane or to an approved bed;

(B) the child must be properly attached to the restraint system and his/her/her weight must not exceed the limit weight established for the system; and

(C) the security system must bear the appropriate labels.

(c) Except as provided in paragraph (c)(3) of this section, the following prohibitions apply to certificate holders:

(1) no certificate holder may allow a child on an aircraft to occupy an unapproved restraint system during takeoffs, landings and ground movements;

(2) Except as required by paragraph (c)(1) of this section, no certificate holder may prohibit a child, if required by a parent, guardian or authorized caregiver, from occupying a restraint system provided by his/her parent, since:

(i) the child has a ticket entitled to occupy an approved seat or bed or the certificate holder has assigned an approved seat or bed to be used by the child;

(ii) the requirements established by paragraph (b)(2)(i) of this section are met;

(iii) the requirements established by paragraph (b)(2)(iii) of this section are met; and

(iv) the restraint system has one or more of the labels required by paragraph (b)(2)(ii) of this section.

(3) this section does not prohibit the certificate holder from providing authorized child restraint systems or from, consistent with operational safety practices, determining the location of the most appropriate seat for securing the child restraint system.

(d) Each cross seat must meet the applicable requirements of paragraph 25.785(c) of RBAC 25.

(e) Except as provided in paragraphs (e) (1) through (e)(3) of this section, no certificate holder may authorize the landing and take-off of an airplane, unless each passenger seat has its back on the vertical position. Each passenger must comply with the instructions given by a crew member, in order to comply with this paragraph.

(1) this paragraph does not apply to seats whose backrest is positioned in a position other than vertical, in order to comply with 121.310(f)(3);

(2) this paragraph does not apply to seats on which loads or persons who cannot sit upright for medical reasons and are being transported in accordance with the procedures set out in the certificate holder's manual are carried, provided that the seat back does not obstruct any passenger access to the aisles or any emergency exit. (f) No one may operate a transport category aircraft whose type has been certified after January 1, 1958 or an aircraft not included in the transport category which has been manufactured after March 20, 1997, unless it is equipped, in each cockpit position, with a seat belt combined with shoulder belts that meet the requirements of the applicable requirements of section 25.785 of RBAC 25, effective March 6, 1980, except that:

(1) the combination of seat belts and shoulder belts or the shoulder belts that were approved and installed before March 6, 1980 may continue to be used; and

(2) automatic locking systems for shoulder belts and seat belts designed for the inertia load factors established according to the airplane's certification bases can be used.

(g) Each flight attendant must have a passenger cabin seat to be used for takeoffs and landings and that meets the requirements of section 25.785 of RBAC 25, effective March 6, 1980, except that:

(1) combinations of seat belts and shoulder belts that have been approved and installed before March 6, 1980 can continue to be used; and

(2) automatic locking systems for shoulder belts and seat belts designed for the inertia load factors established according to the airplane's certification bases can be used;

(3) the requirements of paragraph 25.785 (h) of RBAC 25, do not apply to passenger seats occupied by flight attendants not required by 121.391 (c) or (d), as applicable.

(h) Each occupant of a seat equipped with a combination of seat belts and shoulder belts must have the set properly adjusted and locked during landings and takeoffs, except that a shoulder belt that is not combined with a seat belt can be loosened if the occupant cannot perform the required tasks with the shoulder belt adjusted.

(i) In each unoccupied seat, seat belts and shoulder belts, if fitted, must be secured so as not to interfere with crew members in carrying out their duties or with the rapid exit of occupants in an emergency.

(j) After October 27, 2009, no one may operate a transport category airplane certified on or after January 1, 1958 and manufactured on or after October 27, 2009 in operations carrying passengers under this regulation, unless all passenger and flight attendant seats on the airplane meet the requirements of section 25.562 of RBHA 25, effective June 16, 1988 or after.

121.312 Interior materials

(a) All interior materials: transport category airplanes and airplanes not included in the certified type transport category before January 1, 1965. Except for the materials covered by paragraph (b) of this section, all materials in each cabin or Aircraft compartment for transport category, and for aircraft not included in the transport category of certified type before January 1, 1965, used by crew or passengers must meet the requirements of paragraph 25.853 of RBAC 25 in effect on the dates below or as subsequently amended:

(1) airplanes with configuration for passengers with 20 or more seats:

(i) manufactured after August 19, 1988 but before August 20, 1990. Except as provided in paragraph (a)(3)(ii) of this section, each airplane with a maximum capacity of twenty or more seats for passengers and built after August 20, 1988, but before August 20, 1990, must meet the provisions for the heat release ratio test set out in paragraph 25.853 (d) effective on March 6, 1995 (formerly 25.853 (a-1) effective August 20, 1986) (See Appendix L of this regulation), except that the total heat released during the first 2 minutes of exposure of the sample cannot exceed 100 kilowatt-minutes per square meter and the peak release ratio of heat cannot exceed 100 kilowatts per square meter:

(ii) manufactured after August 19, 1990. Each airplane with a maximum capacity of twenty or more seats for passengers and built on or after August 20, 1990 must meet the requirements for the heat and smoke release ratio test established by paragraph 25.853 (d) effective on March 6, 1995 (formerly 25.853 (a-1) in effect on September 26, 1988) (See Appendix L of this regulation).

(2) substantially complete renovation of the cabin interior on or after May 1, 1972;

(i) airplanes for which the type certification application was submitted before May 1, 1972. Except as provided for in paragraphs (a)(3)(i) or (a)(3)(ii) of this section, each aircraft for which the type certification application was submitted before May 1, 1972 must meet the provisions of 25.853 effective on April 30, 1972, regardless of passenger capacity, if there is a substantially complete overhaul of the cabin interior after April 30, 1972;

(ii) airplanes for which the type certification application was submitted on or after May 1, 1972. Except as provided for in paragraphs (a)(3)(i) or (a) (3)(ii) of this section, each airplane for which the type certification application was submitted on or after May 1, 1972 must meet the requirements for materials that the airplane was certified to, regardless of passenger capacity, if there is a reform substantially complete inside the cabin on or after that date.

(3) aircraft of type certified after January 1, 1958, with a maximum capacity for passengers of twenty or more seats;

(i) substantially complete overhaul of the cabin interior on or after March 6, 1995. Except as provided for in paragraph (a)(3)(ii) of this section, each aircraft of type certified after January 1, 1958, with a maximum passenger capacity of twenty or more seats, if it undergoes a substantially complete replacement of cabin interior components identified in 25.853 (d) effective on or after March 6, 1995, it must meet the provisions of the heat release established by 25.853 (d), effective on March 6, 1995 (formerly 25.853 (a-1) in effect on August 20, 1986) (see Appendix L of this regulation), except that the total heat released during the first 2 minutes of sample exposure cannot exceed 100 kilowatt-minutes per square meter and the peak heat-release ratio cannot exceed 100 kilowatt-meters per square meter;

(ii) substantially complete overhaul of the cabin interior on or after August 20, 1990. Each airplane of type certified after January 1, 1958, with a maximum passenger capacity of twenty or more seats, must meet the test provisions of heat and smoke release rate established by 25.853(d), effective on March 6, 1995 (formerly 25. 853 (a-1) in effect on September 26, 1988) (see Appendix L of this regulation), if there is a substantially complete replacement of cabin interior components identified in paragraph 25.853 (d) on or after August 20, 1990.

(4) notwithstanding the provisions of this section, ANAC may authorize deviations from paragraphs (a)(1) (i), (a)(1)(ii), (a)(3)(i) or (a)(3)(ii) of this section, for specific components inside the cabin that do not meet the applicable flammability and smoke emission requirements, if it is found that there are special circumstances that make compliance with said paragraphs impractical. Such deviation concessions are limited to those planes manufactured within 1 year after the applicable date set out in this section and to those planes on which the cabin interior has been renovated within 1 year after said dates. The petition for such deviations must include a complete and detailed analysis of each component subject to paragraph 25.853 (a-1), the proposed steps to achieve full compliance with this section and, for the few components for which compliance will not be obtained in deadline, plausible reasons for such occurrence;

(5) notwithstanding the provisions of this section, standardized galley carts and containers, which do not meet the flammability and smoke emission requirements of paragraph 25.853 (d) in effect on March 6, 1995 (formerly 25.853 (a-1)), can be used on an airplane that must comply with paragraphs (a)(1)(i), (a)(1)(ii), (a)(3)(i) or (a)(3)(ii) of this section, provided that such carts and containers were manufactured before March 6, 1995.

(b) Seat cushions. Seat cushions, except those for crew seats, in each part of the cabin occupied by passengers or crew, must meet the requirements for seat cushions of 25.853 (c) effective on November 26, 1984 as follows:

(1) each certified transport category airplane after January 1, 1958; and

(2) on or after December 20, 2010, each aircraft not included in the certified transport category after December 31, 1964.

(c) [Reserved]

(d) All interior materials; other planes. For each material or seat cushion for which the requirements of paragraphs (a) or (b) of this section do not apply, the materials and seat cushions in each part of the cabin used by crew and passengers must meet the requirements applicable under which the airplane had the type certified. (e) Materials for thermal and acoustic insulation. For transport category airplanes of type certified after January 1, 1958:

(1) for airplanes built before September 2, 2006, when there is a need to replace the materials for thermal acoustic insulation of the fuse-lage after September 2, 2006, the new materials must meet the flame propagation requirements of section 25.856 of the RBAC 25 effective on September 2, 2003;

(2) for airplanes built after September 2, 2006, thermo-acoustic insulation materials installed in the fuselage must meet the flame propagation requirements of section 25.856 of RBAC 25 effective on September 2, 2003;

(3) for airplanes with a capacity of 20 or more passengers, manufactured after September 3, 2009, thermo-acoustic insulation materials installed in the lower half of the fuselage must meet the flame penetration resistance requirements of section 25.856 of RBAC 25 effective on September 2, 2003.

121.313 Miscellaneous equipment

No one can conduct any operation unless the following equipment is installed on the plane:

(a) if protective fuses are installed on the airplane, a certain approved number of spare fuses, duly indicated in the certificate holder's manual;

(b) a windshield wiper for each driver (or equivalent system);

(c) an electricity supply and distribution system that meets the requirements of sections 25.1309, 25.1331, 25.1351 (a) and (b) (1) through (4), 25.1353, 25.1355 and 25.1431 (b) of RBAC 25, or that is capable of producing and distributing power to the required instruments and equipment with an extra power source, if any power source or component of the basic power distribution system fails. The use of elements common to both systems can be approved, provided that they are considered to have been designed to be reasonably protected against defects. Power sources driven by the engines, when used, must be installed in different engines;

(d) a way of indicating the condition of the power supply for the required flight instruments; (e) two independent static pressure systems connected to the external atmospheric pressure at a point where it is less affected by the variation of air flow, humidity and other foreign materials and installed in such a way as to be hermetically sealed, at less than pressure inlet. When provisions exist to transfer an instrument from its primary operating system to an alternating system, such provisions should include a positively marked control device to clearly indicate which system is being used;

(f) a door between the cockpit and the passenger cabin, called "cockpit door", with a locking device that prevents passengers from entering the cockpit without their permission. For airplanes equipped with a crew rest area between the cockpit and the passenger cabin and with doors for each of these areas, the door with such a locking device must be the one that connects the crew rest area to the passenger cabin;

(g) a key for each door that separates a passenger cabin from other areas that have emergency exit provisions. Such keys must be readily available to each crew member, including that of the cockpit door. However, in airplanes that must comply with the provisions of paragraph (j) of this section, unless a person is designated to perform tasks in the cockpit, no one may have a key in this area;

(h) a sign on each door that is a means of access to a required emergency exit to indicate that it must remain open during takeoffs and landings;

 a way that allows the crew, in an emergency, to open each door that leads to areas normally accessible to passengers and that can be locked by them (lavatories, for example);

(j) except as provided for in paragraphs (k) and (l) of this section, after November 1, 2003, for airplanes that paragraph (f) of this section provides for that must have a "cockpit door", with maximum approved take-off weight above 45,500 kg or a maximum configuration of more than 60 seats for passengers who are engaged or intend to engage on international flights; and for cargo transport aircraft that have a door between the cockpit and any other area occupied by people and that are engaged or intending to engage in international flights:

(1) such a door must meet the requirements of paragraphs 25,795 (a) (1) and (2) of the RBAC 25 effective on January 15, 2002; and

(2) Each operator must establish methods that allow a flight attendant to enter the cockpit in the event that a flight crew member is disabled. Any confirmation system and associated signals must be possible to be put into practice by each flight crew member seated at his/her/her workstation.

(k) For airplanes registered in Brazil having the characteristics referred to in paragraph (j) of this section, but which operate exclusively within Brazil, the implementation of the changes to comply with said paragraph (j) must be carried out according to the schedule to be established when the ANAC considers it necessary or convenient.

(I) Notwithstanding the provisions of paragraph (j) of this section, ANAC authorizes the performance of international flights with airplanes not equipped with the security devices required by these paragraphs, provided that the countries of overflight and destination accept such operations. In return, ANAC accepts the overflight and landing of airplanes from these countries without requiring such safety devices.

121.314 Cargo and luggage compartments

For each transport category airplane certified after January 1, 1958:

(a) each Class C or Class D compartment, as defined in section 25.857 of RBAC 25 in effect on June 16, 1986 (see Appendix L of this regulation), having an internal volume greater than 5.7m3 (200 ft3) must have ceiling and wall panels that are built with:

(1) fiberglass reinforced resin; or

(2) materials that meet the test requirements of Appendix F, part III, of RBAC 25; or

(3) aluminum, in the case of ceiling panels installed and approved before March 20, 1989.

(b) to comply with paragraph (a) of this section, the term "ceiling panel" includes any design features, such as joints or fasteners, that may affect the ceiling's ability to contain fire safely;

(c) for airplanes brought for registration with the RAB on or after March 20, 2001, each Class D compartment, of any volume, must meet the standards of 25.857 (c) and 25.858 of RBAC 25 for Class C compartments, unless the operation is a cargo-only operation, in which case each Class D compartment must meet the requirements of 25.857 (e) for Class E compartments;

(d) for airplanes registered in Brazil before March 20, 2001, the requirements of paragraph (c) of this section, unless otherwise authorized by ANAC, must be met by March 20, 2005;

(e) conversion and reconfiguration reports ("retrofits"):

(1) until all Class D compartments on aircraft operated under this regulation have been converted or reconfigured with an appropriate detection and suppression system, each certificate holder must submit to ANAC periodic written reports containing the information specified below:

(i) the serial number of each aircraft listed in the operating specifications issued to the certificate holder for operations under this regulation in which all Class D compartments have been converted to Class C or Class E compartments;

(ii) the serial number of each aircraft listed in the operating specifications issued to the certificate holder for operations under this regulation in which all Class D compartments have been reconfigured to meet Class C detection and suppression requirements or Class E fire detection; and

(iii) the serial number of each aircraft listed in the operating specifications issued to the certificate holder for operations under this regulation in which there is at least one Class D compartment that has not been converted or reconfigured.

(2) the first report must be submitted to ANAC by the certificate holder on July 1, 2001 and, after this date, at every 3 months.

121.315 Cockpit verification procedures

(a) Each certificate holder must provide an approved cockpit verification procedure for each type of airplane it operates. (b) The approved procedure must include each item that flight crew members need to check to ensure safety prior to the start-up of engines, during take-off and landing and in emergencies of engines and systems. Procedures must be designed to prevent flight crew members from having to rely on their memories to check each item.

(c) The approved procedures must be easily usable in the cockpit of each aircraft, which must be read and flight crew members must follow them when operating the aircraft.

121.316 Fuel tanks

Each transport category airplane with turbine engines and being operated after October 30, 1991 must comply with the requirements of paragraph 25,963 (e) effective on October 30, 1989.

<u>121.317 Passenger information</u> requirements. Smoking bans and additional seat belt requirements

(a) Except as provided in paragraph (I) of this section, no one may operate an airplane unless it is equipped with the passenger notices provided for in section 25.791 of RBAC 25. Except as provided for in paragraph (I) of this section, warnings must be constructed in such a way that crew members can switch them on and off. Warnings, when written, must be in Portuguese, and it is acceptable to repeat them in English.

(b) Except as provided in paragraph (l) of this section, the "fasten seat belts" (or similar) signs must be lit during each movement on the surface, at each take-off and each landing and at any time when deemed necessary by the pilot-in-command.

(c) Smoking is prohibited on all flight segments in operations carrying passengers, whatever the flight time on the segment. "No smoking" (or similar) signs must be lit throughout the flight, or one or more "no smoking" (or similar) signs in compliance with section 25.1541 of RBAC 25 must be visible throughout the flight. If signs and illuminated signs are used simultaneously, the signs must remain on throughout the flight segment. (New wording given by Resolution No. 262, of January 29, 2013, published in the Federal Official Gazette of January 31, 2013, Section 1, page 11).

(d) No one may operate an airplane carrying passengers under this regulation, unless it has at least one sign or placard with the phrase "Keep seat belts fastened while seated" (or equivalent) that is visible from each seat for passengers. Such sign or scoreboard need not meet the requirements of paragraph (a) of this section.

(e) No one may operate an airplane unless a warning or placard with the following (or equivalent) is installed in each lavatory: "It is prohibited to prevent, or attempt to prevent, the operation of the smoke detector in this lavatory". These warnings or placards are not required to meet the requirements of paragraph (a) of this section.

(f) Each passenger who is required to occupy a seat or bed in accordance with paragraph 121.311 (b) must fasten and adjust his/her/her seat belt while the "fasten seat belts" signs are lit.

(g) [Reserved].

(h) Smoking is prohibited in any aircraft lavatory.

(i) No one may obstruct, disarm or destroy any smoke detector installed in any aircraft lavatory.

(j) In any regular operating flight segment, the "no smoking" signs must remain on from boarding to disembarking passengers.

(k) Each passenger must obey the instructions provided by the crew regarding the subjects of paragraphs (f), (g), (h) and(i) of this section.

(I) A certificate holder may operate an airplane not included in the transport category, of a type certified after December 31, 1964 and which was manufactured before December 20, 1997, if it is equipped with at least one plate, that is legible for each person seated in the passenger cabin, stating "fasten seat belts" and if during any movement on the surface, at each take-off, at each landing and whenever deemed necessary by the pilot-in-command, one of the crew members verbally instructs passengers to put on and fasten their seat belts.

121.318 Passenger warning system

No one may operate an airplane with a passenger configuration with more than 19 seats, unless the airplane is equipped with a sound warning system for passengers, which:

(a) is able to operate independently from the crew intercom system required by 121.319 (a), except for microphones, headphones, switches and signaling devices. (b) is approved in accordance with section 21.305 of RBAC 21.

(c) is accessible for connection and immediate use of each of two crew positions in the cockpit.

(d) for each required floor-level emergency exit that has a flight attendant seat adjacent to it, there is a microphone, readily accessible to the flight attendant while seated, except that a microphone can answer more than one exit provided that the proximity of such exits allows direct verbal communication between the flight attendants sitting at their positions.

(e) is connected by a flight attendant in any of the positions of the passenger cabin where this is possible and enter into operation, all within 10 seconds.

(f) transmissions are audible from all passenger seats, lavatories and flight attendants' positions.

(g) for transport category airplanes built on or after November 27, 1990, meet the requirements of section 25.1423 of RBAC 25.

121.319 Crew intercom system

(a) No one may operate an airplane with a passenger configuration with more than 19 seats, unless the airplane is equipped with an intercom system for the crew, which:

(1) [reserved];

(2) is capable of operating independently from the passenger warning system required by 121.318 (a), except for headsets, microphones, selection switches and signaling devices; and

(3) meets the requirements of paragraph (b) of this section.

(b) The crew intercom system required by paragraph (a) of this section must be approved in accordance with section 21.305 of RBAC 21 and meet the following requirements:

(1) It must provide bilateral voice communication between the cockpit and: (i) each area of the passenger cabin; and (ii) each "galley" located outside the level of the passenger cabin.

(2) it must be accessible for connection and immediate use by each of two positions in the cockpit; (3) it must be accessible for connection and immediate use by at least one normal flight attendant position in each area of the passenger cabin;

(4) it must be possible to be connected by a flight attendant in any of the positions of the passenger cabin from where this is possible and to go into operation within 10 seconds;

(5) for large jet-propelled aircraft:

(i) it must be accessible for connection and use in a sufficient number of flight attendant positions, such that all emergency exits at floor level (or access to such exits when they are between two galleys), in each passenger cabin area, are visible from one or more of the positions equipped with the system;

(ii) there must be a call system, incorporating two-way sound or light signals, for the use of flight crew members and flight attendants;

(iii) the call system required by paragraph (b)(5)(ii) of this section must allow the person receiving a call to be able to distinguish a normal call from an emergency call;

(iv) when the airplane is on the ground, it must have bilateral means of voice communication between ground personnel and at least two crewman positions in the cockpit. The position of the intercom system for use by ground personnel should be located so that, when such a situation is necessary, personnel using that position can do so without being visible from inside the airplane.

<u>121.321 [Reserved]</u>

<u>121.323 Instruments and</u> equipment for night operation

(a) No one may operate an airplane at night, under this regulation, unless it is equipped with the following instruments and equipment, in addition to those required by 121.305 through 121.321 and 121.803:

(1) navigation lights;

(2) anti-collision light;

 (3) two landing lights, except that only one headlight is required for airplanes not included in the transport category certified after December 31, 1964;

(4) instrument lights providing sufficient lighting to make each required instrument, switch or similar device easily readable and installed in order to prevent direct light rays from reaching the flight crew's eyes or causing undesirable light reflections inside the cockpit. There must be a means of controlling the intensity of the lighting, unless it is shown that the fixed intensity is satisfactory in all conditions;

(5) an airspeed indication system with a heated pitot tube or an equivalent means of preventing ice-related malfunctions;

(6) a sensitive barometric altimeter ("drum pointer altimeter" instruments are not acceptable).

<u>121.325 Instruments and</u> equipment for IFR operations

(a) No one may operate an airplane on an IFR flight under this regulation, unless that airplane is equipped with the following instruments and equipment, in addition to those required by 121.305 through 121.321 and 121.803:

(1) an airspeed indication system with a heated pitot tube or an equivalent means of preventing ice-related malfunctions;

(2) a sensitive barometric altimeter ("drum pointer altimeter" instruments are not acceptable);

(3) instrument lights providing sufficient lighting to make each required instrument, switch or similar device easily readable and installed so as to prevent direct light rays from reaching the flight crew's eyes or causing undesirable light reflections inside the cockpit. There must be a means of controlling the intensity of lighting, unless it is shown that the fixed intensity is satisfactory in all conditions.

121.327 Supplemental oxygen: airplanes with conventional engines

(a) General. Except where supplemental oxygen is provided in accordance with section 121.331, no one may operate an airplane unless supplemental oxygen is provided and used as set out in paragraphs (b) and (c) of this section. The amount of supplemental oxygen required for a particular operation is determined based on the altitude and duration of the flight, consistent with the operating procedures established for each operation and route.

(b) Crew members:

(1) at cabin pressure altitudes above 10,000 feet up to and including 12,000 feet, oxygen must be provided and used by all flight crew members in service in the flight deck and must be provided to other crew members during the flight sections in the aforementioned altitudes lasting more than 30 minutes;

(2) at cabin pressure altitudes above 12,000 feet, oxygen must be provided and used by all flight crew members in service in the cockpit and other crew members for the entire flight time at such altitudes;

(3) when a flight crew member is required to use oxygen, he/she must use it continuously, except when it is necessary to remove the oxygen mask or other device used in connection with his/her normal duties. Reserve crew members, who will enter service in the flight deck before the flight ends, must receive an equal amount of oxygen as other crew members in service other than those in the flight deck. The reserve crew member who does not enter service in the cockpit until the end of the flight must be considered as a passenger with regard to the supply of supplemental oxygen.

(c) Passengers – Each certificate holder must provide an oxygen supply to passengers in accordance with the following:

(1) for flights with cabin pressure altitude above 8,000 feet up to and including 14,000 feet, sufficient oxygen for 10% of passengers for 30 minutes;

(2) for flights with cabin pressure altitude above 14,000 feet up to and including 15,000 feet, enough oxygen for 30% of passengers for the entire flight duration at these altitudes;

(3) for flights with cabin pressure altitude above 15,000 feet, sufficient oxygen for each passenger on board for the entire duration of the flight at these altitudes.

(d) For the purposes of this subpart, "cabin pressure altitude" means the pressure altitude corresponding to the pressure inside the airplane and "flight altitude" means the altitude above the average sea level at which the airplane is being operated. For airplanes without pressurized cabins, the terms "cabin pressure altitude" and "flight altitude" are equivalent.

121.329 Supplemental oxygen for subsistence. Aircraft with turbine engines

(a) General. Each certificate holder, operating an airplane with turbine engines, must equip that airplane with subsistence oxygen and its distribution equipment as set out in this section:

(1) the amount of oxygen supplied must be at least the amount needed to comply with paragraphs (b) and (c) of this section;

(2) the subsistence and first aid oxygen quantities required for a particular operation in order to meet the rules of this regulation must be determined based on the cabin pressure altitude and flight duration, consistent with the operational procedures established for each operation and for each route;

(3) the requirements for airplanes with pressurized cabins are determined based on the cabin pressure altitude and the hypothesis that a failure in the cabin pressurization may occur at the altitude or point of flight that is most critical from the point of view of the need for oxygen and that, after the failure, the airplane will descend according to the emergency procedure established in the AFM, without exceeding its operational limitations, to an altitude that allows the successful completion of the flight;

(4) following the fault, the cabin pressure altitude is considered to be identical to the flight altitude, unless it is demonstrated that no probable equipment failure of the pressurization system will result in cabin pressure altitude equal to the flight altitude. Under these circumstances, the maximum attainable cabin pressure altitude can be used as a basis for certification, or for determining oxygen supply, or for both.

(b) Crew members – Each certificate holder must provide an oxygen supply to crew members in accordance with the following:

(1) at cabin pressure altitudes above 10,000 feet up to and including 12,000 feet, oxygen must be supplied and used by all crew members on duty in the cockpit; for the other crew members, oxygen must be supplied during the part of the flight where the stay at these altitudes is greater than 30 minutes; (2) at cabin pressure altitudes above 12,000 feet, oxygen must be supplied and used by all crew members in service in the cockpit and other crew members for the entire length of stay at those altitudes;

(3) when a flight crew member is required to use oxygen, he/she must use it continuously, except when it is necessary to remove the mask or other delivery system in accordance with the fulfillment of his/her regular obligations. Reserve crew members who will enter service in the cockpit before the end of the flight must receive an amount of oxygen equal to that of other crew members in service other than those in the cockpit. The reserve crew member who does not enter service in the cockpit until the end of the flight is considered a passenger with regard to the supply of supplemental oxygen.

(c) Passengers – Each certificate holder must provide an oxygen supply to passengers in accordance with the following:

(1) for flights with cabin pressure altitude above 10,000 feet up to and including 14,000 feet, sufficient oxygen for 10% of passengers during the part of the flight where the stay at these altitudes exceeds 30 minutes;

(2) for flights with cabin pressure altitude above 14,000 feet up to and including 15,000 feet, enough oxygen for 30% of passengers for the entire flight duration at these altitudes;

(3) for flights with cabin pressure altitude above 15,000 feet, sufficient oxygen for each passenger on board for the entire duration of the flight at these altitudes.

121.331 Supplemental oxygen requirements for airplanes with a pressurized cabin. Aircraft with conventional engines

(a) Each certificate holder, operating a pressurized aircraft with conventional engines, must equip the aircraft to meet the requirements of paragraphs (b) through (d) of this section in the event of a pressurization failure.

(b) For crew members. In operations at altitudes above 10,000 feet, the certificate holder must provide sufficient oxygen for each flight crew member for the entire flight at such altitudes and not less than a 2-hour supply for each flight crew member in service in the cockpit. The supply required for two hours is that amount of oxygen needed for a descent at a constant rate from the maximum approved operating altitude for the airplane to 10,000 feet in 10 minutes and followed by 110 minutes at 10,000 feet. The oxygen required by section 121.337 can be considered in determining the supplementary breathing supply required by flight crew members on duty in the cockpit in the event of a failure in cabin pressurization.

(c) For passengers. In operations at altitudes above 8,000 feet, the certificate holder must provide oxygen as follows:

(1) at altitudes below flight level 250 (FL250), sufficient oxygen for 30 minutes for 10% of passengers if at any point along the route to be flown the aircraft can safely descend to an altitude of 14,000 feet, or less, within 4 minutes;

(2) If the airplane can descend to a flight altitude of 14,000 feet, or less, within 4 minutes, the following oxygen supply must be provided:

(i) for the part of the flight that lasts more than 4 minutes at altitudes above 15,000 feet, the oxygen supply required by 121.327(c)(3);

(ii) for the part of the flight at altitudes between 14,000 feet and 15,000 feet inclusive, the oxygen supply required by 121.327(c)(2);

(iii) for flights at altitudes between 8,000 feet and 14,000 feet inclusive, enough oxygen for 30 minutes for 10% of passengers.

(3) At altitudes above flight level 250 (FL250), enough oxygen for 30 minutes for 10% of passengers throughout the flight (including emergency descent) above 8,000 feet up to and including 14,000 feet and to meet 121.327(c)(2) and (3) for flight above 14,000 feet.

(d) For the purposes of this section, it is assumed that a pressurization failure occurs at a critical point in the flight from the point of view of the need for oxygen and that after the failure the airplane will descend, without exceeding its normal operational limitations, for altitudes that allow a safe flight with respect to the separation of the terrain.

121.333 Supplemental oxygen for emergency descents and first aid. Pressurized aircraft with turbine engines

(a) General. In operations with pressurized airplanes with turbine engines, the certificate holder must supply oxygen and its distribution devices, in order to meet the requirements of paragraphs (b) through (e) of this section in the event of a pressurization failure.

(b) Crew members. In operations at altitudes above 10,000 feet, the certificate holder must provide sufficient oxygen to comply with 121.329, but no less than a 2-hour supply for each crew member on duty in the cockpit. The supply required for 2 hours is that amount of oxygen needed during an airplane descent from its maximum certified operating altitude up to 10.000 feet, with a constant descent rate for 10 minutes, followed by 110 minutes of flight at 10,000 feet. The oxygen required by 121.337, in the event of a pressurization failure, can be included in determining the amount required for flight crew members in service in the cockpit.

(c) Use of oxygen mask by flight crew.

(1) In operations at altitudes above flight level 250, each flight crew member in service in the cockpit must have an oxygen mask designed to allow quick placement on the face and which, when placed, is firm and adjust to the face starting to supply oxygen on demand; the design of the mask must also allow that, when placed on the face, it does not prevent immediate intercommunication on the plane. The mask must be kept ready for use and located within the immediate reach of the crew member in his/her normal work station, when not in use;

(2) In operations at altitudes above flight level 250, a pilot in control of the airplane must put on and wear an appropriately adjusted oxygen mask and that supplies oxygen in accordance with the following:

(i) if flight crew members in service in the cockpit have individual quick-fit masks and the certificate holder demonstrates that they can be removed from their receptacles and placed on the face and are immediately operational, properly secured and adjusted, in 5 seconds and using only one hand, a pilot does not need to put on and wear the oxygen mask on flights below the following flight levels, including:

(A) for airplanes having a passenger configuration with more than 30 seats, excluding any crew member seats or a payload capacity greater than 7,500 pounds, below FL 410 inclusive;

(B) for airplanes having a passenger configuration with less than 31 seats, excluding any crew member seats or a payload capacity of 7,500 pounds or less, below FL 350 inclusive.

(ii) whenever a quick-fit oxygen mask is to be worn in accordance with this section, the certificate holder must demonstrate that the mask can be worn without disturbing the crew member's glasses and without delaying him/her in carrying out his/her duties in emergencies. Once in place, the mask cannot prevent immediate intercommunication between that crew member and the other crew members of the aircraft through the entire intercom system of the aircraft.

(3) notwithstanding paragraph (c)(2) of this section, if for any reason and at any time it is necessary for a pilot to leave his/her post at the controls of the airplane in operations above flight level 350 (FL350), the pilot remaining in the control must put on and wear his/her oxygen mask until the other pilot returns;

(4) Before take-off, each flight crew member must personally check his/ her oxygen equipment to make sure that the oxygen mask is working, fits properly, is connected to the terminals of the oxygen delivery device and that the amount and oxygen pressure are suitable for use.

(d) Use of portable oxygen equipment by flight attendants. Each flight attendant in operations above flight level 250 must carry portable oxygen equipment with a supply for at least 15 minutes, unless it is demonstrated that there is sufficient portable oxygen equipment with masks distributed throughout the passenger cabin or that there are spare oxygen masks and inlets throughout the cabin, which ensure immediate availability of oxygen to each flight attendant, regardless of their position when the cabin is depressurized.

(e) Passenger cabin occupants – In operations at altitudes above 10,000 feet, the following oxygen supply, for use by passenger cabin occupants, must be provided:

(1) an airplane of a type certified to operate at altitudes up to and including flight level 250, being able to safely descend, at any point on the route to be flown, to a flight altitude of 14,000 feet or less within 4 minutes, there must be oxygen for at least 10% of the passengers in the passenger cabin, supplied at the rate established by this regulation, for a period of 30 minutes;

(2) in operations below flight level 250, inclusive, when it is not possible to safely descend to an altitude of 14,000 feet in 4 minutes and in operations above flight level 250, oxygen must be available for not less than 10% of occupants, provided for the reason established by this regulation, during the entire flight time in which the cabin pressure altitude, after depressurization occurs, remains above 10,000 feet up to and including 14,000 feet. The oxygen must also be sufficient to comply with the provisions of paragraphs 121.329(c)(2) and (3) of this regulation, as applicable. However, in any case, the oxygen supply may be less than necessary to meet 10 minutes of supply for all passengers in the passenger cabin;

(3) to allow first aid to occupants who for physiological reasons may require pure oxygen after descent from cabin pressure altitudes above level 250, an oxygen supply must be provided in accordance with paragraph 25.1443(d) of RBAC 25, sufficient to supply during the entire flight time at cabin pressure altitudes above 8,000 feet, after the pressurization failure, to 2% of the occupants (minimum of 1 person). In order for flight attendants to apply this oxygen, the certificate holder must provide an appropriate number of distribution units, in no case less than 2.

(f) Passenger instructions – Before any flight to be conducted above flight level 250, a crew member should instruct passengers on the need to use oxygen in the event of a cabin depressurization, show them the location of the oxygen distribution units and demonstrate how to use them.

<u>121.335 Oxygen equipment</u> standard

(a) Airplanes with conventional engines. The oxygen apparatus, the minimum oxygen flow ratios and the amounts of oxygen to meet 121.327 must meet the standards established by the certifying authority, the standards set by section 4b.651 of the "Civil Air Regulations", being generally accepted on July 20, 1950, in the United States; however, if the certificate holder demonstrates that full compliance with such standards is impracticable, ANAC may authorize modifications to them as long as an equivalent level of security is provided.

(b) Airplanes with turbine engines. The oxygen apparatus, the minimum oxygen flow ratios and the amounts of oxygen to comply with 121.329 and 121.333 must meet the standards established by the certification authority, the standards set by section 4b.651 of the Civil Air Regulations being generally accepted, effective September 1, 1958, in the United States; however, if the certificate holder demonstrates that full compliance with such standards is impracticable, ANAC may authorize modifications to them as long as an equivalent level of security is provided.

121.337 Protective breathing equipment (PBE)

(a) The certificate holder must provide approved breathing protection equipment (PBE) meeting the equipment, breathing gas and communications requirements contained in paragraph (b) of this section.

(b) Airplanes with a pressurized or non-pressurized cabin. No one may operate a transport category aircraft unless protective breathing equipment is provided, meeting the requirements of this section, as follows:

(1) general. The equipment must protect flight crew members in service in the cockpit from the effects of smoke, carbon dioxide or other harmful gases, or from oxygen deficiency caused by reasons other than cabin depressurization. It must also protect crew members from the above effects when they are fighting fires on board the aircraft;

(2) the equipment must be regularly inspected in accordance with standards and inspection periods established by the equipment manufacturer, in order to ensure its conditions of continuous availability and immediate ability to fulfill its purposes in the event of an emergency. Inspection periods may be modified, provided that the certificate holder demonstrates that such modification will provide an equivalent level of security;

(3) the part of the equipment that protects the eyes cannot impair the user's vision to an extent that prevents him/her from performing his/ her duties as a crew member and must allow the use of glasses without impairing his/her vision and without losing the protection required by the paragraph (b)(1) of this section;

(4) the equipment, while in use, must allow flight crew to use the aircraft's radio equipment and communicate with each other, in their normal work stations, through the intercom system. The equipment must also allow the use of the intercom system between at least two cockpit stations and at least one flight attendant station in each area of the passenger cabin;

(5) the equipment, while in use, must permit any crew member to use the aircraft's intercom system, from any flight attendant post referred to in paragraph (b)(4) of this section;

(6) the equipment may also be used to meet supplemental oxygen requirements, provided that it meets the standards for oxygen equipment in section 121.335 of this regulation;

(7) the requirements for the duration of the breathing gas supply and the supply system of the breathing protection equipment are as follows:

(i) the equipment must supply breathing gas for 15 minutes, at a pressure altitude of 8,000 feet, to:

(A) flight crew on duty in the flight deck; and

(B) crew members fighting fire on board.

(ii) the breathing gas system must be safe in its construction, in its method of operation and in its possible effects on other components;

(iii) for breathing gas systems, other than chemical oxygen generators, there must be a means that allows the crew member to promptly determine, during the pre-flight of the equipment described in paragraph (c) of this section, whether the gas system is fully replenished;

(iv) the supply system for each chemical oxygen generator must meet the requirements of paragraphs 25.1450 (b) and (c) of RBAC 25.

(8) protection against smoke and vapors. Breathing protective equipment, with a fixed or portable breathing gas tank, meeting the requirements of this section, must be conveniently located in the cockpit and must be easily accessible for immediate use from the workstation of each of the required flight crew;

(9) fire fighting. Except for airplanes not included in the transport category, certified after December 31, 1964, breathing protective equipment, with portable breathing gas reservoir, meeting the requirements of this section, must be conveniently located and easily accessible for immediate use by crew members fighting fires as follows:

(i) a PBE for each portable fire extinguisher positioned to be used in a galley located in a location other than the passenger cabin or cargo compartment;

(ii) a PBE in the cockpit; however, another location may be allowed if special circumstances make such a location impractical and the proposed change can provide an equivalent level of security;

(iii) in each area of the passenger cabin, a PBE located within 90 cm (3 feet) of each portable fire extinguisher required by section 121.309 of this regulation. However, ANAC can authorize deviations from this requirement, allowing equipment to be located more than 90 cm (3 feet) away from a required portable fire extinguisher, if special circumstances make such a location impractical and the proposed location can provide an equivalent level of safety.

(c) Pre-flight of the equipment

(1) Before each flight, each PBE item, of each flight crew workstation, must be checked by the respective crew member, in order to ensure that:

(i) for systems other than those for chemical oxygen generation, the equipment is working, adjusts to the face properly (unless it is of the universal fit type), is connected to the supply terminals and the quantity and pressure of the breathable gas are suitable for use; and

(ii) for chemical oxygen generators, the equipment is working and ad-

justs to the face properly (unless it is of the universal fit type).

(2) each item of PEB equipment located in locations other than the flight deck must be checked by a designated flight crew member to ensure that each is properly stored and in operation and, for systems other than those for chemical oxygen generation, the breathable gas tank is completely full. Each certificate holder must designate, in its manual, at least one crew member to perform such checks before the first take-off of each day.

121.339 Emergency equipment for operations over large expanses of water

(a) Except when ANAC, due to a change in the certificate holder's operating specifications, requires the transportation on board of only some of the specific items listed below for operations over large extensions of water or, at the request of the certificate holder, ANAC allows deviations for a particular operation over large expanses of water, no certificate holder can operate an airplane in these operations without the aircraft having the following equipment on board:

(1) a life jacket equipped with an approved locator lamp for each occupant of the plane;

(2) lifeboats (each equipped with an approved locator lamp) with nominal floating capacity and sufficient seats to accommodate all occupants of the aircraft. Unless excess boats with sufficient capacity are provided, there must be sufficient nominal buoyancy and seating capacity to accommodate all occupants of the airplane in the event of the loss of the largest capacity boat on board the aircraft;

(3) at least one pyrotechnic signal for each boat;

(4) an emergency locator transmitter (ELT), portable or survival, which is in operational condition, which meets the requirements of paragraphs 91.207 (c) and (g) of RBAC No. 91. (Wording provided by Resolution No. 546, of March 18, 2020)

(b) The required survival boats, vests and radio equipment must be easily accessible in the event of a sea landing, without much time for preparatory procedures. Equipment must be installed, and clearly marked, in approved locations. (c) A survival kit, properly equipped for the route to be flown, must be placed inside each required boat. (Wording given by Resolution No. 468, of May 4, 2018)

(d) For the purposes of this section, overflying large expanses of water means overflying a point more than 370 km (200 nautical miles) away from the nearest mainland.

121.340 Required floating media

(a) Except as provided in paragraph (b) of this section, no one may operate an airplane in any operation on water unless it is equipped with life jackets in accordance with 121.339 (a)(1), or with another approved flotation device for each of its occupants. These devices must be within reach of each seated occupant and must be easily removed from the plane.

(b) At the request of the certificate holder, ANAC may approve the operation of an airplane over water without the life jackets or flotation devices required by paragraph (a) of this section, provided that the certificate holder demonstrates that the extent of water over which the airplane will operate is not of the size and depth that would require such equipment for the survival of the occupants in the event of a sea landing.

121.341 Equipment for operation in icy conditions

(a) Except as permitted in paragraph (c) (2) of this section, unless the airplane has been certified in accordance with the requirements of the transport category for protection against frost, or unless the airplane is an airplane not included in the transport category, of a type certified after December 31, 1964, which has ice protection provisions in accordance with section 34 of Appendix A of RBAC 135, no one can operate an airplane in icing conditions without it being equipped with devices to prevent the formation or de-icing of windshields, wings, warps, propellers and other parts where icing may adversely affect aircraft safety.

(b) No one may operate an airplane in icy conditions at night, unless means are available to light or otherwise determine the formation of ice on the most critical parts of the wing from that point of view. The lighting to be used must not cause glare or reflections that impair the performance of the crew's duties.

(c) Airplanes not included in the transport category certified after December 31, 1964. Except for an airplane that has ice protection provisions in accordance with section 34 of Appendix A of RBAC 135 or for those of a type certified in the transportation category, nobody can operate:

(1) IFR under known or expected conditions of light or moderate ice formation;

(2) VFR under known or expected conditions of light or moderate ice formation, unless the airplane has, in operation, de-icing/anti-icing equipment protecting each propeller, windshield, wing, stabilizer or control surface and each instrument system indicating speed, altitude, rate of climb and flight attitude; or

(3) under known or expected conditions of severe ice formation.

(d) If updated weather reports, or reliable information obtained from a briefing by the pilot-in-command, indicate that the predicted ice formation conditions that could prevent the flight will no longer be found due to changes in weather conditions occurring after the forecast time, the restrictions in paragraph (c) of this section, based on the forecast conditions, do not apply.

121.342 Pitot heating indication system

No one may operate a transport category aircraft or, after December 20, 2007, an aircraft not included in the transport category of type certified after December 31, 1964, which is equipped with a flight instrument system with a heated pitot tube, at unless it is also equipped with a system for indicating the functioning of said heating that complies with the provisions of section 25.1326 of RBAC 25, effective on April 12, 1978.

121.343 Flight data recorder

(a) Except as provided for in paragraphs (b), (c), (d), (e) and (f) of this section, no one may operate a large airplane of a type certified to operate above 25,000 feet in altitude or that has turbine engines, unless it is equipped with one or more approved flight data recorders, which record data from which the following information can be determined within the recording ranges, accuracy and intervals specified in Appendix B of this regulation:

- (1) time;
- (2) altitude;
- (3) speed;

(4) vertical acceleration;

(5) bow; and

(6) moment of each radio transmission between aircraft and air traffic control.

(b) No one may operate a large airplane, of a type certified until September 30, 1969, inclusive, for operations above 25,000 feet in altitude, or an airplane with turbine engines of a type certified before the same date, unless it is equipped, before May 26, 1989, with one or more approved flight data recorders that use digital techniques to record and retain data and which allow a prompt recovery of the data retained in the recording. The following information must be able to be determined within the ranges, accuracy and recording intervals specified in Appendix B of this regulation:

(1) time;

(2) altitude;

(3) speed;

(4) vertical acceleration;

(5) bow; and

(6) moment of each radio transmission between aircraft and air traffic control.

(c) No one may operate an airplane specified in paragraph (b) of this section unless it is equipped before May 26, 1994 with one or more approved flight data recorders, which use digital techniques to record and retain data and that allow a prompt recovery of the data retained in the recording. The following information must be able to be determined within the ranges, accuracy and recording intervals specified in Appendix B of this regulation:

(1) time;

(2) altitude;

(3) speed;

(4) vertical acceleration;

(5) bow;

(6) timing of each radio transmission between aircraft and air traffic control;

(7) pitching attitude;

(8) rolling attitude;

(9) longitudinal acceleration;

(10) position of the command column or the pitch control surface; and

(11) thrust of each engine.

(d) No one may operate an airplane specified in paragraph (b) of this section that was built after May 26, 1989, as well as an airplane specified in paragraph (a) of this section of type certified after September 30, 1969, unless that aircraft is equipped with one or more approved flight data recorders, which use digital techniques to record and retain data and which permit prompt recovery of the data retained in the recording. The following information must be able to be determined within the ranges, accuracy and recording intervals specified in Appendix B of this regulation:

(1) time;

(2) altitude;

(3) speed;

(4) vertical acceleration;

(5) bow;

(6) timing of each radio transmission between aircraft and air traffic control;

(7) pitching attitude;

(8) rolling attitude;

(9) longitudinal acceleration;

(10) position of the depth compensator;

(11) position of the command column or the pitch control surface;

(12) position of the steering wheel or the bearing control surface;

(13) position of the pedal or yaw control surface;

(14) thrust of each engine;

(15) position of each thrust reverser;

(16) position of the trailing edge flap or its control in the cockpit; and

(17) position of the leading edge flap or control in the cockpit.

For the purposes of this section, the date of manufacture of an airplane is the date on which the manufacturing inspection records show that the airplane was considered finished and in accordance with the approved type design.

(e) No one may operate a large aircraft equipped with a digital data bar and an ARINC 717 digital flight data acquisition unit (DFDAU), or equivalent, unless it is equipped with one or more approved flight data recorders, that use digital techniques to record and retain data and that allow a prompt recovery of the data retained in the recording. Any parameter specified in Appendix B of this regulation and which is available in the digital data bar must be recorded within the specified ranges, precision, resolutions and sampling intervals.

(f) No one may operate an airplane specified in paragraph (b) of this section that was built after that date, or an airplane specified in paragraph (a) of this section of a type certified after September 30, 1969 and manufactured after October 11, 1991, unless it is equipped with one or more flight data recorders that use digital techniques to record and retain data and allow for prompt recovery of the data retained in the recording. The parameters specified in Appendix B of this regulation must be recorded within the specified ranges, precision, resolutions and sampling intervals.

(g) Whenever a recorder required by this section is installed, it must be operated continuously at least from the moment the airplane begins the take-off run until the moment it completes the landing run at an airport.

(h) Except as provided in paragraph (i) of this section and except for recordings deleted as authorized by this paragraph, each certificate holder must retain the recordings set out in paragraphs (a), (b), (c) or (d) of this section, as appropriate, for at least 25 hours of the operating time specified in 121.359 (a). A total of 1 hour of recording can be erased for the purpose of testing the flight recorder or the recorder system. Data deleted in accordance with this paragraph must be the oldest data existing at the time of testing. Except as provided in paragraph (i) of this section, no recording needs to be kept for more than 60 days.

(i) In the event of an accident or occurrence that requires immediate notification by the operator and that results in the end of the flight, the certificate holder must remove the recording from the airplane and retain the recorded data required by paragraphs (a), (b), (c) or (d) of this section, as appropriate, for a period of 60 days, unless a longer period is determined by ANAC.

(j) Each flight data recorder required by this section must be installed in accordance with the requirements of section 25.1459 of RBAC 25, effective August 31, 1977. The correlation required by paragraph 25.1459 (c) needs to be established only in 1 plane of any group of planes:

(1) that are of the same type;

(2) in which the model of the flight recorder and its installation are identical;

(3) in which there is no difference in the type design with respect to the installation of the first pilot's instruments associated with the flight recorder. The most recent sensor calibration, including the recording from which this calibration was derived, must be retained by the certificate holder.

(k) Each flight recorder required by this section, recording the data specified in paragraphs (a), (b), (c) or (d) of this section, as appropriate, must have an approved device to assist its location when submerged.

<u>121.344 Digital flight data</u> recorders for transport category <u>airplanes</u>

(a) Except as provided in paragraph (l) of this section, no one may operate a turbine-powered transport aircraft under this regulation unless it is equipped with one or more approved flight data recorders that use digital recording techniques and retain data and a method for promptly retrieving the data retained on the recording. The operational parameters to be recorded by the digital flight data recorders are as follows. The phrase "when the information source is installed" following a parameter indicates that a modification to the installed equipment is not required just to record that parameter.

(1) time;

(2) altitude;

(3) speed;

(4) bow – primary reference of the crew (if selectable, record discreet: true or magnetic);

(5) normal (vertical) acceleration;

(6) pitching attitude;

(7) rolling attitude;

(8) manual override of the radio transmitter or CVR/DFDR synchronization reference;

(9) thrust/power of each engine – the crew's primary reference;

(10) autopilot engagement situation

(11) longitudinal acceleration;

(12) triggering the pitch control;

(13) activation of the bearing control;

(14) activation of the steering pedal;

(15) position of the primary pitch control surface;

(16) position of the primary lateral control surface;

(17) position of the primary yaw control surface;

(18) lateral acceleration;

(19) position of the depth compensator surface or the parameters of paragraph (a) (82) of this section if currently recorded;

(20) position of the trailing edge flap or its control in the cockpit (except when the parameters of paragraph (a)(85) of this section apply);

(21) position of the leading edge flap or its control in the cockpit (except when the parameters of paragraph (a)(86) of this section apply);

(22) position of each thrust reverser (or equivalent for propeller planes);

(23) selection of the ground spoiler or aerodynamic brake (except when the parameters of paragraph (a)(87) of this section apply);

(24) total air temperature or outside air temperature;

(25) modes and engagement status of the Automatic Flight Control System (AFCS), including "autothrottle";

(26) radio altitude (when the information source is installed);

(27) deviation from the "localizer", azimuth from the MLS;

(28) deviation from the "glideslope", elevation of the MLS;

(29) passage through the marker beacon;

(30) general alarm ("master warning");

(31) air/ground sensor (primary system of the airplane: main landing gear or mouthpiece);

(32) angle of attack (when the information source is installed);

(33) low hydraulic pressure (each system);

(34) ground speed (when the information source is installed);

(35) ground proximity warning system (GPWS);

(36) position of the landing gear or its control in the cockpit;

(37) drift angle (when the information source is installed);

(38) wind direction and speed (when the information source is installed);

(39) latitude and longitude (when the information source is installed);

(40) "stick shaker/pusher" (when the information source is installed);

(41) windshear – windshear (when the information source is installed);

(42) position of the levers;

(43) additional engine parameters (as designated in Appendix M of this regulation);

(44) collision prevention embedded system – ACAS;

(45) DME 1 and 2 distances;

(46) frequencies selected in Nav 1 and Nav 2;

(47) adjustment of the selected altimeter (when the information source is installed);

(48) selected altitude (when the information source is installed);

(49) selected speed (when the information source is installed);

(50) on the selected Mach (when the information source is installed);

(51) selected vertical speed (when the information source is installed);

(52) selected bow (when the information source is installed);

(53) selected flight path (when the information source is installed);

(54) decision height -DH- selected (when the information source is installed);

(55) EFIS presentation format (when the information source is installed);

(56) format for displaying the multiple alert device (when the information source is installed);

(57) thrust control (when the information source is installed);

(58) desired thrust (when the information source is installed);

(59) amount of fuel in the compensation tank (when the information source is installed);

(60) primary system for navigation reference;

(61) ice (when the information source is installed);

(62) vibration alarm for each engine (when the information source is installed);

(63) over-temperature alarm for each engine (when the information source is installed);

(64) low oil pressure alarm for each engine (when the information source is installed);

(65) engine overrun alarm (when the information source is installed);

(66) position of the steering compensator surface;

(67) position of the bearing compensator surface;

(68) brake pressure (selected system);

(69) application of the brake pedal (right and left);

(70) angle of skidding or skidding (when the information source is installed);

(71) position of the engine bleed valve (when the information source is installed);

(72) selection of anti-icing or de-icing systems (when the information source is installed);

(73) computed center of gravity (when the information source is installed);

(74) status of the AC electric bar;

(75) status of the DC electric bar;

(76) position of the APU bleed valve (when the information source is installed);

(77) hydraulic pressure (each system);

(78) loss of pressure in the cabin;

(79) computer failure;

(80) "Heads-up" display (when the information source is installed);

(81) "para-visual" display (when the information source is installed);

(82) position of the pitch compensator command in the cockpit;

(83) position of the bearing compensator command in the cockpit;

(84) position of the steering compensator command in the cockpit;

(85) position of the trailing edge flaps and their control in the cockpit; (86) position of the leading edge flaps and their control in the cockpit;

(87) position of the ground spoiler and selection of the aerodynamic brake;

(88) all the command forces of the cockpit controls (steering wheel, column and pedals);

(89) status of the Yaw damper;

(90) command of the Yaw damper;

(91) Standby Rudder valve status.

(b) For all transport category airplanes with turbine engines manufactured until October 11, 1991, on August 20, 2005:

(1) on airplanes not equipped by July 16, 1996 with a flight data acquisition unit (FDAU), the parameters listed in paragraphs (a)(1) through (a)(18) of this section must be recorded within the ranges and precision specified in Appendix B of this regulation, and:

(i) on airplanes with more than two engines, the parameter described in paragraph (a)(18) is not required, unless the existing recorder has sufficient capacity to record it;

(ii) the parameters listed in paragraphs (a)(12) through (a)(17) can be recorded, each from a single source.

(2) on airplanes equipped until July 16, 1996 with a flight data acquisition unit (FDAU), the parameters listed in paragraphs (a)(1) to (a)(22) of this section must be recorded within the ranges, accuracy and recording intervals specified in Appendix M of this regulation. The parameters listed from (a)(12) to (a)(17) can be recorded, each from a single source;

(3) the approved flight data recorders required by this section must be installed as soon as practicable, but not later than the next major maintenance inspection to be carried out between August 18, 2003 and August 20, 2005. Any schedule that keeps the aircraft out of service for 4 days or more and includes access to large structural components is considered a major maintenance inspection.

(c) For all transport category airplanes with turbine engines manufactured until October 11, 1991:

(1) which are equipped on July 16, 1996 with one or more digital data bars and an ARINC 717 digital flight data acquisition unit (DFDAU) or equivalent, the parameters specified in paragraphs (a)(1) to (a)(22) of this section must be recorded within the ranges, precision, resolutions and recording intervals specified in Appendix M of this regulation on August 20, 2005. The parameters listed from (a) (12) to (a)(14) can be recorded, each from a single source;

(2) in proportion to the capacity of the recording system (DFDAU or equivalent and DFDR), all additional parameters for which information sources are installed and linked to the recording system must be recorded within the recording ranges, precision, resolutions and intervals specified in Appendix M of this regulation on August 20, 2005;

(3) subject to 121.343 (e) of this regulation, all conditions of 121.343 (e) must continue to be met until compliance with paragraph (c)(1) of this section.

(d) For all transport category airplanes with turbine engines manufactured after October 11, 1991:

(1) the parameters listed in paragraphs (a)(1) to (a)(34) of this section must be recorded within the ranges, precision, resolutions and recording intervals specified in Appendix M of this regulation on August 20, 2005. The parameters listed from (a)(12) to (a)(14) can be recorded, each from a single source;

(2) proportionally to the capacity of the recording system, all additional parameters for which information sources are installed and connected to the recording system must be recorded within the ranges, accuracy, resolutions and recording intervals specified in Appendix M of this regulation on August 20, 2005.

(e) For all transport category airplanes with turbine engines manufactured after August 18, 2000:

(1) the parameters listed in paragraphs (a)(1) to (a)(57) of this section must be recorded within the ranges, precision, resolutions and recording intervals specified in Appendix M of this regulation;

(2) in proportion to the capacity of the recording system, all additional parameters for which information sources are installed and connected to the recording system must be recorded within the ranges, precision, resolutions and recording intervals specified in Appendix M of this regulation.

(f) For all transport category airplanes with turbine engines manufactured after August 19, 2002, the parameters listed in paragraphs (a)(1) to (a)(88) of this section must be recorded within the ranges, precision, recording resolutions and intervals specified in Appendix M of this regulation.

(g) Whenever a flight data recorder required by this section is installed, it must be operated continuously from the moment the airplane starts the take-off run until the landing run is complete.

(h) Except as provided in paragraph (i) of this section and except for recordings deleted as authorized by this paragraph, each certificate holder must retain the recordings set out in this section, as appropriate, for at least 25 hours of the operating time specified in 121.359 (a). A total of 1 hour of recording can be erased for the purpose of testing the flight recorder or the recorder system. Any erasure made in accordance with this paragraph must be of the oldest data existing at the time of the test. Except as provided in paragraph (i) of this section, no recording needs to be kept for more than 60 days.

(i) In the event of an accident or occurrence that requires immediate notification by the operator and that results in the end of the flight, the certificate holder must remove the airplane recording and retain the recorded data required by this section, as appropriate, for a period of 60 days, unless a longer period is determined by ANAC.

(j) Each flight recorder required by this section must be installed in accordance with the requirements of paragraphs 25.1459 (a), (b), (d) and (e) of RBAC 25. A correlation must be established between the values recorded by the flight data recorder and the corresponding values being measured. The correlation must contain a sufficient number of points to allow an accurate conversion of the values recorded in engineering units or discrete values, over the entire operating range of the parameter. Except for airplanes having separate speed and altitude sensors that are an integral part of the flight data recording system, a single correlation can be established for a group of airplanes:

(1) that are of the same type;

(2) in which the model of the flight recorder and its installation are identical;

(3) in which there is no difference in the type design with respect to the installation of the sensors associated with the flight data recorder system. Sufficient documentation to convert recorded data into engineering units or discrete values specified in the applicable appendix must be kept by the certificate holder.

(k) Each flight recorder required by this section must have an approved device to assist its location when submerged.

(I) The following airplanes that were manufactured before August 18, 1997 do not need to comply with this section but must continue to comply with the applicable paragraphs of 121.343 of this regulation, as appropriate:

(1) airplanes that meet the noise level requirements of chapter 2 of RBAC 36 (ICAO Annex 16) and that are subject to paragraph 91.805 (b) of RBAC 91, until January 1, 2005. On or after January 1, 2005, any Stage 2 aircraft authorized to operate by RBAC 91 must comply with the applicable flight data recorder requirements of this section for the aircraft involved;

(2) British Aerospace 1-11, General Dynamics Convair 580, General Dynamics Convair 600, General Dynamics Convair 640, deHavilland Aircraft Company Ltd. DHC-7, Fairchild Industries FH 227, Fokker F-27 (except Mark 50), F- 28 Mark 1000 and Mark 4000, Gulfstream Aerospace G-159, Jetstream 4100 series, Lockheed Aircraft Corporation Electra 10-A, Lockheed Aircraft Corporation Electra 10-B, Lockheed Aircraft Corporation Electra 10-E, Lockheed Aircraft Corporation Electra L-188, Lockheed Martin Model 382 (L-100) Hercules, Maryland Air Industries Inc. F27, Mitsubishi Heavy Industries, Ltd YS-11, Short Bros. Limited SD3-30 and Short Bros. Limited SD3-60. (Wording given by Resolution No. 334, of 07.01.2014)

(m) All aircraft manufactured after April 7, 2012 subject to the requirements of this section must have a digital flight data recorder installed that:

(1) meets the requirements of paragraphs 25.1459 (a)(3), (a)(7) and (a)(8) of RBAC 25;

(2) keep the 25 hours of recording required by paragraph (h) of this section with a recorder that meets the standards established by TSO-C124a, or more recent version.

(n) In addition to any other requirement in this section, all Boeing 737 aircraft manufactured after August 18, 2000 must record the parameters listed in paragraphs (a)(88) through (a)(91) of this section with the ranges, accuracy, resolution and recording intervals specified in Appendix M of this regulation. Compliance with this paragraph is mandatory as of January 4, 2015.

<u>121.344a Digital flight data</u> recorders for 10 to 19 passenger <u>seats</u>

(a) Except as provided for in paragraph (f) of this section, no one may operate under this regulation an airplane with turbine engines that has a seating configuration of 10 to 19 for passengers, excluding any seat required for crew members, after October 11, 1991, unless it is equipped with one or more flight data recorder that uses a digital method of recording and storing data and that can be readily accessed on the storage media. Until August 20, 2001, airplanes registered in Brazil after October 11, 1991 must meet the requirements of this section or the applicable paragraphs of section 135.152 of RBAC 135. In addition, on August 20, 2001, they must meet the following requirements.

(1) the parameters listed in paragraphs 121.344 (a)(1) through 121.344 (a)(18) of this regulation must be recorded with the ranges, precision and resolutions specified in Appendix B of RBAC 135, except that:

(i) each parameter listed in paragraphs 121.344 (a)(12) and (a)(15) of this regulation must be recorded; each parameter listed in paragraphs 121.344 (a)(13) and (a)(16) of this regulation must be recorded; and each parameter listed in paragraphs 121.344 (a)(14) and (a)(17) of this regulation must be recorded;

(ii) for airplanes with more than 2 engines, the parameter described in paragraph 121.344 (a)(18) of this regulation must be recorded if there is sufficient data storage capacity in the existing recorder;

(iii) parameters listed in paragraphs121.344 (a)(12) through 121.344 (a)(17) of this regulation can be recorded from a single source;

(iv) any parameter for which there is no value described in Appendix B of RBAC 135 must be recorded with the ranges, precision and resolutions specified in Appendix M of this regulation.

(2) proportionally to the capacity of the recording system (FDAU or equivalent and DFDR), the parameters listed in paragraphs 121.344 (a)(19) to 121.344 (a)(22) of this regulation must be recorded with the ranges, accuracy, resolutions and recording intervals specified in Appendix B of RBAC 135;

(3) The flight data recorder approved under this section must be installed as soon as practicable, but not after the next major maintenance or equivalent after August 18, 1999. It is considered major maintenance when the aircraft is scheduled to remain outside of service for more than 4 days and inspection of the main structural component is scheduled.

(b) Airplanes with turbine engines, having a configuration for passengers with less than 10 to 19 seats, excluding any crew member seats, which were manufactured after August 18, 2000, must meet the following requirements:

(1) the parameters listed in paragraphs 121.344 (a)(1) through 121.344 (a)(57) of this regulation must be recorded with the ranges, precision and resolutions specified in Appendix M of this regulation;

(2) In proportion to the capacity of the recording system, all additional parameters listed in paragraphs 121.344 (a) of this regulation for which sensors are installed and which are connected to the recording system, must be recorded with the ranges, accuracy, resolutions and sampling intervals specified in Appendix M of this regulation on August 20, 2001.

(c) All airplanes with turbine engines, having a configuration for passengers with less than 10 to 19 seats, excluding any crew member seats, which were manufactured after August 19, 2002, must record the parameters listed in paragraphs 121.344 (a)(1) up to 121.344 (a)(88) of this regulation with the ranges, accuracy, resolutions and recording intervals specified in Appendix M of this regulation.

(d) Each flight data recorder system required for this section must be installed in accordance with the requirements of paragraphs 23.1459 (a), (b), (d) and (e) of RBAC 23. A correlation must be established between the values recorded by the flight data recorder and the corresponding values being measured. The correlation must contain a sufficient number of correlation points to accurately establish the conversion of the recorded values to engineering units or discrete values over the total operating range of the parameter. A simple correlation can be established for any group of planes that:

(1) are of the same type;

(2) in which the recording system and its installation are the same; and

(3) in which there is no difference in the type design with respect to the installation of those sensors associated with the flight data recording system. Correlation documentation must be maintained by the certificate holder.

(e) All aircraft under this section are also subject to the requirements and exceptions listed in paragraphs 121.344 (g) through 121.344 (k) of this regulation.

(f) For airplanes that were manufactured before August 18, 1997, the following types of airplanes do not need to comply with this section, but must continue to comply with the applicable paragraphs of section 135.152 of RBAC 135, as appropriate: Beech Aircraft-99 Series, Beech Aircraft 1300, Beech Aircraft 1900C, Construcciones Aeronáuticas, SA (CASA) C-212, deHavilland DHC-6, Dornier 228, HS-748, Embraer EMB 110, Jetstream 3101, Jetstream 3201, Fairchild Aircraft SA-226, Fairchild Metro SA-227.

(g) All airplanes subject to the requirements of this section that are manufactured after April 7, 2012 must have a digital flight data recorder installed that also:

(1) meet the requirements of paragraphs 23.1459 (a)(3), (a)(6) and (a)(7) of RBAC 23 or paragraphs 25.1459 (a) (3), (a)(7) and (a)(8) of RBAC 25, as applicable; and

(2) retain the 25 hours of recorded information required in paragraph 121.344 (g) using a recorder that meets the standards set out in TSO-C124a, or later review.

121.345 Radio Equipment

(a) No one may operate an aircraft unless it is equipped with the radio equipment required for the characteristics of the operation being performed. (Wording given by Resolution No. 526, of 08.06.2019) (b) When two radio equipment (complete and separate) are required by 121.347 and 121.349, each system must have an independent antenna installation. However, when using a rigidly supported antenna or other types of identical reliability there is no need for duplication.

(c) ATC transponder equipment installed within the time periods indicated below must meet the environmental requirements of the following OTP (TSO):

(1) until January 1, 1992:

(i) any class of OTP (TSO)-C47b or C47c, as appropriate, provided the equipment was manufactured before January 1, 1990; or

(ii) the appropriate OTP class (TSO)-C112 (Mode S).

(2) after January 1, 1992: The appropriate class of OTP (TSO)-C112 (Mode S). For the purposes of this paragraph (c)(2), "installation" does not include:

(i) temporary installation of substitute OTP (TSO)-C47b or C47c equipment, as appropriate, while maintaining appropriate equipment;

(ii) reinstallation of the appropriate equipment after temporary removal for maintenance; or

(iii) for fleet operation, installation of the equipment in an aircraft of the fleet after removal of this equipment from another aircraft, of the same fleet, for maintenance.

121.347 Radio equipment required for VFR operations on routes where contact navigation is authorized

(a) No one may operate an aircraft on daytime VFR navigation, on routes where contact navigation is authorized, unless the aircraft is equipped with necessary radio equipment, under normal operating conditions, to fully meet the following:

 communicate with at least one appropriate ground station at any point on the route;

(2) communicate with ATC stations from any point within the side limits of Class B, Class C, Class D or Class E airspaces designated for an airport to which it is intended to fly;

(3) receiving weather information at any point on the route through any of two independent systems. One of the equipment provided to comply with this subparagraph can also be used to comply with paragraphs (a) (1) and (a)(2) of this section.

(b) No one may operate an airplane on VFR night navigation, on routes where night contact navigation is authorized, unless the airplane is equipped with necessary radio equipment, under normal operating conditions, to fully comply with the functions specified in paragraph (a) of this section and to receive radio navigation signals applicable to the route to be flown, except that marker beacon or ILS receivers are not required.

<u>121.349 General requirements for</u> navigation and communications equipment

(a) No one may conduct operations under VFR conditions on routes where contact navigation is not possible or under IFR conditions unless:

(1) the navigation aids required by the airplane along the route (for example, ATS, departure and arrival routes, and instrument approach procedures, including missed approach procedures, if a missed approach route is specified in the procedure) are available and suitable for use by the aircraft's navigation system required by this section;

(2) the airplane used in these operations is equipped with at least:

(i) except as provided for in letter (c) of this section, two approved independent navigation systems suitable for navigation on the route to be flown within the degree of accuracy required by the ATC;

(ii) a marker beacon receiver that provides visual and aural signals; and

(iii) an ILS receptor.

(3) any RNAV system used to meet the navigation equipment requirements in this section is authorized in the Operating Specifications of the certificate holder;

(b) Communication Equipment Requirements. No one can operate an airplane under VFR conditions on routes that cannot be navigated by contact and no one can operate an airplane under IFR conditions unless it is equipped with:

(1) at least two independent communication systems necessary to fully meet the conditions specified in paragraph 121.347 (a) under normal operating conditions; and (2) at least one communication system required by paragraph (b)(1) of this section has bilateral communication capability.

(c) Use of a single independent navigation system for operations under VFR conditions on routes that cannot be navigated by contact or under IFR conditions. Notwithstanding the requirement of paragraph (a)(2)(i) of this section, the airplane may be equipped with a single independent navigation system suitable for the route to be flown within the degree of precision required by the ATC, if:

(1) it can be shown that the airplane is equipped with at least one other suitable independent navigation system, in the event of loss of the capacity of the single independent navigation system permitted by this paragraph at any point along the route, to proceed safely to a suitable airport and complete an instrument approach; and

(2) the airplane has sufficient fuel to safely proceed to a suitable airport using the remaining navigation system, and to complete an approach and instrument landing.

(d) Use of VOR Navigation Equipment. If VOR navigation equipment is used to comply with paragraph (a) or (c) of this section, no one may operate an airplane unless it is equipped with at least an approved DME or an appropriate RNAV system.

(e) Additional Communication System Equipment Requirements for operators covered by paragraph 121.2 of this regulation. In addition to the requirements of paragraph (b) of this section, no one may operate an airplane that has a configuration of 10 to 30 passenger seats, excluding any crew member seats, and a payload capacity of 7500 pounds or less, under IFR conditions or over large expanses of water unless it is equipped with at least:

(1) two microphones;

(2) two headphones or a headset and a speaker.

(f) No one may operate an airplane on an IFR flight unless it is equipped with the necessary radio equipment, under normal operating conditions, to fully meet the functions specified in 121.347(a) and to receive, satisfactorily, by anyone from two independent radio navigation systems, signals from all primary ATC navigation and en route stations to be used.

However, only a marker beacon receiver is required providing visual and audible signals and an ILS receiver. The equipment provided for receiving en-route signals may be used to receive approach signals, provided that it is capable of receiving both signals.

<u>121.351 Radio equipment for</u> operation over large expanses of water and for other operations

(a) Except as provided for in paragraph (c) of this section, no one may conduct an operation over large expanses of water unless the aircraft is equipped with the radio equipment necessary to service 121.349, an independent system that meets 121.347 (a)(1) and two long-range navigation systems when VOR or ADF equipment is not usable along a portion of the route.

(b) If ANAC considers that the equipment specified in paragraph (a) of this section is necessary for search and rescue operations in view of the land to be overflown, no certificate holder may conduct operations on remote or uninhabited areas without such equipment.

(c) Notwithstanding the requirements of paragraph (a) of this section, the use of a single long-range navigation system (LRNS) and a single long-range communications system (LRCS) may be authorized by ANAC and approved in the operating specifications of the certificate holder for certain routes and certain geographical areas. The following operational factors are among the considerations to be made for such approval:

(1) the ability of the crews to reliably determine the aircraft's position within the degree of accuracy required by the ATC;

 (2) the length of the route being flown and the level of navigation performance required for the route ("Required Navigation Performance" - RNP); and

(3) the duration of the stretches with no VHF radio contact.

(d) For the purposes of this section, overflying large expanses of water means overflying a point more than 370 km (200 nautical miles) away from the nearest mainland.

<u>121.353 Emergency equipment for</u> <u>operation on uninhabited terrain; all</u> <u>operations</u>

(a) Unless the aircraft has the equipment listed below on board, no one may conduct an operation under this regulation in any area where, at the discretion of ANAC and as set out in the certificate holder's operating specifications, such equipment is necessary to search and rescue in the event of an accident:

(1) appropriate pyrotechnic signaling device;

(2) sufficient survival kits, appropriately equipped for the route to be flown and the number of occupants of the plane. (Wording given by Resolution No. 526, of 08.06.2019)

121.354 Ground proximity perception and alarm system

(a) Airplanes manufactured after March 29, 2002. No one may operate an airplane with turbine engines unless it is equipped with an approved ground perception and alarm system that meets the requirements for OTP Class A (TSO)-C151 equipment (equipment provided with the ground detection function in front of the plane). The airplane must also have an approved display showing the position on the ground of the points perceived by the system.

(b) Airplanes manufactured on or before March 29, 2002. After December 31, 2005, no one may use an airplane with turbine engines in international operations, unless the airplane is equipped with an approved perception system and ground proximity alarm that meets the requirements for OTP Class A (TSO)-C151 equipment (equipment provided with the ground detection function in front of the aircraft). The airplane must also have an approved display showing the position on the ground of the points perceived by the system. For operations exclusively within Brazil, the above term extends to December 31, 2009.

(c) Approved Flight Manual. The Approved Flight Manual (CFM) must contain appropriate procedures for:

(1) the use of the ground proximity perception and alarm system; and

(2) appropriate procedures for flight crew in response to visual and audible alerts from the ground proximity perception and alarm system.

121.355 Equipment for operations in which specialized means of navigation are used

(a) No certificate holder may conduct an operation:

- (1) outside Brazilian territory using Doppler radar or inertial navigation system (INS), unless such systems have been approved in accordance with Appendix G of this regulation; or
- (2) within Brazilian territory using the provisions of the previous paragraph or a specialized navigation system that is authorized for that particular operation.

(b) Notwithstanding paragraph (a) of this section, Doppler radar and inertial navigation system, training programs, maintenance programs, material relevant to the operations manual and the minimum equipment list (MEL) prepared in accordance with the same, but with approval prior to April 29, 1972, need not be approved as required by that paragraph.

121.356 Embedded collision prevention system (ACAS)

As of January 1, 2005, any aircraft operated under this regulation must be equipped and operated according to the following table:

[TABLE DELETED FROM THIS VERSION]

121.357 Requirements for onboard weather radar

(a) No one may operate any transport category airplane (except type C-46 aircraft) or an airplane not included in the transportation category of type certified after December 31, 1964, unless approved weather radar equipment has been installed on the airplane.

(b) [reserved].

(c) Each person operating an aircraft on which an installed weather radar is required, when flying that aircraft under this regulation, must comply with the following:

(1) dispatch. No one can dispatch an airplane (or start flying an airplane in the case of a certificate holder who does not use a dispatch system) on a night VFR or IFR flight if known weather information or forecasts indicate thunderstorms or other potentially dangerous weather phenomena, capable of being detected by an onboard weather radar, are expected along the route to be flown, unless the plane's weather radar is in satisfactory operating conditions;

(2) if the weather radar becomes inoperative en route, the aircraft must be operated in accordance with the instructions and procedures approved for such an event.

(d) This section does not apply to training, test or ferry flights.

(e) Notwithstanding any other provision of this regulation, an alternative source of electrical energy specific to the weather radar is not required.

121.358 Requirements for low altitude windshear detection system

(a) Airplanes manufactured after November 30, 1993. No one may operate an airplane with jet engines manufactured after November 30, 1993 unless it has an approved windshield alarm and flight guidance system on board, or an approved windshear detection and avoidance system, or an approved combination of these systems.

(b) Airplanes manufactured before December 1, 1993. Except as provided in paragraph (c) of this section, after November 30, 1993, no one can operate an airplane with jet engines manufactured before December 1, 1993 unless one of the following requirements is met, as applicable:

(1) the brands/models/series listed below must have on board an approved windshear alarm and flight guidance system, or an approved windshear detection and avoidance system, or an approved combination of these systems:

- (i) A 300 600;
- (ii) A 310 all series;
- (iii) A 320 all series;
- (iv) B 737 300, 400 and 500 series;
- (v) B 747 400;
- (vi) B 757 all series;
- (vii) B 767 all series;
- (viii) F 100 all series;
- (ix) MD 11 all series; and

(x) MD - 80 - series equipped with EFIS and Honeywell-970 digital flight guidance system. (2) all other aircraft with jet engines not listed above must have on board at least one approved windshear alarm system. These airplanes may also have an approved windshear detection and avoidance system on board, or an approved combination of these systems.

121.359 Voice recorders in the cockpit

(a) No certificate holder may operate a large aircraft with turbine engines or a large pressurized aircraft with four conventional engines, unless an approved voice recorder is installed on that aircraft and is operated continuously from the beginning of the use of the checklist (before engines start for the purpose of flying) to the end of the checklist at the end of the flight.

(b) [Reserved].

(c) The cabin voice recorder required by this section must meet the following standards:

(1) the requirements equivalent to RBHA 25 in effect on August 31, 1977;

(2) after September 1, 1980, each recorder box must:

(i) be yellow or bright orange in color;

(ii) have reflective tape affixed to its external surface to facilitate its location under water; and

(iii) have an approved device for locating under water, fixed in its box or adjacent to it, so that it is not possible to separate the two in a forced landing. If the voice recorder and the flight recorder required by 121.343 or 121.344 are installed adjacent to each other, so as not to separate in an accident, an underwater locator for both is sufficient.

(d) No one may operate a multi-engine airplane with turbine engines having a 10 to 19-seat passenger configuration unless it is equipped with an approved voice recorder that:

(1) is installed in accordance with 23.1457 (a)(1) and (2), (b), (c), (d), (e), (f) and (g); 25.1457 (a)(1) and (2), (b), (c), (d), (e), (f) and (g) as applicable; and

(2) is operated continuously from the beginning of the use of the checklist (before the start of the engines for the purpose of flying) until the end of the checklist at the end of the flight.

(e) No one may operate a multi-engine airplane with turbine engines having a passenger configuration of 20 to 30 seats unless it is equipped with an approved voice recorder that:

(1) is installed in accordance with section 23.1457 of RBAC 23 (except paragraphs (a)(6), (d)(1)(ii), (4) and (5)) or with section 25.1457 of RBAC 25 (except for paragraphs (a)(6), (d)(1)(ii), (4) and (5)), as applicable; and (Word-ing given by Resolution No. 334, of 07.01.2014)

(2) is operated continuously from the beginning of the use of the checklist (before the start of the engines for the purpose of flying) until the end of the checklist at the end of the flight.

(f) The voice recorder required by this section may have an automatic system for deleting previous recordings, provided that the information recorded in the last 30 minutes of operation is preserved.

(g) For those airplanes equipped to continuously record audio signals received by a labiophone or mask microphone, flight crew members must use such microphones whenever flying below 18,000 feet in altitude. No one may operate a large aircraft with turbine engines or a large pressurized aircraft with four conventional engines manufactured after October 11, 1991 or in which a voice recorder in the cockpit was installed after that same date, unless it is equipped to record uninterrupted audio signals received from a labiophone or mask headset in accordance with paragraph 25.1457 (c)(5) of RBAC 25.

(h) In the event of an accident or an occurrence requiring immediate information to ANAC and resulting in the termination of the flight, the certificate holder must remove the recording and keep it for at least 60 days, unless a longer period is determined. Information obtained from the recording can be used as an aid in determining causes of accidents in connection with aviation accident investigations. ANAC does not use data from recordings in administrative proceedings or for legal purposes.

(i) By April 7, 2012, all aircraft with turbine engines subject to this section that were manufactured before April 7, 2010 must have a voice recorder installed in the cockpit that additionally meets the following requirements:

(1) the requirements of paragraphs 23.1457 (d)(6) of RBAC 23 or 25.1457 (d)(6) of RBAC 25, as applicable;

(Wording given by Resolution No. 334, of 07.01.2014)

(2) retain, at least, the last 2 (two) hours of the recorded information using a recorder that meets the standards of TSO-C123a or last revision; and (Wording given by Resolution No. 334, of 07.01.2014)

(3) is operated continuously from the use of the checklist before the flight until the use of the checklist at the end of the flight;

(4) if the airplane is certified in the transport category, meet the requirements of paragraphs 25.1457 (a)(3), (a)(4) and (a)(5) of the RBAC 25.

(j) All airplanes with turbine engines subject to this section that have been manufactured as of April 7, 2010, inclusive, must have a voice recorder installed in the cockpit that additionally meets the following requirements: (Wording given by Resolution No. 334, of 07.01.2014)

(1) the requirements of paragraphs 23.1457 of RBAC 23 or 25.1457 of RBAC 25, as applicable;

(2) retain, at least, the last 2 (two) hours of the recorded information using a recorder that meets the standards of TSO-C123a or last revision; and

(3) is operated continuously from the use of the checklist before the flight until the use of the checklist at the end of the flight;

(k) All airplanes for which it is required to have a voice recorder in the cockpit and a flight data recorder by this regulation that have installed communication equipment by data link after April 7, 2012 must record all data link messages as required by the certification regulations applicable to the aircraft. (Wording given by Resolution No. 334, of 07.01.2014)

121.360 [Reserved]

SUBPART L MAINTENANCE, PREVENTIVE MAINTENANCE, MODIFICATIONS AND REPAIRS

121.361 Applicability

(a) Except as provided for in paragraph (b) of this section, this subpart establishes maintenance, preventive maintenance, modifications and repairs requirements applicable to all certificate holders.

(b) ANAC may amend the operating specifications of a certificate holder to allow deviations from the provisions of this subpart that would prevent the return to service of cell components, engines, equipment and spare parts because such items have been subjected to maintenance, modification or inspection abroad and, consequently, by people not gualified by ANAC for such services. Each certificate holder using items in these conditions must ensure that all work on them has been performed in accordance with the standards in its manual or, at least, in accordance with the standards of the manufacturer of the item

121.362 Facilities and resources for maintenance, preventive maintenance, modifications and repairs

(a) Until February 26, 2022, the set of resources and facilities for maintenance, preventive maintenance, modifications and repairs owned and/or contracted by the certificate holder cannot be less than the set of facilities and resources for maintenance, preventive maintenance. modifications and repairs required by RBAC 145 to certify an approved aeronautical workshop to perform maintenance, preventive maintenance, modifications and repairs on the same types of equipment operated by the certificate holder. The scope of this section includes the certificate holder's inspection system, where applicable, which cannot be less than that required by RBAC 145. (Wording given by Resolution nº 612, of 03.09.2021)

<u>121.363 Responsibility for</u> <u>airworthiness</u>

(a) Each certificate holder is primarily responsible for:

(1) airworthiness of its planes, including cells, engines, propellers, equipment and parts thereof; and

(2) carrying out maintenance, preventive maintenance, modifications and repairs in its aircraft, including cells, engines, propellers, normal and emergency equipment and parts thereof, in accordance with its manual and with the RBAC standards.

(b) A certificate holder may hire another person to perform any maintenance, preventive maintenance, modifications or repairs. However, this does not release the certificate holder from the responsibility specified in paragraph (a) of this section.

121.365 Organization of maintenance, preventive maintenance, modifications and repairs

(a) Each certificate holder when performing any maintenance (other than mandatory inspections), preventive maintenance, modifications or repairs and each person hired by it to perform any services, must have an organization appropriate to the tasks to be performed.

(b) Each certificate holder who performs any inspection required by its manual in accordance with 121.369 (b)(2) or (3) (in this subpart designated as mandatory inspection), and each person hired by it to perform such services must have an organization appropriate to the tasks to be performed.

(c) Each certificate holder must organize its mandatory inspection and maintenance services, preventive maintenance, modifications and repairs in order to separate the mandatory inspection services from the other services. This separation must be made below the level of administrative control in which the overall responsibility for the mandatory inspection functions and the other functions of maintenance, preventive maintenance, modifications and repairs are exercised.

121.367 Maintenance, preventive maintenance, modifications and repairs programs

Each certificate holder must establish an inspection program and a program covering maintenance, preventive maintenance, modifications and repairs that ensure that:

(a) maintenance, preventive maintenance, modifications and repairs carried out by it or by others are carried out in accordance with the provisions of its manual;

(b) there are qualified personnel and adequate facilities and equipment for the proper performance of the services; and

(c) each aircraft released for flight is airworthy and has been properly maintained under this regulation.

121.369 Manual requirements

(a) The certificate holder must put in it manual an organization chart or description of its organization, as required by section 121.365 of RBAC 121, and a list of other people with whom it has a contract to perform any mandatory inspection or maintenance, preventive maintenance, modifications and repairs, including a general description of these jobs.

(b) The manual of each certificate holder must contain the programs required by section 121.367 of RBAC 121, which must be submitted for approval by ANAC separately, and which must be complied with in carrying out maintenance, preventive maintenance, modifications and repairs on all aircraft of the certificate holder, including cells, engines, propellers, normal and emergency equipment and parts thereof, and must include at least the following:

(1) methods for performing routine and non-routine maintenance (other than mandatory inspections), preventive maintenance, modifications and repairs;

(2) the designation of maintenance or modification items that require mandatory inspections, including at least those that could result in failures, malfunctions and defects degrading the aircraft's operational safety if not properly performed or if inappropriate parts or materials are used;

(3) methods of performing mandatory inspections and designating, by occupational title, the person authorized to perform each mandatory inspection;

 (4) procedures for the re-inspection of works carried out as a result of defects found in previous mandatory inspections;

(5) procedures, standards and limits necessary to carry out mandatory inspections, to accept or reject inspected items and to periodically inspect and calibrate precision tools, measurement devices and test equipment;

(6) procedures to ensure that all mandatory inspections have been carried out;

(7) instructions to prevent anyone who has performed a job from performing any mandatory inspection required for that job;

(8) instructions and procedures that prevent an inspector's decision regarding any mandatory inspection from being disregarded by a person other than the supervisory level of the inspection team involved or the level of administrative control that has overall responsibility for inspection activities (or inspection and maintenance depending on the certificate holder's organization);

(9) procedures that ensure that work on mandatory inspections or maintenance, preventive maintenance, modifications and repairs, interrupted due to the change of work shift staff or for any other reason, is properly completed before the aircraft is released for return to flight;

(10) maintenance tasks and the respective intervals at which they will be performed, considering the aircraft's use in advance;

(11) the operator's maintenance program must include the aircraft's continued structural integrity program;

(12) the descriptions of the reliability and condition monitoring program for the aircraft systems, components and powerplant;

(13) identification of mandatory maintenance tasks specified in the aircraft type design; and

(14) the design and application of the maintenance program must incorporate the principles of human factors.

(c) Each certificate holder must establish in its manual a system that allows the protection and retrieval of information about services performed on its planes in a manner acceptable to ANAC and that has:

(1) the description (or reference to data acceptable to ANAC) of the work carried out;

(2) the name of the person who performed the work, if that person performed the work under a service contract; and

(3) the name or other positive identification of the person who approved the work.

121.370 [Reserved]

121.371 Personnel for mandatory inspections

(a) No one may use another person to carry out mandatory inspections, unless that person is properly qualified and appropriately trained, qualified and authorized to do so.

(b) No one may allow another person to perform a mandatory inspection unless

that person, when performing the inspection, is under the supervision and control of a mandatory inspection team.

(c) No one can perform a mandatory inspection if he/she/she has performed any item of work to be inspected.

(d) Each certificate holder must maintain or must determine that each person with a contract to perform mandatory inspections maintains an updated list of qualified persons who have been trained. qualified and authorized to perform such inspections. Each person must be identified by name, occupational title, certificate or registration issued by ANAC and the inspections they are authorized to do. The certificate holder (or persons hired by it to carry out mandatory inspections) must provide written instructions to each of these persons, describing the extent of his/her/her authority and responsibility and his/her/her limitations on inspections. This list must be made available to the INSPAC

121.373 Monitoring and continued analysis

(a) Each certificate holder must establish and maintain a system for monitoring and continuing analysis of the performance and effectiveness of its inspection and maintenance programs, preventive maintenance, modifications and repairs, in order to correct discrepancies or deficiencies in these programs. Such a system must accompany the execution of all work in progress, whether performed by the certificate holder itself, or performed under an external contract.

(b) Whenever ANAC deems that in any of the programs referred to in paragraph (a) of this section, the specified procedures and standards do not meet the requirements of this regulation, the certificate holder involved must, after receiving written notification from ANAC, make the assigned modifications.

(c) The certificate holder may request ANAC to reconsider the modifications determined up to 30 days after receiving written notification. Except in cases of emergency that require immediate action in the interest of air transport security, the reconsideration request suspends the period for complying with the amendment until ANAC's final decision on the matter.

<u>121.374 Continued airworthiness</u> program for ETOPS operations with two-engine airplanes.

To conduct an ETOPS flight using a dual-engine aircraft, each certificate holder must develop and comply with the continued airworthiness maintenance program (PMAC), as authorized in the certificate holder's operating specifications, for each aircraft/engine combination used in ETOPS operations. The certificate holder must develop its PMAC ETOPS in addition to the manufacturer's maintenance program or the approved PMAC for the certificate holder. The PMAC ETOPS must include the following elements:

(a) ETOPS maintenance document. The certificate holder must have an ETOPS maintenance document for use by each person involved in ETOPS operations.

(1) The document must:

(i) list each ETOPS Significant System;

(ii) reference or include all elements of ETOPS maintenance in this section;

(iii) reference or include all support programs and procedures;

(iv) refer to or include all duties and responsibilities; and

(v) clearly state where the referenced material is located in the certificate holder's document system.

(b) ETOPS pre-flight service verification. Except as described in Appendix P of this regulation, the certificate holder must develop a pre-flight check adapted to its operations.

(1) The certificate holder must complete a pre-flight service check immediately before each ETOPS flight.

(2) This check must include at least:

(i) verification of the conditions of all ETOPS Significant Systems;

(ii) checking the aircraft's general condition by reviewing the applicable maintenance records; and

(iii) inclusion of an internal and external inspection including verification of oil consumption levels and rates for engines and APU.

(3) A person appropriately trained in maintenance who is ETOPS qualified, must meet and be sure of the provisions of this section using a checklist of specific ETOPS tasks. Before an ETOPS flight starts, a person designated by the pre-flight service check (PDSC), and who is authorized by the certificate holder, must make sure that the PDSC ETOPS has been met.

(4) For the purposes of this paragraph (b) only, the following definitions apply:

(i) ETOPS qualified person: a person is ETOPS qualified when he/she/she satisfactorily completes the ETOPS Training Program and is designated by the certificate holder;

(ii) PDSC ETOPS designated person: is a person qualified to do so; and:

(A) works for an operator governed by this regulation or an organization governed by RBAC 145; and

(B) holds a mechanic license for aeronautical cell and engine maintenance;

(iii) ETOPS maintenance organization: an organization authorized to perform ETOPS maintenance and complete the PDSC ETOPS, the organization being:

(A) a certified organization operating under this regulation; or

(B) a RBAC 145 certified maintenance organization.

(iv) ETOPS maintenance entity: an entity authorized to perform ETOPS maintenance and a complete PDSC ETOPS and which can be:

(A) a certified entity operating under this regulation; or

(B) an entity certified under RBAC 145.

(c) Limitations on concomitant maintenance.

(1) Except as specified in paragraph (c)(2), the certificate holder may not perform concurrent scheduled or unscheduled maintenance on the same or similar Significant ETOPS Systems listed in the ETOPS maintenance document, which incorrect maintenance may result in failure of a Significant ETOPS System.

(2) If the provisions of the previous paragraph cannot be avoided, the certificate holder can carry out maintenance provided that:

(i) the maintenance of each ETOPS Significant System is performed by different people; or (ii) the maintenance of each ETOPS Significant System is performed by the same person under the direct supervision of a second qualified person; and

(iii) for each of paragraphs (c)(2)(i) or (ii) of this section, a qualified person must perform a ground check test and any flight check test required by the program developed in accordance with paragraph (d) of this section.

(d) Verification program. The certificate holder must develop and maintain a program for resolving discrepancies that ensures the effectiveness of maintenance actions in the ETOPS Significant Systems. The verification program must identify potential problems and verify satisfactory corrective actions. The verification program must include ground and in-flight verification procedures and policy. The certificate holder should establish procedures to clearly indicate who will initiate the verification action and what action is required. The verification action can be performed on an ETOPS flight as long as the verification action is satisfactorily completed when reaching the ETOPS entry point.

(e) Task identification. The certificate holder must identify all specific ETOPS tasks. An aeronautical maintenance mechanic who is ETOPS qualified must complete and certify that a specific ETOPS task has been completed.

(f) Centered maintenance control procedures. The certificate holder must develop and maintain procedures to control ETOPS centered maintenance.

(g) Parts and components control program. A certificate holder must develop an ETOPS parts and components control program that ensures proper identification of the parts and components used to maintain the configuration of the aircraft used in ETOPS.

(h) Reliability program. The certificate holder must develop an ETOPS reliability program which must be an existing certificate holder's trustworthiness program or its added Continuous Supervision and Analysis System (SASC) for ETOPS. This program must be event-oriented and include procedures for communicating the events listed below:

(1) the certificate holder must report the following events within 96 hours of occurrence to ANAC:

(i) IFSD ("in flight shut down"), except IFSD performed on training flights;

(ii) alternate landing or returns due to failures, malfunctions or defects associated with any aircraft or engine system;

(iii) changes or alterations in power or thrust that are not controlled;

(iv) inability to control the engine or obtain the desired power or thrust;

(v) inadvertent loss of fuel or unavoidable unavailability or imbalance of fuel in flight;

(vi) failures, malfunctions or defects associated with ETOPS Significant Systems;

(vii) Any event that endangers the flight safety and landing of the airplane on an ETOPS flight.

(2) The certificate holder must investigate the cause of each event listed in paragraph (h)(1) of this section and submit its records and the description of the corrective action taken to ANAC. The reports must include the information required by section 121.703 (e). The corrective action must be acceptable to ANAC.

(i) Monitoring the propulsion system.

(1) If the IFSD rate (computed on a 12-month moving average) for an engine installed as part of an airplane/ engine combination exceeds the following values, the certificate holder should conduct a detailed analysis of its operations to identify any effect of common causes and systematic errors. The IFSD rate must be computed using all such engines in the certificate holder's entire fleet of ETOPS approved aircraft.

(i) a rate of 0.05 per 1,000 hours of engine operation in ETOPS operations up to and including 120 minutes;

(ii) a rate of 0.03 per 1000 hours of engine operation in ETOPS operations in addition to 120 to 207 minutes in the North Pacific operating area and up to 180 minutes in other areas;

(iii) a rate of 0.02 per 1000 operating hours of engines in ETOPS operation in addition to 207 minutes in the North Pacific operating area and in addition to 180 minutes in other areas.

(2) Within 30 days after the above rates have been exceeded, the certificate holder must submit an investigation report and any necessary corrective action to ANAC.

(j) Engine condition monitoring.

(1) The certificate holder must have an engine condition monitoring program to detect deterioration and allow corrective actions before the safety of operations is affected.

(2) This program should describe the parameters to be monitored, the data collection method, the data analysis method and the process for taking corrective actions.

(3) The program must ensure that the engine's limit operating margins are maintained such that a prolonged bypass operation with an inoperative engine can be conducted at approved power levels and in all expected conditions without exceeding the approved engine limits. Approved limits for items such as rotor speed and gas exhaust temperatures are included.

(k) Monitoring of oil consumption. The certificate holder must have an engine oil consumption monitoring program that ensures that there is enough oil to complete each ETOPS flight. Oil consumption from the APU must be included if the APU is required for ETOPS operation. The operator's oil consumption limit cannot exceed the manufacturers' recommendation. Monitoring must be continuous and include oil added at each ETOPS take-off point. The program should compare the amount of oil added to each ETOPS take-off point with the average run consumption to identify sudden increases.

(I) APU Flight Departure Program. If the aircraft type certificate requires an APU, but does not require this APU to function during the ETOPS phase of the flight, the certificate holder must develop and maintain a reliability program accepted by ANAC for departure and operation of the APU in flight, in cold soak conditions.

(m) Maintenance training. For each airplane/engine combination, the certificate holder must develop a maintenance training program that

provides adequate training to support ETOPS operations. The program must include specific ETOPS training for all people involved in ETOPS maintenance focused on the special nature of these operations. This training should be added to the operator maintenance training program used to qualify people to work on specific planes and engines.

(n) Configuration, maintenance and procedures (CMP) document. If an airplane/engine combination has a CMP document, the certificate holder must use a system that ensures compliance with the applicable document approved by ANAC.

(o) Changes in procedures. Each substantial change in the training or maintenance procedures that were used in the ETOPS qualification by the certificate holder must be submitted to ANAC for analysis. The certificate holder cannot implement a change until it is notified by ANAC of its approval or acceptance.

121.375 Maintenance and preventive maintenance training program

Each certificate holder, or person performing maintenance or preventive maintenance work for the holder, must establish a training program that ensures that each person (including mandatory inspection personnel) in charge of determining the suitability of a job performed is fully informed about procedures, techniques and new equipment in use and is competent to perform its duties.

121.377 Maintenance and

preventive maintenance personnel; working time limitations

Each certificate holder (or person hired by it to perform maintenance or preventive maintenance services) must comply with the working time limits established by the current labor legislation for each person performing maintenance, modifications and repairs.

121.378 Personnel qualification requirements

(a) Except for maintenance, preventive maintenance, modifications, repairs and mandatory inspections carried out by certified maintenance workshops located outside Brazil, each person who is directly responsible for maintenance, preventive maintenance, modifications and repairs and each person performing mandatory inspections must have a qualification or registration certificate issued by ANAC.

(b) For the purposes of this section, a directly responsible person is a person assigned to a position in which he/she/she is responsible for the work performed by a section, a workshop or a maintenance, preventive maintenance, modifications and repairs base or for other tasks related to aircraft airworthiness. A directly responsible person does not need to physically observe and direct each worker, but must be constantly available to be consulted and to make decisions on matters that require instructions or decisions at a higher hierarchical level than the people performing a job.

121.379 Authority to perform and approve maintenance, preventive maintenance, modifications and repairs

(a) A certificate holder may perform or hire others to perform maintenance, preventive maintenance, modifications and repairs as set out in its continued airworthiness maintenance program and maintenance manual. In addition, the certificate holder may carry out such work for another certificate holder, provided that it follows the rules of the continued airworthiness program and the maintenance manual of the latter.

(b) A certificate holder can approve the return to service of any aircraft, cell, engine, propeller and equipment after undergoing maintenance, preventive maintenance, modifications and repairs carried out in accordance with paragraph (a) of this section. However, in case of major repairs or major modifications, the work must be carried out according to technical design data approved by ANAC.

121.380 Requirements for maintenance records

(a) Each certificate holder must keep (using the system specified in the manual required by 121.369), the following maintenance records during the periods specified in paragraph (c) of this section:

(1) all records necessary to demonstrate that the requirements for maintaining the airworthiness of the airplane, in accordance with 121.709, have been met;

(2) records containing the following information:

(i) total cell service time;

(ii) the present situation of limited life parts for each cell, engine, propeller and normal and emergency equipment;

(iii) the time since the last overhaul of all items installed on the aircraft that require overhaul based on defined time of use ("hard time");

(iv) identification of the current situation of aircraft inspections, including times of use since the last inspection provided for in the inspection program under which the aircraft and its components are maintained;

(v) the present situation of compliance with the applicable airworthiness directives (AD), including the method of application of the same, and, if an AD involves recurring actions, the time and date of the next required action;

(vi) an updated list of each major modification made to each cell, engine, propeller and equipment.

(b) [Reserved].

(c) each certificate holder must retain the records determined by this section for the following periods of time:

(1) except for the records of the last overhaul of each cell, engine, propeller and equipment, the records specified in paragraph (a)(1) must be kept until the job is repeated, that is, superseded by another job, or for 12 months after the work has been done, whichever is greater;

(2) the records of overhauls of each cell, engine, propeller and equipment must be kept until the work is repeated or superseded by another work with equivalent objectives and details;

(3) the records specified in paragraph (a)(2) of this section must be kept, permanently, and must accompany the aircraft in case of sale;

(d) Each certificate holder must make available to the INSPAC, at any time, all records that this section requires to be kept.

121.380a Transfer of maintenance record

Each certificate holder who sells an airplane registered in Brazil must transfer it to the buyer, at the time of sale, in clear language or in coded form, at the buyer's discretion, provided that the coded form provides for the conservation and retrieval of information in a manner acceptable to the ANAC, the following aircraft records:

(a) the records required by 121.380 (a)(2);

(b) the records required by 121.380 (a) (1) that are not included in the records specified in paragraph (a) of this section. The buyer may allow the seller to maintain physical custody of such records, but this does not relieve the buyer from the responsibility, provided for in 121.380 (c), to make such records available to INSPAC.

SUBPART M CREW, DISPATCHERS AND AERONAUTICAL MECHANIC REQUIREMENTS

121.381 Applicability

(a) This subpart establishes requirements for crew, dispatchers and aeronautical mechanics applicable to all certificate holders operating under this regulation.

(b) For the purposes of this regulation, pilots, flight mechanics and navigators are referred to as "flight crew"; operational flight dispatchers are referred to as "dispatchers"; flight attendants are referred to as "flight attendants" and aeronautical mechanics as "mechanics". The word "crew member" means the personnel who work on the plane during the flight.

<u>121.383 Personnel in general –</u> service limitations

(a) No certificate holder may employ any person as a crew member, dispatcher or mechanic, as well as no one may work as a crew member, dispatcher or mechanic, unless such person:

(1) has a license, appropriate to his/ her/her function, issued by ANAC under the terms of the RBAC appropriate to the case;

(2) has in his/her/her possession the license referred to in paragraph (a)(1) of this section and the certificates of technical qualification and physical capacity, when required, all valid and appropriate to the type of airplane and the function he/she/she performs while engaged in operations under this regulation; and

(3) is qualified for the operation he/ she/she will perform.

(b) each crew member, dispatcher or mechanic, when requested, must submit to ANAC for inspection the documents listed in paragraph (a)(2) of this section.

(c) any certificate holder operating under this regulation must comply with the restrictions established by paragraphs 61.145 (c) and 61.145 (d) of RBAC 61 to the prerogatives of pilots-in-command. (Wording given by Resolution No. 334, of 07.01.2014)

121.385 Flight crew composition

(a) No certificate holder may operate an airplane, unless the flight crew of that airplane complies with Law No. 7183, of April 5, 1984, which regulates the exercise of the profession of aeronaut, and with Law no. 7565, of December 19, 1986, which provides for the Brazilian Aeronautical Code; and

(b) No certificate holder may operate an airplane with a flight crew below the minimum flight crew required by the Airplane Flight Manual – AFM for the type of aircraft and required by this regulation for the characteristics of the operation being performed. (Wording given by Resolution No. 526, of 08.06.2019)

(c) In any case where this regulation requires the performance of two or more functions for which a specific license is required, such requirement cannot be met by the performance of multiple functions, at the same time, by the same person who has the required licenses.

(d) With regard to pilots, the minimum crew consists of two pilots and the certificate holder must designate one of them as a pilot-in-command and the other as a second-in-command, as defined in RBAC 01.

121.387 Flight mechanic

No certificate holder operating under this regulation may operate an airplane certified by its country of manufacture before January 2, 1964, with a maximum approved take-off weight above 36,300 kg (80,000 lb.), without a flight crew member who has a flight mechanic license and the appropriate technical license certificate for the airplane. For each airplane certified after January 1, 1964, the requirement for a flight mechanic is determined in accordance with the requirements of section 25.1523 of RBAC 25.

121.389 Navigator and specialized navigation equipment

(a) No certificate holder may operate an airplane outside Brazil's borders when its position cannot be reliably determined for a period equal to or greater than 1 hour, without:

(1) a flight crew member who holds a valid navigator license; or

(2) specialized means of navigation, approved in accordance with section 121.355 of this regulation, which allow each pilot, seated in his/her normal workstation, to reliably determine the position of the airplane.

(b) notwithstanding paragraph (a) of this section, ANAC may require a navigator, or specialized navigation equipment, or both, when specialized means of navigation are required for 1 hour or less. To assess this need, ANAC considers:

(1) the airplane's speed;

(2) normal weather conditions on the route;

(3) scope of air traffic control;

(4) traffic congestion;

(5) coverage area of radio navigation signals at destinations;

(6) fuel requirements;

(7) fuel available to return to the starting point or to go to alternatives;

(8) flight forecast in operation after the point of no return; and

(9) any other factor considered relevant to flight safety.

(c) Operations requiring a navigator, or specialized navigation equipment, or both, must be listed in the certificate holder's operating specifications.

121.391 Flight attendants

(a) Each certificate holder must provide at least the following number of flight attendants on each airplane carrying passengers:

(1) for airplanes that have a payload capacity of more than 7,500 lb and maximum seating capacity of more than 09 and less than 51 passengers, one flight attendant;

(2) for airplanes having a maximum payload capacity of 7,500 lb or less and having a maximum seating capacity of more than 19 but less than 51 passengers, a flight attendant; (3) for airplanes that have a maximum seating capacity of more than 50 and less than 101 passengers, two flight attendants;

(4) for airplanes having a seating capacity of more than 100 passengers: two flight attendants and an additional flight attendant for each unit (or part of a unit) of 50 passenger seats above the seating capacity of 100 passengers. (Wording given by Resolution No. 334, of 07.01.2014)

(b) If in conducting the emergency evacuation demonstration under the requirements prescribed in paragraphs 121.291 (a) or (b), the holder uses a greater number than that prescribed in paragraph (a) of this section for maximum seating capacity of the airplane used in the demonstration, the certificate holder will not be able to take off with this airplane:

(1) in the maximum seating capacity for passengers, with a smaller number of flight attendants than used in the emergency evacuation demonstration; and (Wording given by Resolution No. 334, of 07.01.2014)

(2) in any other reduced seating capacity configuration for passengers, with a smaller number of flight attendants than provided for in paragraph (a) of this section plus the additional crew members used during the emergency evacuation demonstration. (Wording given by Resolution No. 334, of 07.01.2014)

(c) During landings and takeoffs, the flight attendants required by this section must be located as close as practicable to the required floor-level emergency exits and must be uniformly distributed throughout the plane, in order to provide the most efficient removal of passengers in possible emergency evacuation. During the taxi, the flight attendants required by this section must remain in their positions, with seat belts and shoulder belts fastened, except when performing tasks related to the safety of the plane and its occupants.

(d) The number of flight attendants required for each type of aircraft and for each passenger seat configuration established pursuant to paragraphs (a) or (b) of this section must be listed in the company's operating specifications.

(e) In the event that a flight attendant is responsible for more than one emergency exit, he/she/she must receive specific training for the effective operation of these exits assessing the situation and effectively conducting an emergency evacuation.

(f) Only for aircraft where 3 or more flight attendants are required under 121.391 (a) or 121.391 (b), in the event that a maximum of one flight attendant becomes ill and has to be disembarked on a stopover, the flight may proceed as long as the number of remaining flight attendants is proportional to one flight attendant for each group (or fraction) of 50 passengers plus the additional flight attendants used during the emergency evacuation demonstration referenced in paragraph (b) of this section, which may imply a reduction in the number of passengers on board. (Wording given by Resolution No. 334. of 07.01.2014)

(1) The certificate holder must report the occurrence to ANAC within a maximum of 15 calendar days. (Wording given by Resolution No. 334, of 07.01.2014)

(2) In order not to hinder or make the required performance impossible, a flight attendant may only be responsible for more than one emergency exit at floor level if they are arranged in the same area or section of the aircraft, limited to a maximum of two emergency exits. (Wording given by Resolution No. 334, of 07.01.2014)

121.393 Requirements for crew members during stops where passengers remain on board

During intermediate stops where passengers remain on board, the certificate holder must meet the following requirements:

(a) [reserved]

(b) on each airplane where flight attendants are required by section 121.391 but the number of flight attendants remaining on board is less than the number required by said section, the certificate holder must meet the following requirements:

(1) the certificate holder must ensure that:

(i) the aircraft's engines are stopped; and

(ii) at least one floor-level emergency exit remains open, or ready to be opened in the event of bad weather, and with a ladder or other means that allows passengers to leave;

(iii) the number of flight attendants on board is at least half the number

required by 12,391 (c), rounded up to the nearest whole number in the case of fractions but never less than one.

(2) the certificate holder may replace the required flight attendants with other persons qualified in the emergency evacuation procedures for the aircraft as required by 121.417, provided that such persons are clearly identified by the passengers;

(3) if only one flight attendant or other qualified person is on board during intermediate stops, that flight attendant or the other qualified person must be positioned according to operational procedures approved by ANAC for the certificate holder. If more than one flight attendant or other qualified person remains on board, they must be positioned throughout the cabin to provide the most effective evacuation assistance in an emergency.

(c) keep in the cockpit, during the period of stay on the ground during which the airplane is being refueled or while the aircraft's APU ("Auxiliary Power Unit") is in operation, at least one technical crew member. There must be a means of communication between this crew member and the person on the ground in charge of refueling. This requirement applies even without passengers on board.

<u>121.395 Operational flight</u> dispatcher; scheduled operations

Each certificate holder conducting scheduled operations must have, in each dispatch center or dispatch office, a sufficient number of operational flight dispatchers, considered adequately qualified by ANAC, in order to ensure the preparation, assistance and operational control of each flight. (Wording given by Resolution No. 526, of 08.06.2019)

<u>121.397 Emergencies and</u> <u>emergency evacuation duties</u>

(a) Each certificate holder must, for each type and model of airplane, designate, for each category of crew required by this subpart, the functions to be performed in an emergency or in a situation requiring emergency evacuation. The certificate holder must demonstrate that such functions are realistic, can be performed in practice and that they meet any reasonably foreseeable emergency, including the possible incapacitation of any individual crew member or the inability of some of them to reach the passenger cabin because of the displacement of the cargo on airplanes carrying a cargo-passenger combination.

(b) The certificate holder must describe in its manual the functions of each required crew category, as provided for in paragraph (a) of this section.

SUBPART N TRAINING PROGRAMS

121.400 Applicability and terms used

(a) This subpart establishes the requirements applicable to each certificate holder for the preparation and maintenance of training programs for crew members, operational flight dispatchers and other persons in the operations area. It also establishes the requirements for the approval and use of training devices used to conduct these programs.

(b) For the purposes of this subpart, airplanes are grouped as follows:

- (1) group I propeller-propelled aircraft, including:
- (i) conventional engines; and
- (ii) turboprop engines.
- (2) group II jet propelled aircraft.

(c) For the purposes of this subpart the following terms and definitions apply:

(1) initial training: training required for crew and dispatchers who have not yet been qualified and have not worked in the same function on another type of aircraft in the same group;

(2) transition training: training required for crew and dispatchers who have already been qualified and worked in the same function on another type of aircraft in the same group;

(3) level elevation training: training required for pilots who have been qualified and worked as a second-in-command on a particular type of airplane before they work as a pilot-in-command on the same type of airplane;

(4) differences training: training required for crew and dispatchers who have been qualified and worked on a particular type of aircraft, to work in the same function on a particular variant of the same type of aircraft, when considered necessary by ANAC;

(5) programmed hours: the number of training hours provided for in this subpart, which can be reduced by ANAC provided that the certificate holder demonstrates that special circumstances justify such reduction;

(6) flight training – refers to training to be conducted in an airplane, in an airplane simulator or in special training devices. When training is required to be conducted specifically on an airplane, this is explained in the text of this regulation;

(7) training center: an organization governed by the applicable requirements of RBAC 142 that provides training, tests and examinations, under contract or other type of arrangement, for certificate holders subject to the requirements of this regulation;

(8) requalification training: training required for previously trained and qualified crew members, but who lost qualification because they did not meet, within the required periods, the periodic training requirements set out in 121.427 or the proficiency examination requirements set out in 121.441;

(9) accredited examiner: refers to a crew member or dispatcher appointed by a certificate holder and approved by ANAC as an examiner for the other crew members and/or dispatchers of that certificate holder;

(10) proficiency exam: practical exam carried out in a simulator or in a flight not conducted according to this regulation; (Wording given by Resolution No. 334, of 07.01.2014)

(11) competency exam: practical exam performed on an approved training device or on a static aircraft. (Wording given by Resolution No. 334, of 07.01.2014)

121.401 Training program. General

(a) Each certificate holder must:

(1) prepare, obtain initial and final approval, and put into use a training program that complies with the provisions of this subpart, in Subpart Z, and Appendices E and F of this regulation and that ensures that each crew member, dispatcher, flight instructor, flight attendant instructor, operational flight dispatcher instructor, accredited examiner and each person to perform or directly supervise any function related to compliance with RBAC No. 175 designated for the transportation, handling and safekeeping of dangerous loads and magnetic materials is adequately trained to perform the tasks assigned to him/her/her; (Wording given by Resolution No. 608, of 02.11.2021)

Note: for more information on operational requirements for hazardous articles, see Subpart Z ; (Included by Resolution n° 608, of 02.11.2021);

(2) provide adequate ground and flight training facilities and provide appropriately qualified ground instructors for the training required by this subpart;

(3) provide and keep updated, for each type and, if applicable, each model variant of the same type of airplane used, appropriate training material, tests, forms, instructions and procedures for use in conducting the training and examinations required by this regulation;

(4) provide a sufficient number of ground instructors, flight instructors, simulator instructors, flight attendant instructors, instructors of operational flight dispatchers and accredited examiners to conduct the required ground and flight training and examinations and the simulator training courses permitted by this regulation; (Wording given by Resolution No. 334, of 07.01.2014)

(b) The certificate holder's flight training program must:

(1) comply with the requirements of this regulation;

(2) include suitable facilities, on the ground and in flight, as well as duly approved qualified instructors and certificate holders;

(3) be included in ground and flight training for flight crew members, instructors and certified examiners of the certificate holder, in the type or types of aircraft they operate;

(4) include proper flight crew coordination, as well as training in all types of emergency and abnormal situations or procedures caused by malfunction of the powertrain system, the cell, other aircraft systems due to fire or other anomalies;

(5) include knowledge and expertise on visual and instrument flight procedures for the intended area of operations, human factors including the management of threats and errors, as well as the transport and recognition of dangerous articles;

(6) ensure that all members of the flight crew are aware of the duties for which they are responsible and the relationship of these duties with other crew members, particularly with respect to abnormal and emergency procedures; and

(7) be repeated periodically and will include proficiency exams as required by this regulation. (Wording given by Resolution No. 334, of 07.01.2014)

(c) The training program for crew members must:

(1) include adequate means, on the ground and in flight, as well as qualified instructors and accredited examiners, all approved by ANAC;

(2) bring the required ground and flight training to crew members, instructors and examiners accredited in the type or types of aircraft they operate; and

(3) ensure that each person:

(i) is competent to carry out the operational safety duties and functions delegated to each crew member in the event of an emergency or situation requiring an emergency evacuation;

(ii) is proficient and able to use emergency and rescue equipment, such as floats, rafts, evacuation ramps, emergency exits, portable fire extinguishers, oxygen equipment, and first aid kits;

(iii) in service on airplanes that operate above 3,000 meters (10,000 feet), have knowledge about the effect of lack of oxygen and, in the case of airplanes with a pressurized cabin, on the physiological effects inherent in decompression;

(iv) know the roles and responsibilities of other crew members in an emergency, to the extent necessary to perform their own duties as a crew member;

(v) has knowledge of the types of dangerous articles that can or cannot be carried on board and has completed the training of dangerous articles required in this regulation; and (Wording given by Resolution no. 608, of 02.11.2021)

(vi) has knowledge of CRM.
(d) The training program for flight dispatchers must include:

(1) adequate ground facilities, qualified instructors and supervisors; and

(2) ground and flight training, instructors and supervisors in the type or types of airplanes for which they provide services.

(e) Whenever a crew member or DOV completes periodic training and a required proficiency exam, one month before or one month after the month in which the license expires, it will be considered that said training or proficiency exam was carried out in the month of license expiration.

(f) Each instructor, supervisor or certified examiner of the certificate holder, responsible for any program content of the ground segment, flight segment, flight instruction or proficiency exam provided for in this regulation must: (Wording given by Resolution No. 334, of 07.01.2014)

(1) make sure of the knowledge and incumbency of the crew members, DOV, flight instructors, and certified examiners of the certificate holder, once successfully completed the training;

(2) training records or certificates must be filed separately for each crew member or DOV;

(3) for records or certificates kept digitally, the supervisor or instructor of the certificate holder must be identified in each record in the form required by ANAC.

121.402 Training program. Special rules

(a) Unless the certificate holder himself, only another certificate holder authorized to operate under this regulation or a training center certified under RBAC 142 may be eligible, under this subpart, to provide flight training, tests and examinations, under contract or other arrangement, for persons subject to the requirements of this subpart. In any case, each certificate holder remains primarily responsible for the quality of the courses used and the training of its staff.

(b) A certificate holder may contract (or make other arrangements) for the services of a training center certified under RBAC 142 to provide the training, tests and examinations required by this regulation, provided that such center: (1) has the applicable training specification issued under RBAC 142;

(2) has the facilities, training equipment and teaching materials in compliance with the applicable requirements of RBAC 142;

(3) has approved curricula, curriculum segments, training modules and syllabus, applicable for use in the training courses required by this subpart; and

(4) has a number of accredited instructors and examiners, qualified under the applicable requirements of 121.411 or 121.413, sufficient to provide training, tests and examinations for persons subject to the requirements of this subpart.

121.403 Training program: curricula

(a) Each certificate holder must prepare and update the training program curricula, by type of aircraft, for dispatchers and for each category of crew required by the type of airplane. The curriculum must include the ground and flight training required by this subpart.

(b) Each training program curriculum must include:

(1) a list of the main ground training issues, including matters related to emergency training, which will be provided;

(2) a listing of all training devices, life-size models, system and procedure trainers and other training aids that will be used by the certificate holder;

(3) detailed descriptions or graphic posters of all approved normal, abnormal and emergency maneuvers, actions and procedures that will be performed during each phase of training and flight examinations, indicating those portions of maneuvers, procedures and functions that must be performed in plane during training and flight exams;

(4) a listing of flight simulators and other training devices approved in accordance with 121.407, including approved normal, abnormal and emergency maneuvers, actions and procedures, in addition to particular functions approved to be performed on them;

(5) the scheduled training hours applicable to each phase of the training;

(6) a copy of each authorization issued by ANAC, in accordance with paragraph 121.405 (d) of this subpart, if applicable, to reduce scheduled hours of instruction.

121.404 Resource management training for crew and dispatchers (CRM); Compliance dates

No certificate holder may employ a person as a flight crew member, flight attendant or dispatcher, unless that person has completed the initial approved cabin resource management (CRM) training provided by this or another certificate holder under this regulation.

<u>121.405 Training program and its</u> revisions; Initial and final approval

(a) To obtain initial and final approval of a training program, or revisions of a previously approved program, each certificate holder must submit to ANAC:

- (1) a summary of the proposed program or review, including a summary of the proposed or revised curriculum that provides the information necessary for a preliminary assessment of the curriculum; and
- (2) any additional information requested by ANAC.

(b) If the proposed program or review is compatible with this subpart, ANAC will grant initial written approval. Except as otherwise established by ANAC, the certificate holder may only start conducting the training in accordance with the proposed program after obtaining the initial approval. ANAC will evaluate the efficiency of the program throughout its application, notifying the certificate holder, when necessary, of deficiencies to be corrected. (Wording given by Resolution no. 607, of 02.11.2021)

(c) ANAC will issue final approval for the program or revision if it considers that the certificate holder has demonstrated that the training, conducted as initially approved or as modified in accordance with paragraph (b) of this section, ensures that a person who has successfully completed it is properly trained to perform the functions for which he/she/she has been assigned.

(d) To grant initial and final approval of programs or revisions of training programs, including reduction of scheduled hours as authorized by this subpart, ANAC takes into account all instructional aids, devices, methods and procedures listed by the certificate in the curriculum required by 121.403, which can improve the quality and effectiveness of the teaching/learning process. If there is approval to reduce scheduled hours, ANAC will provide the certificate holder with a written authorization informing the bases of such approval.

(e) Whenever ANAC deems that revisions are necessary, with a view to maintaining the adequacy of a training program with final approval, a written notification will be issued to the certificate holder involved, stipulating the changes to be made. Within 30 days after receiving the notification, the certificate holder may appeal from the decision to ANAC requesting reconsideration of the same. The filing of an appeal suspends the execution of the modifications until ANAC's final decision. However, if an emergency situation is deemed to require immediate action in the interest of air transport security, ANAC may, providing the reasons, determine an immediate review.

121.406 [Reserved]

121.407 Training program; Approval of airplane simulators and other training devices

(a) Each airplane simulator or other training device that is used in a training course permitted under 121.409, in examinations required by subpart O of this regulation or as permitted in Appendices E and F of this regulation, must:

(1) be specifically approved for:

(i) the certificate holder;

(ii) the type of airplane or, if applicable, for the particular variant of the type on which the training or examination will be conducted;

(iii) the particular maneuver, procedure or crew involved.

(2) maintain functional performance and other characteristics required for approval;

(3) be modified to remain in conformity with any modification of the aircraft being simulated that results in a change in performance, functions or other characteristic required for approval;

(4) before the start of each working day, be subjected to a functional pre-flight;

(5) have a book for the daily record of usage and observed discrepancies; such book must be completed by the instructor or examiner at the end of each training section or flight exam.

(b) A particular airplane simulator or other training device can be approved for use by more than one certificate holder. At the request of the certificate holder, ANAC may authorize the use of a simulator or other training device located abroad, belonging to an airplane manufacturer or an airline, upon prior recognition, by ANAC, of its approval for the specific training by the aeronautical authorities of the country involved.

(c) In order for an airplane simulator to be used in place of the airplane to meet the actual flight requirements set out in 121.439 and 121.441 and in Appendices E and F of this regulation, it must:

(1) be approved in accordance with this section and meet the requirements established by Appendix H of this regulation; and

(2) be used as part of an approved program that meets the training requirements of 121.424 (a) and (c) and Appendix H of this regulation.

(d) In order to meet the flight training requirements for pilots established in the operational training program, to avoid low altitude windshear and CFIT – Controlled Flight into Terrain, approved for the certificate holder under section 121.409 of this regulation, the run on a flight simulator approved under this section.

<u>121.409 Training course using</u> <u>airplane simulator and other</u> <u>training devices</u>

(a) Approved training programs may include the use of airplane simulators and other training devices, provided they are used as provided in this section.

(b) An airplane simulator training course may be included for use as set out in section 121.441 of these regulations, if such a course:

(1) provide at least 4 hours of training at the simulator's pilot stations, as well as a "briefing" before and a "de-briefing" after each training section;

(2) provide at least the training of the procedures and maneuvers established in Appendix F of this regulation; or

(3) provide training oriented to route operation, including:

(i) use of complete technical crew;

(ii) execution of at least the normal, abnormal and emergency maneuvers and procedures that can be expected in en route operations;

(iii) flight segments representative of the operations being conducted by the certificate holder; and

(4) is conducted by an instructor who meets the applicable requirements of section 121.412.

The successful completion of this training course must be attested by an accredited examiner or an INSPAC.

(c) The scheduled flight training hours set out in this subpart do not apply if the training program for the aircraft type includes:

(1) an airplane simulator pilot training course, as provided for in 121.424 (d); or

(2) a flight mechanic training course in an airplane simulator, or other training device, as provided for in 121.425 (c).

(d) Each certificate holder subject to section 121.358 of this regulation must use in each of their flight training courses for pilots an approved flight simulator for each type of airplane capable of providing at least the training of approved normal, abnormal and emergency actions and procedures included in its operational training program for low altitude windshear and CFIT - Controlled Flight into Terrain. The approved operational training program for these abnormal maneuvers must be included in each of the flight training programs established under sections 121.409 (b), 121.418, 121.424 and 121.427 of these regulations.

121.411 Qualifications:

airplane-accredited examiner and simulator-accredited examiner

(a) For the purposes of this section and section 121.413:

(1) an airplane-accredited examiner is a person who is qualified and authorized to conduct flight checks or instruction on an airplane, in a flight simulator or in a flight training device for a particular type of airplane;

(2) a simulator-accredited examiner is a person who is qualified and authorized to conduct flight checks or instruction, but only in a flight simulator or flight training device for a particular type of aircraft; (3) the airplane-accredited examiners and simulator-accredited examiners are the examiners who perform the functions described in 121.401 (a)(4).

(b) No certificate holder may employ a person, and no one may work, as a certified aircraft examiner in a training program established under this subpart, unless, with respect to the particular type of aircraft involved, that person:

(1) has the license and the qualifications he/she/she would need to have to work as a pilot-in-command, flight mechanic, navigator or flight attendant, as appropriate, in operations under this regulation;

(2) has successfully completed the appropriate training phases for the aircraft involved, including periodic training, required to work as a pilot-in-command, flight mechanic or navigator, as applicable, in operations under this regulation;

(3) has satisfactorily completed the appropriate proficiency or competency exams that are required to work as a pilot-in-command, flight mechanic or navigator, as applicable, in operations under this regulation;

(4) has successfully completed the applicable training requirements of 121.413, including training and flying practice for initial and transition training;

(5) if he/she/she is working as a required flight crew member, he/she/ sge must have a valid 1st or 2nd class CMA appropriate to his/her/her duties; (Wording given by Resolution No. 526, of 08.06.2019)

(6) has satisfied the requirements of recent experience established in 121.439; and

(7) has been approved by ANAC for the examiner functions involved.

(c) No certificate holder may employ a person, and no one may work, as an accredited examiner on a simulator, or on a flight training device, in a training program established under this regulation, unless, with respect to the particular airplane involved, he/she/she meets the provisions of paragraph (b) of this section, or:

(1) has the licenses and qualifications, except the aeronautical medical certificate (CMA), required to work as a pilot-in-command, flight mechanic or navigator, as applicable, in operations under this regulation; (Wording given by Resolution No. 526, of 08.06.2019)

(2) has satisfactorily completed the appropriate phases of training for the aircraft, including periodic training, which are required to work as a pilot-in-command, flight mechanic or navigator in operations under this regulation;

(3) has satisfactorily completed the appropriate proficiency or competency exams that are required to work as a pilot-in-command, flight mechanic or navigator in operations under this regulation;

(4) has satisfactorily completed the applicable training requirements of 121.413; and

(5) has been approved by ANAC for the examiner functions involved.

(d) Compliance with the requirements of paragraphs (b)(2), (3) and (4) or (c)(2), (3) and (4), as applicable, should be noted in the individual training records maintained by the certificate holder.

(e) Certified aircraft examiners who do not have an appropriate valid CMA may exercise the functions of an examiner but may not make up the crew required for operations under this regulation. Additionally, they must comply with the provisions of paragraphs 61.145 (c) and 61.145 (d) of RBAC 61. (Wording given by Resolution No. 526, of 08.06.2019)

(f) An accredited simulator examiner must do the following:

(1) flying at least two segments as a crew member required for the type of aircraft involved within the 12-month period preceding the execution of any examination conducted by him/ her/her in a simulator; or

(2) satisfactorily complete an approved online operation observation program within the period established by this program, which must precede the execution of any examination conducted by it on a simulator.

(g) The flight segments or observation program required in paragraph (f) of this section are considered to have been completed in the required month if they are completed in the month preceding or following the required month. (Wording given by Resolution No. 334, of 07.01.2014)

121.412 Qualifications: airplane flight instructor and simulator flight instructor

(a) For the purposes of this section and section 121.414:

(1) an airplane flight instructor is a person who has been qualified as an instructor on an airplane, a flight simulator or a flight training device for a particular type of airplane;

(2) a simulator flight instructor is a person who has been qualified as an instructor, but only in a flight simulator or flight training device for a particular type of aircraft;

(3) Flight instructors on airplanes and simulators are instructors who perform the functions described in 121.401 (a) (4).

(b) No certificate holder may employ a person, and no one may work, as an airplane flight instructor in a training program established under this subpart, unless, with respect to the particular type of aircraft involved, that person:

(1) has the license and the qualifications that he/she/she would need to have to work as a pilot-in-command, flight mechanic or navigator, as appropriate, in operations under this regulation;

(2) has successfully completed the appropriate training phases for the aircraft involved, including periodic training, required to work as a pilot-in-command, flight mechanic or navigator, as applicable, in operations under this regulation;

(3) has satisfactorily completed the appropriate proficiency or competency examinations that are required to work as a pilot-in-command, flight mechanic or navigator or flight attendant, as applicable, in operations under this regulation;

(4) has successfully completed the applicable training requirements of 121.413, including training and flying practice for initial and transition training;

(5) if he/she/she is working as a required flight crew member, he/she/ she must have a valid 1st or 2nd class physical capacity certificate and appropriate to the duties he/ she/she performs;

(6) has satisfied the recent experience requirements set out in 121.439. (c) No certificate holder may employ a person, and no one may work, as a flight instructor in a simulator, or in a flight training device, in a training program established under this regulation, unless, with respect to the particular airplane involved, he/she/she complies with the provisions of paragraph (b) of this section, or:

(1) has the licenses and qualifications, except the CMA, required to work as a pilot-in-command, flight mechanic or navigator, as applicable, in operations under this regulation; (Wording given by Resolution No. 526, of 08.06.2019)

(2) has satisfactorily completed the appropriate phases of training for the aircraft, including periodic training, which are required to work as a pilot-in-command, flight mechanic or navigator in operations under this regulation;

(3) has satisfactorily completed the appropriate proficiency or competency exams that are required to work as a pilot-in-command, flight mechanic or navigator in operations under this regulation; and

(4) has satisfactorily completed the applicable training requirements of 121.414.

(d) Compliance with the requirements of paragraphs (b)(2), (3) and (4) or (c) (2), (3) and (4), as applicable, should be noted in the individual training records maintained by the certificate holder.

(e) Airplane flight instructors who do not have an appropriate valid CMA may exercise the functions of instructor but may not make up the crew required for operations under this regulation. In international operations under this regulation, flight instructors on airplanes who are 60 years of age or older may exercise the functions of instructor but cannot make up the required crew. (Wording given by Resolution No. 526, of 08.06.2019)

(f) A simulator flight instructor must meet the following requirements:

(1) flying at least two segments as a crew member required for the type of aircraft involved within the 12-month period preceding the execution of any instruction conducted by him/ her/her in a simulator (and must have a valid and appropriate CMA); or (Wording given by Resolution No. 526, of 08.06.2019) (2) satisfactorily complete an approved online operation observation program within the period established by this program, which must precede the execution of any instruction conducted by he/she/she in a simulator.

(g) The flight segments or observation program required in paragraph (f) of this section are considered to have been completed in the required month if they are completed in the month preceding or following the required month. (Wording given by Resolution No. 334, of 07.01.2014)

121.412a Qualifications of the operational flight dispatcher instructor

(a) An Operational Flight Dispatcher instructor is a person qualified and authorized to conduct instruction on company equipment.

(b) An Operational Flight Dispatcher instructor is a person appointed by the operator and approved by ANAC, who has an employment contract in the function (exercised for at least 3 years) as an Operational Flight Dispatcher.

(c) No certificate holder may employ a person, and no one may work, as an Operational Flight Dispatcher instructor in a training program established under this subpart, unless, with respect to the particular type of aircraft, that person:

(1) has the license and the necessary qualifications to work as an Operational Flight Dispatcher, in operations under this regulation;

(2) has successfully completed the appropriate training phases for the aircraft involved, including periodic training, required to work as an Operational Flight Dispatcher, in operations under this regulation;

(3) has satisfactorily completed the appropriate competency exams that are required to work as an Operational Flight Dispatcher in operations under this regulation; and

(4) has successfully completed the training required for the instructor, according to the training program established by the operator.

(d) An Operational Flight Dispatcher instructor is a person who has been qualified as an instructor on one or more aircraft. (e) An Operational Flight Dispatcher instructor performs the function of giving ground instruction to newly hired Dispatchers or in transition to other equipment.

(f) No certificate holder may employ a person, and no one may work, as an Operational Flight Dispatcher instructor in a training program established under this subpart, unless, with respect to the particular type of aircraft, that person:

(1) has the license and the necessary qualifications to work as an Operational Flight Dispatcher, in operations under this regulation;

(2) has successfully completed the appropriate training phases for the aircraft involved, including periodic training, required to work as an Operational Flight Dispatcher, in operations under this regulation;

(3) has satisfactorily completed the appropriate competency exams that are required to work as an Operational Flight Dispatcher instructor in operations under this regulation; and

(4) has successfully completed the training required for the instructor, according to the training program established by the operator.

<u>121.412b Qualifications.</u> <u>Operational flight dispatcher:</u> <u>accredited examiner</u>

(a) An Accredited Examiner Operational Flight Dispatcher is a qualified person authorized to conduct competency exams in Operational Flight Dispatchers.

(b) An Accredited Examiner Operational Flight Dispatcher is a person appointed by the operator and approved by ANAC, who has an employment contract in the function (exercised for at least 3 years) as an Operational Flight Dispatcher and performs the function of applying competency exams on Operational Flight Dispatchers.

(c) No certificate holder may employ a person, and no one may work, as an Accredited Examiner Flight Operational Dispatcher in a training program established under this subpart, unless, with respect to the particular type of aircraft, that person:

(1) has the license and qualifications that he/she/she would need to have to work as an Operational Flight Dispatcher, in operations under this regulation; (2) has successfully completed the appropriate training phases for the aircraft involved, including periodic training, required to work as an Operational Flight Dispatcher, in operations under this regulation;

(3) has satisfactorily completed the appropriate competency exams that are required to work as an Operational Flight Dispatcher, in operations under this regulation;

(4) has successfully completed the training required for the examiner, according to the training program established by the operator;

(5) has exercised, for at least 6 months in the company, the function of instructor in the equipment in which he/she intends to be an examiner; and

(6) has been approved by ANAC for the functions of accredited examiner.

121.413 Requirements for Initial Training, Transition Training and Examinations: Accredited Examiners on Airplanes and Accredited Examiners on a Simulator

(a) No certificate holder can employ a person, and no one can work, as an accredited examiner unless such person:

(1) has successfully completed the initial or transition training exam; and

(2) within the previous 24 months that person has conducted a proficiency or competency exam under the observation of an INSPAC or other accredited examiner designated by the operator. The observed examination can be performed totally or partially on an airplane, in a flight simulator or in a flight training device. (Wording given by Resolution No. 334, of 07.01.2014)

(b) The observed examinations required by paragraph (a)(2) of this section are considered to have been completed in the required month if they are completed in the month preceding or following the required month. (Wording given by Resolution No. 334, of 07.01.2014)

(c) Initial ground training for an accredited examiner must include the following:

(1) responsibilities, duties and functions of an accredited examiner; (2) applicable aeronautical regulations and the certificate holder's policy and procedures;

(3) techniques, methods and procedures appropriate to conduct the required examinations;

(4) appropriate assessment of the performance of the assessed person, including the identification of:

(i) inadequate or insufficient training; and

(ii) an applicant's personal characteristics that may adversely affect security.

(5) appropriate corrective actions in the case of unsatisfactory examinations;

(6) approved methods, procedures and limitations on the performance of normal, abnormal and emergency procedures required by the type of aircraft involved.

(d) Transitional ground training for an accredited examiner must include approved methods, procedures and limitations in the performance of normal, abnormal and emergency procedures required by the type of airplane the examiner is transitioning to.

(e) Initial and transitional flight training for an accredited airplane pilot examiner, an accredited airplane flight mechanic examiner and an accredited airplane navigator examiner must include the following:

(1) security measures to be taken in emergency situations that may occur during an examination;

(2) the potential results of improper, extemporaneous or not performed security measures during an examination;

(3) for an accredited airplane pilot examiner:

(i) training and practice in conducting flight examinations, seated in any of the two pilot stations, verifying the execution of the required normal, abnormal and emergency maneuvers, in order to ensure incumbency in the application of flight examinations for pilots required by this regulation; and

(ii) the safety measures to be taken, from any pilot seat, in emergency situations that may occur during an examination. (4) for an accredited airplane mechanic examiner and an accredited airplane navigator examiner, training to ensure incumbency in the performance of their duties.

(f) The requirements of paragraph (e) of this section may be met, in whole or in part, in flight, in a flight simulator or in a flight training device, as appropriate.

(g) Initial and transition flight training for an accredited simulator examiner must include the following:

(1) training and practice in conducting flight examinations verifying the execution of the required normal, abnormal and emergency maneuvers, in order to ensure incumbency in the application of the flight examinations required by this regulation. Such training and practices must be carried out in a flight simulator or in a flight training device;

(2) training in the operation of flight simulators and flight training devices, or both, to ensure incumbency in conducting the flight exams required by this regulation.

121.414 Requirements for initial training, transition training and exams: airplane flight instructors and simulator flight instructors

(a) No certificate holder can employ a person, and no one can work, as a flight instructor unless:

(1) he/she/she has satisfactorily completed the initial or transition flight instructor training; and

(2) within the previous 24 months, that person has satisfactorily conducted instruction under observation from an INSPAC or an accredited operator examiner. The observed examination can be carried out, in whole or in part, on an airplane, in a flight simulator or in a flight training device. (Wording given by Resolution No. 334, of 07.01.2014)

(b) The observed examinations required by paragraph (a)(2) of this section are considered to have been completed in the required month if they are completed in the month preceding or following the required month. (Wording given by Resolution No. 334, of 07.01.2014)

(c) Initial ground training for flight instructors must include the following:

(1) responsibilities, duties and functions of a flight instructor; (2) applicable aeronautical regulations and the certificate holder's policy and procedures;

(3) appropriate techniques, methods and procedures for conducting flight instruction;

(4) appropriate assessment of the performance of the assessed person, including the identification of:

(i) inadequate or insufficient training; and

(ii) an applicant's personal characteristics that may adversely affect security.

(5) corrective actions in case of unsatisfactory training progress;

(6) approved methods, procedures and limitations for performing normal, abnormal and emergency procedures required by the type of aircraft involved.

(7) Except for flight instructor license holders:

(i) the fundamental principles of the teaching-learning process;

(ii) teaching methods and procedures; and

(iii) the instructor-student relationship.

(d) Transition ground training for flight instructors must include approved methods, procedures and limitations for performing normal, abnormal and emergency procedures applicable to the airplane to which the flight instructor is transitioning.

(e) Initial and transitional flight training for airplane pilot flight instructors, airplane flight mechanic instructors and airplane navigator instructors must include the following:

(1) the safety measures to be taken, from any pilot seat, in emergency situations that may occur during instruction;

(2) the potential results of improper, extemporaneous or not performed security measures during the instruction;

(3) for flight instructors of pilots on an airplane:

(i) training and practice of flying on an airplane, conducting instruction on the left and right pilot seats of normal, abnormal and emergency procedures, in order to ensure incumbency as an instructor; and (ii) the safety measures to be taken, from any pilot seat, in emergency situations that may occur during the instruction.

(4) for instructors of airplane flight mechanics and for instructors of navigators, flight training on an airplane in order to ensure incumbency in the performance of their duties.

(f) The requirements of paragraph (e) of this section may be met, in whole or in part, in flight, in a flight simulator or in a flight training device, as appropriate.

(g) Initial and transition flight training for simulator flight instructors must include the following:

(1) training and practice in the normal, abnormal and emergency procedures required, in order to ensure incumbency to conduct the flight instruction required by this regulation. This training can be carried out in whole or in part, in a flight simulator or in a flight training device, as appropriate;

(2) training in the operation of flight simulators or flight training devices, or both, to ensure incumbency in conducting the flight instruction required by this regulation.

121.415 Training requirements. Flight operational dispatchers and crew in general

(a) Each training program must provide the following ground training, as appropriate for the particular designation of the crew or dispatcher:

(1) ground training on basic indoctrination for newly hired crew and dispatchers, including 40 hours of ground instruction, which can be reduced according to section 121.405, or as specified in 121.401 (d), on at least, the following subjects:

(i) duties and responsibilities of crew and dispatchers, as applicable;

(ii) appropriate instruction on aeronautical regulations;

(iii) content of the ETA certificate of the holder and its operating specifications (not applicable for flight attendants);

(iv) appropriate parts of the certificate holder's manual; and

(v) the safe transport of dangerous goods by air, in accordance with the requirements of RBAC No. 175; and

(Wording given by Resolution No. 608, of February 11, 2021)

(vi) for flight attendants, basic knowledge of airplanes, theory of flight and atmosphere. (Included by Resolution n° 608, of 02.11.2021).

(2) the initial and transitional ground training specified in sections 121.419 through 121.422, as applicable;

(3) for crew members, emergency training specified in sections 121.417.

(b) Each training program shall provide the flight training provided for in sections 121.424 through 121.426, as applicable.

(c) Each training program must provide periodic ground and flight training set out in section 121.427.

(d) If ANAC considers that, due to differences between aircraft of the same type operated by the certificate holder, there is a need for additional training to ensure that each type of crew member and dispatcher is adequately trained to perform the duties assigned to him/her, the training program must provide the difference training specified in 121.418.

(e) The training program may provide elevation training established by sections 121.419 and 121.424, for a particular type of aircraft, aiming to qualify as a pilot-in-command or as a second-in-command a qualified crew member and working as a second-in-command or flight mechanic, respectively, on that same type of plane.

(f) Specific subjects, maneuvers and procedures, or parts thereof, set out in sections 121.419 to 121.425 for transition training or level elevation up, as applicable, may be omitted and the number of hours of ground instruction and instruction scheduled by plane can be reduced in accordance with section 121.405.

(g) In addition to initial, transition, difference, level-elevation and periodic training, each training program must also provide ground and flight training, instructions and practices as necessary to ensure that each crew member and dispatcher:

(1) remains permanently trained and continuously proficient with respect to each aircraft, function in the crew and the operating characteristics in which he/she/she works; and (Wording given by Resolution No. 526, of 08.06.2019)

(2) qualifies for new equipment, facilities, procedures and techniques, including modifications to the types of aircraft he/she/she work on.

<u>121.417 Emergency training for</u> <u>crew</u>

(a) Each training program shall provide the emergency training set out in this section with respect to each type, model and configuration of aircraft and with respect to each type of crew member required and each operation conducted, with due regard to the characteristics of the authorized operation by the certificate holder. (Wording given by Resolution No. 526, of 08.06.2019)

(b) Emergency training should provide the following:

(1) instructions and procedures for the functions assigned to each crew member in emergency conditions, including coordination between crew members on those occasions;

(2) individual instruction on the location, function and operation of emergency equipment, including:

(i) equipment to be used for sea landing and emergency evacuations;

(ii) first aid equipment and its appropriate use;

(iii) portable fire extinguishers, with emphasis on the type of extinguishing agent to be used in the different classes of fire; and

(iv) emergency exits operated in emergency mode, with slides/dinghy installed (if applicable), with an emphasis on training the operation of exits under adverse conditions.

(3) instructions and procedures for dealing with abnormal or emergency situations including:

(i) rapid decompression;

(ii) fire in flight and on the ground and smoke control procedures, with emphasis on electrical equipment and respective circuit breakers located in the cockpit and passenger cabin areas, including all galleys, service centers, elevators, lavatories and sound and image systems;

(iii) sea landing and evacuations, including evacuating people (and their companions, if any) who need help from others to move more quickly to an exit in case of emergency evacuation;

(iv) illnesses, contusions, injuries and other situations involving passen-

gers or crew, including familiarization with the set of medical emergencies;

(v) unlawful interference, acts of sabotage and terrorism, kidnapping and other unusual situations; and

(vi) notions of survival at sea and in the jungle, including the use of installed survival equipment.

(4) review and discussion of documentation regarding accidents and incidents that have already occurred and related to the emergency situation being trained.

(c) Each crew member must undertake the following emergency training, during the prescribed training periods, using those items of emergency equipment installed on each type of airplane on which he/she/she works (the alternative periodic training provided for in paragraph 121.433 (c) of this regulation can be done through pictorial presentations or approved demonstrations):

(1) requirements for emergency exercises to be performed once during initial training. Each crew member must perform:

(i) at least one exercise with approved protective breathing equipment (PBE), in which the crew member fights real or simulated fire using at least one type of installed portable fire extinguisher, or an approved fire extinguisher, which is appropriate for the type of real or simulated fire to be fought while using the type of installed PBE required by 121.337 or an approved PBE simulator device as defined in paragraph (d) of this section to fight fires on board aircraft;

(ii) at least one approved fire-fighting exercise in which the crew member fights real fire using at least one type of installed portable fire extinguisher, or an approved fire extinguisher, which is appropriate for the type of fire to be fought. This exercise is not required if the crew member performs the exercise provided for in paragraph (c)(1)(i) using a PBE and fighting real fire;

(iii) an emergency evacuation exercise with each person leaving the aircraft (or approved training device) using at least one type of escape slide installed. The crew member can only observe the emergency exits of the airplane being opened in emergency mode and the associated slides/dinghy being deployed and inflated or can perform the tasks that result in the completion of such actions.

(2) additional emergency exercises to be performed during initial training and every 24 months during periodic training. Each crew member must: (Wording given by Resolution No. 334, of 07/01/2014)

(i) perform the following exercises and operate the following equipment:

(A) each type of emergency exit in normal and emergency modes, including the actions and forces required to deploy slides for emergency evacuation;

(B) each type of portable fire extinguisher installed;

(C) each type of emergency oxygen system installed, including protective breathing equipment;

(D) placement, use and inflation of individual means of flotation, if applicable; and

(E) emergency water landing, if applicable, including appropriate procedures, but not limited to:

(1) cockpit procedures and preparation;

(2) crew coordination;

(3) passenger cabin instructions and preparation;

(4) placement and inflation of life jackets;

(5) use of safety cables over the wings (life-lines); and

(6) boarding passengers and crew on lifeboats or slides/dinghies.

(ii) observe the following exercises:

(A) removal from the airplane (or training device) and inflating each type of boat or slide/boat installed, if applicable;

(B) transfer of each type of slide/boat from one door to another;

(C) Unfolding, inflating and separating from the airplane (or training device) each type of slide/boat; and

(D) emergency evacuation, including the use of the slide.

(d) No crew member may work in operations under this regulation, unless he/ she/she has performed the PBE exercise and the fire-fighting exercise described in paragraphs (c)(1)(i) and (c)(1)(ii) of this section as part of the requirements for emergency exercises to be performed once from paragraphs (c)(1) or (c)(2) of this section, as appropriate. Each crew member who has performed the PBE and fire fighting exercises described in paragraphs (c)(1)(i) and (c)(1)(ii) of this section after May 26, 1987, is considered to comply with this regulation when presenting information or documentation, in the form and manner acceptable to ANAC, demonstrating that the appropriate exercises have been carried out.

(e) Crew members working in operations above FL250 must receive instructions on the following:

(1) breathing problems;

(2) hypoxia;

(3) duration of the state of consciousness, without supplemental oxygen, at altitude;

(4) expansion of gases;

(5) formation of gas bubbles in the blood;

(6) the physical phenomenon and decompression incidents.

(f) For the purposes of this section, the following definitions apply:

 fight, in this context, means adequately fighting real or simulated fire, using an appropriate type of fire extinguisher, until the fire is extinguished;

(2) approved PBE simulator device means a training device that has been approved by ANAC for use in meeting the training requirements of 121.417 (c);

(3) executing means satisfactorily executing anticipated emergency training, using established procedures that increase the skill of the person involved in the training;

(4) exercise with PBE means an emergency exercise in which a crew member demonstrates the proper use of protective breathing equipment while fighting real or simulated fire;

(5) approved fire extinguisher means a training device that has been approved by ANAC for use in meeting the training requirements of 121.417 (c);

(6) real fire means a combustible material on fire, under controlled conditions, of sufficient magnitude and duration to meet the training objectives described in paragraphs (c)(1)(i) and (c)(1)(ii) of this section;

(7) simulated fire means an artificial duplication of smoke or flame used to create various aircraft fire-fighting scenarios such as lavatory, galley oven and passenger seat fire;

(8) observing means watching, without actively participating in the exercise.

121.418 Differences training; crew and dispatchers

(a) Differences training for crew and dispatchers shall consist of at least the following, as applicable for each person's duties and responsibilities:

(1) instruction on each appropriate subject, or part thereof, required for initial training on the aircraft, unless ANAC considers that specific matters are not necessary;

(2) flight training in each maneuver or appropriate procedure required for initial airplane flight training, unless ANAC considers certain maneuvers or procedures unnecessary;

(3) the number of hours scheduled for flight and ground training considered by ANAC to be necessary for the type of airplane, the characteristics of operation and the crew or dispatcher involved. (Wording given by Resolution No. 526, of 08.06.2019)

(b) Differences training for all variations of a given type of aircraft may be included as part of the initial, transition, upgrade and periodic training for that aircraft.

121.419 Pilots and flight mechanics; initial, transition and elevation ground training

(a) Initial, transitional or level elevation ground training for pilots and flight mechanics must include at least the following, as applicable for each function:

(1) general matters:

(i) the certificate holder's procedures for dispatching or releasing a flight;

(ii) principles and methods for determining weight and balance and runway limitations for takeoffs and landings;

(iii) sufficient meteorological knowledge to ensure practical knowledge of atmospheric phenomena, including the principles of frontal systems, ice, fog, thunderstorms and high altitude atmospheric changes;

(iv) air traffic control systems, procedures and phraseology;

(v) navigation and use of navigation aids, including exit and instrument approach procedures;

(vi) normal and emergency communications procedures;

(vii) familiarization with visual references before and during descents below the decision altitude (DH) or the minimum descent altitude (MDA) when approaching by instruments;

(viii) approved initial cabin resource management (CRM) training; and

(ix) other instructions as necessary to ensure his/her/her incumbency.

(2) for each type of airplane:

(i) general description;

(ii) performance characteristics;

(iii) powertrain system;

(iv) main components;

 (v) main systems (flight controls, electrical, hydraulic, etc.) and other systems as appropriate; principles of normal, abnormal and emergency operation; applicable procedures and limitations;

(vi) procedures for:

(A) recognizing and avoiding adverse weather conditions;

(B) getting rid of severe atmospheric conditions in the event of inadvertent entry, including low altitude windshear; and

(C) operating in or near storms (including better penetration altitude), turbulent air (including clear sky turbulence), ice, hail and other potentially dangerous weather conditions;

(vii) operational limitations;

(viii) fuel consumption and cruise control;

(ix) flight planning;

(x) each normal and emergency procedure; and

(xi) the airplane's approved flight manual – AFM.

(b) Initial ground training for pilots and flight mechanics must consist of at least the following scheduled hours of instruction on the subjects required by paragraph (a) of this section and paragraph 121.415 (a), unless reduced as 121.405:

(1) Group I airplanes:

(i) with conventional engines – 64 hours; and

(ii) with turboprop engines - 80 hours.

(2) group II airplanes – 120 hours.

(c) Transition and level-elevation ground training for pilots and transition training for flight mechanics can be established on the basis of reduced initial training under paragraph 121.405 (d). (Wording given by Resolution No. 334, of 07.01.2014)

121.420 Navigators, initial and transitional ground training

(a) Initial and transitional ground training for navigators must include instruction on the subjects specified in 121.419 (a), as appropriate to their duties and responsibilities, and on the following with respect to the particular type of aircraft:

(1) limitations on climb, cruise and descent speeds;

(2) each item of installed navigation equipment, including the appropriate radio, radar and other electronic equipment;

(3) aircraft performance;

(4) speed, temperature and pressure indicator systems and instruments;

(5) limitations of the magnetic compass and compensation methods;

(6) cruise control charts and data, including fuel consumption ratio;

(7) any other instructions as necessary to ensure his/her/her incumbency.

(b) Initial ground training for navigators must consist of at least the following scheduled hours of instruction on the subjects specified in paragraph (a) of this section and 121.415 (a), unless reduced to 121.405:

(1) Group I airplanes:

(i) with conventional engines – 16 hours; and

(ii) with turboprop engines - 32 hours.

(2) group II airplanes – 32 hours.

121.421 Flight attendants. Initial and transitional ground training

(a) The initial and transitional flight attendant ground training should include instruction on at least the following subjects:

(1) general matters:

(i) the authority of the pilot-in-command;

(ii) guidance and control of passengers, including providing adequate assistance to passengers with disabilities and procedures to be followed in the case of unruly persons or persons whose conduct may impair safety; and

(iii) initial cabin resource management (CRM) training approved.

(2) for each type of airplane:

(i) a general description of the airplane, emphasizing the physical characteristics that may be important in the case of ditching, evacuation, in-flight emergencies and other related duties;

(ii) the use of communication systems for passengers and other crew members, including emergency procedures in cases of attempted kidnapping or other abnormal situations;

(iii) proper use of the electrical equipment of the galleys and of the conditioning and ventilation controls of the passenger cabin; and

(iv) Practicing the duties of a flight attendant on an appropriate training device or on a static aircraft.

(b) The initial and transition flight attendant ground training must include a competency exam to determine the person's ability to perform his/her or her duties and responsibilities. This exam can be conducted by an INSPAC or by an accredited examiner. (Wording given by Resolution No. 334, of 07.01.2014)

(c) Initial ground training for flight attendants must consist of at least the following scheduled hours of instruction on the subjects listed in paragraph (a) of this section and 121.415 (a), unless reduced to 121.405

(1) Group I airplanes:

(i) with conventional engines - 08 hours; and

(ii) with turboprop engines - 08 hours.

(2) group II airplanes – 16 hours.

<u>121.422 Operational flight</u> <u>dispatchers. Initial and transitional</u> <u>ground training</u>

(a) Initial and transition ground training for dispatchers should include instruction on at least the following:

(1) general matters:

(i) use of the certificate holder's communications systems and airspace control service, including the characteristics of these systems and the appropriate normal and emergency communications procedures;

(ii) meteorology, including various types of meteorological information and forecasts, interpretation of meteorological data (including route forecasts, temperatures and other meteorological conditions at the destination and alternate airports), frontal systems, wind conditions and the use of meteorological charts and forecasts for different altitudes;

(iii) NOTAM system;

(iv) aid to navigation and related publications;

(v) joint dispatcher/pilot-in-command responsibilities;

(vi) characteristics of the airports involved in the operations;

(vii) prevailing meteorological phenomena and the available sources of meteorological information;

(viii) air traffic control and instrument approach procedures;

(ix) filling in flight plans, delay messages, changes in the flight plan and sending this information to air traffic control agencies; and

(x) initial approved cabin resource management (CRM) training.

(2) for each type of airplane:

(i) general description of the airplane, emphasizing operating and performance characteristics, navigation equipment, approach instrumentation, communications equipment, emergency equipment and procedures and other matters of interest to the duties and responsibilities of dispatchers;

(ii) flight operations procedures, including the procedures specified in paragraph 121.419 (a)(2)(vi);

(iii) weight and balance calculations;

(iv) basic aircraft performance procedures and requirements for dispatch;

(v) flight planning including course choice, flight time analysis, fuel requirements; and

(vi) aircraft emergency procedures.

(3) the procedures to be followed in emergency cases, including the activation of public agencies, the aeronautical infrastructure and the certificate holder, aiming at maximum support to the aircraft in danger, must be emphasized.

(b) Initial and transitional ground training for dispatchers must include a competency exam, which can be conducted by an INSPAC or an accredited examiner, in order to determine the knowledge and skill of each dispatcher in performing the specified duties and responsibilities in paragraph (a) of this section. (Wording given by Resolution No. 334, of 07.01.2014)

(c) Initial ground training for dispatchers shall consist of at least the following scheduled hours of instruction on the subjects listed in paragraph (a) of this section and paragraph 121.415 (a) of this subpart:

(1) Group I airplanes:

(i) with conventional engines - 30 hours; and

(ii) with turboprop engines - 40 hours.

(2) group II airplanes - 40 hours.

121.424 Pilots. Initial, transition and level-elevation flight training

(a) Initial, transition and level-elevation flight training for pilots must include flight training and practice of the maneuvers and procedures listed in Appendix E of this regulation and in the approved low altitude windshear flight training program to the certificate holder, as appropriate.

(b) The maneuvers and procedures required by paragraph (a) of this section must be performed on an airplane, except:

(1) the maneuvers and procedures for windshear that must be performed in an airplane simulator specifically approved for performing such maneuvers and procedures; and

(2) maneuvers and procedures that can be performed on an airplane simulator, on a suitable training device or on a static aircraft, as permitted by Appendix E of this regulation. (c) Except as permitted by paragraph (d) of this section, the initial flight training required by paragraph (a) of this section must include at least the following scheduled hours of training and practice on the plane, unless reduced as per section 121.405:

(1) Group I airplanes:

(i) with conventional engines – pilot-in-command: 10 hours; second-in-command: 6 hours; and

(ii) with turboprop engines in pilot: 15 hours; second-in-command: 7 hours.

(2) group II airplanes – pilot-in-command: 20 hours; second-in-command: 10 hours.

(d) If the approved training program for the certificate holder includes a training course using an airplane simulator in accordance with paragraphs 121.409 (c) and (d) of this regulation, each pilot must successfully complete the following training:

(1) with respect to paragraph 121.409 (c)(1) of this regulation:

(i) simulator training and practice of at least all the maneuvers and procedures set out in Appendix E of this regulation for initial flight training and which can be performed in an airplane simulator with or without a visualization system; and

(ii) a flight exam, in simulator or on the plane, appropriate to the level of proficiency of pilot-in-command or second-in-command, as applicable, performing at least the maneuvers and procedures listed in Appendix F of this regulation and that can be executed in an airplane simulator with or without a visualization system.

(2) with respect to paragraph 121.409 (d) of this regulation, training and practice at least of the maneuvers and procedures for training low windshear listed in the approved program for the certificate holder and that can be performed in a simulator that has been specifically approved for performing such maneuvers and procedures.

<u>121.425 Flight mechanic. Initial and</u> transition flight training

(a) Initial and transition flight training for flight mechanic must include at least the following:

(1) training and practice in procedures related to the performance of the flight mechanic's functions and duties. This training and practice can be carried out either in an airplane, in an airplane simulator or in a training device;

(2) a flight exam that includes:

(i) pre-flight inspection;

(ii) carrying out the duties of a flight mechanic in an airplane, at his/her normal work station during the rolling, acceleration, take-off, climb, cruise, descent, approach and landing; and

(iii) performance of other functions, such as fuel management, preparation of fuel consumption records, normal, emergency or alternative operation of all aircraft flight systems. These functions can be performed in an airplane simulator, in a flight training device or in the airplane, in a flight not conducted according to this regulation;

(iv) the commercial pilot license holder, with the appropriate technical qualification certificate and with IFR qualification, or a pilot already qualified as second-in-command of the aircraft type and reverting to the flight mechanic function, can complete the entire exam flight in an approved simulator.

(b) Except as permitted by paragraph (c) of this section, the initial flight training required by paragraph (a) of this section must include at least the same number of scheduled flight training and practice hours as required by a second-in-command pilot in paragraph 121.424 (c) of this subpart, unless reduced in accordance with paragraph 121.405.

(c) If the approved training program for the certificate holder includes a training course using an airplane simulator or other training device in accordance with paragraph 121.409 (c), each flight mechanic must successfully complete the simulator or training device:

(1) training and practicing at least all the obligations, procedures and functions required by paragraph (a) of this section; and

(2) a flight examination appropriate to the level of proficiency of the flight mechanic in carrying out the duties, procedures and functions required by paragraph (a) of this section.

121.426 [Reserved]

121.427 Periodic training

(a) Periodic training must ensure that each crew member and dispatcher is adequately trained and permanently proficient with respect to the type of aircraft (including differences training, if applicable) and the functions performed.

(b) Periodic ground training for crew and dispatchers must include at least the following:

(1) an oral or written assessment to determine the status of the crew or dispatcher's knowledge of the airplane and its functions;

(2) instruction, as necessary, on the matters required by paragraph 121.415 (a) for initial ground training, as appropriate, including emergency training (not required for dispatcher);

(3) for flight attendants and dispatchers, a competency exam as required by paragraphs 121.421 (b) and 121.422 (b), respectively;

(4) periodic approved CRM training. For crew members, this training, or part of it, can be performed during an operational flight training section approved for simulator. The periodic CRM training requirement does not apply until the person has completed the applicable initial CRM training required by 121.419, 121.421 or 121.422.

(c) Periodic ground training for crew and dispatchers must consist of at least the following scheduled hours, unless reduced in accordance with section 121.405:

(1) for pilots and flight mechanics:

(i) group I airplanes with conventional engines: 16 hours; and

(ii) group I airplanes with turboprop engines: 20 hours.

(iii) group II airplanes: 25 hours.

(2) for flight attendants:

(i) group I airplanes with conventional engines: 4 hours; and

(ii) group I airplanes with turboprop engines: 5 hours.

(iii) group II airplanes: 12 hours.

(3) for operational flight dispatchers:

(i) group I airplanes with conventional engines: 8 hours; and

(ii) group I airplanes with turboprop engines: 10 hours.

(iii) group II airplanes: 20 hours.

(d) Periodic flight training for flight crew must include at least the following:

(1) for pilots, flight training, in an approved simulator, of the maneuvers and procedures specified in the low altitude windshear training program approved for the certificate holder, and flight training of the maneuvers and procedures in Appendix F of this regulation or in a flight training program approved by ANAC, except as follows:

(i) there is no need to provide for scheduled training hours on the plane; and

(ii) passing a proficiency exam may replace periodic flight training as permitted by paragraph 121.433 (c) of this regulation.

(2) for flight mechanics, the flight training established by paragraph 121.425 (a), except as follows:

(i) there is no need to provide for scheduled training hours on the plane; and

(ii) the flight exam, with the exception of the pre-flight inspection, can be carried out in an airplane simulator or other training device. Pre-flight inspection can be performed on the plane or using an approved training device that realistically reproduces the location and details of the items to be inspected, while also allowing the simulation of abnormal situations. The flight exam can be replaced by the successful completion of an approved simulator training program, oriented to en-route operation.

(3) for navigators, sufficient in-flight training and an in-flight exam to ensure incumbency with respect to the operating procedures and navigation equipment to be used and familiarity with essential navigation information relevant to the certificate holder's routes that require a navigator.

121.429 [Reserved]

<u>121.430 Training for operation in</u> both pilot stations.

The certificate holder must ensure that:

(a) the pilot who is assigned to operate at both pilot stations is approved for appropriate training; and (b) the training is included in the certificate holder's approved training program.

SUBPART O CREW MEMBERS QUALIFICATIONS

121.431 Applicability

(a) This subpart:

(1) establishes qualifications for crew members for all certificate holders, except as otherwise specified in the text. The qualification requirements of this subpart also apply to each certificate holder conducting scheduled operations under the RBAC 135 with airplanes configured for passengers with more than 19 seats. ANAC may authorize any other certificate holder, who conducts operations under RBAC 135, to meet the training and qualification requirements of this subpart in place of the requirements of RBAC 135 subparts E, G and H, except that such certificate holders may choose to meet the operational experience requirements contained in 135.344 instead of those contained in 121.434; and (amended by resolution No. 549, of 3.20.2020)

(2) allows personnel from training centers authorized by RBAC 142, who meet the requirements of 121.411 through 121.414, to provide training, tests and examinations under contract or other arrangement for those subject to the requirements of this subpart.

(b) For the purposes of this subpart, aircraft groups, definitions and terms listed in section 121.400 of this regulation apply, in addition to the following definitions:

(1) operating cycle is a complete flight segment consisting of take-off, ascent, cruise, descent and landing;

(2) consolidation is the process by which a person, through training and practical experience, increases his/ her proficiency in recently acquired knowledge and skills;

(3) en-route flight time is the flight time performed on operations under this regulation.

121.432 General

(a) Except in the case of operational experience being obtained in accordance with section 121.434, a pilot exercising the function of second-in-command in

an operation that requires 3 or more pilots must be fully qualified to exercise the function of pilot-in-command of that operation.

(b) No certificate holder may conduct a flight exam or any training during operations under this regulation, except for the following examinations and training required by this regulation or by the certificate holder itself:

(1) en-route examinations for pilots;

(2) navigator training conducted under the supervision of a flight navigation instructor;

(3) [Reserved];

(4) flight mechanic examinations (except abnormal or emergency procedures) if the person being examined is qualified and updated as provided in paragraph 121.453 (a) of this subpart;

(5) training and competency exams for flight attendants. (Wording given by Resolution No. 334, of 07.01.2014)

121.433 Required training

(a) Initial training. No certificate holder may employ a person, and no one may work, as a required crew member on an airplane, unless he/she/she has satisfactorily completed, following an approved instruction program under subpart N of this regulation, the initial ground and flight training for the particular type of airplane and for the particular function being performed on board, except as follows:

(1) crew members who have been qualified and have worked as a crew member on another type of aircraft in the same group can perform the same function after the successful completion of the transition training provided for in section 121.415;

(2) crew members who have been qualified and have worked as a second-in-command on a particular type of airplane can work as a pilot-in-command on the same type of aircraft after successfully completing level-elevation training for that type by plane, established by section 121.415;

(3) [Reserved].

(b) Differences training. No certificate holder can employ a person, and no one can work, as a required crew member on a type of airplane for which the approved training program for the certificate holder provides for differences training, unless it has satisfactorily completed both in relation to the function on board as in relation to the particular variant of the airplane type, the initial or transitional, ground and flight training, or the differences training established in accordance with section 121.415.

(c) Periodic training.

(1) no certificate holder may employ a person as a crew member and no one may work as a required crew member on an airplane, unless:

(i) if a flight crew member, he/she/she has satisfactorily completed, within the preceding 12 months, the periodic ground and flight training for said aircraft and for the specific function and has passed the flight examination as applicable; (Wording given by Resolution No. 334, of 07.01.2014)

(ii) if a flight attendant or dispatcher, he/she/she has satisfactorily completed, within the preceding 12 months, the periodic ground training and has passed a competency exam. (Wording given by Resolution No. 334, of 07.01.2014)

(2) for pilots, a proficiency exam as set out in section 121.441 of this subpart may replace the periodic training set out in paragraph (c)(1)(i) of this section. In addition, a simulator training course, which provides the training set out in paragraph 121.409 (b) of this regulation, may replace the alternate periods of periodic flight training required by the type of airplane, except as provided in paragraphs (d) and (e) of this section.

(d) For each type of airplane in which a pilot exercises the function of pilot-in-command, he/she must have satisfactorily completed, within the preceding 12 months, periodic flight training or a proficiency exam. (Wording given by Resolution No. 334, of 07.01.2014)

(e) Notwithstanding the provisions of paragraphs (c)(2) and (d) of this section, a proficiency examination, as provided for in section 121.441 of this subpart, cannot replace the training of the maneuvers and procedures established by the training program for low altitude windshear approved for the certificate holder, when this program is included in a periodic flight training course as established by paragraph 121.409 (d) of this regulation.

<u>121.434 Operating experience,</u> operating cycles and consolidation of knowledge and skills

(a) No certificate holder can employ a person, and no one can work, as a required crew member on an airplane type, unless he/she/she has completed, in the specific type of airplane and in the specific function on board, the operation experience, the operation cycles and the en-route operation flight time to consolidate the knowledge and skills required by this section, except as follows:

(1) crew members other than pilots-in-command may work as provided herein for the purpose of meeting the requirements of this section;

(2) pilots who are in the process of meeting the requirements for a pilot-in-command can work as a second-in-command;

(3) different en-route operating experiences, operating cycles and operating flight times are not required to consolidate knowledge and skills for variations of the same type of aircraft.

(b) In acquiring en-route operating experience, operating cycles and operating flight time, each crew member must comply with the following:

(1) the flight crew member must have the appropriate licenses and qualifications for the function to be performed and for the type of airplane. However, to meet the requirements for pilot-in-command, the crew member must have the required licenses and qualifications for pilot-in-command of the aircraft type;

(2) the en-route operating experience, the operating cycles and the flight time of operating to consolidate the knowledge and skills required by this section must be acquired after satisfactory completion of the appropriate ground and flight training for the specific type of plane and function to be performed on board;

(3) experience must be obtained in flight during operations under this regulation. However, in the case of an airplane not previously used by the certificate holder in operations under this regulation, the experience of operating the airplane obtained during operational evaluation and ferry flights can be counted to meet this requirement. (c) Each pilot must acquire operating experience and operating cycles as follows:

(1) a pilot-in-command:

(i) must perform the tasks of pilot-in-command under the supervision of an accredited examiner or an airplane flight instructor; and (Wording given by Resolution No. 334, of 07.01.2014)

(ii) in addition, if a pilot-in-command in qualification is completing the initial or level-elevation training provided for in paragraph 121.424 (d) of this regulation, he/she/she must be observed during the performance of his/her/her duties by an INSPAC or accredited examiner during, at least one flight leg that includes a take-off and a landing. During the time that a qualifying pilot-in-command is acquiring the experience required by paragraphs (c)(1)(i) and (ii) of this section, the airplane flight instructor serving as a pilot-in-command must occupy a piloting station. However, if the qualifying pilot-in-command is in the process of transitioning, the airplane flight instructor serving as the pilot-in-command of the airplane may occupy the observer's seat as long as the pilot in transition has already performed at least two takeoffs and two landings and has satisfactorily demonstrated to the airplane flight instructor that he/she/she is capable of performing the duties of a pilot-in-command of the airplane type. (Wording given by Resolution No. 334, of 07.01.2014)

(2) a second-in-command pilot must perform second-in-command tasks under the supervision of an accredited examiner or an airplane flight instructor; (Wording given by Resolution No. 334, of 07.01.2014)

(3) the hours of operating experience and operating cycles, for all pilots, are as follows:

(i) for initial training, 15 hours for group I airplanes with conventional engines, 20 hours for group I airplanes with turboprop engines and 25 hours for group II airplanes. The operating experience for aircraft of both groups must include at least 4 cycles of operation (at least 2 cycles as a pilot at the controls of the aircraft);

(ii) for transition training, except as provided in paragraph (c)(3)(iii) of this section, 10 hours for group I airplanes with conventional engines, 12 hours for group I airplanes with turboprop engines, 25 hours for pilots-in-command of group II airplanes and 15 hours for second-in-command of group II airplanes. The operating experience for aircraft of both groups must include at least 4 cycles of operation (at least 2 cycles as a pilot at the controls of the aircraft);

(iii) in the case of transition training when the approved training program for the certificate holder includes an airplane simulator training course in accordance with paragraph 121.409 (c), each pilot-in-command must meet the requirements set out in paragraph (c)(3)(i) of this section for initial training.

(d) A flight mechanic must perform his/ her duties under the supervision of an accredited examiner or qualified flight mechanic for at least the following flight hours:

(1) Group I airplanes with conventional engines: 8 hours; and

(2) group I airplanes with turboprop engines: 10 hours.

(3) group II airplanes: 12 hours.

(e) A flight attendant must, for at least 5 hours, perform the duties of a flight attendant under the direct and personal supervision of a flight attendant qualified as an instructor under this regulation. However, operating experience is not required for a flight attendant who has previously acquired such experience on any other large plane in the same group carrying passengers, provided that the certificate holder demonstrates that that flight attendant has received sufficient ground training to ensure incumbency on the airplane where he/she/she will work. Flight attendants gaining operating experience cannot be counted as part of the crew required for the airplane and the operation being performed. Flight attendants who have satisfactorily completed the training time carried out in accordance with an approved training program and conducted on a training device that reproduces on a full scale (except length) the passenger cabin of the type of airplane on which they will work will be able to perform 50% hours of route experience required by this paragraph.

(f) To meet the operating experience requirements of this section, flight crew members may exchange one take-off and additional landing for one hour of flight, up to a maximum 50% reduction in flight hours, except for those in initial training for Group II and second-in-command pilots in transition training in Group II. Notwithstanding the reduction in programmed hours allowed by 121.405 and 121.409, the operating experience hours for flight crew members are not subject to reductions other than those established in this paragraph and in paragraph (e) of this section.

(g) Except as provided for in paragraph (h) of this section, pilot-in-command and second-in-command crew members must each acquire at least 100 hours of en-route flight time to consolidate knowledge and skills (including experience of operation required by paragraph (c) of this section) within 120 days after satisfactory completion of:

(1) any part of the flight maneuvers and procedures portion of a practical test to obtain a technical certificate or to obtain an additional technical certificate for an airline pilot; or

(2) a proficiency exam as provided for in 121.441.

(h) The following exceptions apply to the consolidation requirements of paragraph (g) of this section:

(1) Pilots who have been qualified and have worked as a pilot-in-command or as a second-in-command on a particular type of aircraft in operations under this regulation prior to the approval of this version thereof do not need to complete en route operating flight time for consolidation of knowledge and skills;

(2) Pilots who have completed the en route flight time operation to consolidate knowledge and skills while working as a second-in-command on a particular type of aircraft in operations under this regulation after August 25, 1995, do not need to repeat the en route operation flight time before working as a pilot-in-command of the same type of aircraft;

(3) if a pilot is working as a pilot on another type of airplane operated by the same certificate holder before completing the 100 hours of operating flight on the required route, that pilot cannot work as a pilot on the airplane on which he/she/she has just been qualified, unless he/ she/she satisfactorily completes refresher training as provided for in the approved training program for the certificate holder and that training is conducted by an appropriately qualified instructor or accredited examiner.

(4) if the required 100 hours of en-route operation is not completed within 120 days, the certificate holder may extend that period to a maximum of 150 days if:

(i) the pilot continues to meet all other applicable requirements of subpart O of this regulation; and

(ii) on or before the 120th day, the pilot satisfactorily completes refresher training conducted by an appropriately qualified instructor or accredited examiner as provided for in the approved training program for the certificate holder or an accredited examiner proves that the pilot maintained an adequate level of proficiency after observing him/her/her on an en route operation flight.

(5) ANAC, at the request of the certificate holder, may authorize deviations from the requirements of paragraph (g) of this section through an amendment appropriate to the operating specifications, to the extent guaranteed by any of the following circumstances:

 (i) a certificate holder, who at the beginning of its operations, does not employ a pilot who meets the minimum requirements of paragraph (g) of this section;

(ii) a certificate holder, which already operates normally, adds to its fleet an airplane of a type not yet approved for use in its operations;

(iii) a certificate holder that establishes a new secondary operating base for which it designates pilots who must qualify on planes to be operated from that new base.

(i) Notwithstanding the reductions in programmed hours allowed by 121.405 and 121.409 of subpart N of this regulation, the operating experience hours for flight crew members are not subject to any reduction other than those provided for in paragraphs (e) and (f) in this section.

121.435 [Reserved]

<u>121.437 Pilot qualification.</u> <u>Required documents</u>

(a) No pilot may act as a pilot-in-command of an airplane (or as a second-in-command on an airplane in international operations requiring 3 or more pilots), unless that pilot holds an airline pilot's license, a certificate of appropriate technical qualification for this type of aircraft, IFR qualification and a valid 1st class CMA. (Wording given by Resolution No. 526, of 08.06.2019)

(b) No certificate holder may employ a pilot in functions other than those mentioned in paragraph (a) of this section, nor can any pilot work in such functions unless that pilot holds at least a commercial pilot license, a technical qualification certificate appropriate for this type of aircraft, IFR qualification and a valid 1st class CMA. (Wording given by Resolution No. 526, of 08.06.2019)

121.438 Pilot. Dual requirements and operating limitations

(a) If the second-in-command has less than 100 hours of flight time as a second-in-command in operations under this regulation on the type of airplane being flown, and the pilot-in-command is not an appropriately qualified accredited examiner, the pilot-in-command must make all takeoffs and landings in the following situations:

(1) at special airports designated by ANAC or at airports designated by the certificate holder; and

(2) in any of the following conditions:

(i) visibility value prevailing in the last weather report for the airport at 1200 meters or less;

(ii) the visual range of the runway (RVR) to be used in 1200 meters or less;

(iii) runway to be used with water, snow, mud or similar conditions that could adversely affect the aircraft's performance;

(iv) braking action on the runway to be used reported as being less than "good";

(v) crosswind component for the runway to be used above 15 knots;

(vi) windshear reported in the vicinity of the airport;

(vii) any other condition in which the pilot-in-command considers it prudent to exercise his/her/her prerogatives.

(b) No one may conduct operations under this regulation unless, for the type of airplane, the pilot-in-command or second-in-command has at least 75 flight hours in en route operation as first or second-in-command. ANAC, at the request of the certificate holder, may authorize deviations from the requirements of this paragraph (b) through an amendment appropriate to the operating specifications, in any of the following circumstances:

(1) a certificate holder, who at the beginning of its operations, does not employ a pilot who meets the minimum requirements of paragraph (g) of this section;

(2) a certificate holder, who already operates normally, adds to its fleet an airplane of a type not yet approved for use in its operations;

(3) a certificate holder who establishes a new secondary operational base for which it designates pilots who must qualify on planes to be operated from that new base.

121.439 Pilot qualification. Recent experience

(a) No certificate holder may employ a person as required on a crew, as well as no one may exercise the function of pilot or flight attendant, unless that person:

(1) if the pilot, within the preceding 90 consecutive days, has made at least 3 landings and 3 takeoffs on the type of airplane on which he/she/ she works. Landings and takeoffs required by this paragraph can be performed in an airplane simulator provided with a visualization system and approved according to 121.407 for landing and take-off maneuvers. Any pilot who has not made 3 takeoffs and 3 landings within any period of 90 consecutive days must regain recent experience as provided for in paragraph (b) of this section; and

(2) if the flight attendant, within the preceding 360 consecutive days, has performed at least 10 cycles (landing and take-off) on the type(s) of airplane on which he/she/she works. Any flight attendant who has not completed the 10 cycles (landing and taking off) within any period of 360 consecutive days must acquire recent experience as provided in paragraph (b) of this section.

(b) In addition to being up to date with all training and examinations required by this regulation, a pilot or a flight attendant who does not meet the requirements of paragraph (a) of this section must recover recent experience as follows: (1) under the supervision of an INS-PAC or an accredited examiner, perform, if a pilot, at least 3 landings and 3 takeoffs on the type of airplane he/she/she works on or in an advanced simulator or equipped with a visualization system, if a flight attendant, perform 4 cycles (landing and take-off) on an airplane he/she/she works on. When using a simulator (in the case of pilots) with visualization, the requirements of paragraph (c) of this section must be met;

(2) the takeoffs and landings required by paragraph (b)(1) of this section must include (in the case of pilots):

(i) at least one take-off simulating the most critical engine failure;

(ii) at least one landing from an ILS approach at the approved minima for the airport and aircraft; and

(iii) at least one landing until a complete stop on the runway.

(c) For a pilot to be able to perform the maneuvers required by paragraph (b) of this section in an airplane simulator equipped with a visualization system, he/ she/she must:

(1) have at least 100 flight hours on the type of airplane he/she/she works on;

(2) be observed, in the first two landings to be carried out in operations under this regulation, by an INSPAC or an accredited examiner acting as a pilot-in-command and occupying one of the pilot positions. Landings must be made at the minimum meteorological conditions for CAT I operations and must be made within 45 days after the end of the simulator training.

(d) When using a simulator to meet any of the requirements of paragraphs (a) and (b) of this section, each required technical crew station must be occupied by an appropriately qualified person and the simulator must be operated as if it were in an environment flight, without the use of repetition of maneuvers or repositioning characteristic of a simulator.

(e) INSPAC or the accredited examiner who observes the takeoffs and landings provided for in paragraphs (b)(1) and (c) of this section must certify that the person being observed has demonstrated proficiency and is qualified to perform his/her/ her duties in operations under this regulation. It may also require any additional maneuvers that it considers necessary to give such certification.

(f) The flight simulator that the certificate holder uses for its training or to reestablish the recent experience of its crew members must be approved by ANAC.

121.440 En-Route Exams

(a) No certificate holder may employ a person, and no one may work, as a pilot-in-command of an airplane, unless, within the preceding 12 months, he/she/ she has undergone an en-route examination during which he/she/she has satisfactorily performed his/her/her duties and responsibilities as a pilot-in-command on one of the types of aircraft on which he/she/she flies. (Wording given by Resolution No. 334, of 07.01.2014)

(b) An en-route examination for a pilot-in-command of airplanes in scheduled operations must: (Wording given by Resolution No. 526, of 08.06.2019)

(1) be conducted by an INSPAC or accredited examiner qualified for the route and the type of aircraft; and

(2) consist of at least one flight conducted along a typical route of the certificate holder, or within a national or foreign airway, or over a direct route.

(c) An en-route examination for pilot-in-command of aircraft in supplemental operations must: (Wording given by Resolution No. 526, of 08.06.2019)

(1) be conducted by an INSPAC or accredited examiner qualified for the type of aircraft; and

(2) consist of at least one flight conducted along a national or foreign airway, or on an advisory route over which the pilot may fly.

(d) An en-route examination cannot include verification of abnormal and emergency procedures.

121.441 Proficiency exam

(a) No certificate holder operating under this regulation may employ a person, and no one may work, as pilot of an aircraft in operations under this regulation unless they have successfully completed a proficiency exam or one of the training courses in simulator described in paragraph 121.409 (b) of this regulation within the preceding 12 months and the en-route examination, provided for in 121.440, within not less than four and not more than the preceding eight months. (Wording given by Resolution No. 334, of 07.01.2014)

(b) Except as provided in paragraphs (c) and (d) of this section, a proficiency exam must meet the following requirements:

(1) must include, at least, the procedures and maneuvers required in Appendix F of this regulation, unless otherwise specified in said Appendix;

(2) must be conducted by an INSPAC or an accredited examiner.

(c) As provided for in Appendix F of this regulation, a proficiency exam can be performed on an approved simulator or other training device.

(d) An INSPAC or an accredited examiner conducting a proficiency exam may, at his/her/her discretion, waive the execution of any of the maneuvers or procedures for which special conditions exist in Appendix F of this regulation, provided that:

(1) ANAC has not specifically requested the execution of the particular maneuver or procedure;

(2) the pilot being examined is not newly hired by the certificate holder; and

(3) the pilot being examined is up to date on operations under this regulation in the particular type of aircraft and in the particular function on board, or has satisfactorily completed, within the preceding 6 months, an approved training program for the particular type of aircraft and function on board. (Wording given by Resolution No. 334, of 07.01.2014)

(e) If the pilot being examined fails in any of the required maneuvers, the examiner may authorize additional training in the course of the examination. In addition to asking for the repetition of the poorly performed maneuver, the examiner may require the pilot being examined to repeat any other maneuver he/she deems necessary to determine the proficiency of the examinee. If the pilot being examined is unable to demonstrate proficiency to the examiner, he/she/she will have his/her/her technical qualification certificate automatically invalidated until he/she/she is approved in a subsequent exam and will not be able to fly for the certificate holder during this period.

<u>121.443 Qualification of</u> pilot-in-command. Routes and <u>airports</u>

(a) Each certificate holder must have a system in place, approved by ANAC, to disseminate the information required by paragraph (b) of this section to its pilots-in-command and the appropriate operations personnel. The system must also provide acceptable means of demonstrating compliance with 121.445.

(b) No certificate holder can employ a person, and no one can work, as a pilot-in-command unless the certificate holder provides that person with up-to-date information concerning matters pertaining to the area of operations, each airport and each terminal area in which the person will operate. In addition, the certificate holder must ensure that such person has adequate knowledge of the information listed below and is able to use it correctly:

(1) atmospheric characteristics, specific to the season, in the area of operation;

(2) navigation facilities;

(3) communication procedures and the use of airport visual aids;

(4) types of terrain and obstructions;

(5) minimum safe flight levels;

(6) procedures en route and in and out of terminal areas; waiting, approach and departure by instrument procedures approved for the airports involved;

(7) congested areas and physical description ("layout") of each airport where the pilot will operate;

(8) NOTAM's of interest; and

(9) Other matters deemed to be in the interest of flight safety.

121.445 Qualification of pilots-in-command. Airports and special areas

(a) ANAC may determine that certain airports (due to items such as surrounding terrain, obstructions or complex approach or exit procedures) be considered as special airports, requiring specific qualification for them. It can also determine that certain areas or routes, or both, require qualification in a specific type of navigation.

(b) Except as provided in paragraph (c) of this section, no certificate holder may

employ, and no one may work, as a pilot-in-command at an airport deemed to require special qualification, unless, within the preceding 12 months: (Wording given by Resolution No. 334, of 07.01.2014)

(1) the pilot-in-command or the second-in-command has performed an operation at that airport (including landing and take-off) while working as an airplane pilot; or

(2) the pilot-in-command has qualified for the airport using a training device acceptable to ANAC.

(c) Paragraph (b) of this section does not apply when the operation at the airport (including landing and take-off) is being carried out with a ceiling, at the airport, at least 1000 feet above the lowest MEA or MOCA, or the altitude established for initial approach to an IFR procedure for such an airport and visibility at that airport is at least 4800 meters.

(d) No certificate holder can employ a person, and no one can work, as a pilot-in-command in operations between terminal areas along routes or over areas that require qualification in a special type of navigation, unless, within the preceding 12 months, such person has demonstrated in an way acceptable by ANAC to be qualified in the required navigation system. This demonstration can be made: (Wording given by Resolution No. 334, of 07.01.2014)

(1) by frequent flight along the route or area, as a pilot-in-command, using that type of navigation; or

(2) for flying along the route or area, as a pilot-in-command, under the supervision of an examiner, using that type of navigation; or

(3) for the execution of the training program provided for in Appendix E of this regulation.

121.447 [Reserved]

<u>121.449 [Reserved]</u>

121.451 [Reserved]

<u>121.453 Flight mechanic</u> qualification

(a) No certificate holder can employ a person, and no one can work, as a flight mechanic on an airplane, unless, within the preceding 6 months, that person has performed at least 50 flight hours as a mechanic in the type of airplane or that person has been examined by an INSPAC or an accredited examiner and has been

shown to be familiar with the information essential to the task and to be competent in carrying out operational procedures. (Wording given by Resolution No. 334, of 07.01.2014)

(b) An in-flight examination conducted in accordance with 121.425 (a)(2) meets the requirements of paragraph (a) of this section.

SUBPART P QUALIFICATION AND WORKING TIME LIMITATIONS. OPERATIONAL FLIGHT DISPATCHERS

121.461 Applicability

This subpart establishes the qualifications and working time limitations for operational flight dispatchers working for certificate holders conducting scheduled operations.

<u>121.463 Qualifications of</u> operational flight dispatchers (DOV)

(a) No certificate holder conducting scheduled operations may use a person, and no one may work, as an operational flight dispatcher for a particular group of airplanes, unless that person, in relation to an airplane in that group, has satisfactorily completed the following:

(1) [reserved];

(2) initial operational flight dispatcher training, unless that person has already completed such training for another type of aircraft in the same group and requires only transition training;

(3) operations familiarization flight, which consists of at least 5 segments operated by the certificate holder or 5 hours of observation of the operations, real or in simulator, of the certificate holder, both in the cockpit or, in aircraft that do not have an observer seat in the cockpit, in a seat as advanced as possible with headphones or loudspeakers so that they can follow communications from the flight crew. This requirement can be reduced to a minimum of 2.5 hours by replacing an hour of flight with a take-off and landing, and the reduction in hours does not apply to operations performed in a simulator. A person may act as a DOV without complying with the requirements of this paragraph (a)(3) for 90 days after the introduction of a new aircraft

in the certificate holder's fleet under this regulation.

(b) No certificate holder conducting scheduled operations may use a person, and no one may work, as an operational flight dispatcher for a particular type of aircraft, unless that person has satisfactorily completed the differences training for that aircraft, if applicable.

(c) No certificate holder conducting scheduled operations can use a person, and no one can work, as a dispatcher, unless, within the preceding 12 months, that person has satisfactorily completed the periodic training required by 121.427, has passed a competency exam conducted by an INSPAC or an accredited examiner and satisfactorily completed the familiarization provided for in paragraph (a)(3) of this section.

(d) No certificate holder conducting scheduled operations may employ a person, and no one may work, as an operational flight dispatcher, dispatching planes in operations under this regulation, unless the certificate holder has verified that it is familiar with all operational procedures essential for the segment of the operation over which it will exercise dispatch jurisdiction. However, a dispatcher qualified to dispatch aircraft over certain segments of operation may dispatch aircraft over other segments of operation after coordinating with dispatchers qualified to dispatch over those segments.

(e) For the purposes of this section, the aircraft groups, definitions and terms of 121.400 apply. (Wording given by Resolution No. 526, of 08.06.2019)

<u>121.465 Limitation of service</u> <u>time for dispatchers; scheduled</u> <u>operations</u>

(a) Each certificate holder conducting scheduled operations must establish the daily working period of the operational flight dispatcher in order to start at a time that allows him/her/her to fully familiarize himself/herself with the existing and planned atmospheric conditions along the route and other conditions related to flight safety before dispatching any aircraft. He/she must remain in service until each aircraft he/she dispatches finishes the flight or until he/she is replaced by another qualified dispatcher on the same aircraft on the same or other operator base.

(b) Except where circumstances or emergency conditions, beyond the control of the certificate holder, require another attitude:

(1) no certificate holder conducting scheduled operations may appoint a dispatcher for a 10-hour consecutive workday;

(2) if a dispatcher is scheduled for a 10-hour workday within a period of 24 consecutive hours, the certificate holder must give him/her a rest period of at least 11 hours at the end of the work period;

(3) each operational flight dispatcher must be excused from any work for the certificate holder at least 24 consecutive hours each week. Each month at least one of these layoffs must compulsorily coincide with a Sunday. Additionally, he/she must be released for 24 consecutive hours in correspondence to each national holiday.

(c) Paragraphs (a) and (b) of this section apply in conjunction with applicable labor law. (Wording given by Resolution No. 526, of 08.06.2019)

SUBPART Q FLIGHT TIME LIMITATIONS FOR CREW MEMBERS

121.470 Applicability

This subpart establishes flight time limitations for crew members of certificate holders operating under this regulation.

<u>121.471 Flight time limitations and</u> rest requirements

All the activity of crew members operating aircraft according to this regulation is governed by Law No. 7183, of April 5, 1984, by Law No. 13475, of August 28, 2017, and the regulation resulting from those laws. (Wording given by Resolution No. 526, of 08.06.2019)

SUBPART R [RESERVED]

SUBPART S [RESERVED]

SUBPART T FLIGHT OPERATIONS

121.531 Applicability

This subpart establishes requirements for flight operations applicable to all certificate holders, unless otherwise specified.

<u>121.533 Responsibility for</u> <u>operational control. Scheduled</u> <u>operations (Wording given by</u> Resolution No. 526, of 08.06.2019)

(a) Each certificate holder conducting scheduled operations is responsible for the operational control of their flights. (Wording given by Resolution No. 526, of 08.06.2019)

(b) The pilot-in-command and the flight dispatcher are jointly and severally responsible for pre-flight planning, delays and release of the dispatch of a flight in accordance with this regulation and the operating specifications.

(c) The operational flight dispatcher is responsible for:

(1) monitoring the progress of each flight;

(2) issuing information necessary for flight safety; and

(3) flight cancellation or rescheduling if, in his/her opinion or in the opinion of the pilot-in-command, the flight cannot be carried out or continued with the safety with which it was originally planned or released.

(d) The pilot-in-command of an airplane is, for the entire flight time, in command of the airplane and the crew, being responsible for the safety of passengers, crew, cargo and the plane.

(e) The pilot-in-command has full control and authority over the operation of the plane and the other crew members and their obligations in flight, without limitations, even if he/she does not have valid certificates that authorize him/her to perform the duties of those crew members.

(f) No pilot may operate an airplane negligently or carelessly, endangering lives and property.

121.535 [Reserved]

121.537 Responsibility for operational control. Supplemental operations (Wording provided by Resolution No. 526, of 08.06.2019)

(a) Each certificate holder who conducts supplemental operations: (Wording given by Resolution No. 526, of 08.06.2019)

(1) is responsible for the operational control of its flights; and

(2) it must indicate, in its manual, each person authorized by it to ex-

ercise operational control of these flights.

(b) The pilot-in-command and the chief operating officer are jointly and severally responsible for the initiation, development, diversion to alternatives and completion of each flight, in accordance with this regulation and the operating specifications. The chief of operations can delegate the tasks of starting, developing, diverting to alternatives and completing each flight but cannot delegate his/her responsibility for those tasks.

(c) The chief operating officer is responsible for the cancellation, delay or diversion of a flight if, in his/her opinion or in the opinion of the pilot-in-command, the flight cannot be performed or developed within the level of safety with which it was planned. The chief operating officer is responsible for ensuring that each flight is monitored, at least, on the following items:

(1) take-off from the departure airport and landing at the destination airport, including intermediate landings and possible diversions to alternatives;

(2) delays due to defects or maintenance occurring at the origin, destination and intermediary airports;

(3) any known condition that could adversely affect flight safety.

(d) The pilot-in-command has full control and authority over the operation of the plane and the other crew members and their obligations in flight, without limitations, even if he/she does not have valid certificates that authorize him/her to perform the duties of those crew members.

(e) Each pilot-in-command of an aircraft is responsible for planning and operating the flight in accordance with this regulation and operating specifications.

(f) No pilot may operate a plane in a careless or negligent manner, putting lives and property at risk.

121.538 Security against unlawful interference acts

Each certificate holder conducting operations under this regulation must comply with the applicable safety and protection standards in the form and manner established by the National Civil Aviation Security Program.

121.539 Operating information

Each certificate holder must inform their relevant operations personnel of any modifications to equipment or operating procedures, including each known modification in the use of navigation aids, airports, air traffic procedures and regulations, local airport control rules and hazards known to the flight, including ice and other potentially dangerous meteorological phenomena, as well as irregularities in communication or navigation facilities.

121.540 Information on emergency and survival equipment

Each certificate holder must keep, permanently available for immediate communication to a search and rescue coordination center, lists containing information about the emergency and survival equipment on board each of their aircraft. Such information should include, as applicable, the number, color, type and capacity of inflatable boats and life jackets, details of survival kits, first aid and medical supplies, drinking water supplies, types and frequencies of the locator transmitters. portable emergency (ELT) carried and any other information deemed relevant for search and rescue operations.

121.541 Flight times. Scheduled operations

When establishing scheduled flight times, each certificate holder who conducts scheduled operations must allocate sufficient time on the ground to properly service the aircraft at intermediate landings, considering prevailing winds en route and the cruising speed of the type of aircraft used. The cruising speed considered cannot be greater than that specified in the airplane's AFM. (Wording given by Resolution No. 526, of 08.06.2019)

121.542 Obligations of flight crew

(a) No certificate holder may require to be performed, and no flight crew member may perform, any task during a critical phase of flight, except those tasks required for the safe operation of the aircraft. Tasks like radio calls to the company requiring supplies for "galleys" or confirming connections for passengers, announcements to passengers promoting the company or indicating points of interest on the ground, or filling in flight reports or other flight documents are not required tasks for the safe operation of the airplane. (b) No flight crew member may perform and no pilot-in-command may allow any activity to be performed during a critical phase of the flight that could distract a crew member from performing his/her duties, or that could interfere in any way, with the proper execution of those obligations. Activities such as eating, talking, making non-essential contacts via the intercom or passenger warning system, or reading publications unrelated to the safe conduct of the flight are not activities required for the safe operation of the aircraft.

(c) For the purposes of this section, critical phases of the flight include all operations on the ground involving rollover, take-off and landing, as well as all operations conducted below the altitude of 10,000 feet, with the exception of the cruise flight.

121.543 Flight crew in control of the plane

(a) Except as provided in paragraph (b) of this section, each flight crew member required to be in service in the cockpit must remain in his/her service station with seat belts fastened and adjusted not only at take-off and landing, but also in the other flight phases.

(b) A required flight crew member may leave his/her position:

(1) if his/her leaving the position is necessary for the performance of obligations related to the operation of the aircraft;

(2) if his/her leaving the position is due to physiological needs; or

(3) if leaving for a rest period and being replaced:

(i) in the case of the pilot-in-command, by a pilot qualified to act as a pilot-in-command, holding an airline pilot certificate and suitably qualified for the airplane and the operation;

(ii) in the case of the second-in-command pilot, by another qualified to act on that plane as such.

121.545 Handling of controls

No pilot-in-command can allow anyone to handle an airplane's controls during flight, and no one can handle an airplane's controls in flight, unless he/she is:

(a) a qualified pilot of the certificate holder operating the aircraft;

(b) a qualified INSPAC OPS, authorized by the pilot-in-command and the certificate holder's chief operating officer, performing in-flight operation verification; or

(c) a pilot from another certificate holder, authorized by the pilot-in-command and the air operator certificate holder, and qualified on the aircraft.

121.547 Admission to the cockpit

(a) No one may admit a person to the cockpit of an airplane, unless he/she is:

(1) a crew member;

(2) an INSPAC in official work;

(3) a federal government employee, a certificate holder director or employee, or an aircraft industry employee who has permission from the pilot-in-command and whose obligations are such that admission to the cockpit is necessary or advantageous for the safety of operations;

(4) anyone with permission from the pilot-in-command and who is specifically authorized by the certificate holder and ANAC. Paragraph (a)(2) of this section does not limit the authority of the pilot-in-command to, in an emergency, remove anyone from the cockpit in the interest of safety.

(b) For the purposes of paragraph (a)(3) of this section, federal government employees who have responsibilities in matters related to flight safety or security and facilitation of air transport and employees of the certificate holder, whose efficiency can be improved due to familiarity with the flight conditions, can be admitted to the cockpit. However, the certificate holder must not authorize the admission of its traffic, sales and other department personnel not directly related to flight activities, unless they are admissible by paragraph (a)(4) of this section.

(c) No one may admit a person to an airplane's cockpit unless there is a seat in the passenger cabin available to that person. Exceptions are:

(1) an INSPAC undergoing pilot verification or operating procedures;

(2) an air traffic controller, duly authorized by ANAC and the certificate holder, observing traffic control procedures;

(3) a crew member or operational flight dispatcher of the duly qualified certificate holder;

(4) a crew member of another duly qualified certificate holder authorized by the air operator's certificate holder to make specific trips on a route;

(5) an employee of the certificate holder whose obligations are duly related to the conduct or planning of flights or the monitoring of equipment or procedures in flight, provided that his/her presence in the cockpit is necessary for the performance of his/her duties and that has been authorized in writing by the responsible superior, listed in the certificate holder's manual as having such authority; and

(6) a technical representative of the manufacturer of the airplane or its components whose obligations are directly related to the in-flight monitoring of equipment or operational procedures, provided that his/her presence in the cockpit is indispensable for the fulfillment of his/her obligations and that he/she has authorization from the responsible supervisor, listed in the certificate holder's manual as having such authority.

121.548 Civil aviation inspector credential. Admission to the cockpit

Whenever, when conducting an inspection, a Civil Aviation Inspector presents his/her credential to the pilot-in-command of an airplane operated by a certificate holder, he/she must have free and immediate access to the cockpit.

121.549 Flight equipment

(a) The pilot-in-command of an airplane must ensure, on each flight, that he/she has the appropriate aeronautical publications on board, containing adequate information regarding navigation aids, approach and departure procedures and other aeronautical information related to the route to be flown and the airports to be used.

(b) All crew members must, on each flight, have a flashlight for their use, readily accessible and in good working order.

<u>121.550 Federal police officers.</u> Admission to the cockpit

Whenever a federal police agent or federal security agency, duly authorized by the competent aeronautical authority and charged with protecting persons or cargo on board an airplane operating under this regulation, presents his/her credentials to the pilot-in-command, informing him/ her that his/her presence in the cockpit is essential to the fulfillment of their obligations, this agent must be admitted and can occupy the observer's seat.

<u>121.551 Operation restriction or</u> <u>suspension: scheduled operations</u>

Whenever a certificate holder conducting scheduled operations becomes aware of conditions, including airport and runway conditions, that may pose a risk to its operations, it shall restrict or suspend such operations until those conditions are corrected or cease to exist. (Wording given by Resolution No. 526, of 08.06.2019)

121.553 Restriction or suspension of operations: supplemental operations

Whenever a certificate holder conducting supplemental operations or a pilot-in-command of such operations becomes aware of conditions, including airport and runway conditions, that may pose a risk to his/her operations, the certificate holder or pilot-in-command, as the case may be, must restrict or suspend operations until such conditions are corrected or cease to exist. (Wording given by Resolution No. 526, of 08.06.2019)

121.555 Compliance with routes and with approved limitations (Wording given by Resolution No. 526, of 08.06.2019)

No pilot can operate an airplane in scheduled air transport:

(a) on any route or route segment, unless approved and listed in the certificate holder's operating specifications; or

(b) in disagreement with the limitations imposed in the operating specifications.

<u>121.557 Emergencies. Scheduled</u> operations (Wording given by <u>Resolution No. 526, of 08.06.2019</u>)

(a) In an emergency situation requiring immediate decision and action, the pilot-in-command must act as he/she deems necessary under the circumstances. In such cases, in the interest of safety, he/she may deviate from established operating procedures, applicable meteorological minima and the rules of this regulation as much as necessary.

(b) In an emergency situation that requires decision and immediate action by a flight dispatcher and that is known to him/her, the dispatcher must report the emergency to the pilot-in-command of the airplane, he/she must make sure of the decision made by the pilot-in-command and must record that decision. If the dispatcher cannot communicate with the pilot-in-command, he/she must declare the emergency and do everything possible and necessary under the circumstances.

(c) When the pilot-in-command or the flight dispatcher exercises his/her authority in an emergency, the air traffic control bodies involved must be fully informed of the progress of the flight by the certificate holder's ground personnel. The person who declared an emergency must send a written report to ANAC, through the certificate holder's chief of operations, reporting the facts and deviations that have occurred. The deadline for sending the report is 10 days, counted to the flight dispatcher after the emergency declaration and to the pilot-in-command after returning to his/ her base.

121.559 Emergencies.

Supplemental operations (Wording provided by Resolution No. 526, of 08.06.2019)

(a) In an emergency situation requiring immediate decision and action, the pilot-in-command must act as he/she deems necessary under the circumstances. In such cases, in the interest of safety, he/she may deviate from established operating procedures, applicable meteorological minima and the standards of this regulation as much as necessary.

(b) In an emergency situation during the flight that requires immediate decision and action by ground operations personnel and is known to them, such persons must report the emergency to the pilot-in-command of the aircraft, make sure of the decision made by him/her and record that decision. If communication with the pilot-in-command is not possible, the personnel involved must declare the emergency and do what is possible and necessary under the circumstances.

(c) When the pilot-in-command or the flight dispatcher exercises his/her authority in an emergency, the air traffic control bodies involved must be fully informed of the progress of the flight by the certificate holder's ground personnel. The person who declared an emergency must send a written report to ANAC, through the certificate holder's chief of operations, reporting the facts and deviations that have occurred. The deadline for sending the report is 10 days, counted to the flight dispatcher after the emergency declaration and to the pilot-in-command after returning to his/ her base.

121.561 Report on potentially dangerous weather conditions and irregularities in communications and navigation facilities

(a) Whenever, during the flight, potentially dangerous weather conditions or irregularities are found in communications or navigation facilities whose disclosure a pilot-in-command deems essential for flight safety, he/she must pass this information on to an appropriate ground station as early as possible.

(b) The ground station that receives the information provided for in paragraph (a) of this section must communicate it to the person directly responsible for the operation of the facility (where applicable) and disseminate it to the other aircraft and stations involved.

121.562 Reports on collision with fauna

The certificate holder or pilot-in-command of aircraft flying in Brazilian airspace must inform the Aeronautical Accident Investigation Prevention Center – CENIPA if their aircraft has suffered a collision with one or more birds, unless it has already been reported as an accident or incident. It should also be informed if a group of birds is seen that could endanger air operations near airport sites. (Wording given by Resolution No. 334, of 07.01.2014)

<u>121.563 Airplane irregularity</u> <u>reports</u>

The pilot-in-command must ensure that all operating irregularities observed in flight are recorded in the aircraft's maintenance record on the first landing. Before each flight, the pilot-in-command must check the status of each irregularity recorded in the logbook at the end of the previous flight.

121.565 Engine stop. Report after landing

(a) Except as provided in paragraph (b) of this section, whenever an aircraft engine fails or is cut off in flight to prevent further damage, the pilot-in-command must land at the nearest Adequate Airport (in terms of flight time) in which a safe landing can be performed.

(b) If only one engine on an airplane with 3 or more engines fails or is cut, the pilot-in-command may proceed to an airport of his/her choice if, after making the considerations below, it is considered that landing on such an airport is as safe as landing at the nearest Adequate Airport;

(1) the nature of the defect and possible difficulties that may occur if the flight is continued;

(2) the flight altitude, the weight and the usable fuel when the engine stops;

(3) the atmospheric conditions of the route and of the possible landing air-fields;

(4) the intensity of air traffic;

(5) the type of terrain under the route;

(6) familiarization of the pilot-in-command with the possible airports to be used.

(c) The pilot-in-command must report each engine stop in flight to the appropriate ground radio station as soon as practicable and must keep that station fully informed of the flight's progress.

(d) Whenever the pilot-in-command lands at an airport other than the nearest Adequate Airport, as provided for in paragraph (a) of this section, he/she must, as soon as he/she returns to his/her base, make a written report to the operations agency of the certificate holder, stating the reasons that led him/her to choose the airport used. The certificate holder must send a copy of this report to ANAC no later than 10 days after the pilot-in-command returns to his/her base.

121.567 Instrument approach and meteorological minima for IFR landing

No one can perform an instrument approach and land on an airport, unless the meteorological minima for IFR landing and the instrument approach procedures approved for the approach aid, the airplane and the airport involved are complied with.

121.569 Pooling of airplanes. Scheduled operations (Wording given by Resolution No. 526, of 08.06.2019)

(a) Before operating under an aircraft pooling agreement, each certificate holder conducting scheduled operations must demonstrate that: (Wording provided by Resolution No. 526, of 08.06.2019)

(1) the procedures for operating under an aircraft pooling agreement comply with this regulation and safe operating practices;

(2) the crew and dispatchers meet the approved training requirements for the planes and equipment involved and are familiar with the communications and dispatch procedures to be used;

(3) maintenance personnel meet the training requirements for the aircraft and equipment and are familiar with the maintenance procedures to be used;

(4) the crew and dispatchers meet the appropriate route and airport qualifications; and

(5) the planes to be operated under a pooling arrangement are essentially similar to the aircraft of the certificate holder to which the plane will be passed with respect to the arrangement of the dashboard instruments and the arrangement and movements of the safety-critical controls, unless ANAC verifies that the certificate holder has adopted training programs so as to ensure that any potentially dangerous dissimilarity can be safely overcome in view of the training of the crew members.

(b) Each certificate holder conducting scheduled operations must include in its manual the relevant provisions and procedures for operation with aircraft interchanges, if applicable. (Wording given by Resolution No. 526, of 08.06.2019)

121.570 Airplane evacuation capacity

(a) No one may move on the ground, take off or land an airplane carrying passengers, unless each automatic functioning emergency evacuation aid, installed in accordance with 121.310 (a) of this regulation, is ready to be used.

(b) Each certificate holder must ensure that, whenever passengers are on board before the airplane moves on the surface, at least one floor-level exit must be available for passengers to exit by normal or emergency means.

121.571 Instructions to passengers before take-off

(a) Each certificate holder in aircraft operations carrying passengers must ensure that all passengers receive the following verbal instructions from an appropriate crew member:

(1) before take-off, on each of the following subjects:

(i) smoking. Each passenger must be instructed that smoking is prohibited on board Brazilian aircraft, that it is prohibited to prevent or attempt to prevent the operation of smoke detectors installed in the lavatories and that smoking is prohibited in the lavatories and anywhere in the passenger cabin;

(ii) location of emergency exits;

(iii) use of seat belts, including instructions on how to close and open them. Each passenger must be instructed on when, where and under what conditions the belts must be fastened and adjusted. In these instructions, it should be emphasized that ANAC regulations require compliance with the instructions contained in the signs and illuminated warnings affixed to the airplane and with all verbal instructions given by the crew members regarding the use of safety belts;

(iv) placing the seat back in an upright position before takeoffs and landings;

(v) the location and use of any required individual emergency float;

(vi) if the flight involves operations above 12,000 feet MSL, normal and emergency use of oxygen;

(vii) instructions on the use of portable electronic equipment on board.

(2) after each take-off, just before or after the belt fastening warning is erased, passengers must be warned that while seated, even with the warning off, everyone must keep their seat belts fastened and adjusted;

(3) Except as provided in paragraph (a)(4) of this section, before each take-off a crew member must give individual instructions to each person who may need the assistance of another person to move more quickly to an exit in emergency. In these instructions the required crew member must:

(i) guide the person and his/her companion, if any, on the most appropriate ways to reach the exits and on the most appropriate time to start heading to such exits in case of emergency; and

(ii) ask the person and his/her companion, if any, what is the best way to help him/her to avoid pain or discomfort.

(4) the requirements of paragraph (a)
(3) of this section do not apply to persons who have received instructions in previous stages of the same flight, on the same plane, provided that the crew on duty have been informed in the most appropriate manner to assist the person without causing greater harm.

(b) Each certificate holder must have, on each plane carrying passengers, in a convenient place for the consultation of each passenger, printed cards complementing the verbal instructions and containing:

(1) diagrams and methods of operating emergency exits; and

(2) other instructions necessary for the use and operation of emergency equipment;

(3) each card required by this paragraph must contain, exclusively, information pertinent to the type and model of airplane used on the flight.

(c) Each certificate holder must describe, in his/her manual, the procedure to be followed to provide the verbal instructions required by paragraph (a) of this section.

(d) Verbal instructions must be given in Portuguese. Additionally, it is possible to repeat them in other languages. However, on regular international trips, it is mandatory to repeat all instructions at least in English.

(e) The use of audiovisual means to facilitate the task of communicating instructions by the crew is valid, insofar as assistance to passengers is not reduced.

<u>121.573 Passenger instructions:</u> operations on water

(a) In addition to the verbal instructions required by 121.571 (a), each certificate holder operating an airplane over large expanses of water must ensure that all passengers are verbally instructed, by a designated crew member, on the location and the operation of life jackets, boats and other means of flotation, including a demonstration of how to dress and inflate the vests.

(b) Each certificate holder must describe, in its manual, the procedure to be followed for the verbal instruction required by paragraph (a) of this section.

(c) If the airplane is going to fly over water immediately after take-off, the instructions required by paragraph (a) of this section must be given before take-off. If water overflights do not occur immediately after take-off, these instructions must be given in full after take-off and before starting overflying water.

(d) The instructions required by paragraph (a) of this section must be given in Portuguese. Additionally, they can be repeated in another language. However, on regular international trips, it is mandatory to repeat all instructions at least in English.

(e) The use of audiovisual means to facilitate the task of communicating instructions by the crew is valid, insofar as assistance to passengers is not reduced.

<u>121.574 Portable oxygen and</u> oxygen concentrators for medical use by passengers

(a) A certificate holder may only allow a passenger to carry and operate equipment to store, generate or supply oxygen if the requirements of paragraphs (a) to (d) of this section are met. However, a certificate holder may allow a passenger to take and operate a portable oxygen concentrator if the requirements in paragraphs (b) and (e) of this section are met.

(1) The equipment must be:

(i) provided by the certificate holder;

(ii) of a type approved for use on airplanes, as stated on the manufacturer's marks or labels;

(iii) maintained by the certificate holder in accordance with an approved maintenance program;

(iv) free of flammable contaminants on all external surfaces;

(v) capable of providing the user with a mass flow of oxygen of at least 4 liters per minute; and

(vi) constructed so that valves, connections and indicators are protected from damage; (vii) adequately secure.

(2) When oxygen is stored in liquid form, the equipment must be under the approved maintenance program of the certificate holder since new or since the last inspection and cleaning of the cylinder.

(3) When oxygen is stored as compressed gas:

(i) the equipment must be under the approved maintenance program of the certificate holder since new or since the last hydrostatic test of the cylinder; and

(ii) the pressure inside any oxygen cylinder cannot exceed the maximum permissible nominal pressure for the cylinder.

(4) The need to use the equipment must be proven by a written declaration and signed by a doctor and in possession of the user. Such declaration must specify the maximum amount of oxygen required per hour and the maximum flow rate required, depending on the pressure altitude corresponding to the altitude of the airplane's passenger cabin, under normal operating conditions. This paragraph does not apply to the transport of oxygen on an airplane in which the only passengers carried are persons in need of oxygen during the flight, in addition to a relative or companion for each of these persons and attending physicians on board.

(5) When a medical certificate is required as provided for in paragraph (a)(4) of this section, the amount of oxygen carried must be equal to the maximum amount required in each hour, as established by the physician, multiplied by the number of hours used for computing the amount of aircraft fuel required by this regulation.

(6) The pilot-in-command of the airplane must be aware of the existence of the equipment on board and must be informed when it is intended to be used.

(7) The equipment must be positioned and each person using it must be seated so as not to restrict access to or use of any required normal or emergency exits or the aisles of the passenger cabin.

(b) No one is authorized to create an open flame and no certificate holder may permit an open flame to be created within a 3m (10ft) radius of transported oxygen storage and supply equipment in accordance with paragraph (a) this section or a portable oxygen concentrator transported and operated in accordance with paragraph (e) of this section.

(c) As long as passengers are on board the aircraft, no certificate holder may allow anyone to connect (or disconnect) oxygen delivery equipment to a gaseous oxygen cylinder.

(d) The requirements in this section do not apply to the transport of supplemental oxygen or first aid and related equipment required by the RBAC.

(e) Portable oxygen concentrators.

(1) Acceptance criteria. A passenger may carry or operate a portable oxygen concentrator for personal use on board an aircraft, and a certificate holder may permit a passenger to carry or operate a portable oxygen concentrator on an aircraft operated under this regulation during all the flight phases if the portable oxygen concentrator meets the following requirements:

(i) is registered with the National Health Surveillance Agency (Anvisa) or submitted to an equivalent recognition procedure by a similar body from a foreign country;

(ii) does not emit radio frequency that interferes with the aircraft systems;

(iii) generates a maximum oxygen gauge pressure less than 200 kPa at 20°C;

(iv) it does not contain any dangerous article subject to RBAC No. 175, unless it is a battery used to power portable electronic devices, which are an exception for passengers or crew and do not require approval from the certificate holder; and

(v) present a label on the external surface, applied in a way that guarantees that the label will be kept affixed for the life of the concentrator and that it contains a declaration, by the manufacturer of the portable oxygen concentrator, that the concentrator is suitable for transportation to aircraft and meets the acceptance criteria of paragraph (e)(1) of this section. The label provided for in this paragraph may be waived, with authorization from ANAC, in cases where the manufacturer's country does not require its displaying, provided that the other acceptance criteria have been met.

(2) Operational requirements. Portable oxygen concentrators that meet the acceptance criteria of paragraph (e)(1) of this section can be transported and operated by a passenger on an aircraft if the certificate holder ensures that the following requirements are met:

(i) exit seats. No person operating a portable oxygen concentrator can occupy an exit seat. For the purposes of this paragraph, the definition of exit seat in section 121.585 applies; and

(ii) storage of the concentrator. During aircraft movement on the ground, take-off and landing, the concentrator must remain stored under the seat in front of the user passenger or in another approved location so that it does not block an aisle or the entrance to a row. If the concentrator is operated by the user passenger, it must be operated only on a seat located in such a way as not to restrict any passenger access to, or use of, any required normal or emergency exits or aisles of the passenger cabin. (Wording given by Resolution nº 549, of 03.20.2020)

121.575 Alcoholic beverages

(a) No one may drink any alcoholic beverages on board an airplane unless the certificate holder operating that airplane has served the person such a beverage.

(b) No certificate holder may serve any alcoholic beverage to a person on board its aircraft who:

(1) appears to be drunk;

(2) is escorting someone or is being escorted;

(3) has a dangerous or deadly weapon at his/her fingertips while on the plane.

(c) No certificate holder can allow anyone who appears to be drunk to be admitted on board its aircraft.

(d) If someone refuses to abide by the rules established in this section or causes disturbances on board appearing to be drunk, the certificate holder involved must notify the fact to ANAC, in writing, within 5 days after the occurrence of the same.

121.576 Retention of heavy items in the cockpit and passenger cabin

Each certificate holder must provide and use means to prevent each item of galley equipment, each service cart and each item of crew luggage carried in the cabin from becoming dangerous under the impulse of the load factors corresponding to the conditions of emergency landing under which the aircraft has been certified.

121.577 Food and drink services during aircraft movement on the ground, landings and takeoffs

(a) No certificate holder may move on the ground, take off or land each of its planes while there is food, drinks and related utensils, provided by it, on any passenger seat.

(b) No certificate holder may move on the ground, take off or land each of its planes unless each tray and table used for feeding passengers is safe in its storage location.

(c) No certificate holder may allow each of its planes to move on the ground, take off or land, unless each passenger service cart is safe in its storage location.

(d) No certificate holder may allow each of its planes to move on the ground, take off or land, unless any projection screen that extends over an aisle is collected and stored.

(e) Each passenger must obey the instructions of the crew on the matters in this section.

121.578 Ozone concentration in the cabin

(a) For the purposes of this section, the following definitions apply:

(1) equivalent to sea level refers to the conditions of 25° C of temperature and 760 mm Hg of atmospheric pressure;

(2) flight segment means the scheduled flight time between two airports, without intermediate landings.

(b) Except as provided for in paragraphs (d) and (e) of this section, no certificate holder may operate an airplane above the following levels, unless it has successfully demonstrated that the ozone concentration inside the cabin does not exceed:

(1) for flights above flight level 320, 0.25 parts per million, in volume,

equivalent to sea level, at any time above that flight level; and

(2) for flights above flight level 270, for each flight segment that exceeds 4 hours in duration and that includes flight above that level, an average of 0.1 parts per million, in volume, equivalent to sea level (for this purpose, the amount of ozone below FL 180 is considered to be zero)

(c) Compliance with this section can be demonstrated by analysis or testing based on the operational procedures and the performance limitations of the airplane or the operation of the certificate holder. The analyzes or tests must demonstrate one of the following situations:

- (1) atmospheric ozone occurrence statistics indicate that, at altitudes and locations where the aircraft will operate, the ozone concentration in the cabin, with a statistical certainty of at least 84%, will not exceed the limits set out in paragraph (b) of this section;
- (2) the cabin ventilation system, including any ozone control device, will maintain the ozone concentration in the cabin at or below the limits set out in paragraph (b) of this section.

(d) A certificate holder may obtain authorization to deviate from the requirements of paragraph (b) of this section by amending its operating specifications, if:

- (1) it demonstrates that, due to circumstances beyond its control or due to unreasonable economic charges, it will not be possible to meet the requirement for a specified period of time; and
- (2) it submits to ANAC an acceptable plan to meet the requirement to the extent possible and as early as practicable.

(e) A certificate holder does not need to meet the requirements of paragraph (b) of this section for an airplane when the only persons carried are flight crew and persons listed at 121.583.

121.579 Minimum altitudes for autopilot use

(a) En-route operations. Except as provided in paragraphs (b), (c) and (d) of this section, no one may use an autopilot en route, including ascents and descents, at an altitude above the ground that is less than twice the maximum altitude loss specified in the Airplane Flight Manual (AFM) for autopilot malfunction in cruising conditions, or less than 500 feet, whichever is higher.

(b) Approaches. When executing an instrument approach procedure, no one may use an autopilot at an altitude above the ground that is less than twice the maximum altitude loss specified in the AFM for autopilot malfunction in approach conditions, or less than 50 feet below the minimum descent altitude or the approved decision altitude for the procedure, whichever is higher, except:

(1) when the known atmospheric conditions are below the basic VMC atmospheric conditions (1500 feet ceiling and 5 km visibility), no one can proceed with an ILS approach with an autopilot coupled below an altitude above the ground that is less than 50 feet plus the maximum altitude loss specified in the AFM for autopilot malfunction in coupling approach conditions; and

(2) when the known atmospheric conditions are at the minimum VMC or above, no one can proceed with an ILS approach with an autopilot coupled below an altitude above the ground that is less than the maximum altitude loss specified in the AFM for autopilot malfunction in coupling approach conditions, or 50 feet, whichever is higher.

(c) Notwithstanding paragraphs (a) or (b) of this section, ANAC may issue operating specifications that allow the use of an approved flight control command system, with automatic capability, until it touches the runway, provided that:

(1) it is specified in the AFM that the system does not present any loss of altitude in the event of a malfunction in conditions of coupling approach; and

(2) ANAC considers that the use of the system until it touches the runway will in no way affect the safety standards established in this section.

(d) Takeoffs. Notwithstanding paragraph (a) of this section, ANAC issues operating specifications that allow the use of an approved autopilot system with automatic capacity below the altitude specified in paragraph (a) of this section during take-off and the initial phase of the ascent provided that:

(1) the AFM specifies a restriction to certify the minimum engagement altitude; (2) the system is not engaged before the minimum engagement altitude restriction established in AFM or an altitude established by ANAC, whichever is greater; and

(3) ANAC considers that the use of the system will not affect the safety standards required by this section.

121.580 Prohibition of interference with crew

No one may attack, threaten, intimidate or disturb a crew member while exercising the duties of a crew member on board an aircraft being operated under this regulation.

121.581 Observer's seat. en route inspections

(a) Except as provided in paragraph (c) of this section, each certificate holder must make available a seat, in the form and manner determined by ANAC, in the cockpit of each of its planes, for the use of INSPAC in the conduct of en route inspection.

(b) On each airplane that has more than one observer seat in addition to the seats required by the crew as set out in the type certification, the observer seat provided for in paragraph (a) of this section must be the one located at the front of the cockpit, unless otherwise determined by ANAC.

(c) For aircraft of a type certified before December 20, 1995 for no more than 30 passengers, who does not have an observer seat in the cockpit, the certificate holder must provide a front passenger seat, with a headset or loudspeaker, for use by INSPAC conducting en-route inspection. Notwithstanding the requirements of 121.587, the cockpit door can remain open during such inspections.

<u>121.583 Transport of people</u> who do not meet the passenger transport requirements of this regulation

(a) When authorized by the certificate holder, only the following persons may be carried on board an aircraft without complying with the passenger transport requirements established by 121.309 (f), 121.310, 121.391, 121.571 and 121.587; the operating requirements set out in 121.157 (c) and 121.291 and the passenger requirements set out in 121.285, 121.313 (f), 121.317, 121.547 and 121.573:

(1) a crew member;

(2) an employee of the certificate holder;

(3) an INSPAC or a federal, civil or military government employee, on duty and duly authorized by ANAC;

(4) a person needed for:

(i) flight safety;

(ii) safe treatment of animals;

(iii) safe handling of dangerous goods and cargo;

(iv) experiments or tests of cargo containers or cargo handling devices;

(v) preservation of fragile or perishable cargo;

(vi) operation of special devices for loading and unloading the aircraft;

(vii) security of valuable or confidential cargo;

(viii) loading and unloading of large cargo; and

(ix) maintenance and services on the plane at stopovers that require special attention.

(5) a person defined in paragraph (a)(4) of this section when traveling to or from his/her place of work;

(6) a person on guard duty, accompanying a shipment made to order or under the authority of the Brazilian government;

(7) a military courier, military route supervisor, military cargo contract coordinator, or a crew member of another holder of a primary military transport contracting certificate, if the flight is for contracted military transport and specifically authorized by the relevant military command; and

(8) a certificate holder employee's dependent, when in the employee's company, traveling on service or to a certificate holder base not served by scheduled passenger air transport.

(b) No certificate holder may operate an airplane carrying a person falling under paragraph (a) of this section, unless:

(1) each person has free access from his/her seat to the cockpit or to a normal or emergency exit;

(2) the pilot-in-command has the means to inform each person when the smoking ban is on board and when it is necessary to put on seat belts; and

(3) the airplane has a seat with a seat belt, both approved, for each person. Seats must be arranged in such a way as not to interfere with any crew member in fulfilling his/her obligations on board.

(c) Before each take-off, each certificate holder operating an airplane transporting persons covered by paragraph (a) of this section must ensure that all persons have received verbal instructions, given by a crew member, on:

(1) smoking;

(2) wearing seat belts;

(3) location and operation of emergency exits;

(4) use of oxygen and the emergency oxygen system; and

(5) for operations on water, location of inflatable boats and location and operation of life jackets, including the method of dressing and inflating said jackets.

(d) Each certificate holder who intends to operate airplanes transporting persons covered by paragraph (a) of this section must include in their manual procedures for the safe transportation of such persons.

(e) The pilot-in-command may allow a person within the scope of paragraph (a) of this section to have access to the cockpit on a cruise flight.

121.585 Exit seats

(a) each certificate holder must determine, to the extent necessary to meet the applicable requirements of paragraph (d) of this section, which persons may occupy an exit seat. For the purposes of this section:

(1) exit seat means:

(i) each seat that gives direct access to an airplane exit; and

(ii) each seat in a row of seats through which passengers must pass to access an exit, from the seat next to the exit to the seat next to the closest aisle.

(2) a passenger seat giving "direct access to an exit" means a seat from which a passenger can directly reach an exit without going through an aisle or bypassing any obstruction;

(3) each certificate holder must designate in its manual the persons (by functional activity) responsible for, in a non-discriminatory manner, ensuring that the exit seats are occupied in accordance with the requirements of this section;

(4) each certificate holder must designate, for each passenger seat configuration in its fleet and in accordance with the definitions in this paragraph, which are the "exit seats" of each of its aircraft. This designation must be submitted to ANAC for approval as part of the procedures that must be approved in accordance with paragraphs (n) and (p) of this section.

(b) No certificate holder can authorize a person to sit in a seat affected by that section if the certificate holder finds that the person is likely to be unable to perform one or more of the applicable tasks listed in paragraph (d) of this section because:

(1) the person lacks sufficient mobility, strength or dexterity in both arms and hands and/or both legs:

 to move forward, sideways or downward, towards the emergency exit/slide operating mechanisms;

(ii) to grasp and pull, push, twist or otherwise handle said mechanisms;

(iii) to push, squeeze, pull or otherwise open emergency exits;

(iv) to lift, support and deposit in close seats, or to maneuver on the backrests of the front row seats, objects of the size and weight of an emergency exit door on the wings;

(v) to remove obstructions similar in size and weight to an emergency exit door on the wings;

(vi) to quickly reach the emergency exit;

(vii) to remain balanced while removing obstructions;

(viii) to quickly abandon the plane;

(ix) to stabilize an escape slide after opening; or

(x) to assist others in using an escape slide.

(2) the person is under the age of 15 or is unable to perform one or more of the applicable tasks listed in paragraph (d) of this section without the assistance of an adult (parents, relatives or friends);

(3) the person is unable to read and understand the instructions required

by that section and the instructions regarding emergency evacuations provided by the certificate holder in written or graphical form or, furthermore, the person is unable to understand the oral instructions given by crew members;

(4) the person does not have sufficient visual capacity to perform one or more of the applicable tasks listed in paragraph (d) of this section without the aid of visual aids superior to contact lenses or glasses;

(5) the person does not have sufficient hearing capacity to hear and understand instructions shouted by the flight attendants without the aid of hearing aids superior to a common hearing aid;

(6) the person does not have adequate capacity to exchange oral information with other passengers; or

(7) the person has:

(i) a condition or responsibility, such as caring for a young child, that may prevent him/her from performing one or more of the applicable tasks listed in paragraph (d) of this section; or

(ii) a condition that could cause him/ her to be injured when attempting to perform one or more of the applicable tasks listed in paragraph (d) of this section.

(c) Each passenger must comply with the instructions given by a crew member, or by another person authorized by the certificate holder, implementing the seat occupation restrictions in accordance with this section.

(d) Each certificate holder must include on the passenger information card for each exit seat affected by that section, in the primary language in which passengers are given oral instructions, information that, in the event of an emergency in which there is no crew member available to assist, a passenger occupying any exit seat may be called upon to perform one of the following tasks:

(1) locate an emergency exit;

(2) recognize an emergency exit opening mechanism;

(3) understand the instructions for operating the emergency exit;

(4) operate an emergency exit;

(5) assess whether opening an emergency exit will increase the risks to which passengers are exposed; (6) follow oral or gesture guidance given by a crew member;

(7) support or secure an emergency exit door so that it does not prevent the use of the exit;

(8) assess the condition of a slide, opening and stabilizing it after opening, helping others to use it for escape;

(9) passing quickly through an emergency exit; and

(10) assess, select and follow a safe path from an emergency exit.

(e) Each certificate holder must include in the passenger information card for each exit seat:

(1) in the primary language in which the crew will issue emergency commands, the selection criteria set out in paragraph (b) of this section and a request for a passenger to identify himself or herself to be switched if he/she:

(i) does not meet the selection criteria of paragraph (b) of this section;

(ii) has a condition, not evident, that prevents him/her from performing the applicable tasks listed in paragraph (d) of this section;

(iii) may be injured as a result of performing one or more of the aforementioned tasks; or

(iv) does not wish to perform such tasks.

(2) on passenger information cards, in each language used by the certificate holder on them, there must be a request for each passenger, who is unable to read, speak or understand the language (or the graphic form) in which the passenger certificate holder provides the instructions (oral and written) required by this section and those related to emergency evacuations, identify himself/herself to a flight attendant to change seats, if applicable.

(f) Each certificate holder must disclose, as widely as possible, in writing, the procedures established to determine whether or not a person can sit in an exit seat.

(g) No certificate holder may authorize the taxiing or push back, unless at least one crew member has verified that there is no exit seat occupied by a person that the crew member believes is unable to perform one of the applicable tasks listed in paragraph (d) of this section. (h) Each certificate holder must include in the verbal instructions to passengers a reference to the passenger information cards required by paragraphs (d) and (e), the selection criteria set out in paragraph (b) and the tasks to be performed established in paragraph (d) of this section.

(i) Each certificate holder must include in the verbal instructions to passengers a request for a passenger to identify himself/herself, allowing his/her repositioning, if he/she:

(1) cannot meet the selection criteria set out in paragraph (b) of this section;

(2) has a condition, not evident, that prevents him/her from performing the applicable tasks listed in paragraph (d) of this section;

(3) may be injured as a result of performing one or more of those tasks; or

(4) does not wish to perform such tasks.

(j) A certificate holder cannot require a passenger to disclose the reasons for which he/she wishes to switch places. (Wording given by Resolution No. 334, of 07.01.2014)

(k) If a certificate holder finds, according to this section, that a passenger designated to occupy an exit seat is likely to be unable to perform the tasks listed in paragraph (d) of this section, or even if a passenger requires a non-exit seat, the certificate holder should, as soon as possible, reposition that person to another seat.

(I) In the event that all non-exit seats are occupied and it is necessary to reposition a passenger occupying an exit seat, the certificate holder must move to that last seat a person who can and accepts to carry out the evacuation tasks that may become necessary.

(m) A certificate holder can only refuse transportation to a person under this section:

(1) if the passenger refuses to comply with the instructions given by a crew member, or by another person authorized by the certificate holder, regarding compliance with the restrictions on the occupation of exit seats established by this section; or

(2) if the only seat that could physically accommodate such a person is an exit seat.

(n) In order to comply with this section, certificate holders must:

(1) establish procedures providing for:

(i) the criteria listed in paragraph (b) of this section;

(ii) the tasks listed in paragraph (d) of this section;

(iii) the requirements for disclosing the information required by this section, for passenger information cards, for crew members responsible for verifying the correct occupancy of exit seats, for oral information for passengers, for the designation of seats and for the refusal to transport a passenger, all in accordance with this section;

(iv) settling disputes created by the implementation of the provisions of this section, including functional identification of the person in charge, at the airport, receiving complaints and resolving complaints.

(2) submit its procedures to ANAC for assessment and approval.

(o) Each certificate holder must designate the seats for passengers, before boarding them, in a manner consistent with the criteria listed in paragraph (b) and the tasks listed in paragraph (d) of this section to the maximum practicable extent.

(p) The procedures required by paragraph (n) of this section must be submitted to and approved by ANAC. The approval will be based, fundamentally, on the security aspects of the procedures proposed by the certificate holder.

121.586 Authority to refuse passengers

(a) No certificate holder may refuse to transport a person as a normal passenger, on the grounds that the person, by requiring assistance from another person to move more quickly to an exit in the event of an emergency, could impair the security of the flight, unless:

(1) the certificate holder has established procedures (and disclosed them) for the transportation of people who need assistance from others to move more quickly to an exit in case of emergency; and

(2) at least one of the following conditions exists: (i) the passenger cannot comply with the requirements set out in the certificate holder's procedures.

(ii) the passenger cannot be transported according to the certificate holder's procedures.

(b) Each certificate holder must provide ANAC with a copy of the procedures established by it to comply with paragraph (a) of this section.

(c) Whenever ANAC considers that changes to the procedures established for compliance with paragraph (a)(1) of this section are necessary, in order to meet the public interest or the interest of security, the certificate holder will be notified in writing of the change required, and must implement it within the established deadline. Up to 30 days after receiving the notification, the certificate holder can request reconsideration of ANAC's decision and the submission of this request leaves the entry into force of the amendment in suspension until the final decision on the matter occurs. However, if it is considered that there is an emergency that requires immediate action in the interest of air transport security, ANAC can determine an amendment with immediate effectiveness, justifying such a decision.

121.587 Closing and locking the cockpit door

(a) Except as provided for in paragraph (b) of this section, the pilot-in-command of an airplane that has a lockable cockpit door as established in 121.313 and is carrying passengers must ensure that the door separating the cockpit from the passenger cabin is closed and locked during the entire time the aircraft is being operated.

(b) The provisions of paragraph (a) of this section do not apply when it is necessary to allow the entry and exit of persons authorized under 121.547, provided that the certificate holder complies with the procedures approved by ANAC with respect to opening, closing and locking the cockpit door.

121.589 Carry-on luggage

(a) No certificate holder may allow carry-on luggage to be boarded on an airplane, unless each passenger's baggage has been checked to control the weight and quantity to be carried on board, in accordance with an approved carry-on luggage transport program established in its operating specification. In addition, no passenger may board a plane if their carry-on luggage exceeds the amount of baggage set out in the carry-on luggage program of the certificate holder's operating specification.

(b) No certificate holder may allow all passenger entry doors to be closed in preparation for taxi or "push-back" unless a crew member has verified that each item of luggage is stored in accordance with this section and with paragraphs 121.285 (c) and (d) of this regulation.

(c) No certificate holder may allow an airplane to take off unless each item of luggage is placed:

(1) in an appropriate luggage or cargo compartment, marked for its maximum weight capacity and having appropriate means to hold all luggage or cargo placed and positioned in such a way as not to impair the possible use of an emergency exit; or

(2) as provided for in paragraphs 121.285 (c) and (d) of this regulation; or

(3) under a passenger seat.

(d) Luggage, other than loose garments, may not be placed on shelves over passengers' heads, unless such shelves are provided with approved lashing devices or doors.

(e) Each passenger must comply with the instructions given by the crew in relation to compliance with the requirements of paragraphs (a), (b), (c) and (d) and (g) of this section.

(f) Each passenger seat under which luggage is authorized to be stored must be provided with means to prevent luggage placed under it from sliding forward. In addition, each aisle seat must be provided with means to prevent the luggage placed under it from sliding laterally into the aisle when subjected to impact forces large enough to induce the final inertia loads specified for the emergency landing conditions under which the airplane type has been certified.

(g) In addition to the luggage storage methods of paragraph (c) of this section, flexible walking sticks carried by blind people may be placed:

(1) under any set of seats connected together in the same row, if the cane does not invade the aisle and if it is fully supported on the floor; or

(2) between a window seat and the fuselage, if the window is not an

emergency exit and the cane is fully supported on the floor.

121.590 Use of airport

(a) Unless specifically authorized by ANAC, no certificate holder operating under this regulation and no pilot employed by it in the conduct of such operation may operate at a Brazilian airport, including an alternate airport, without this airport being registered by ANAC.

(b) [Reserved] (Wording provided by Resolution No. 334, of 07.01.2014)

121.590a Transport of weapons on board

(a) Except as provided for in paragraph (b) of this section, no one may, while on board an aircraft being operated by a certificate holder, carry or bring a dangerous or deadly weapon close to it, whether hidden or not.

(b) The exceptions to paragraph (a) of this section are contained in the National Civil Aviation Security Plan (PNAVSEC), a document classified as "Reserved" distributed to certificate holders.

(c) Based on the PNAVSEC, each certificate holder must establish its own ostensible rules and procedures to comply with and ensure that the provisions of said document are complied with.

SUBPART U RULES FOR FLIGHT DISPATCH AND CLEARANCE

121.591 Applicability

This subpart establishes rules for operational flight dispatch for scheduled operations and flight release for supplemental operations. (Wording given by Resolution No. 526, of 08.06.2019)

121.593 Flight dispatch authority (Wording provided by Resolution No. 526, of 08.06.2019)

(a) No one may start a flight unless a flight dispatcher specifically authorizes such a flight.

(b) No one may authorize the continuation of a flight from an intermediate airport without a new dispatch, unless:

(1) The period of operation is within the period of validity of the meteorological forecasts used in the original order; and

(2) There is no change of technical crew.

121.595 [Reserved].

121.597 Flight release authority (Wording provided by Resolution No. 526, of 08.06.2019)

(a) No one may begin a flight that requires flight tracking without the specific authorization of a person designated by the certificate holder to exercise operational control of the flight.

(b) No one may start a flight unless the pilot-in-command or the person designated by the certificate holder to perform the operational control of the flight has performed the clearance of the flight, defining the conditions under which the flight will be performed. To clear a flight, it is necessary that the pilot-in-command and the person designated for its operational control agree that the flight can be conducted safely.

(c) No one can proceed with a flight from an intermediate airport, in which the plane has remained on the ground for more than 6 hours, without a new clearance.

121.599 Knowledge of atmospheric conditions

(a) Scheduled operations. No flight dispatcher can authorize a flight unless he/ she has full knowledge of the known and forecasted weather conditions on the route to be used.

(b) Supplemental operations. No pilot-in-command can start a flight unless he/she has full knowledge of the known or forecasted weather conditions on the route to be used. (Wording given by Resolution No. 526, of 08.06.2019)

121.601 Dispatcher information to the pilot-in-command. Scheduled operations (Wording given by Resolution No. 526, of 08.06.2019)

(a) The flight dispatcher shall provide the pilot-in-command with all known information available, including information on irregularities at airports and in navigation or communications facilities that may affect flight safety.

(b) Before the flight begins, the dispatcher must provide the pilot-in-command with all known meteorological information, as well as forecasts of atmospheric phenomena that may affect operational safety such as clear sky turbulence, storms and low altitude windshear ("windshear") for each route to be flown and for each airport to be used. (c) During the flight, the flight dispatcher must provide the pilot-in-command with any additional weather information available and inform him/her of irregularities in facilities and services that may affect operational safety.

121.603 F Facilities and services. Supplemental operations (Wording provided by Resolution No. 526, of 08.06.2019)

(a) Before starting a flight, the pilot-in-command must obtain all available information about airport conditions and irregularities in communications and navigation facilities that may affect operational safety.

(b) During the flight, the pilot-in-command must seek additional information available on weather conditions and irregularities in facilities and services that may interfere with operational safety.

121.605 Aircraft equipment

No one can dispatch or clear an airplane unless it is airworthy and equipped as established by 121.303.

121.607 Communication and navigation facilities. Scheduled operations (Wording given by Resolution No. 526, of 08.06.2019)

(a) Except as set out in paragraph (b) of this section, no one may dispatch an airplane on an approved route, unless the communication and navigation facilities required by 121.99 and 121.103 for route approval are in satisfactory operating condition.

(b) If due to technical reasons or other reasons beyond the control of a certificate holder, some of the facilities required by 121.99 and 121.103 are not available on a route or route segment outside Brazil's borders, a flight on that route may be dispatched only if the pilot-in-command and the dispatcher agree that the remaining facilities, together with other existing and available facilities, can offer similar support to the flight.

121.609 Communication and navigation facilities. Supplemental operations (Wording provided by Resolution No. 526, of 08.06.2019)

No one can clear an airplane on any route, unless the communication and navigation facilities, required by 121.121, are in satisfactory operating conditions.

<u>121.611 VFR flight dispatch or</u> <u>clearance</u>

No one may dispatch or clear an airplane to perform a visual flight without complying with the visual flight rules (VFR) established by the Aeronautical Command, and that the weather forecasts will remain at the applicable VFR minima (or above) until the plane arrives at the airport or airports specified in the flight dispatch or clearance.

121.613 Dispatch or clearance of IFR flight

Except as provided for in 121.615, no one may dispatch or clear an aircraft for IFR operations unless adequate weather information and forecasts indicate that weather conditions will be at or below IFR minima at the estimated time of arrival of the aircraft at the airport or airports for which it was dispatched or cleared.

121.615 Dispatch or clearance of flight over large expanses of water. All operations (Wording given by Resolution No. 526, of 08.06.2019)

(a) No one may dispatch or clear an airplane for a flight that involves operation over large expanses of water, unless appropriate weather information and forecasts indicate that atmospheric conditions at any of the airports to which it has been dispatched or cleared (including required alternate airports) will be at or below the minima established for these airports at the estimated time of arrival of the aircraft at them.

(b) Each certificate holder must conduct operations over large expanses of water on IFR flights, unless it demonstrates, in an acceptable manner by ANAC, that the IFR flight is not necessary for safety. (Wording given by Resolution No. 526, of 08.06.2019)

(c) [Reserved].

(d) Each authorization to conduct operations over large expanses of water on a VFR flight and each route involving overflights of large expanses of water on an IFR flight must be stated in the certificate holder's operating specifications.

121.617 Alternate airport for take-off

(a) If the weather conditions at the take-off airport are below the minimum set for IFR landing, no one may dispatch or clear an airplane from that airport, unless the dispatch or clearance specifies

an alternate airport within the following distances from the take-off airport:

(1) twin-engine airplanes. No more than one hour from the departure airport, at normal single-engine cruising speed, in calm air;

(2) airplanes with 3 or more engines. No more than two hours from the departure airport, with normal cruising speed with 1 inoperative engine, in calm air.

(b) For the purposes of paragraph (a) of this section, the atmospheric conditions of the alternate airport must satisfy the requirements of 121.613 for the destination airport.

(c) No one may dispatch or clear an airplane from an airport unless each alternate airport required for the flight is listed in the dispatch or clearance.

<u>121.619 Alternate airport to</u> <u>the destination. Schedules IFR</u> <u>operations (Wording given by</u> <u>Resolution No. 526, of 08.06.2019)</u>

(a) No one may dispatch an airplane for IFR flight unless at least one alternate airport is indicated for each airport of destination of the dispatch. When forecasts and weather information indicate that the atmospheric conditions of the destination and the alternative are marginal, at least one additional alternative must be included.

(b) For the purposes of paragraph (a) of this section, the meteorological conditions of the alternate airport must comply with that established in section 121.625.

(c) No one may dispatch or clear an airplane from an airport unless each alternate airport required for the flight is listed in the dispatch or clearance.

121.621 Alternate airport to the destination. International scheduled IFR operations (Wording given by Resolution No. 526, of 08.06.2019)

(a) Except as provided in paragraph (b) of this section, no one may dispatch an airplane for IFR flight unless at least one alternate airport is indicated for each destination airport in the dispatch.

(b) An airplane may be dispatched on an IFR flight to a destination that is a remote location, outside Brazil, without an alternate airport available, provided that: (1) the flight time to that location does not exceed 6 hours and, at least 1 hour before to 1 hour after the estimated time of arrival at the destination airport, appropriate weather information or forecasts, or a combination thereof, indicate that at this airport:

(i) the ceiling will be at least 1500 feet above the lowest circling approach MDA, if a circular approach is required and authorized for that airport; or

(ii) the ceiling will be at least 1500 feet above the lowest of the minimum instrument approach procedures published for the airport or 2000 feet above the airport altitude, whichever is greater; and

(iii) the visibility will be at least 5 km (3 land miles) or 3 km (2 land miles) greater than the minimum applicable visibility of the instrument approach procedures to be used at the airport, whichever is greater.

(2) the airplane has sufficient fuel to meet the requirements of paragraph 121.645 (c)(4)(iii); and (Wording given by Resolution No. 543, of 02.20.2020)

(3) the applicable requirements of section 121.648 are met. (Included by Resolution No. 543, of 02.20.2020)

(c) For the purposes of paragraph (a) of this section, the meteorological conditions of the alternate airport must comply with that established in section 121.625.

(d) No one may dispatch an airplane from an airport, unless each alternate airport required for the flight is listed in the dispatch.

<u>121.623 Alternate airport to the</u> <u>destination. Non-scheduled IFR</u> <u>operations (Wording given by</u> <u>Resolution No. 526, of 08.06.2019)</u>

(a) Except as provided in paragraph (b) of this section, each person clearing an airplane for IFR operation must list at least one alternate airport for each destination airport in the flight release.

(b) There is no need to designate an alternate airport for an IFR operation when it is possible to meet all requirements of 121.621 (b), 121.645 and 121.648. (Wording given by Resolution No. 543, of 02.20.2020)

(c) For the purposes of paragraph (a) of this section, the meteorological conditions of the alternate airport must meet the requirements of the certificate holder's operating specifications.

(d) No one may dispatch an airplane from an airport, unless each alternate airport required for the flight is listed in the dispatch.

121.624 ETOPS alternate airports

(a) No one may dispatch or clear an airplane for an ETOPS flight unless alternative ETOPS airports are listed in the flight dispatch or clearance such that they maintain the aircraft within the longest authorized ETOPS diversion time. In selecting these alternative ETOPS airports, the certificate holder must consider all airports within the maximum authorized ETOPS time deviation for the flight that meets this regulation.

(b) No one can list an airport as an alternative ETOPS airport, in a flight dispatch or clearance, unless it is operational (for the shortest and longest landing time).

(1) Weather reports or forecasts, or a combination thereof, indicate that the weather conditions will be at or above the ETOPS alternate airport minima determined in the certificate holder's operating specifications.

(2) Airport condition reports indicate that a safe landing can be made.

(c) Once the aircraft is in flight en route, the weather conditions for an alternative ETOPS airport must meet the requirements of 121.631 (c).

(d) No one may list an airport as an ETOPS alternative in a flight dispatch or clearance unless this airport meets the requirements of 121.97 (b)(1)(ii).

121.625 Meteorological minima for alternate airports

No one may designate an airport as an alternate airport in a flight dispatch or clearance, unless appropriate weather information and forecasts give a reasonable margin of certainty that the atmospheric conditions at that airport, at the estimated time of arrival of the airplane, will be at a minimum or above the meteorological minima for IFR landing established for that airport.

121.627 Continuation of a flight in unsafe conditions

(a) No pilot-in-command may allow a flight to proceed to any airport to which it has been dispatched or cleared if, in the opinion of that pilot-in-command or the

flight dispatcher (in the case of scheduled operation), the flight cannot proceed safely. However, if the pilot-in-command finds that there is no longer a safe procedure, the continuation of the flight is an emergency and should be treated as provided in 121.557 or 121.559, as applicable. (Wording given by Resolution No. 526, of 08.06.2019)

(b) If any instrument or item of equipment required by this regulation for the particular operation is inoperative en route, the pilot-in-command must comply with the approved procedures for such occurrence, as specified in the certificate holder's manual.

121.628 Inoperative instruments and equipment

(a) The operator must include in its manual system a Minimum Equipment List (MEL) approved by ANAC, for each type of aircraft that has a published MMEL, so that the pilot-in-command can determine if it is safe to start the flight or continue it from any intermediate stop, in case any instrument, equipment or system stops working.

(b) No one may take off with an airplane that has inoperative instruments or equipment installed, unless the following conditions are met:

(1) there is an approved Minimum Equipment List (MEL) for that aircraft;

(2) ANAC has authorized operations in accordance with the approved MEL and the technical crew members are made aware, before each flight, of the information and instructions contained in the MEL through publications or other approved means provided by the certificate holder. An ANAC approved MEL constitutes a modification to the airplane type design that does not require supplemental type certification.

(3) the approved MEL:

(i) has been prepared in accordance with the limitations contained in paragraph (c) of this section; (Wording given by Resolution No. 334, of 07.01.2014)

(ii) contains information for the operation of the aircraft with certain inoperative instruments and equipment.

(4) the information required by paragraph (b)(3)(ii) of this section and the records of inoperative equipment and instruments exist and are available to the pilot; (Wording given by Resolution No. 334, of 07.01.2014)

(5) the airplane is operated in accordance with all conditions and limitations contained in the MEL and in the instructions that authorize its use.

(c) The following instruments and equipment cannot be included in a MEL:

(1) instruments and equipment that are, directly or indirectly, required by the airworthiness requirements under which the airplane has been certified and that are essential for safe flight under all operating conditions;

(2) instruments and equipment that an Airworthiness Directive (AD) requires to be in operating condition, unless the AD itself provides otherwise;

(3) for a specific operation, instruments and equipment required by this regulation for such operation.

(d) Notwithstanding paragraphs (c)(1) and (c)(3) of this section, an airplane with inoperative instruments and equipment may be operated under a special flight permit issued under sections 21.197 and 21.199 of RBAC 21. (Wording given by Resolution No. 334, of 07.01.2014)

121.629 Operations in icing conditions

(a) No one may dispatch or clear an aircraft, continue to operate an aircraft en route or land an aircraft on an airport when, in the opinion of the pilot-in-command or the flight dispatcher (in the case of a certificate holder for scheduled operations), ice formation conditions exist or are expected to adversely affect operational safety. (Wording given by Resolution No. 526, of 08.06.2019)

(b) No one may take off an airplane when frost, snow or ice has adhered to the wings, control surfaces, propellers, engine air intakes and other critical surfaces of the airplane or when take-off cannot be made in accordance with paragraph (c) of this section. Takeoffs with frost under the wings, in the areas of the fuel tanks, may be authorized.

(c) Except as provided for in paragraph (d) of this section, no one may dispatch, clear or take off with an airplane when the weather conditions are such that frost, ice or snow will be reasonably foreseen on the airplane, unless the holder certificate has an approved ground freeze/ thaw program and unless dispatch, clearance and take-off comply with that program. The approved ground freeze/thaw program must include at least the following items:

(1) a detailed description:

(i) how the certificate holder determines that the conditions are such that it becomes reasonably foreseeable that frost, ice or snow will adhere to the airplane and that the operating procedures of the anti-icing/ defrost program must be triggered;

(ii) of who is responsible for the decision to trigger the operational procedures of the anti-icing/defrost program;

(iii) of the procedures for implementing the operational procedures of the anti-icing/defrost program;

(iv) of the specific duties and responsibilities of each station or operational group responsible for activating the anti-icing/thawing operational procedures on the ground, aiming at the safe take-off of the aircraft.

(2) initial and periodic ground training (and examinations) for technical crew and qualification for all other persons involved (e.g. operational flight dispatchers, ground mechanics, contracted personnel, etc.) with respect to specific requirements of the approved program and the duties and responsibilities of each person under that program, specifically covering the following areas:

(i) the use of "operating times";

(ii) the aircraft's anti-icing/defrost procedures, including inspection and verification procedures and responsibilities;

(iii) communications procedures;

(iv) identification of contamination on the plane's surface (frost, ice or snow adhesion) and critical areas, and how this contamination adversely affects the aircraft's performance and flight characteristics;

(v) types and characteristics of anti-freeze/thaw fluids;

(vi) pre-flight procedures at low temperatures;

(vii) techniques for recognizing contamination of the airplane.

(3) the certificate holder's "operating times" tables and the procedures for using these tables by their staff. "Operating time" is the estimated time that the antifreeze/defrost fluid remains preventing the formation of frost or ice and the accumulation of snow on the protected surfaces of the airplane. The operating time starts at the beginning of the final application of the anti-icing/defrost fluid and ends when the fluid applied to the plane loses its effectiveness. The operating time must be supported by data acceptable to ANAC. The certificate holder's program must include procedures for technical crew members, in accordance with current conditions, to increase or decrease the determined operating time. The program must inform that the take-off, after exceeding any maximum operating time of the certificate holder's table, is only allowed when at least one of the following conditions exists:

(i) a pre-take-off check, as defined in paragraph (c)(4) of this section, determines which wings, control surfaces and other critical surfaces defined in the certificate holder's program are free from frost, ice or snow;

(ii) it has been determined, by an alternative procedure established in the certificate holder's approved program, that wings, control surfaces and other critical surfaces defined in said program are free from frost, ice or snow;

(iii) the wings, control surfaces and other critical surfaces have again been defrosted, establishing a new operating time.

(4) procedures and responsibilities for defrosting or anti-icing the airplane, procedures and responsibilities for pre-take-off checks and procedures and responsibilities for checking pre-take-off contamination. A pre-take-off check is a check of the airplane's wings and other sensitive surfaces for frost, ice or snow, within the operating time set for that airplane. A pre-take-off contamination check is a check to ensure that wings, control surfaces and other critical surfaces defined in the certificate holder program are free from frost, ice or snow. This check must be conducted within the five minutes prior to the beginning of the take-off, and must be carried out outside the airplane unless the approved program provides another solution. (Wording given by Resolution No. 334, of 07.01.2014)

(d) A certificate holder may continue to operate under this section, without the program required by paragraph (c) of this section, if it includes in its manual a statement that, in any weather condition where adherence of frost, ice or snow to an airplane is reasonably foreseeable, none of its planes will be able to take off unless it has been verified that the wings, control surfaces and other critical surfaces are free from frost, ice and snow. Such verification must take place during the last five minutes prior to the beginning of the take-off and must be conducted from outside the airplane.

121.631 Initial dispatch or flight release, redispatch and modification of flight dispatch or clearance

(a) A certificate holder may specify any airport, authorized for the type of airplane, as the destination airport for the purposes of the dispatch or original clearance of the flight.

(b) No one may allow a flight to proceed to the airport to which it has been dispatched or cleared, unless atmospheric conditions at the airport designated as an alternative, at the time of dispatch or clearance of that flight, are provided for as minima or above minimum IFR established for it, at the estimated flight arrival time at the same airport. However, the flight dispatch or clearance can be modified, en route, to include any alternate airport that is within the range of the aircraft, as provided for in 121.645 and 121.646. (Wording given by Resolution No. 543, of 02.20.2020)

(c) No one may allow a flight to continue beyond the ETOPS entry point unless:

(1) except as provided for in paragraph (d) of this section, the forecasted meteorological conditions, for each ETOPS alternate airport required by 121.624, are equal to or above the minimum for the airport as provided in the certificate holder's operating specifications;

(2) all alternative ETOPS airports are within the maximum ETOPS time deviation, were checked and the crew warned of any changes that occurred after dispatch.

(d) If the provisions of paragraph (c)(1) of this section cannot be met by a specific airport, in the dispatch or flight authorization, an amendment may be authorized for that specific flight to add another airport that meets the requirement in paragraph (c) of this section.

(e) Before entering an ETOPS entry point, the pilot-in-command performing a supplemental operation or a dispatcher for a scheduled operation must use communications with the company to update the flight plan, if necessary, due to the reassessment of the capabilities of the airplane systems. (Wording given by Resolution No. 526, of 08.06.2019)

(f) No one, on a flight en route, may alter an alternative destination or airport that is specified in a flight dispatch or clearance unless other airports, authorized to receive that type of airplane, meet the requirements of 121.593 up to 121.661 and in addition to that provided for in 121.173, at the time of redrawing or amendment to the flight plan.

(g) Each person, qualified to modify a flight dispatch or clearance en route and who will do so, must register such change.

121.633 Timeout system in ETOPS alternative planning

(a) For ETOPS flights up to and including 180 minutes, no one can list an airport as an ETOPS alternative in a flight dispatch or clearance if the time to fly to this airport (at approved cruising speed with an inoperative engine under standard conditions and with calm air) exceeds the time approved for the most limiting of the ETOPS Significant System (including the most limiting time of the airplane's fire suppression system for the cargo and luggage compartments for which regulations are required to have fire suppression systems) minus 15 minutes.

(b) For ETOPS beyond 180 minutes, no one can list an alternative ETOPS airport in a flight dispatch or clearance if the time required to fly to this airport:

(1) at cruising speed with all engines operating, corrected by wind and temperature, exceeding the most limiting time of the airplane's fire suppression systems minus 15 minutes for the cargo and luggage compartments for which fire suppression systems are required by regulation (except as provided for in paragraph (c) of this section); or

(2) at cruising speed with an inoperative engine, corrected by wind and temperature, exceeds the time of the aircraft's most limiting ETOPS Significant System (other than the most limiting time of the airplane's fire suppression systems minus 15 minutes for the cargo and luggage compartments for which fire suppression systems are required by regulation).

(c) For airplanes with two or more turbine engines, the certificate holder does not need to meet the requirements of (b)(1) of this section until February 2013.

121.635 Dispatch after, or before, a refueling at airports not listed in the certificate holder's E.O. [Operating Specifications]

No one may dispatch an airplane after, or before, a refueling or an airport not listed in the certificate holder's E.O., in accordance with the requirements of this regulation applicable to the dispatch of regular airports, unless that airport meets the requirements of this regulation applicable to regular airports.

121.637 Takeoff from unlisted airports or alternate airports. Scheduled operations (Wording given by Resolution No. 526, of 08.06.2019)

(a) No pilot may take off from an airport not listed in the certificate holder's operating specifications, unless:

(1) the airport and its facilities are suitable for the operation of the airplane;

(2) the applicable operational limitations of the aircraft can be met;

(3) the airplane has been dispatched in accordance with the rules applicable to the operation from a regular airport; and

(4) the weather conditions at the airport are equal to or above the following:

(i) Brazilian airport. The meteorological minima set for IFR take-off from the airport or, if there are no such minima for that airport, the basic minima for VFR operation established by DECEA:

(ii) foreign airport. The meteorological minima set for the airport by the authorities of the country in which the airport is located.

(b) No pilot may take off from an alternate airport, unless the atmospheric conditions at said airport are equal to or above the meteorological minima established for that airport for the type of operation to be performed (VFR or IFR). <u>121.639 [Reserved] (Wording</u> given by Resolution No. 543, of <u>02.20.2020)</u>

<u>121.641 [Reserved] (Wording</u> given by Resolution No. 543, of <u>02.20.2020)</u>

<u>121.643 [Reserved] (Wording</u> given by Resolution No. 543, of 02.20.2020)

121.645 Fuel supply

(a) The certificate holder must carry a sufficient amount of usable fuel on board to complete the planned flight safely and to allow deviations from the planned operation.

(b) The amount of usable fuel to be taken on board must, as a minimum, be based on:

(1) the following data:

(i) updated aircraft-specific data, derived from a fuel consumption monitoring system, if available; or

(ii) if no updated airplane-specific data is available, data provided by the aircraft manufacturer; and

(2) the operating conditions for the planned flight, including:

(i) the aircraft's expected weight;

(ii) NOTAM;

(iii) a combination of updated weather reports and forecasts;

(iv) air traffic service procedures, as well as their restrictions and expected delays; and

(v) the effects of items with delayed corrective action and/or configuration deviations, as provided for in MEL or configuration deviation list (CDL).

(c) The pre-flight calculation of the usable fuel must include:

(1) taxi fuel, which should be the amount of fuel that is expected to be consumed before take-off, taking into account local conditions at the take-off airport and, if applicable, fuel consumption by the auxiliary power unit (APU);

(2) fuel up to the destination airport, which must be the amount of fuel required from take-off, or from the flight redispatch point, to landing at the destination, taking into account the operational conditions mentioned in 121.645 (b)(2); (3) contingency fuel, which must be the amount of fuel required to compensate for unforeseen factors. This quantity must:

(i) be 10% of the fuel until the landing at the destination airport, or the fuel required from the flight redispatch point (based on the consumption rate used to plan the fuel) until the landing at the destination.

(A) The contingency fuel provided for in paragraph (c)(3)(i) of this section may be reduced to 5%, if the certificate holder has a monitoring program under the terms of paragraph (b)(1)(i) of this section or if otherwise established by ANAC.

(B) In no case will the contingency fuel be less than the amount required to fly for 5 minutes at a waiting speed of 450 m (1500 feet) over the elevation of the destination airport in a standard atmosphere condition;

Note – unforeseen factors are those that can have an influence on the fuel consumption up to the destination airport, such as variations of a specific aircraft in relation to the expected fuel consumption data, variations in relation to the predicted weather conditions, prolonged delays and detours from the planned route or cruise level.

(4) fuel for the destination alternate airport, which must be:

(i) when an alternative destination airport is required, the amount of fuel required to allow the airplane to:

(A) perform a missed approach at the destination airport;

(B) rise to the expected cruising altitude;

(C) fly the expected route to the destination alternate airport;

(D) descend to the point where the expected approach starts; and

(E) perform the approach and land at the destination alternate airport;

(ii) when two alternative destination airports are required, the amount of fuel, as calculated in 121.645 (c)(4)(i), required to allow the airplane to fly to the destination alternate airport that requires the greatest amount of alternative fuel; and

(iii) in the situations provided for in 121.621 (b) and 121.623 (b):

(A) for conventional engine planes, the amount of fuel required to fly for 45 minutes plus 15% of the planned flight time for cruise-level flight, including the final reserve fuel, or two hours, whichever is less; or

(B) for airplanes with a turbine engine, the amount of fuel required to fly for two hours, with normal cruise consumption, over the destination airport, including the final reserve fuel;

(5) final reserve fuel, which should be the amount of fuel below, calculated using the estimated weight for the aircraft upon arrival at the alternative destination airport, or the destination airport when no alternative destination airport is required:

(i) for airplanes with a conventional engine, the amount of fuel required to fly for 45 minutes, under cruising speed and altitude; or

(ii) for turbine-powered airplanes, the amount of fuel required to fly for 30 minutes at a standby speed of 450 m (1500 feet) over the elevation of the airport in a standard atmosphere condition;

(6) additional fuel, which must be the additional amount of fuel required if the minimum fuel calculated in accordance with 121.645 (c) (2), (3), (4) and (5) is not sufficient to:

(i) allow the airplane to descend as far as necessary and proceed to an alternate airport in the event of an engine failure or depressurization, which requires a greater amount of fuel assuming the failure occurs at the most critical point on the route, and:

(A) fly for 15 minutes at a waiting speed of 450 m (1500 ft) over the elevation of the airport in a standard atmosphere condition; and

(B) execute an approach and land; and

(ii) allowing the airplane in ETOPS operations to comply with the requirement of 121.646 (b), referring to the ETOPS critical fuel scenario;

Note – when planning fuel for a failure that occurs at the most critical point on the route (121.645 (c)(6)(i)), it is allowed to consider that a fuel emergency situation occurs, characterized by a landing made with less fuel than the final reserve fuel.

(7) discretionary fuel, which must be the amount of extra fuel to be carried on board at the discretion of the pilot-in-command.

(d) The certificate holder cannot start a flight, and the pilot-in-command cannot start operating the airplane unless the usable fuel on board meets the requirements of 121.645 (c)(1) to (6). The certificate holder may not continue a flight to the destination airport, and the pilot-in-command may not continue to operate an airplane to such airport beyond the in-flight redispatch point unless the usable fuel on board meets the requirements for 121.645 (c)(2) to (6).

(e) Notwithstanding the requirements of paragraphs 121.645 (c)(1), (2), (3), (4) and (6), the certificate holder may submit to ANAC a proposal for approval of reductions in the pre-flight calculation of the fuel provided for in these paragraphs (taxi fuel, fuel up to the destination airport, contingency fuel, fuel up to the alternative destination airport and additional fuel). The proposal must be based on the results of a specific risk assessment conducted by the certificate holder that demonstrates, based on periodically evaluated operational data, how an equivalent level of operational safety will be maintained and that includes, at a minimum:

(1) flight fuel calculations; and

(2) operator capabilities, including at least:

(i) a data-based method that includes a fuel consumption monitoring program; or

(ii) the advanced use of alternate airports; and

(3) specific mitigation measures.

(f) The use of fuel after the start of the flight for purposes other than those originally planned during pre-flight planning should entail re-analysis and, if applicable, adjustments to the planned operation. (Wording given by Resolution No. 543, of 02.20.2020)

121.646 Fuel supply for the ETOPS critical fuel scenario (Wording given by Resolution No. 543, of 02.20.2020)

(a) [Reserved]. (Wording given by Resolution No. 543, of 02.20.2020)

(b) No one can dispatch or clear for an ETOPS flight unless considering the wind and other expected weather conditions, the fuel required by this regulation is

sufficient to meet the following requirements:

(1) enough fuel to fly to an alternative ETOPS airport:

(i) sufficient fuel, assuming rapid decompression and engine failure. The aircraft must be filled with the largest amount of fuel required below:

(A) enough fuel to fly to an alternative ETOPS airport assuming rapid decompression, at the most critical point on the route, followed by a descent to a safe altitude that meets the oxygen supply requirements required in 121.333 of this regulation;

(B) enough fuel to fly to an alternative ETOPS airport (at cruising speed with an inoperative engine) assuming rapid decompression and, simultaneously, engine failure, at the most critical point on the route, and then a descent to a cruising altitude with an inoperative engine; or

(C) sufficient fuel to fly to an alternative ETOPS airport (at cruising speed with an inoperative engine) assuming an engine failure at the most critical point on the route followed by a descent to cruising altitude with an inoperative engine.

(ii) sufficient fuel, taking into account errors in the forecast of winds en route. In calculating the fuel required by paragraph (b)(1)(i) of this section, the certificate holder must increase the expected wind speed values en route by 5% (resulting in an increase in the contrary wind speed and a decrease in tail wind speed) with potential errors from en route wind forecasts;

(iii) sufficient fuel, taking into account a deviation from an area where there are conditions of ice formation. In the calculation required by paragraph (b) (1)(i) of this section (after performing the calculation required by paragraph (b)(1)(ii) of this section), the certificate holder must ensure that the airplane is fueled with one of the largest amounts of fuel below in the event of a deviation from a possible ice formation area:

(A) fuel that is consumed as a result of ice accumulation on the aircraft for 10% of the time that ice formation is expected (including the fuel used by anti-icing systems during this period); (B) fuel that would be used by anti-icing systems during the entire period when ice formation is expected.

(iv) sufficient fuel, taking into account an engine deterioration. In calculating the amount of fuel required by paragraph (b)(1)(i) of this section (after performing the calculation required by paragraph (b)(1)(ii) of this section), in addition, the aircraft must carry 5% of the fuel specified above, taking into account a cruising deterioration of fuel burn performance, unless the certificate holder has a cruise deterioration monitoring program for airplane fuel burn performance. (Wording given by Resolution No. 543, of 02.20.2020)

(2) sufficient fuel taking into account waits, approaches and landings. In addition to the fuel required by paragraph (b)(1) of this section, the airplane must be sufficiently fueled for a 15-minute wait at 1500 feet above the altitude of an alternative ETOPS airport and after being conducted to landing through a procedure by instruments;

(3) fuel taking into account the use of the APU. If an APU is required for the supply of energy, the certificate holder must take this consumption into account during the appropriate flight phases.

<u>121.647 [Reserved] (Wording</u> given by Resolution No. 543, of 02.20.2020)

121.648 In-flight fuel management

(a) The certificate holder must establish policies and procedures, approved by ANAC, to ensure that in-flight fuel management and in-flight fuel checks are carried out.

(b) The pilot-in-command must continuously ensure that the amount of usable fuel available on board is not less than the amount required to fly to an airport where a safe landing can be made with the planned amount of final reserve fuel available at the time of landing.

(1) The pilot-in-command must request delay information from the ATC body when circumstances not provided for in the planning stage could result in a landing at the destination airport with less fuel than:

(i) the amount to fly to an alternate airport plus the final reserve fuel; or

(ii) in the situations provided for in 121.621 (b) and 121.623 (b), the amount of fuel required in 121.465 (c) (4)(iii).

(2) The pilot-in-command must notify the ATC body of a minimum fuel status stating "minimum fuel" (or, in English, "minimum fuel") when, having an obligation to land at a specific airport, the pilot calculates that any change to the current authorization for that airport may result in a landing with a quantity of fuel lower than the quantity of planned final reserve fuel.

(3) The pilot-in-command must declare a fuel emergency using "mayday mayday mayday fuel" (or, in English, "mayday mayday mayday fuel") when the amount of usable fuel that, as calculated, would be available when landing at the nearest airport where a safe landing can be made is less than the amount of planned final reserve fuel.

(c) In the situations provided for in 121.621 (b) and 121.623 (b):

(1) when dispatching or clearing a flight, a point of no return must be determined, defined as the last geographical point on the route where the airplane can either follow to the destination airport or to an alternate airport on an available route; and

(2) the flight must not proceed beyond the point of no return unless an updated assessment of weather information and forecasts, traffic conditions and other operational conditions indicates that a safe landing can be made at the scheduled time of use of the destination airport. (Included by Resolution No. 543, of 02.20.2020)

121.649 Meteorological minima for take-off and landing VFR. National scheduled operations (Wording given by Resolution No. 549, of March 20, 2020)

No pilot may take off or land on an airport on a VFR flight unless the atmospheric conditions at that airport are at or above the meteorological minima for VFR operation set for the airport or, if these minima are not set for the airport in question, unless the visibility on the ground is equal to or greater than 5 km (2.7 NM), the ceiling is equal to or greater than 450m (1500 feet) and is authorized by air traffic control (if there is an ATC body at the airport).

121.651 Meteorological minima for IFR landings and takeoffs. All certificate holders

(a) Notwithstanding any air traffic control authorization, no pilot may take off with an airplane under IFR conditions when the weather conditions are below the IFR take-off conditions specified in:

(1) IFR take-off and departure procedures letters from the airport; or

(2) in the operating specifications of the certificate holder, when operating at airports where there is no published take-off letter.

(b) Except as provided in paragraph (d) of this section, no pilot may continue an approach past the final approach fix or, where a final approach fix is not used, being the final approach segment of an instrument approach procedure, unless the last meteorological information issued by a body of the Aeronautical Command or by a body recognized by it confirms visibility equal to or greater than that provided for in the IFR descent procedure being carried out.

(c) If the pilot has initiated the final approach segment of an IFR approach procedure in accordance with paragraph (b) of this section and, after that, receives information that the weather conditions are below the established minima, he/ she can continue the approach up to the decision height (DH) or to the minimum descent altitude (MDA). Upon reaching DH or MDA, and at any time before the missed approach point (MAP), the pilot can continue the approach and land if:

(1) The <u>aircraft</u> is continuously in a position from which a descent to a landing on the intended runway can be made at a normal rate of descent using normal maneuvers, and where that descent rate will allow touchdown to occur within the touchdown zone of the runway of intended landing;

(2) The <u>flight visibility</u> is not less than the visibility prescribed in the standard <u>instrument approach procedure</u> being used;

(3) Except for specially regulated landings, such as ILS Category II or Category III, where any necessary visual reference requirements are specified by authorization of the Aeronautical Authority, at least one of the following visual references for the intended runway is distinctly visible and identifiable to the pilot: (i) the approach lights system. However, unless the red bar lights of the system are clearly visible, the pilot cannot descend below the altitude of 100 feet above the altitude of the touchdown zone using only the approach light system.

(ii) the threshold;

(iii) the threshold markings;

(iv) the threshold lights;

(v) the runway end identifier lights;

(vi) the visual approach pitch indicator;

(vii) the touchdown zone or touchdown zone markings;

(viii) the touchdown zone lights;

(ix) the runway or runway markings

(x) the runway lights.

(4) when the aircraft is performing a straight-in, non-precision approach procedure, incorporating a visual control point and having passed that point, unless the point has not been identified by the pilot or, due to delay in the descent execution, it is no longer possible to land using rates of descent and normal procedures when passing the point.

(d) A pilot may begin the final approach segment of an <u>instrument approach procedure</u> other than a Category II or Category III procedure at an <u>airport</u> when the visibility is less than the visibility minimums prescribed for that procedure if the <u>airport</u> is served by an operative <u>ILS</u> and an operative <u>PAR</u>, and both are used by the pilot. However, no pilot may operate an aircraft below the authorized MDA or pursue an approach below the authorized DH, unless:

 the aircraft is stabilized and configured so that a landing on the intended runway can be made with a normal descent rate, using normal maneuvers and touching the runway within the normal touchdown zone;

(2) the flight visibility is not less than the visibility established in the approach procedure being performed;

(3) except for specially regulated landings, such as ILS category II or category III, where the visual reference requirements are specifically set by the Aeronautical Authority, at least one of the following visual references for the runway being used is clearly visible and identifiable by the pilot: (i) the approach lights system. However, unless the red bar lights of the system are clearly visible, the pilot cannot descend below the altitude of 100 feet above the altitude of the touchdown zone using only the approach light system:

(ii) the threshold;

(iii) the threshold markings;

(iv) the threshold lights;

(v) the runway end identifier lights;

(vi) the visual approach pitch indicator;

(vii) the touchdown zone or touchdown zone markings;

(viii) the touchdown zone lights;

(ix) the runway or runway markings

(x) the runway lights.

(e) For the purposes of this section, the final approach segment of the procedure begins at the final approach fix. If such a fix is not prescribed, in a procedure that includes a procedure turn or base turn, the final approach segment begins at the point where the procedure turn or base turn ends and the aircraft is stabilized inbound toward the airport on the final approach course and at the distance provided by the procedure.

(f) Each pilot performing an IFR take-off, approach or landing at a foreign airport must comply with the applicable IFR procedures and the meteorological minima established by the authority with jurisdiction over the airport.

121.652 Weather minimum for IFR landing. Restrictions for pilots-in-command of all certificate holders

(a) The MDA and visibility for IFR landing at the destination airport, when the pilot-in-command has served less than 100 hours of operation under this regulation in the type of aircraft being operated, must be increased by, respectively, 100 feet and 900m. This requirement does not apply to landing at the alternate airport.

(b) The 100 hours of pilot-in-command experience required by paragraph (a) of this section can be reduced by no more than 50% by replacing 1 hour of operation under this regulation with 1 extra landing per hour, always on the same type of aircraft, provided that the pilot-in-command has experience in other types of aircraft of similar size, operating in accordance with this regulation.

(c) Minimums for specially regulated landings, such as ILS Category II or Category III, when authorized by ANAC in the operating specifications of the certificate holder, do not apply until the pilot-in-command, subject to paragraph (a) of this section, reaches the requirements of that paragraph, in the type of airplane heshe is operating, without reductions.

121.653 [Reserved].

121.655 Applicability of information on meteorological minima

When conducting operations according to 121.649 up to 121.652, the general meteorological information of an airport can be used for take-off, approach and instrument landings on all runways of that airport. However, if the latest weather information, including verbal information from the control tower, contains a visibility value specified as runway visibility or runway visual range (RVR) for a particular runway at that airport, that value will prevail for VFR or IFR operations at said runway.

121.657 Flight altitude rules

(a) General. Notwithstanding any Brazilian or foreign flight rule, no one may operate an aircraft below the minima set out in paragraphs (b) and (c) of this section, except when necessary for take-off and landing or when, considering the character of the terrain, the quality and the quantity of meteorological services and the navigation facilities available, ANAC determines other minima for routes in which safety is considered to require other altitudes. For flights abroad, the minima set out in this section are indicative and should be used, unless larger minima are required by the authorities of the country where the aircraft is operating.

(b) Daytime VFR operations. No one may operate any aircraft on a daytime VFR flight at a height of less than 300m (1000 feet) above the highest obstacle within a range of 8 km (5 mi) on each side of the intended course.

(c) VFR night and IFR operations. No one may operate an IFR or VFR night plane at a height of less than 300m (1000 feet) above the highest obstruction in a range of 8km (5 mi) on each side of the intended route and, in mountainous areas, the less than 600m (2000 feet) above the highest obstacle within that course. (d) A pilot-in-command operating an airplane under IFR rules must continue to follow those rules even if the weather conditions of the route allow visual flight.

121.659 Approach start altitude. All operations (Wording given by Resolution No. 526, of 08.06.2019)

When executing an approach for a radio aid in IFR flight, it is not permitted to descend below the relevant minimum initial approach altitude, as specified by the IFR descent procedure for that aid, until the vertical over flight of the aid has been definitively established.

121.661 Initial approach altitude: International operations (Wording given by Resolution No. 526, of 08.06.2019)

When making an initial approach to a radio navigation facility under <u>IFR</u>, no <u>per-</u> <u>son</u> may descend below the pertinent minimum altitude for initial approach (as specified in the <u>instrument approach</u> <u>procedure</u> for that facility) until his arrival over that facility has been definitely established.

<u>121.663 Responsibility for flight</u> <u>dispatch. Regular operations</u>

(a) Each certificate holder conducting domestic shall prepare a dispatch release for each flight between specified points, based on information furnished by an authorized <u>aircraft</u> dispatcher. The <u>pilot in</u> <u>command</u> and an authorized <u>aircraft</u> dispatcher shall sign the release only if they both believe that the flight can be made with safety. The <u>aircraft</u> dispatcher may delegate authority to sign a release for a particular flight, but he may not delegate his authority to dispatch.

(b) In the case of computer dispatch, the signatures provided for in (a) are not required, but those responsible for the dispatch must be identified in some way. (Wording given by Resolution No. 526, of 08.06.2019)

121.665 Load manifest

(a) Each certificate holder is responsible for the preparation and accuracy of the load manifest to be completed before each take-off:

(1) the manifest for each flight must be prepared by:

(i) an operational flight dispatcher or second-in-command of the aircraft;

(ii) other persons, if qualified and authorized to do so by the certificate holder designated to supervise the loading of the aircraft.

(2) the final responsibility for the accuracy and preparation of the load manifest will always lie on the operational flight dispatcher and the pilot-in-command of the aircraft, with their signature. (Wording given by Resolution No. 334, of 07.01.2014)

121.667 Flight plan

(a) Scheduled operations. No certificate holder conducting scheduled operations may authorize a take-off and no pilot-in-command may take off an airplane, unless the pilot-in-command or an authorized flight dispatcher has filled out a flight plan with all the required information with the competent air traffic body or, when abroad, with an equivalent body in the country where it is located. (Wording given by Resolution No. 526, of 08.06.2019)

(b) Supplemental operations: (Wording given by Resolution No. 526, of 08.06.2019)

(1) No pilot-in-command may take off an airplane, unless a flight plan containing the required information has been completed with the competent air traffic agency or, when abroad, with an equivalent agency in the country in which it is located. However, if there is no air traffic agency at the airport and it is not possible to communicate with another agency nearby, the pilot-in-command must complete a plan, as soon as practicable, after take-off. The flight plan must cover the entire flight;

(2) when a flight plan ends at an airport without an air traffic controller, the pilot-in-command must communicate the landing to the air traffic controller that is most accessible to him/her, via telephone, telex or other available means or, when possible, provide the estimated landing information, via radio, shortly before carrying it out, to an air traffic agency.

SUBPART V REPORTS AND RECORDS

121.681 Applicability

This subpart establishes requirements for the preparation and maintenance of reports and records to be followed by all certificate holders.

121.683 Crewmember and flight dispatchers. Records

(a) Each certificate holder must:

(1) keep current records of each crew member (and each dispatcher for scheduled operations), related to the requirements of this regulation (en-route examinations, proficiency examinations, aircraft qualification, training, medical examination, flight hours, etc.); and (Wording given by Resolution No. 526, of 08.06.2019)

(2) record each act related to job dismissals, professional disqualification or health disqualification of any crew member (and flight dispatcher, for scheduled operations) and keep such records for at least 12 months after the occurrence. (Wording given by Resolution No. 526, of 08.06.2019)

(b) Each certificate holder must keep the records referred to in paragraph (a) of this section at its operational headquarters or at its administrative headquarters, as approved by ANAC.

(c) Paragraph (a) of this section can be complied with through computer records, approved by ANAC.

121.685 Airplane registration

(a) Each certificate holder conducting scheduled operations must maintain an updated list of all airplanes it operates on scheduled flights and must provide a copy of such registration to ANAC, updating it with each change that occurs. Aircraft from other certificate holders, operating under an equipment pooling contract, may be included by reference. (Wording given by Resolution No. 526, of 08.06.2019)

(b) Other certificate holders operating with airplanes according to operating specifications issued in accordance with this regulation must provide ANAC with a list with the registration of these airplanes, updating this list whenever necessary.

121.687 Flight dispatch issue: Scheduled operations (Wording provided by Resolution No. 526, of 08.06.2019)

(a) Each flight dispatch must contain at least the following information about the flight:

- (1) airplane registration;
- (2) flight number;
(3) departure airport, intermediate stops, destination airports and alternate airports;

(4) minimum fuel on board;

(5) the operating characteristics (IFR, VFR, etc.); and (Wording given by Resolution No. 526, of 08.06.2019)

(6) for each dispatched ETOPS flight, the ETOPS diversion time.

(b) The flight dispatch must contain or have attached to it the latest available weather information and forecasts for destination airports, intermediate airports and alternate airports. It may also include any additional information that the pilot-in-command or the dispatcher considers necessary or desirable. The dispatch must be signed by the pilot-in-command and the flight dispatcher, unless it is computerized, in which case some identification of those responsible is sufficient.

121.689 Flight release.

Supplemental operations (Wording provided by Resolution No. 526, of 08.06.2019)

(a) The release of each flight must contain at least the following information about it:

(1) name of the operator;

(2) manufacturer, model and registration number of the airplane being used;

(3) flight number (if any) and date of flight;

(4) name of each crew member and the pilot designated as pilot-in-command;

(5) departure airport, destination airport, intermediate airport, alternate airport and route;

(6) minimum fuel on board;

(7) the operating characteristics (IFR, VFR, etc.); and (Wording given by Resolution No. 526, of 08.06.2019)

(8) for each ETOPS flight, the ETOPS deviation time for each flight performed.

(b) The flight release must contain or have attached to it the latest available weather information and forecasts for the destination airport, intermediate airports and alternate airports. It may also include any additional information that the pilot-in-command deems necessary or desirable. (c) Each certificate holder conducting scheduled operations under the rules of this regulation applicable to supplemental operations must meet the dispatch requirements of this subpart required for scheduled operations. (Wording given by Resolution No. 526, of 08.06.2019)

121.691 [Reserved]

<u>121.693 Load manifest. All</u> certificate holders

The load manifest must contain the following information concerning the loading of the <u>airplane</u> at take-off time:

(a) The weight of the <u>aircraft</u>, fuel and oil, cargo and baggage, passengers and crewmembers.

(b) The maximum allowable weight for that flight that must not exceed the least of the following weights:

(1) Maximum allowable take-off weight for the runway intended to be used (including corrections for altitude and gradient, and wind and temperature conditions existing at the take-off time).

(2) Maximum take-off weight considering anticipated fuel and oil consumption that allows compliance with applicable en route performance limitations.

(3) Maximum take-off weight considering anticipated fuel and oil consumption that allows compliance with the maximum authorized design landing weight limitations on arrival at the destination <u>airport</u> (of first stop).

(4) Maximum take-off weight considering anticipated fuel and oil consumption that allows compliance with landing distance limitations on arrival at the destination and alternate airports.

(c) The total weight computed under approved procedures.

(d) Evidence that the <u>aircraft</u> is loaded according to an approved schedule that insures that the center of gravity is within approved limits.

(e) Names of passengers, unless such information is maintained by other means by the certificate holder. 121.695 Disposition of load manifest, dispatch release, and flight plans: Scheduled operations. (Wording given by Resolution no. 526. Of 08.06.2019)

(a) The <u>pilot in command</u> of an <u>airplane</u> shall carry in the <u>airplane</u> to its destination -

(1) A copy of the completed load manifest (or information from it, except information concerning cargo and passenger distribution);

(2) A copy of the dispatch release; and

(3) A copy of the flight plan.

(b) The certificate holder shall keep copies of the records required in this section for at least three months

121.697 Disposition of load manifest, flight release, and flight plans: Supplemental operations. (Wording given by Resolution no. 526, of 08.06.2019)

(a) The <u>pilot in command</u> of an <u>airplane</u> shall carry in the <u>airplane</u> to its destination the original or a signed copy of the -

(1) Load manifest;

(2) Flight release;

(3) Airworthiness release;

(4) Pilot route certification (if the case may be); and

(5) Flight plan.

(b) If a flight originates at the certificate holder's <u>principal base of operations</u>, it shall retain at that base a signed copy of each document listed in <u>paragraph (a)</u> of this section.

(c) Except as provided in <u>paragraph (d)</u> of this section, if a flight originates at a place other than the certificate holderss <u>principal base of operations</u>, the <u>pilot in</u> <u>command</u> (or another <u>person</u> not aboard the <u>airplane</u> who is authorized by the certificate holder) shall, before or immediately after departure of the flight, mail signed copies of the documents listed in <u>paragraph (a)</u> of this section, to the <u>principal base of operations</u>.

(d) If a flight originates at an airport other than the certificate holders <u>principal</u> <u>base of operations</u>, and there is at that place a certificate holder's agent or a person authorized thereby to take the action required in paragraph (c) of this section, the originals of the documents listed in <u>paragraph (a)</u> of this section may be sent until 30 days after the take-off, without requirement of copies thereof to be maintained at such airport.

(e) The certificate holder conducting <u>supplemental operations</u> shall:

(1) Identify in its operations manual the <u>person</u> having custody of the documents retained in accordance with <u>paragraph (c)</u> of this section; and

(2) Retain at its <u>principal base of op-</u> <u>erations</u> either an original or a copy of the records required by this section for at least three months

121.699 [Reserved]

121.701 Crewmember and airplane log book(s)

(a) Each certificate holder must have a logbook on board each of their planes to record information about the crewmembers, flight hours, operating irregularities observed on each flight and record of corrective actions taken or postponement of correction. At the discretion of the certificate holder, the logbook can be broken down into two parts: airplane records and crew records.

(b) With regard to the crew, it is the responsibility of the pilot-in-command to record at least the following information on each flight: registration of the aircraft, date, names of crew members and function on board each of them, location of take-off and landing, time of take-off and landing, flight time, type of flight (visual, instruments, daytime, nighttime), observations (if any) and name and signature of the person responsible.

(c) With respect to the airplane:

(1) The pilot-in-command must record or cause each irregularity observed before, during and after the flight to be recorded in the logbook. Before each flight, the pilot-in-command must check the status of each irregularity recorded on previous flights;

(2) each person who takes corrective actions regarding failures or malfunctions recorded in the logbook, whether in the cell, engines, propellers, rotors or normal and emergency equipment, must record their action in that book, in accordance with those applicable maintenance requirements of this regulation;

(d) Each certificate holder must establish procedures to keep the record logbook s) required by this section for each aircraft, in a place easily accessible by appropriate personnel, and must describe such procedures in the manual required by 121.133.

121.703 Service difficulty reports.

(a) Each certificate holder shall report the occurrence or detection of each failure, malfunction, or defect concerning -

(1) Fires during flight and whether the related fire-warning system functioned properly;

(2) Fires during flight not protected by a related fire-warning system;

(3) False fire warning during flight;

(4) An engine exhaust system that causes damage during flight to the engine, adjacent structure, equipment, or components;

(5) An <u>aircraft</u> component that causes accumulation or circulation of smoke, vapor, or toxic or noxious fumes in the cockpit or passenger cabin during flight;

(6) Engine shutdown during flight because of flameout;

(7) Engine shutdown during flight when external damage to the engine or <u>airplane</u> structure occurs;

(8) Engine shutdown during flight due to foreign object ingestion or icing;

(9) Engine shutdown during flight of more than one engine;

(10) A <u>propeller</u> feathering system or ability of the system to control overspeed during flight;

(11) A fuel or fuel-dumping system that affects fuel flow or causes hazardous leakage during flight;

(12) An unwanted landing gear extension or retraction, or an unwanted opening or closing of landing gear doors during flight;

(13) Brake system components that result in loss of brake actuating force when the <u>airplane</u> is in motion on the ground;

(14) <u>Aircraft</u> structure that requires <u>major repair</u>;

(15) Cracks, permanent deformation, or corrosion of <u>aircraft</u> structures, if more than the maximum acceptable to the manufacturer or the <u>FAA</u>;

(16) <u>Aircraft</u> components or systems that result in taking emergency ac-

tions during flight (except action to shut down an engine); and

(17) Emergency evacuation systems or components including all exit doors, passenger emergency evacuation lighting systems, or evacuation equipment that are found defective, or that fail to perform the intended functions during an actual emergency or during training, testing, <u>maintenance</u>, demonstrations, or inadvertent deployments.

(18) Other events related to service difficulty as defined by ANAC.

(b) For the purpose of this section "during flight" means the period from the moment the <u>aircraft</u> leaves the surface of the earth on take-off until it touches down on landing.

(c) In addition to the reports required by <u>paragraph (a)</u> of this section, each certificate holder shall report any other failure, malfunction, or defect in an <u>aircraft</u> that occurs or is detected at any time if, in its opinion, that failure, malfunction, or defect has endangered or may endanger the safe operation of an <u>aircraft</u> used by it.

(d) Each certificate holder shall submit each report required by this section, covering each 24-hour period beginning at 0900 local time of each day and ending at 0900 local time on the next day, to the ANAC. Each report of occurrences during a 24-hour period shall be submitted to ANAC within the next 96 hours following the reported period, excluding non-business day hours. For aircraft operating in remote areas, the port may be submitted within 24 hours after the aircraft returns to its base of operations. Each certificate holder keep retain those data that gave rise to a report available to ANAC for a minimum period of 30 days. A copy of such report must be submitted to the type design holder within the same time.

(e) The certificate holder shall submit the reports required by this section on a form acceptable to ANAC. The reports shall include the following information:

(1) Type and registration number of the <u>aircraft</u>.

(2) The name of the certificate holder.

(3) The date, flight number, and stage during which the failure, malfunction or defect occurred (e.g., preflight, take-off, climb, cruise, descent, landing, and inspection). (4) The emergency procedure effected (e.g., unscheduled landing and emergency descent).

(5) The nature of the failure, malfunction, or defect.

(6) Identification of the part and system involved, including available information pertaining to type designation of the major component and time since overhaul.

(7) Apparent cause of the failure, malfunction, or defect (e.g., wear, crack, design deficiency, or personnel error).

(8) Whether the part was replaced, repaired, sent to the manufacturer, or other action taken.

(9) Whether the <u>aircraft</u> was grounded.

(10) Other pertinent information necessary for more complete identification, determination of seriousness, or corrective action.

(f) A certificate holder that is also the holder of a type certificate (including a supplemental type certificate), an approved aeronautical product certificate or production organization certificate, need not report a failure, malfunction, or defect under this section if the failure, malfunction, or defect has been reported by it under <u>§21.3</u> of RBAC 21.

(g) No <u>person</u> may withhold a report required by this section even though all information required in this section is not available.

(h) When certificate holder gets additional information to complete a report required by this section, it shall expeditiously submit it as a supplement to the first report and reference the date and place of submission of the first report

121.704 [Reserved]

121.705 Mechanical interruption summary report

Each certificate holder must submit to the ANAC, within the first 10 business days of each month, a summary report for the previous month of each flight interruption, unexpected change of aircraft en route, unforeseen landing, deviation of route or unplanned removal of engine caused by known or suspected mechanical difficulties or malfunction that do not require reporting under sections 121.703 or 121.704 of this regulation. 121.707 Reports of major changes and major repairs

(a) Each certificate holder must inform ANAC of each major modification or major repair of each cell, engine, propeller or component of an airplane operated by it.

(b) If the major modification or major repair to be performed is not included in the approved airplane technical documentation, the services must receive prior approval from the certifying body, which will be responsible for monitoring and final approval of the works.

<u>121.709 Airworthiness release or aircraft log entry.</u>

(a) No certificate holder may operate an <u>aircraft</u> after <u>maintenance</u>, <u>preventive maintenance</u> or alterations are performed on the <u>aircraft</u> unless the certificate holder, or the <u>person</u> with whom the certificate holder arranges for the performance of the <u>maintenance</u>, <u>preventive</u> <u>maintenance</u>, or alterations, prepares or causes to be prepared -

(1) An airworthiness release; or

(2) An appropriate entry in the <u>air-</u> <u>craft</u> log.

(b) The airworthiness release or log entry required by <u>paragraph (a)</u> of this section must -

(1) Be prepared in accordance with the procedures set forth in the certificate holder>s manual;

(2) Include a certification that -

(i) The work was performed in accordance with the requirements of the certificate holder>s manual;

(ii) All items required to be inspected were inspected by an authorized <u>per-</u> <u>son</u> who determined that the work was satisfactorily completed;

(iii) No known condition exists that would make the <u>airplane</u> unairworthy; and

(iv) So far as the work performed is concerned, the <u>aircraft</u> is in condition for safe operation; and

(3) Be signed by an authorized certificated mechanic or repairman except that a certificated repairman may sign the release or entry only for the work for which he is employed and certificated.

(c) Notwithstanding <u>paragraph (b)(3)</u> of this section, after <u>maintenance</u>, <u>preven-</u> <u>tive maintenance</u>, or alterations performed by a repair station that is located outside Brazil, the airworthiness release or log entry required by <u>paragraph (a)</u> of this section may be signed by a <u>person</u> authorized by that repair station.

(d) If the certificate holder elects for the performance of IAM in its planes, it shall keep a copy thereof on board the aircraft and keep the original document in its base of operations until the performance of the new inspection.

(e) Instead of restating each of the conditions of the certification required by <u>paragraph (b)</u> of this section, a certificate holder may state in its manual that the signature of an authorized certificated mechanic or repairman constitutes that certification.

121.711 Communication records: scheduled operations

Each certificate holder conducting scheduled operations must record each en route communication between the certificate holder and its and must keep these recordings for at least 30 days. (Wording given by Resolution No. 526, of 08.06.2019)

121.713 Retention of contracts and their amendments. Air carrier conducting supplemental operations within Brazil

Each operator conducting supplemental operations within Brazil must keep each written contract under which it provides services as a commercial operator for at least 1 year after the date of execution of the contract. In the case of verbal arrangements, it must keep a memorandum stating its basic elements, as well as any amendment to it, for at least 1 year after the date of execution of the arrangement or amendment.

121.714 Fuel and oil consumption record

(a) The certificate holder must:

(1) make available records, in the form and manner determined by ANAC, of fuel and oil consumption for each flight.

(2) keep fuel and oil consumption records for three months.

121.715 Logbook

(a) The certificate holder shall carry on each flight the airplane's logbook, or equivalent acceptable by ANAC, with at least, but not limited to the following data:

(1) numbering of the logbook;

(2) numbering of the logbook page (from the opening page to the closing page);

(3) aircraft identification (registration marks);

(4) aircraft manufacturer, model and serial number;

(5) aircraft registration category;

(6) crew - name and ANAC code;

(7) flight date - day/month/year;

(8) landing and take-off location;

(9) landing and take-off times;

(10) daytime, nighttime flight time, IFR (real or under hood);

(11) flight hours per stage/total;

(12) partial and total flight cycles (when applicable);

(13) numbers of partial and total landings;

(14) total fuel for each flight stage;

(15) nature of the flight;

(16) passengers transported per stage (when applicable);

(17) cargo transported per stage (when applicable);

(18) space for initials of the pilot-in-command of the aircraft; (Wording given by Resolution No. 334, of 07.01.2014)

(19) space for initials of the mechanic responsible for releasing the aircraft, according to RBAC 43;

(20) occurrences on the flight.

121.716 Company SGSO records

(a) The certificate holder shall establish, in the form and manner acceptable to ANAC, a system of operational safety records that:

(1) ensures the generation and retention of all records necessary to document and support operational requirements; and

(2) has the necessary control processes to ensure identification, storage, readability, protection, filing, retrieval, retention time and disposition of records.

SUBPART W CREW QUALIFICATION: INTERNATIONAL FLIGHTS

121.721 Applicability

This subpart applies to pilots of certificate holders engaged in scheduled or supplemental international public air transport operations.

121.723 Qualification

No certificate holder may conduct operations, regular or otherwise, to airports outside Brazil, unless it demonstrates that the pilots (pilot-in-command and second-in-command) designated for such operations are aware of the air traffic rules of the countries to be overflown, including the country of the destination (and alternate) airport. In addition, the certificate holder is responsible for ensuring that such pilots are able to conduct all bilateral communications with foreign air traffic agencies in English and comply with the language proficiency requirements set out in section 61.10 of RBAC 61. (Wording given by Resolution No. 334, of 07.01.2014)

SUBPART X EMERGENCY MEDICAL EQUIPMENT AND TRAINING

121.801 Applicability

(a) This subpart prescribes emergency and training equipment applicable to all certificate holders operating airplanes in the transportation of passengers under this regulation.

(b) No requirement in this subpart is intended to require the certificate holder or its staff to provide emergency medical assistance or to establish requirements for such.

121.803 Emergency medical equipment

(a) No certificate holder may operate an airplane carrying passengers under this regulation, unless it is fitted with the emergency medical equipment listed in this section.

(b) Each piece of equipment listed in this section:

(1) must be regularly inspected according to the periods established in the maintenance program approved by ANAC, to ensure its validity and availability;

(2) must be easily accessible by the crew and, if located in the passenger cabin, by them;

(3) must be clearly identified and marked and indicate its mode of operation;

(4) when taken in a closed compartment or "container", must be marked with a list of their contents; and

(5) must have a date stamp indicating its last inspection.

(c) For treatment of injuries, medical events or minor accidents that may occur during the flight, each airplane must carry on board the following medical equipment that comply with the specifications and requirements of Appendix A to this regulation:

(1) An approved first aid kit;

(2) on airplanes that require flight attendants, an approved medical suite;

(3) [Reserved].

121.805 Crew training for in-flight medical events

(a) Each training program must provide the instruction set out in this section, for each type, model and configuration of aircraft, for each required crew member and type of operation conducted to the extent appropriate to each crew member and each certificate holder.

(b) The Training Program must include the following:

(1) procedures in case of emergency medical events;

(2) location, function, and operation of emergency medical equipment;

(3) knowledge of the crew of the contents of the set of medical emergencies;

(4) for each flight attendant:

(i) instruction and exercises for proper use of the approved automatic external defibrillator, when used by the certificate holder;

(ii) cardiopulmonary resuscitation instruction and exercises;

(iii) periodic training on the matters provided for in (i) and (ii) of this paragraph, every 24 months.

(c) The instructions, practices and periodic training of crew members in accordance with this section do not require a level of equivalence required for professional medical personnel.

SUBPART Y ADVANCED QUALIFICATION PROGRAM

121.901 Purpose and eligibility

(a) This subpart provides an alternative method (known as Advanced Qualification Program, AQP) to the provisions of RBAC 61, 63, 65, 121, 135 and 142 for qualification, training and examinations, ensuring the incumbency of its crew members, flight dispatchers, instructors, accredited examiners and the remainder of the operating personnel who have to meet the training requirements of RBAC 121 and 135.

(b) A certificate holder is eligible for "AQP" if it has, or is required to have, an approved training program as prescribed in 121.401, 135.3 (c) or 135.341.

(c) A certificate holder must obtain approval for each AQP curriculum as specified in paragraph 121.909.

121.903 General requirements for AQP

(a) A curriculum approved under an AQP may include elements of existing training programs under RBAC 121 and 135. Each curriculum must specify the manufacturer, model, series or variant of the airplane and each member of the crew or other functions covered by this curriculum. All crew members, flight instructors, accredited examiners and other positions such as flight attendants, flight dispatchers and other persons involved in operations must be covered by AQP.

(b) Each certificate holder who obtains approval of an AQP under this subpart must meet all the requirements of the AQP and this subpart in place of the requirements of RBAC 61, 121 or 135 and RBHA 63 and 65, or any regulations that may come to replace them. However, each applicable requirement of the aforementioned RBACs, including, but not limited to, competency exam requirements, which is not specifically stated in the AQP, remains applicable to the certificate holder and the employees to be trained and qualified by the certificate holder. No one can be trained under an AQP unless if approved by ANAC and meeting all the requirements of the AQP and this regulation.

(c) No certificate holder conducting its training program under this regulation may use a person and no one may work

as a crew member, flight dispatcher, flight instructor or accredited examiner unless they have satisfactorily performed in a program training approved under this regulation for a certificate holder, the training and proficiency assessment required by this AQP for the airplane type and function.

(d) all data and documentation required by this regulation must be submitted in the form and manner acceptable to ANAC.

(e) Any training or assessment required by an AQP that is satisfactorily completed in the month before or after the month in which the periodic training should be done, will be considered as completed in the reference month. (Wording given by Resolution No. 334, of 07.01.2014)

121.907 Definitions

The following definitions apply to this subpart:

(a) CRM – Cabin Resource Management. It means the effective use of all resources available to crew members, including crew members, to achieve safe and efficient flight.

(b) Curriculum. Complete schedule specific to a certain training, type of aircraft and function of a crew member. Each Curriculum is made up of several Curriculum Segments and must be accepted by ANAC.

(c) Proficiency assessment. It means a Line Operational Evaluation (LOE) or equivalent evaluation under an AQP acceptable by ANAC.

(d) [Reserved].

(e) Initial assessment. It means assessing performance to determine proficiency for designated flight tasks prior to any briefing, training or practice of these tasks, during a training section for a continuing qualification curriculum. The initial assessment is conducted during an AQP continuing qualification cycle to determine trends in proficiency degradation, if any, due in part to the length of the gap between training sections.

(f) Development of instruction systems. It means a systematic methodology for developing or modifying qualification standards and the contents of the associated curricula based on a documented analysis of the functional tasks, skills and knowledge required for proficiency at work.

(g) List of functional tasks. It means a list of all tasks, subtasks, knowledge.

(h) Operational Line Evaluation (LOE). It means a simulated online operation scenario whose content is developed to verify the technical integration and CRM skills.

(i) Simulation of Online Operation. It means a training or evaluation section, as applicable, that is conducted in an online operating simulation environment using qualified and approved equipment for this purpose in an AQP.

(j) Planned hours. It means the estimated amount of time (specified in a curriculum) that a typical student will need to complete a curriculum segment (including all instruction, demonstration, practice and assessment, as appropriate, to achieve proficiency).

(k) Qualification standards. It means a statement of the minimum required performance, applicable parameters, criteria, applicable flight conditions, assessment strategy, means of assessment and applicable documentary references.

(I) Qualification standards document. It means a single document containing all the qualification standards for an AQP with a prologue that has a detailed description of all aspects of the evaluation process.

(m) Special monitoring. It means attributing to a person the extension of training time, evaluation or both.

(n) Training section. It means a contiguous scheduled period dedicated to training activities in a facility, accepted by ANAC, with facilities for this purpose.

(o) Variant. It means a specific configuration of an airplane whose training and qualification, identified by ANAC, are significantly different from those applicable to another airplane of the same manufacturer, model and series.

121.909 Approval of an AQP

(a) Approval process. The AQP approval process under this regulation is carried out by ANAC through the EsEC.

(b) Criterion for approval. Each AQP must have separate curricula for indoctrination, qualification and continued qualification (including upgrade, transition and requalification) as specified in paragraphs 121.911, 121.913, and 121.915 of this regulation. Every AQP curriculum should be based on an instructional systems development methodology. This methodology should incorporate an in-depth analysis of the certificate holder's operations, airplanes, online operations environment and functional tasks. All qualification and continuing qualification curricula must integrate CRM training and assessment and the technical skills and knowledge involved. An application for approval of an AQP curriculum must be approved if the following requirements are met:

(1) the program must meet all the requirements of this regulation;

(2) each indoctrination, qualification and continuing qualification of an AQP and derived products must include the following documentation:

(i) initial AQP application;

(ii) Initial listing of functional tasks;

(iii) methodology for developing instructional systems;

(iv) qualification standards document;

(v) proposed curricula;

(vi) implementation and operations plan.

(3) subject to ANAC approval, certificate holders may choose, when appropriate, to consolidate information about multiple programs within any of the documents listed in paragraph (b)(2) of this section;

(4) The qualification standards document must specifically indicate the requirements contained in RBAC 61, 63, 65, 121 or 135, as applicable, which will be met, in an equivalent manner, in the AQP curriculum. The certificate holder must establish an initial justification and an ongoing process, approved by ANAC, that demonstrates how the AQP curriculum provides an equivalent level of operational safety for these requirements.

(c) AQP: Implementation and transition. Each certificate holder who implements one or more AQP curricula must, as part of an application for approval of this program, propose a transition plan (with a calendar of events) for the approved training program for the AQP.

(d) AQP: revisions and revocation of approval. If a certificate holder initiates training and qualifications under an AQP and ANAC finds that the certificate holder is not meeting the provisions of its approved AQP, ANAC may require the certificate holder, as prescribed in paragraph 121.405 (e), to review its program. However, ANAC may revoke the approval of the AQP and require the certificate holder to submit and obtain approval of a plan (containing an event schedule) that

must be complied with in the transition to a training program under subpart N of this regulation or Subpart H of RBAC 135, as applicable. The certificate holder may also voluntarily submit and obtain approval of a plan (containing an event schedule) for transition to a training program under subpart N of this regulation or subpart H of RBAC 135, as applicable.

(e) Approval by ANAC. Final approval of an AQP by ANAC indicates that ANAC accepts the justification provided by paragraph (b)(4) of this section and the initial justification and the ongoing process to establish a level of operational safety in each requirement of RBAC 61, 63, 65, 121 and 135 attended at AQP.

121.911 Indoctrination curriculum

Each indoctrination curriculum should include the following:

(a) for newly hired persons trained under an AQP: operational policies and practices and general operational knowledge;

(b) for newly hired flight crew and dispatchers: general aeronautical knowledge appropriate to the functions to be performed;

(c) for instructors: fundamental principles of the teaching and learning process; instructional methods and theories; knowledge needed to use the airplane, flight training devices, flight simulators and other equipment used in AQP curricula, as appropriate;

(d) for accredited examiners: general requirements for AQP assessment; methods for assessing crew members, flight dispatchers and other persons involved in operations, as appropriate; policies and practices used to conduct types of assessment specific to a FPA.

121.913 Qualification Curriculum

Each qualification curriculum must contain training, assessments and certification activities, as applicable to each specific function that is listed in the AQP, as follows:

(a) the planned hours of training, assessment and acquisition of supervised operational experience of the certificate holder.

(b) For crew members, flight dispatchers and other persons involved in operations, the following: (1) training, evaluation and certification activities, which are specific to an airplane or equipment, to qualify a person for specific functions, functions related to the operation of a specific airplane manufacturer, model, series or variant;

(2) a list and the respective description of the knowledge requirements, teaching material, skills and qualification standards for each proficiency objective to be achieved through training and assessments;

(3) the requirements for an approved AQP from a certificate holder that are in place or in addition to the requirements of RBAC 61, 63, 65, 121 or 135, including any competency exam requirements.

(4) a list and description of the operational experience, the evaluation and correction strategy, provisions for special monitoring and how recent experience requirements will be met.

(c) For flight crew: initial operations experience and local and en route checks.

(d) For instructors, as appropriate, the following:

(1) training and assessment activities to qualify a person to conduct instructions on how to operate or how to ensure the safe operation of a specific manufacturer's model and series of aircraft in particular;

(2) a list and a description of the knowledge requirements, teaching materials, skills and qualification standards for each procedure and proficiency objective to be achieved through training and assessments;

(3) a list and the respective description of the evaluation and correction strategies, policy standardization requirements of recent experience.

(e) For accredited examiners, the requirements of paragraph (d)(1) of this section and, in addition, the following:

(1) training and assessment activities, which are specific to an airplane or equipment, to qualify a person to assess the performance of people operating or ensuring the safe operation of a specific model and series of aircraft, of a manufacturer in particular;

(2) a list and a description of the knowledge requirements, teaching materials, skills and qualification

standards for each procedure and task, to be achieved through training and assessments;

(3) a list and the respective description of the evaluation and correction strategies, policy standardization requirements of recent experience.

121.915 Continuing qualification curriculum

Each Continuing Qualification Curriculum must contain training and assessment activities, as applicable to each specific function that is listed in the AQP, as follows:

(a) continuous qualification cycle. A continuous qualification cycle that ensures that during each cycle each person qualified under an AQP, including accredited instructors and examiners, will receive a set of events, subjects, training and assessments that will ensure that each person maintains proficiency in knowledge, technical skills and cognitive skills required for initial qualification in accordance with the approved continued qualification of an AOP, assessment and correction strategies, and provisions for special follow-ups. Each continuous qualification cycle must include the following:

(1) evaluation period. Initially, the continuous qualification cycle consists of two or more evaluation periods of equal duration. Each person qualified under an AQP must receive ground and flight training and a competency exam during each assessment period at appropriate training facilities. The number and frequency of training sessions must be approved by ANAC;

(2) training. Continued qualification must include training in all tasks, procedures and subjects required in accordance with approved program documentation, such as the following:

(i) for pilot-in-command, second-in-command, and flight mechanics: an initial assessment in accordance with the program documentation, approved by ANAC, of the certificate holder; (Wording given by Resolution No. 334, of 07.01.2014)

(ii) for pilot-in-command, second-in-command, and flight mechanics, commissioners, flight instructors and accredited examiners: ground training including a general review of the knowledge and skills covered by the qualification training, updated information on new procedures developed and operational safety information; (Amended by resolution No. 334, the 07/01/2014)

(iii) for flight crew, flight instructors, accredited examiners and other persons involved in conducting their tasks in flight: proficiency training on the airplane, flight training device, flight simulator or other equipment, as appropriate, in normal, abnormal and emergency flight maneuver procedures;

(iv) for flight dispatchers and people other than their flight tasks: ground training that includes a general review of knowledge and skills in qualification training, updated information on new procedures developed, information regarding operational safety and, if applicable, an online observation program;

(v) for accredited instructors and examiners: proficiency training in the type of flight training device or type of flight simulator, as appropriate, relating to the operation of the training equipment. For accredited instructors and examiners who will conduct their tasks only on flight simulators or flight training devices: training in operational flight procedures and maneuvers (normal, abnormal and emergency).

(b) Performance evaluation. The continued qualification must include a performance evaluation through a sample of those most important events identified through a diagnosis of incumbencies and approved for this purpose by ANAC. The following assessment requirements apply:

(1) proficiency assessment, as follows:

(i) for pilot-in-command, second-in-command, and flight mechanics: a proficiency assessment, parts to be conducted on the plane, flight simulator, or flight training device as approved in the certificate holder's curriculum vitae be completed during each evaluation period; (Wording given by Resolution No. 334, of 07.01.2014)

(ii) for any other person covered by an AQP: means of assessing their proficiency in carrying out their tasks defined in the operations.

(2) Competency checks as follows:

(i) except as prescribed in paragraph (b)(2)(ii) of this section, for pilots-in-command: a competency check conducted on the airplane when conducting operations under RBAC 121 or 135 or during transfer or shuttle flights check. A competency check must be completed in the middle month of the assessment period; (Wording given by Resolution No. 334, of 07.01.2014)

(ii) with the approval of ANAC, an unannounced incumbency verification strategy may be used in place of that required by paragraph (b)(2)(i) of this section. The certificate holder who chooses what is provided for in this paragraph must ensure that unannounced incumbency checks are manageable and that crew members are not aware of these checks in advance. In addition, the certificate holder's AOP must ensure that each pilot-in-command is checked at least once every 24 months. At a minimum, the number of unannounced incumbency checks carried out each year must be equal to 50% of the number of pilots-in-command of the certificate holder in accordance with a strategy approved by the ANAC for this purpose. Finally, competency checks conducted under this paragraph must be carried out on all geographical areas flown by the certificate holder according to a sample approved by ANAC for this purpose; (Wording given by Resolution No. 334, of 07.01.2014)

(iii) During the competency checks required by paragraphs (b)(2)(i) and(ii) of this section, each person who works as a pilot-in-command, second-in-command or flight mechanic for that flight must be individually assessed to determine if the person is properly trained, proficient in relation to that particular airplane, function, type of operation in which he/she works; and that the person has sufficient knowledge and skills to operate effectively as part of the crew. The person in charge of the assessment must be an INSPAC or accredited examiner and must have the necessary licenses and skills to act as a pilot-in-command of that aircraft. (Wording given by Resolution No. 334, of 07.01.2014)

(c) Recent experience. For pilot-in-command, seconds in command, flight mechanics, flight dispatchers, flight instructors, accredited examiners and flight attendants, approved recent experience required, appropriate to the function. (Wording given by Resolution No. 334, of 07.01.2014)

(d) Validity of cycles and periods. Initially, the approved continuing qualification cycle for an AQP must not exceed the 24-month duration period and must include two or more evaluation periods of the same duration. Thereafter, if there is a demonstration by the certificate holder that an extension is safe, ANAC can approve an extension of the time of the continued qualification cycle up to a maximum of 36 months. (Wording given by Resolution No. 334, of 07.01.2014)

(e) Requalification. Each continuing qualification curriculum must include a curriculum segment that covers the requalification requirements of a crew member, flight dispatcher, other persons involved in operations, flight instructors or accredited examiners who have not maintained qualification on an ongoing basis.

121.917 Other requirements

In addition to the requirements in sections 121.913 and 121.915 of this regulation, each AQP qualification and continuing curriculum must include the following requirements:

(a) CRM training – Ground and Flight Cabin Resource Management applicable to each position for which training is provided in the AQP;

(b) an approved training and assessment of the skills and proficiency of each person trained under an AQP to use their crew resource management skills or their technical skills in a real or simulated operations scenario. For flight crew members, this training and assessment must be conducted on an approved flight training device, flight simulator or, if approved under this regulation, on the aircraft;

(c) A compilation and process analysis of data acceptable to ANAC that ensures that the certificate holder makes available performance information of its crew, flight instructors and accredited examiners that will allow the certificate holder and ANAC to determine whether the form and content of the training and evaluations are satisfactory and achieve all the objectives of the curriculum.

121.919 Certification

A person subject to an AQP is eligible to receive an airline or commercial pilot, flight mechanic, flight dispatcher or other appropriate certificate, based on the successful completion of training and assessment achieved under this program if the following requirements are achieved:

(a) the training and assessment of knowledge and skills required by an AQP must comply with the minimum criteria for certification and classification established by ANAC in RBAC 61, 63 or 65. ANAC can approve alternatives to the certification and classification criteria of RBAC 61, 63 and 65 including practical test requirements if it can be demonstrated that the new established criterion or requirement represents an equivalence or improvement of the trainee's incumbency, operational proficiency and operational safety;

(b) satisfactorily complete the appropriate qualification curriculum;

(c) the interested party demonstrates incumbency in the technical knowledge and skills required (e.g. piloting), knowledge and skills and knowledge of CRM, knowledge and skills in scenarios (e.g. LOE) that test both types of skills;

(d) the interested party is, under the applicable requirements of RBAC 61, 63 and 65, eligible for this;

(e) the applicant has been trained to achieve proficiency in approved AQP Qualification Standards under the supervision of a flight instructor or accredited examiner and has undergone a LOE taught by an accredited examiner or INSPAC.

121.921 Training devices and simulators

(a) Each flight training device or simulator that will be used in an AQP for any of the purposes below must be assessed by ANAC to assign the qualification level of the training device or flight simulator:

(1) assessment of the required individual or crew proficiency;

(2) training to achieve proficiency or training activities that determine whether a person or crew is ready for a competency assessment;

(3) activities to meet the requirements of recent experience;

(4) Operational Line Simulations (LOS).

(b) Approval of other equipment.

(1) Any training equipment intended for training under an AQP for purposes other than those listed in paragraph (a) of this section must be assessed by ANAC for these purposes.

(2) When approving training equipment under this paragraph, the device must be identified by its nomenclature and description of use.

(3) Each training device approved for use in an AQP must be part of an ongoing program for its availability and reliability to meet its functions approved by ANAC.

121.923 Approval of training, qualification, or evaluation by third parties

(a) A certificate holder operating under RBAC 121 or 135 may contract with third parties for training, qualification, assessment and certification under an AQP if the following requirements are met:

(1) the contracted entities are certified under RBAC 119 or 142;

(2) The training, qualification curricula, curriculum segments of an AQP provided by a contracted entity must be provisionally approved by ANAC. The contracted entity may provisionally approve the AQP independently or in conjunction with the certificate holder. Provisional approval must be given by ANAC;

(3) The specific use of qualification curricula, curriculum segments of a certificate holder's AQP must be approved by ANAC as prescribed in section 121.909 of this regulation.

(b) A provisional approval of qualification curricula, curriculum segments of a certificate holder's AQP under this paragraph must demonstrate that the following requirements are met:

(1) the applicant must have a curriculum for the qualification and continued qualification of each instructor and accredited examiner;

(2) the facilities made available, for training, qualification or evaluation, to the certificate holder, operating by RBAC 121 or 135, must be adequate according to ANAC criteria;

(3) Except in indoctrination curricula, the curriculum or curriculum segment must be identified for each manufacturer, model, series specific to an airplane (variant), each crew member and other designated positions.

(c) A certificate holder who wants to approve a provisionally approved curriculum or training curriculum segment from its AQP must demonstrate that the following requirements are met:

(1) each accredited instructor or examiner used by the training provider must meet all qualification and continuing qualification requirements applicable to the certificate holder's employees, including knowledge of their operations;

(2) each curriculum or curriculum segment must be approved by ANAC for use in the certificate holder's AQP. ANAC may approve or require modifications to ensure that each curriculum or curriculum segment is applicable to the certificate holder's AQP.

121.925 Record keeping requirements

Each certificate holder conducting an approved AQP must establish and maintain records in sufficient detail to demonstrate that it is meeting all the requirements of the AQP and this subpart.

SUBPART Z DANGEROUS ARTICLES (SUBPART WITH THE WORDING GIVEN BY RESOLUTION NO. 608, OF 02.11.2021)

121.1001 Applicability and definitions

(a) This subpart establishes rules regarding the transport of dangerous articles by air to be followed by each certificate holder in accordance with the requirements established by RBAC No. 175, regardless of whether or not they have operational authorization to transport dangerous articles as cargo.

Note 1: the operator's responsibilities regarding the transport of dangerous articles and the requirements for notification of occurrences with dangerous articles are contained in RBAC n° 175.

Note 2: the relevant requirements for crew members or passengers on the transport of dangerous items such as luggage on board aircraft are contained in RBAC No. 175.

Note 3: the transport of dangerous articles other than cargo (e.g., aeromedical, search and rescue, etc.) is treated as a general exception of applicability in RBAC n° 175 and in Supplementary Instruction. Exceptions for the transportation of dangerous items that are part of the aircraft equipment or that are used on board the aircraft during the flight are detailed in paragraph 175.11(a) of RBAC No. 175 and in Supplementary Instruction.

(b) Definitions. For the purposes of this subpart, the following definitions apply:

(1) Cargo – Any good carried by an aircraft other than a mailbag or accompanied or lost luggage.

(2) COMAT – Material of the operator, transported in an aircraft of the operator and for its own benefit.

Note: for the purposes of this regulation, COMAT that meets the classification criteria for dangerous articles established by RBAC No. 175 is considered as cargo and must be transported in accordance with the requirements of that regulation (e.g., parts of aircraft, such as chemical oxygen generators, fuel control units, fire extinguishers, oils, lubricants, cleaning products).

<u>121.1003 Air operators without</u> <u>operational authorization to</u> <u>transport dangerous items as</u> <u>cargo</u>

(a) Operators who are not authorized to transport dangerous items must:

(1) establish a hazardous goods training program that meets the requirements of RBAC No. 175; and

(2) establish policies and procedures on hazardous articles in its operations manual that meet, at a minimum, the applicable requirements of RBAC No. 175, in order to enable its personnel to:

(i) identify and reject undeclared dangerous articles, including COMAT classified as a dangerous article; and

(ii) notify occurrences with dangerous articles to the appropriate authorities, as required by RBAC No. 175.

<u>121.1005 Operators authorized</u> to transport dangerous items as cargo

(a) To be able to transport dangerous items as cargo, the certificate holder must obtain prior authorization from ANAC in its Operating Specifications and must:

(1) establish a hazardous goods training program that meets the requirements of RBAC No. 175; and

(2) establish policies and procedures on hazardous articles in its operations manual that meet, at a minimum, the applicable requirements of RBAC No. 175, in order to enable its personnel to:

(i) identify and reject undeclared or underreported dangerous items, including COMAT classified as dangerous article;

(ii) notify occurrences of hazardous items to the appropriate authorities, as required by RBAC No. 175;

(iii) accept, handle, store, transport, load and unload dangerous articles, including COMAT classified as a dangerous article, such as cargo on board an aircraft;

(iv) provide the pilot-in-command, in writing, with accurate and legible information regarding the dangerous items to be transported as cargo; and

(v) inform ANAC of the transport of dangerous articles carried out with origin or destination in Brazilian territory, as established in a specific rule.

121.1007 Provision of information

The operator must ensure that its personnel involved in the acceptance, handling, loading and unloading of cargo, including subcontracted employees acting on its behalf, be informed of the operator's operational authorization with regard to the transport of dangerous goods and their limitations.

SUBPART AA CONTINUED AIRWORTHINESS

121.1101 Purpose and definition

This subpart requires a certificate holder under RBAC 119 to maintain the continued airworthiness of each aircraft. These requirements may include, but are not limited to, a review of the maintenance program, incorporation of design changes and incorporation of revisions to the instructions for continued airworthiness.

121.1105 [Reserved]

<u>121.1107 Evaluation of pressurized</u> <u>fuselage repairs</u>

(a) No certificate holder may operate an Airbus model A-300 (excluding the 600 series), British Aerospace model BAC 1-11, Boeing model 707, 720, 727, 737, or 747, McDonnell Douglas model DC-8, DC-9/MD-80 or DC-10, Fokker model F28, or Lockheed model L-1011 in addition to the applicable number of flight cycles for the implementation specified below, or as of May 25, 2004, which occur later, unless action lines have been developed to assess applicable repairs to the surface of the fuselage pressure vessel (fuselage lining, door lining, and pressure cave souls) and such lines of action have been incorporated into the fuselage maintenance program approved by ANAC. (Wording given by Resolution No. 334, of 07.01.2014)

(1) Airbus model A300 (excluding the -600 series), the flight cycle implementation time is:

(i) model B2: 36,000 flights;

(ii) model B4-100 (including model B4-2C): 30,000 flights above the window line and 36,000 flights below the window line;

(iii) model B4-200: 25,500 flights above the window line and 34,000 flights below the window line.

(2) For all British Aerospace BAC 1-11 models, the flight cycle implementation time is 60,000 flights.

(3) For all Boeing 707 models, the flight cycle implementation time is 15,000 flights.

(4) For all Boeing 720 models, the flight cycle implementation time is 23,000 flights.

(5) For all Boeing 727 models, the flight cycle implementation time is 45,000 flights.

(6) For all Boeing 737 models, the flight cycle implementation time is 60,000 flights.

(7) For all models of the Boeing 747, the flight cycle implementation time is 15,000 flights.

(8) For all McDonnell Douglas DC-8 models, the flight cycle implementation time is 30,000 flights.

(9) For all McDonnell Douglas DC-9/ MD-80 models, the flight cycle implementation time is 60,000 flights.

(10) For all McDonnell Douglas DC-10 models, the flight cycle implementation time is 30,000 flights.

(11) For all Lockheed L-1011 models, the flight cycle implementation time is 27,000 flights.

(12) For the Fokker F-28 Mark 1000, 2000, 3000, and 4000 models, the flight cycle implementation time is 60,000 flights.

121.1109 Supplementary inspections

(a) Applicability. Except as specified in paragraph (b) of this section, this section applies to turbo-engine transport category airplanes with a type certificate issued after January 1, 1958, which, as a result of an original type certificate or subsequent capacity increase has:

(1) maximum passenger seating capacity certified for type of 30 (thirty) or more, or

(2) a maximum payload capacity of 3 402 kgf (7,500 lbf) or more.

(b) [Reserved].

(c) General requirements. After December 20, 2012, a certificate holder will not be able to operate an airplane under this regulation unless the following requirements are met:

(1) basic structure: an aircraft certificate holder maintenance program that includes inspections based on damage tolerances and procedures for structures susceptible to fatigue fracture that may contribute to catastrophic failure. For the purpose of this section, this structure will be called "fatigue critical structure";

(2) adverse effects of repairs, changes and modifications: an aircraft maintenance program includes actions to address the adverse effects that repairs, changes and modifications may have on the critical fatigue structure and on the inspections required by paragraph (c)(1) of this section. The actions to deal with these effects in the maintenance program must be approved by ANAC;

(3) changes to the maintenance program: the changes made to the maintenance program required by paragraphs (c)(1) and (c)(2) of this section and any further revision of these changes must be approved by ANAC.

<u>121.1111 Maintenance program for</u> <u>electrical wiring interconnection</u> <u>systems (EWIS)</u>

(a) Except as specified in paragraph (f) of this section, this section applies to transport turbo-engine transport category airplanes with type certificate issued after January 1, 1958, which, as a result of a certificate of original type or subsequent capacity increase, have: (1) maximum passenger seating capacity certified for type of 30 (thirty) or more; or

(2) maximum payload capacity of 3,402 kgf (7,500 lbf) or more.

(b) After March 10, 2013, no certificate holder may operate an aircraft identified in paragraph (a) of this section unless the aircraft's maintenance program includes inspections and procedures for EWIS.

(c) The proposed changes to the maintenance program shall be based on the EWIS Continued Airworthiness Instructions (ICA), which have been developed in accordance with the provisions of Appendix H of RBAC 25. applicable to each affected aircraft (including those ICA developed for supplementary type certificates installed on each aircraft) and which have been approved by ANAC.

(1) For airplanes subject to the provisions of section 26.11 of RBAC 26, the EWIS ICA must comply with paragraphs H25.5(a)(1) and (b) of RBAC 25.

(2) For airplanes subject to paragraph 25.1729 of RBAC 25, the EWIS ICA must comply with paragraphs H25.4 and H25.5 of RBAC 25.

(d) After March 10, 2013, before returning to service on an airplane after some modification for which a EWIS ICA is developed, the certificate holder must include in the airplane maintenance program EWIS inspections and procedures based on that ICA.

(e) Changes to the EWIS maintenance program identified in paragraphs (c) and (d) of this section and any subsequent EWIS revision must be submitted to ANAC for approval.

(f) [Reserved]

121.1113 Maintenance program for fuel tanks

(a) This section applies to transport category airplanes with turbine engines and a type certificate issued after January 1, 1958, that as a result of an original type certificate or a subsequent increase in capacity, have:

(1) Maximum type certified passenger seating capacity of thirty (30) or more; or

(2) maximum payload capacity of 3,402 kgf (7,500 lbf) or more.

(b) Airplanes identified in paragraph (a) of this section may only be operated if the maintenance program for that air-

plane includes Continuing Airworthiness Instructions (ICA) for fuel tank systems developed in accordance with the provisions of RBHA-E 88 effective until June 30, 2021, or another requirement ANAC deems to be equivalent (including those developed for auxiliary fuel tanks, if any, installed in accordance with a supplemental type certificate or other design approvals). (Wording given by Resolution No. 624 of 07.06.2021)

121.1115 Validity Limit

(a) Applicability. This section applies to certificate holders under this RBAC operating any turbine-propelled transport category aircraft, with a maximum gross take-off weight of more than 75,000 pounds (34,020 kg) and a type certificate issued after January 1, 1958, regardless of its maximum gross take-off weight being the result of an original type certificate or subsequent modifications to the type design. This section also applies to certificate holders under this RBAC operating any turbine-propelled transport category aircraft with a type certificate issued after January 1, 1958, regardless of their maximum gross take-off weight, for which the validity limit of the engineering data supporting the structural maintenance program (hereinafter referred to as LOV) is required according to section 26.21 of RBAC 26 or 25.571 of RBAC 25 after March 8, 2013.

(b) Limit of validity. No certificate holder under this RBAC may operate an airplane identified in paragraph (a) of this section after the applicable date identified in Table 1 of this section unless an Airworthiness Limitations Section approved in accordance with Annex H of RBAC 25 or according to section 26.21 of RBAC 26 is incorporated into its maintenance program. The Airworthiness Limitations Section must:

(1) Include an LOV approved in accordance with section 25.571 of RBAC 25 or with section 26.21 of RBAC 26, as applicable, except as provided in paragraph (f) of this section; and

(2) Be clearly noticeable within the maintenance program.

(c) Operation of airplanes excluded from section 26.21 of RBAC 26. No certificate holder under this RBAC may operate an airplane identified in paragraph 26.21(g) of RBAC 26 after September 8, 2015, unless an Airworthiness Limitations Section, approved in accordance with Annex H of RBAC 25 or in accordance with section 26.21 of RBAC 26, is included in its maintenance program. The Airworthiness Limitations Section must:

(1) Include an LOV approved in accordance with section 25.571 of RBAC 25 or with section 26.21 of RBAC 26, as applicable, except as provided in paragraph (f) of this section; and

(2) Be clearly noticeable within the maintenance program.

(d) Extended validity limit. No certificate holder under this RBAC may operate an airplane other than the LOV, or the extended LOV, specified in paragraphs (b) (1), (c), (d), or (f) of this section, as applicable, unless that the following conditions are met:

(1) An Airworthiness Limitations Section is incorporated into its maintenance program which:

(i) Includes an extended LOV and any airworthiness limitation item (ALI) susceptible to widespread fatigue damage (WFD) approved in accordance with section 26.23 of RBAC 26; and

(ii) Be approved in accordance with section 26.23 of RBAC 26.

(2) The extended LOV and the airworthiness limitation items susceptible to widespread fatigue damage are clearly noticeable in the program.

(e) Approval by ANAC. Certificate holders under this RBAC must submit the review of the maintenance program required by paragraphs (b), (c) and (d) of this section to ANAC for review and approval.

(f) Exception. For any aircraft for which a LOV has not been approved in accordance with the applicable compliance date specified in paragraph (c) or Table 1 of this section, instead of including an approved LOV in the Airworthiness Limitations Section, the operator must include the applicable standard LOV specified in Table 1 or Table 2 of this section, as applicable, in the Airworthiness Limitations Section.

[TABLES DELETED FROM THIS VERSION]

121.1117 Flammability reduction means

(a) Applicability. Except as specified in paragraph (o) of this section, this section applies to turbo-engine transport category airplanes with a type certificate issued after January 1, 1958, which, as

a result of an original type certificate or subsequent capacity increase, have:

(1) maximum passenger seating capacity certified for type of 30 (thirty) or more; or

(2) maximum payload capacity of 3 402 kgf (7,500 lbf) or more.

(b) Newly produced aircraft. Except as prescribed in section 121.628, no certificate holder may operate an airplane identified in table 1 of this section (including cargo planes) for which the manufacturer's State has issued an airworthiness certificate or export airworthiness certificate after June 5, 2011, unless Ignition Mitigation Means (IMM) or Flammability Reduction Means (FRM) meet the requirements of section 26.33 of RBAC 26.

[TABLE DELETED FROM THIS VERSION]

(c) Auxiliary fuel tanks. After the dates stated in paragraph (e) of this section, no certificate holder may operate an airplane subject to section 26.33 of RBAC 26 that has an auxiliary fuel tank installed in accordance with a field approval, unless the following requirements are met:

(1) the certificate holder meets the requirements of section 26.35 of RBAC 26, on the date stated in that section;

(2) the certificate holder installs Flammability Mitigation Means – FIMM, if applicable, approved by ANAC;

(3) Except as provided in section 121.628 of this regulation, the FIMM is operational.

(d) "Retrofit". Except as provided in paragraphs (j), (k) and (l) of this section, after the dates specified in paragraph (e) of this section, no certificate holder may operate an airplane to which this section applies unless the requirements of paragraphs (d) (1) and (d) (2) of this section are met.

(1) IMM, FRM or FIMM, if required by sections 26.33 and 26.35 or 26.37 of RBAC 26, and approved by ANAC, are installed on the dates specified in paragraph (e) of this section.

(2) Except as provided in section 121.628 of this regulation, the IMM, FRM or FIMM, as applicable, is operational.

(e) Compliance dates. Except as provided in paragraphs (k) and (l) of this section, the facilities required by paragraph (d) of this section must be completed by the dates specified in paragraphs (e)(1), (e) (2) or (e)(3) of this section:

(1) 50% of the certificate holder's fleet, identified in paragraph (d)(1) of this section, must be modified by September 19, 2016;

(2) the entire certificate holder's fleet identified in paragraph (d)(1) of this section must be modified by September 19, 2019;

(3) for certificate holders who own only one airplane of the models identified in Table 1 of this section, the airplane must be modified by September 19, 2019.

(f) Compliance after installation. Except as provided in section 121.628 of this regulation, no certificate holder may:

(1) operate an airplane whose IMM or FRM was installed before the dates specified in paragraph (e) of this section unless they are operational; or

(2) disable or remove an installed IMM or FRM, unless replaced by means that comply with paragraph (d) of this section.

(g) Maintenance program reviews. No certificate holder may operate an airplane whose airworthiness limitations have been approved by ANAC in accordance with sections 26.33, 26.35 or 26.37 of RBAC 26, after the airplane has been modified in accordance with paragraph (d) of this section, unless the maintenance program for that aircraft is revised to include applicable airworthiness limitations.

(h) After reviewing the maintenance program as required by paragraph (g) of this section, before the aircraft returning to service, after any change in the airworthiness limitations required by section 25.981 of RBAC 25 and section 26.33 or 26.37 of RBAC 26, the certificate holder should review the aircraft maintenance program to include airworthiness limitations.

(i) The changes to the maintenance program identified in paragraphs (g) and (h) of this section must be submitted to ANAC for approval.

(j) The requirements of paragraph (d) of this section do not apply to airplanes operated in cargo operations, but these planes are subject to paragraph (f) of this section.

(k) The fulfillment dates specified in paragraph (e) of this section may be extended by one year, provided that: (1) until at least one year before the dates specified in paragraph (e), the certificate holder notifies ANAC that it intends to adopt this paragraph;

(2) by March 18, 2011, the certificate holder will amend its Operating Specifications in accordance with section 119.51 of RBAC 119 and review the manual required in 121.133 of this regulation to include a requirement for the planes specified in the Table 2 of this section, for the use of the air conditioning system on the ground for times longer than 30 minutes, when available and operational on the ground, whenever the ambient temperature is above 15 degrees Celsius; and

(3) subsequently, the certificate holder uses the air conditioning system on the ground as described in paragraph (k)(2) of this section on each airplane subject to the extension.

[TABLE DELETED FROM THIS VERSION]

(I) For any certificate holder whose certificate was issued after July 15, 2010, compliance with the dates specified in paragraph (e) of this section may be extended for one year, provided that the certificate holder meets the requirements of paragraph (k)(2) of this section when the operating specifications are issued and, subsequently, use the air conditioning systems on the ground as described in paragraph (k) (2) of this section on each airplane subject to this extension.

(m) After the date on which any certificate holder is required by this section to modify 100% of the affected fleet, no certificate holder may operate any of the models specified in Table 2 of this section in the transport of passengers unless the airplane has been modified in accordance with paragraph 26.33(c) of RBAC 26.

(n) No certificate holder may operate any aircraft on which an auxiliary fuel tank is installed after September 19, 2019, unless ANAC has certified the tank in accordance with section 25,981 of RBAC 25 in force on 26 December 2008. (Wording given by Resolution No. 334, of 07.01.2014)

(o) [Reserved]

SUBPART BB OPERATIONAL SAFETY MANAGEMENT SYSTEM – SGSO

121.1205 Definitions and concepts

(a) Gap Analysis. In relation to the SGSO, it is an analysis of the operational safety arrangements that already exist in the certificate holder's organization, prior to the implementation of the SGSO, compared with those necessary for the operation of the SGSO.

(b) Operational Safety Events – ESO. These are accidents, serious incidents, incidents, ground events, abnormal occurrences or any risky situation that has the potential to cause damage or injury or threatens the viability of the operation of a certificate holder. The sole purpose of occurrence reporting is to allow for the identification of hazards and to manage the risks arising, and not to define culprits.

(c) Operational security risk management. Continuous process that includes the identification of hazards, analysis of the consequences of hazards, assessment of the resulting risks, proposition of risk mitigation or elimination actions and assessment of the effectiveness of the actions proposed by a certificate holder. The identification, assessment, elimination of danger and/or mitigation of risks that threaten operational safety related to the operations of a certificate holder.

(d) Acceptable level of operational safety performance (NADSO). Benchmark of SGSO performance of a certificate holder, in terms of risk to operational saefty in carrying out its activities, which must be guaranteed by the top management of a certificate holder and accepted by ANAC. The Acceptable Operational Safety Performance Level (NADSO) for each certificate holder must be expressed through Operational Safety Performance Indicators (IDSO), Operational Safety Performance Goals (MDSO) and Operational Safety Requirements (ReqSO). The established values must take into account the complexity and the operational context of each certificate holder and their ability to assess risks to operational safety.

(e) Operational safety performance indicators (IDSO). They are tactical, measurable, short-term objectives that reflect the operational safety performance of a certificate holder's SGSO. These are values expressed for the parameters that characterize and/or typify the performance of its activities, regarding the level of performance of operational safety, agreed with ANAC. (f) Operational safety performance targets (MDSO). These are tactical, measurable, long-term objectives that reflect the operational safety performance of an SGSO. These are concrete values to be achieved by a certificate holder in relation to the operational safety performance levels agreed with ANAC. A certificate holder's MDSO comprises one or more operational safety performance indicators, along with the desired results, expressed in terms of these indicators, and must be accepted by ANAC.

(g) Danger. Condition, object or activity that can potentially cause injury to people, damage to property (equipment or structures), loss of personnel or reduced ability to perform a particular function.

(h) Operational security requirements (ReqSO). They are tools and/or means that serve to materialize the MDSO established by the certificate holder and agreed with ANAC.

(i) Risk. The assessment of the consequences of a hazard, expressed in terms of probability and severity, using the worst possible condition as a reference.

(j) Operational safety. It is the state in which the risk of injury to people or damage to property (equipment or structures) is reduced and maintained at or below an acceptable level, through a continuous process of hazard identification and risk management.

121.1221 General requirements

(a) The accountable manager of an applicant or certificate holder, as prescribed in the PSOE-ANAC, must develop, implement and maintain an SGSO that meets the requirements of this subpart.

(b) The applicant or certificate holder, in order to operate under this regulation, must have an SGSO implemented and operating as established in this subpart. (Wording given by Resolution No. 468, of May 4, 2018)

(c) The SGSO developed by the applicant or certificate holder, must contain the following components and elements:

(1) "operational safety policy and objectives" component (developed by section 121.1225 of this regulation), which contains the following elements:

(i) management's commitment;

(ii) responsibility for operational safety; (iii) designation of key operational safety personnel;

(iv) PRE coordination; and

(v) documentation.

(2) "operational safety risk management" component (developed by section 121.1227 of this regulation), which contains the following elements:

(i) hazard identification; and

(ii) risk assessment and mitigation.

(3) "operational safety assurance" component (developed by section 121.1229 of this regulation), which contains the following elements:

(i) measuring and monitoring operational safety performance;

(ii) change management; and

(iii) continuous improvement of the SGSO.

(4) "operational safety promotion" component (developed by section 121.1231 of this regulation), which contains the following elements:

(i) training and qualification; and

(ii) communication about operational safety.

(d) The accountable manager must ensure that the SGSO is compatible with the size, nature and complexity of the certificate holder's operations. (Wording given by Resolution No. 334, of 07.01.2014)

121.1223 [Reserved]

<u>121.1225</u> "operational safety policy and objectives" component

(a) "Management commitment" element. It should include the following aspects:

(1) definition, by the accountable manager, of the certificate holder's operational safety policy, containing:

(i) organizational commitment to operational safety;

(ii) explicit declaration on the provision of resources necessary for the implementation of the operational safety policy;

(iii) operational safety reporting procedures;

(iv) clear indication of the types of unacceptable behavior regarding the certificate holder's activities and including the circumstances under which disciplinary actions will not be applicable;

(v) signature of the accountable manager of the certificate holder;

(vi) disclosure, with visible approval from the accountable manager, to the entire organization;

(vii) a periodic review procedure to ensure that it remains relevant and appropriate to the certificate holder.

(2) establishment, by the accountable manager, of the operational safety objectives;

(3) definition, by the accountable manager, of NADSO, which must be accepted by ANAC, considering:

(i) the IDSO;

(ii) the MDSO; and

(iii) the ReqSO.

(4) establishment, by the accountable manager, of formal means of acquiring operational safety data, including:

(i) mandatory reports;

(ii) voluntary reports;

(iii) audits; and

(iv) other formal means available to the certificate holder.

(5) Development and maintenance, by the accountable manager, of procedures for recording and analyzing the data below, with a view to monitoring NADSO:

(i) identified hazards, their consequences, associated risks and mitigation actions;

(ii) ESO;

(iii) difficulties in service; and

(iv) other data that the certificate holder has.

(b) "Responsibility for operational safety" element. It should include the following aspects:

(1) identification of a accountable manager who, despite other functions, has ultimate responsibility on behalf of the certificate holder for implementing, operating and maintaining the SGSO;

(2) clear definition of operational safety responsibilities in the organization, including direct responsibility for operational safety by strategic managers; (3) identification of the responsibilities of all managers, in spite of other functions, as well as the certificate holder's personnel with respect to the performance of the operational safety of the SGSO;

 (4) documentation and communication of operational safety responsibilities and authorities in the organization;

(5) definition of hierarchical levels with authority to make decisions regarding the tolerability of the risk to operational safety;

(6) sending to ANAC, by the accountable manager, of information regarding:

(i) difficulties in service;

(ii) emergencies that fall within the scope of sections 121.557 and 121.559;

(iii) Initial Emergency Response Report (RIRE), when dealing with an emergency with an aircraft that results in the activation of its PRE; and

(7) sending to CENIPA, by the accountable manager, of information related to ESO provided for in this RBAC or in regulations affecting its activities.

(c) "designation of key operational safety personnel" element. It should include the following aspects:

(1) definition, by the accountable manager, of an administrative operational safety structure necessary for the implementation, operation and maintenance of an SGSO proportional to the size, nature and complexity of its operation;

(2) formal designation, by the accountable manager, of a DSO or GSO that meets the relevant requirements of RBAC 119 and that will have the following responsibilities:

(i) implementation, operation and maintenance of an effective SGSO;

(ii) presentation of periodic reports to the accountable manager on the effectiveness of the SGSO and proposal for improvements;

(iii) advice to the accountable manager, and must have:

(A) direct access to the accountable manager and the strategic managers of the certificate holder;

(B) access to data and information under any aspect related to the certificate holder's operational safety;

(C) administrative autonomy to audit and investigate any sector or process related to the certificate holder's operational safety.

(3) establishment, by the accountable manager, of two types of forum for periodic meetings:

(i) a forum that will address the operational safety strategy, which has the following:

(A) composition:

(1) accountable manager, who must preside over it;

(2) DSO or GSO;

(3) strategic managers; and

(4) other people that the accountable manager deems necessary.

(B) functions:

(1) guidance to the action forum;

(2) establishment of operational safety objectives;

(3) preparation of strategic reports based on the action reports and the SGSO documentation;

(4) reserved; and

(5) advice from the accountable manager on the SGSO.

(ii) a forum that will deal with operational safety actions, which has the following:

(A) composition:

(1) DSO or GSO, who must preside over it;

(2) tactical and operational managers; and

(3) others that the DSO or GSO deems necessary.

(B) functions:

(1) implementation of the determinations of the strategic forum;

(2) preparation of action reports based on the strategic reports and the SGSO documentation; and

(3) advice from the DSO or GSO on the SGSO.

(d) "PRE coordination" element. It should include the following aspects:

(1) development, by the DSO or GSO, of a PRE containing the necessary actions for its implementation, including those that allow:

 (i) the orderly and effective transition from normal operations to emergency activities;

(ii) the return of emergency activities to normal operations; and

(iii) coordination with the Airport Emergency Plans (PLEM) of the airports where it operates.

(2) designation, by the accountable manager, of a coordinator for the execution of the PRE;

(3) definition, by the accountable manager, of the responsibilities of the personnel involved in the implementation of the PRE;

(4) guarantee, by the DSO or GSO, that the PRE remains adequate for the operation of the certificate holder; and

(5) conduct, through DSO or GSO, periodic simulated emergency training.

(e) "Documentation" element. It should include the following aspects:

(1) presentation, by the DSO or GSO, of an MGSO, in paper and electronic media, in accordance with the requirements of section 121.135;

(2) archiving, for a minimum period of 5 years, the registration of the operational safety data mentioned in paragraphs (a)(4) and (a)(5) of this section, allowing its traceability;

(3) guarantee, by the DSO or GSO, that the aforementioned documentation remains adequate for the operation of the certificate holder. (Wording given by Resolution No. 334, of 07.01.2014)

121.1227 "operational safety risk management" component

(a) "Hazard identification" element. It must contemplate the identification of hazards, and their consequences, considering formal means of acquiring operational safety data in relation to:

(1) methods:

(i) reactive (in the subpart of the reactive process that contains the aeronautical accident/incident investigation activities, personnel qualified by SIPAER or with any other equivalent qualification recognized by ANAC must be used); and

(ii) preventive and predictive.

(2) processes, considering:

(i) the acquisition of operational safety data;

(ii) the registration of operational safety data;

(iii) the analysis of operational safety data; and

(iv) the distribution of operational safety information.

(b) "Risk assessment and mitigation" element. It should include the following aspects:

(1) the assessment of operational safety risks, considering:

(i) their definition in terms of probability and severity; and

(ii) the resulting classification, in terms of tolerability.

(2) the mitigation of operational safety risks, considering:

(i) each risk classified as intolerable or tolerable with mitigation after the application of the criteria presented in paragraph (b)(1) of this section; and

(ii) monitoring of the actions implemented to ensure that each classified risk remains in the tolerable or tolerable with mitigation region, according to the proposal presented. (Wording given by Resolution No. 334, of 07.01.2014)

<u>121.1229 "Guarantee of</u> operational safety" component

(a) "measurement and monitoring of operational safety performance" element. It should include the following aspects:

(1) development, by the DSO or GSO, of procedures for:

(i) measuring the certificate holder's operational safety performance, established in accordance with paragraph 121.1225 (a)(3); and

(ii) monitoring the effectiveness of mitigating operational safety risks developed in accordance with paragraph 121.1227 (b)(2);

(2) if a poor operational safety performance of the certificate holder's is observed in relation to that established in paragraph 121.1225 (a)(3), carrying out an operational safety risk management, according to section 121.1227, aiming at the restoration of the accepted NADSO by ANAC;

(b) "Change management" element. It should contemplate the development, by DSO or GSO, of a formal process for:

(1) identifying changes within the organization that may affect the processes and activities related to the certificate holder's operational safety;

(2) describing the necessary adjustments to ensure the performance of operational safety before implementing the changes; and

(3) eliminating or modifying mitigations of operational safety risks, developed in accordance with paragraph 121.1227 (b)(2), which are not effective due to changes in the operating environment.

(c) "Continuous improvement of the SGSO" element. It should include the following aspects:

(1) establishment, by the DSO or GSO, of means to monitor the IDSO, MDSO and ReqSO related to the NADSO accepted by ANAC, of the activities of the certificate holder;

(2) development, by the DSO or GSO, of means that allow the establishment of new IDSO, MDSO and ReqSO compatible with the evolution of the certificate holder's operational environment;

(3) development, by the DSO or GSO, of audits that periodically verify the operationality and effectiveness of the certificate holder's SGSO;

(4) development, by the DSO or GSO, of means of encouraging employees of the certificate holder and all personnel involved in its operations so that:

(i) they get involved in operational safety matters; and

(ii) they report hazards, ESO and service difficulties. (Wording given by Resolution No. 334, of 07.01.2014)

<u>121.1231 "Promoting operational</u> <u>safety" component</u>

(a) "Training and qualification" element. It should include the following aspects:

(1) development, by the DSO or GSO, of a specific training program related to the implementation and operation of the SGSO, ensuring that the certificate holder's personnel are suitably qualified in accordance with their function provided for in that System;

(2) guarantee, by the DSO or GSO, that the specific training program developed covers the entire organization and defines the target audience, the content and the workload of each course, proportionally to the complexity of the activities performed by the professionals involved;

(3) guarantee, by the DSO or GSO, that the development of the specific training program is carried out by personnel with a capacity recognized by the DSO or GSO;

(4) assurance, by DSO or GSO, that the specific training program includes adequate ground means and qualified instructors. The accountable manager has ultimate responsibility for the quality of the courses taught and for the training of his/her staff, even if it hires third-party organizations to develop and/or administer the entire program or part of it.

(5) ensuring, by DSO or GSO, that the SGSO training curriculum for strategic personnel includes:

(i) ANAC regulation for the SGSO;

(ii) the certificate holder's SGSO; and

(iii) case studies of SGSO in organizations, regardless of the area of activity.

(6) guarantee, by the DSO or GSO, that the SGSO training curriculum for tactical and operational personnel is biennial and includes:

(i) fundamentals of the SGSO;

(ii) the certificate holder's SGSO;

(iii) the certificate holder's operational safety culture;

(iv) reports of hazards, ESO and difficulties in service; and

(v) case studies of SGSO in organizations, regardless of the area of activity.

(7) guarantee, by the DSO or GSO, that the specific training program is effective, considering the certificate holder's operational safety policy and objectives.

(b) "Communication about operational safety" element. It should include the following aspects:

(1) development, by the accountable manager, of formal processes to disseminate and communicate aspects of operational safety of the certificate holder, so that they can:

(i) ensure that all personnel are informed about the SGSO;

(ii) transmit critical information about operational safety;

(iii) ensure the development and maintenance of an operational safe-ty culture;

(iv) explain why specific operational safety actions are taken;

(v) explain why operational safety procedures are introduced or modified; and

(vi) inform all personnel on IDSO, MDSO and RegSO.

(2) establishment, by the accountable manager, of formal means of communication about operational safety, which may include operational bulletins, circulars, publications, studies, research, electronic messages, internet, intranet or other formal means that the certificate holder has. (Wording given by Resolution No. 334, of 07.01.2014)

SUBPART CC

(Repealed by Resolution No. 468, of May 4, 2018)

[APPENDICES TO RBAC NO. 121 HAVE BEEN DELETED FROM THIS VERSION]

BRAZILIAN REGULATION OF CIVIL AVIATION -RBAC No. 135

AMENDMENT No. 11

PUBLIC AIR TRANSPORT OPERATIONS WITH PLANES WITH MAXIMUM PAS-SENGER CERTIFIED SEAT CONFIGURA-TION UP TO 19 SEATS AND MAXIMUM PAYLOAD CAPACITY OF UP TO 3,400 KG (7,500 LB), OR HELICOPTERS

SUBPART A

GENERAL

135.1 Applicability

(a) This Regulation establishes rules that govern:

(1) the operations of an applicant or holder of an air operator certificate (COA) under RBAC No. 119 that employs airplanes with a maximum passenger certified seating configuration up to 19 seats and a maximum payload capacity of up to 3,400 kg (7,500 lb), or helicopters; (Wording given by Resolution n^o 526, of 08.06.2019)

(2) each person associated with or providing services to a certificate holder in the conduction of operations under this Regulation, including maintenance, preventive maintenance and alterations to an aircraft;

(3) [reserved]; (Wording given by Resolution n° 526, of 08.06.2019)

(4) each person applying for provisional approval of a curriculum, curriculum segment or part of an Advanced Qualification Program (AQP) curriculum segment under Subpart Y of RBAC No. 121 and each person related to the holder of a certificate issued under this Regulation for conducting training, qualification and assessment activities under an Advanced Qualification Program under Subpart Y of RBAC No. 121;

(5) [reserved];

(6) each person on board an aircraft operating under this Regulation; and

(7) each person who is a COA applicant under RBAC No. 119, when

conducting operational assessment flights.

(Wording given by Resolution nº 494, of 10.17.2018)

135.2 [Reserved] (Wording given by Resolution No. 526, of 08.06.2019)

135.3 Special rules applicable to operations subject to this Regulation

(a) Each person operating an aircraft in operations under this Regulation must:

(1) while operating within Brazil, meet the applicable requirements of the RBAC and other rules in force in the country;

(2) while operating outside Brazil, comply with the standards of Annex 2, Air Rules, the International Civil Aviation Convention or the regulations of the foreign country overflown, whichever applies, and any rules of RBAC No. 61 and RBAC 91, and of this Regulation, which are more restrictive than the provisions of said international rules and which can be complied with without violating said international rules; and (Wording given by Resolution n^o 612, of 03.09.2021)

(3) ensure that pilots assigned to international operations comply with the language proficiency requirements set out in RBAC No. 61.

(b) The certificate holder who conducts scheduled operations under this Regulation, using airplanes with configuration for passengers with more than 19 seats, must meet the requirements of subparts N and O of RBAC No. 121 instead of the requirements of subparts E, G and H of this Regulation. (Wording given by Resolution n° 526, of 08.06.2019)

(c) At the request of the interested party, ANAC may authorize a certificate holder, who conducts operations under this Regulation to which paragraph (b) of this section does not apply, to meet the requirements of the applicable sections of subparts N and O of the RBAC No. 121, instead of the requirements of subparts E, G and H of this Regulation. These certificate holders can choose to meet the operational experience requirements of section 135.244 of this Regulation or section 121.434 of RBAC No. 121.

(d) [reserved] (Wording given by Resolution No. 526, of 08.06.2019) (Wording given by Resolution No. 494, of 10.17.2018)

135.5 [Reserved]

<u>135.7 Applicability of the rules for</u> <u>unauthorized operators</u>

The rules in this Regulation that apply to persons certified under RBAC No. 119 also apply to persons who may engage in any operation governed by this Regulation without an appropriate certificate and the operating specifications required by RBAC No. 119.

135.9 to 135.11 [Reserved]

135.12 Crew members previously trained

A certificate holder in the process of transition to RBAC No. 121, or who has completed this process, may use a crew member who has received training from that certificate holder in accordance with subparts E, G and H of this Regulation without meeting the requirements of initial and qualification training for RBAC No. 121 subparts N and O. This crew member must now meet the applicable periodic training requirements of RBAC No. 121.

(Wording given by Resolution n° 494, of 10.17.2018)

135.13 to 135.17 [Reserved]

135.19 Emergency operations

(a) In an emergency involving the safety of people and property, the certificate holder may deviate from the rules of this Regulation relating to the aircraft, equipment and meteorological minima to the extent required to deal with that emergency.

(b) In an emergency involving the safety of people or property, the pilot-in-command may deviate from the rules of this Regulation to the extent required to deal with that emergency.

(c) Each person who, under the authority provided for in this section, deviates from a rule of this Regulation must, within 10 working days after the diversion, send to ANAC a complete report of the operation involved, including a description of the deviations and of the reasons for these deviations. (Wording given by Resolution n° 494, of 10.17.2018)

135.21 Requirements of the company's general manual

(a) The certificate holder must prepare and submit to ANAC for prior acceptance a system of operational safety documents, in the form of a company's general manual, establishing procedures and policies. This manual must be used by the certificate holder's flight, ground and maintenance personnel when conducting their operations. However, ANAC may authorize deviations from this paragraph if it is considered that, due to the limited size of the operations, the manual, or part of it, is not necessary for the guidance of flight, ground and maintenance personnel.

(b) Each revision of the company's general manual must be submitted to ANAC for prior acceptance, except for those exempted from this act by the manual already accepted.

(c) The certificate holder must maintain at least one copy of the company's general manual at its main operations base.

(d) The company's general manual may not contradict any applicable federal laws or regulations, any foreign regulations applicable to the certificate holder's operations in other countries, nor the COA or certificate holder's operating specifications.

(e) A copy of the company's general manual, or appropriate parts of it (with amendments and additions, if any), must be made available to ground, maintenance and operations personnel by the certificate holder, who must provide it, too, for:

(1) its flight crew; and

(2) the servers designated by ANAC in charge of inspecting the certificate holder.

(f) Each person related to the certificate holder to whom the company's general manual or parts of it have been distributed pursuant to paragraph (e)(1) of this section must keep it updated with the amendments and additions provided to it. Additionally:

(1) each person related to the certificate holder working on the ground must keep his/her copy of the manual at his/her workplace; and (2) the certificate holder must keep on board its aircraft a number of manuals (or appropriate parts thereof) appropriate to the number and functions of crew members on board. The updating of these manuals is the responsibility of the certificate holder.

(g) For the purposes of compliance with paragraph (e) of this section, a certificate holder may provide the persons mentioned therein with part of the company's general manual in printed form or in another form, acceptable to ANAC, that is retrievable in Portuguese language. If the certificate holder provides the maintenance part of the company's general manual in a form other than printed, it must ensure that there is a compatible reading device available to those persons that provides legible images of the instructions and information of maintenance, or a system that is capable of retrieving maintenance instructions and information in Portuguese.

(1) Specific authorization from ANAC is required for use in flight of an electronic device containing part of the company's general manual required on board.

(h) If a certificate holder conducts inspections or maintenance of aircraft on specific bases where it maintains parts of the company's general manual with the approved inspection program, it does not need to transport those parts of the manual on board aircraft that is en route to those bases.

(i) The certificate holder can provide parts of its company's general manual in English, as long as it makes sure that the personnel who use them are proficient in reading and understanding that language.

(j) The certificate holder must observe, in the preparation of its company's general manual, the principles related to human factors, presenting a manual that is easy to understand and read.

(Wording given by Resolution n° 494, of 10.17.2018)

135.23 Contents of the company's general manual

(a) The company's general manual must have the date and number of the last revision on each revised page. The company's general manual should include:

(1) name of each management person required by RBAC No. 119 who is authorized to act on behalf of the certificate holder, the duties, authority and area of responsibility designated for that person; the name and title of each person authorized to exercise operational control in accordance with section 135.77;

(2) procedures to ensure compliance with aircraft weight and balance limitations and to determine compliance with section 135.185;

(3) copies of the certificate holder's operating specifications or properly extracted information, including areas of authorized operations, category and class of authorized aircraft, crew composition requirements and types of authorized operations;

(4) procedures for compliance with the accident/incident notification requirements under the specific legislation of the Aeronautical Accident Investigation and Prevention System (SIPAER);

(5) procedures to ensure that the pilot-in-command knows that required airworthiness inspections have been carried out and that the aircraft has been approved for return to service in accordance with applicable maintenance requirements;

(6) procedures for informing and recording mechanical irregularities that come to the knowledge of the pilot-in-command before, during and after the end of a flight;

(7) procedures to be followed by the pilot-in-command to determine whether mechanical irregularities or defects reported on previous flights have been corrected or whether this correction has been delayed;

(8) procedures to be followed by the pilot-in-command to obtain maintenance, preventive maintenance and ramp services for the aircraft in places where no prior arrangements have been made by the operator, when the pilot is authorized to act on behalf of the operator;

(9) procedures under section 135.179 for the release or continuation of a flight, if an item of equipment required for a particular type of operation becomes inoperative or unacceptable en route;

(10) procedures for refueling the aircraft, eliminating contaminants, protecting against fire (including electrostatic protection) and supervising and protecting passengers during refueling; (11) procedures to be followed by the pilot-in-command in the instructions to passengers provided for in section 135.117;

(12) flight location procedures;

(13) procedures to ensure compliance with emergency procedures, including a list of the functions allocated to each category of crew member required in connection with duties in an emergency or emergency evacuation pursuant to section 135.123;

(14) procedures for en route qualification for pilots, when applicable;

(15) the approved aircraft inspection program, when applicable;

(16) procedures and information on the transport of dangerous goods, according to Subpart K, including actions to be taken in case of emergency; (Wording given by Resolution n° 608, of 02.11.2021):

Note: guidance on the development of policies and procedures to deal with occurrences of dangerous articles on aircraft is contained in a specific ANAC standard. (Included by Resolution n° 608, of 02.11.2021):

(17) evacuation procedures for people who need assistance from another person to move quickly towards an exit in the event of an emergency;

(18) procedures for cases of sudden illness and/or death on board;

(19) procedures to ensure that each aircraft operated by the certificate holder is maintained in airworthy conditions;

(20) procedures to ensure that the emergency and operational equipment required for an intended flight is airworthy;

(21) procedures to ensure that the certificate of airworthiness for each aircraft of the certificate holder remains valid;

(22) for operators to which paragraph 135.411 (a) (2) of this Regulation applies, a description of the maintenance procedures and of completing and signing the aircraft's airworthiness release, when maintenance services are performed by an ANAC certified maintenance organization, certified by ANAC or by another certificate holder, as provided for in paragraph 135.437 (a) of this Regulation; (Wording given by Resolution No. 612, of 03.09.2021)

(23) a reference to the maintenance programs that will be used for each aircraft model operated by the certificate holder;

(24) the description of the method for completing and archiving the maintenance records required by sections 135.439 of this Regulation and 43.11 of RBAC No. 43, or by sections 91.417 of RBAC 91, and 43.9 of RBAC No. 43, as applicable; (Wording given by Resolution No. 612, of 03.09.2021)

(25) for certificate holders using aircraft with type certification for more than 9 seats, a description of the procedures for monitoring, evaluating and reporting their operational and maintenance experience, as required by section 135.431 of this Regulation;

(26) [reserved]

(27) a procedure for acquiring and evaluating the applicable continuing airworthiness information, and for implementing the required actions;

(28) a procedure for acquiring and evaluating airworthiness directives and for implementing the required actions;

(29) for certificate holders who use aircraft with type certification for more than 9 seats, the description of the establishment and maintenance of an analysis system to continuously monitor the performance and efficiency of the adopted maintenance program and correct any deficiency of the referred program;

(30) a description of the aircraft models to which the manual applies;

(31) a description of the methodology to ensure that diagnosed defects are recorded and corrected;

(32) procedures to inform ANAC of significant occurrences in service;

(33) for each type of aircraft with type certification for more than 9 seats or when determined by ANAC, a maintenance program designed under the terms of sections 135.425 and 135.427 of this Regulation, which must be prepared and submitted in separate to ANAC for approval;

(34) procedures for determining the minimum use of airport and other special air traffic procedures, in ac-

cordance with the Aeronautical Command standard;

(35) standard operating procedures (SOP) that provide flight operations personnel with guidance for operations, at all stages of flight, in a safe, efficient, logical and predictable manner;

(36) a route guide to be used by the flight crew for each flight;

(37) instructions on acceptance and confirmation of air traffic control (ATC) authorizations, particularly when they relate to separation from the ground;

(38) limitations on aircraft certification and operation, take-off weight, route and landing;

(39) description of the policies and procedures related to the routine reporting of meteorological conditions and observations en route, in climb and in other phases of the flight (AIREP);

(40) obligation of information, by the crew AIREP SPECIAL, when encountering phenomena related to volcanic activities; and

(41) other instructions and procedures related to the certificate holder's operations, at its discretion.

(Wording given by Resolution n° 494, of 10.17.2018)

135.25 Aircraft requirements

(a) A certificate holder may only operate an aircraft under this Regulation if that aircraft:

(1) is registered as a civil aircraft with the Brazilian Aeronautical Registry and carries an appropriate and valid airworthiness certificate, issued according to the applicable RBAC, and

(2) is in airworthy condition and meets the applicable airworthiness requirements of the RBACs, including those relating to identification and equipment.

(Wording given by Resolution $n^{\rm o}$ 494, of 10.17.2018)

(b) The certificate holder must have the exclusive use of at least one aircraft that meets the requirements of at least one type of operation authorized in the operating specifications of that certificate holder. In addition, for each type of operation for which the certificate holder does not have the exclusive use of an aircraft, it must have at least one aircraft that

meets the required maintenance available for use, according to a written contract (including arrangements to perform required maintenance). requirements for that kind of operation. However, this paragraph does not prohibit the operator from using or authorizing the use of an aircraft for operations other than those under this Regulation and does not require the certificate holder to have the exclusive use of all aircraft used by it. (Wording given by Resolution n° 494, of 10.17.2018)

(c) For the purposes of paragraph (b) of this section, a person has the exclusive use of an aircraft if that person has full ownership, control and use thereof for flight as an owner, or has a written contract (including arrangements to perform required maintenance), valid when the aircraft is operating, guaranteeing to that person the possession, control and use of the aircraft for at least 6 consecutive months.

<u>135.27 [Reserved] (Wording</u> given by Resolution No. 494, of <u>10.17.2018)</u>

<u>135.29 Operational safety</u> management system (SGSO)

(a) The certificate holder must establish and maintain a SGSO that:

(1) establishes the organization's policy and objectives for operational safety;

(2) establishes the targets and performance indicators for operational safety that allow the assessment of the achievement of operational safety objectives;

(3) establishes the organizational structure and those responsible for the implementation, maintenance and continuous improvement of the system;

(4) identifies the hazards and assesses the operational risks associated with them;

(5) applies corrective and preventive actions developed based on the operational risks assessed, as well as assesses the effectiveness of these actions;

(6) performs permanent supervision of the organization's activities, in order to guarantee the required operational safety;

(7) plans and periodically conducts internal assessments or audits of the SGSO, aiming at adapting them to the operational context of the organization and the continuous improvement of operational safety performance levels;

(8) ensures that people involved in activities sensitive to operational safety have the necessary skills and are aware of their responsibilities;

(9) communicates the results related to the performance of operational safety, as well as disseminates information that enhances the organization's operational safety culture; and

(10) manages and organizes documents and records that provide evidence of the development, operation, maintenance and continuous improvement of the SGSO.

(b) The certificate holder's SGSO must:

(1) be established in accordance with the structure provided for in Subpart M of this Regulation; and

(2) be proportional to the size of the organization and the complexity of its operations.

(c) The certificate holder's SGSO must be implemented and maintained in a manner that is considered acceptable by ANAC.

(d) The certificate holder who operates airplanes whose maximum approved take-off weight is greater than 27000 kg must establish and maintain a flight data monitoring and analysis program as part of its SGSO. The certificate holder may contract with third parties to operate a flight data monitoring and analysis program, but must maintain full responsibility for maintaining that program.

(e) The flight data monitoring and analysis program mentioned in the previous paragraph cannot be used for punitive purposes and must contain adequate safeguards to protect the data sources.

(Wording given by Resolution nº 494, of 10.17.2018)

135.31 to 135.39 [Reserved]

<u>135.41 Transport of substances or</u> <u>drugs subject to special control</u>

If the certificate holder allows an aircraft owned or leased by it to be engaged in any operation that the certificate holder knows to be in violation of the rules of section 91.19 of the RBAC 91, this operation is the basis for the suspension or revocation of its certificate. (Wording given by Resolution No. 612, of 03.09.2021)

SUBPART B

FLIGHT OPERATIONS

135.61 General

This Subpart establishes rules, in addition to the rules of RBAC 91, applicable to operations under this Regulation. (Wording given by Resolution No. 612, of 03.09.2021)

135.63 Record keeping requirements

(a) The certificate holder must keep in its main administration office or in other places approved by ANAC, and make available to the designated ANAC servers, the following:

(1) the COA issued in its name and the concession or authorization to provide public air transport services;

(2) the operating specifications issued on its behalf;

(3) an updated listing of aircraft used or available for use in operations under this Regulation and the operations for which each is equipped;

(4) an individual record of each pilot used in operations under this Regulation, including the following information:

(i) the pilot's full name and ANAC code;

(ii) the pilot's license (by type and number) and the qualifications the pilot has;

(iii) the pilot's aeronautical experience in sufficient detail to determine his/her qualification to fly aircraft operating under this Regulation;

(iv) the pilot's current duties and the date on which he/she was assigned to those duties;

(v) the date of issue and the class of the aeronautical medical certificate (CMA);

(vi) the date and result, including the assessment sheets, of each exam required by this Regulation and, when applicable, the type of aircraft flown during the exams;

(vii) the pilot's working hours records and the number of flight hours with sufficient details to determine compliance with the flight limitations of this Regulation;

(viii) accreditation as an examining pilot, if any;

(ix) any action taken regarding the waiver of the pilot's entitlement due to physical or professional disqualification;

(x) the end date of the initial phase and each periodic training phase required by this Regulation; and

(xi) certificates of completion in accordance with paragraph 135.323(c), in addition to flight curriculum instruction sheets for each type of aircraft approved training, flight simulation training device (FSTD) and/or other training approved by ANAC, with sufficient detail to demonstrate the correct fulfillment of the planned training and its result;

(5) an individual record for each flight attendant required by these Rules, kept in sufficient detail to determine compliance with the applicable requirements of these Rules.

(b) The certificate holder must maintain each record required by paragraph (a)(3) of this section for at least 6 months and must maintain each record required by paragraphs (a)(4) and (a)(5) of this section for at least 5 years.

(c) The certificate holder is responsible for the preparation and accuracy of a duplicate load manifest containing information regarding the loading of the aircraft. The manifest must be prepared before each take-off, must be signed by the pilot-in-command and must include:

(1) the number of passengers;

(2) the total weight of the loaded aircraft;

(3) the maximum allowed take-off weight for the flight;

(4) the limits of the center of gravity;

(5) the loaded aircraft's center of gravity, except that the actual center of gravity does not need to be calculated if the aircraft is loaded according to a loading schedule or other approved method that ensures that the loaded aircraft's center of gravity is within approved limits. In such cases, a note should be made on the manifest indicating that the center of gravity is within the limits according to a loading schedule or other approved method;

(6) the aircraft registration number or flight number;

(7) the origin and destination;

(8) identification of the crew and their designations; and

(9) date of the flight.

(d) The pilot-in-command of an aircraft must have with him/her, until the destination of the flight, a copy of that manifest. Another copy of the load manifest must be kept on the ground at least until the end of the flight, unless otherwise approved by ANAC. The operator must keep the original or one copy of the load manifest, in its main operations base, for at least 90 days after the flight.

(e) The certificate holder must keep a record of fuel and oil consumption on each flight for at least 90 days after the flight is performed.

(f) If the certificate holder has approval of its operating specifications for the preparation of a load manifest through EFB, the signature required in paragraph (c) of this section may be replaced by a digital authentication assigned to the pilot-in-command or by his/her signature on the device itself. In addition, the copy required by paragraph (d) of this section can only be sent electronically to the certificate holder's base, and the pilot-in-command must ensure that it is received.

(Wording given by Resolution nº 494, of 10.17.2018)

<u>135.64 Keeping of contracts and</u> <u>their amendments: supplemental</u> <u>operations</u>

The certificate holder conducting supplemental operations must keep a copy of each written contract under which it provides air transport services for a period of at least one year after the date of execution of the contract. In the case of a verbal contract, it must keep a memorandum establishing its elements, and the elements of any amendments to that contract, for a period of at least one year after the execution of the contract or its amendments.

(Wording given by Resolution nº 494, of 10.17.2018)

135.65 Crew and aircraft logbook(s)

(a) The certificate holder must have a logbook on board each of its aircraft to record information about the crew, flight hours, operating irregularities observed on each flight and record of corrective actions taken or correction postponement. At the discretion of the certificate holder, the logbook can be broken down into two parts: aircraft records and crew records.

(b) With regard to the crew, it is the responsibility of the pilot-in-command to record at least the following information on each flight: nationality and registration marks, date, identification of the crew member and function on board each of them, take-off and landing locations, take-off and landing times, flight time, nature of the flight, observations (if any) and name and signature of the responsible person.

(c) With respect to the aircraft:

(1) The pilot-in-command must record or have every irregularity observed before, during and after the flight recorded in the logbook. Before each flight, the pilot-in-command must check the status of each irregularity recorded on previous flights.

(2) each person who takes corrective actions regarding failures or malfunctions recorded in the logbook, whether in the cell, engines, propellers, rotors or normal and emergency equipment, must record their action in that logbook, in accordance with those applicable maintenance requirements of applicable regulations.

(d) The certificate holder must establish procedures to keep the record book(s) required by this section for each aircraft in a location easily accessible by appropriate personnel, and must describe these procedures in the general manual of the company required by section 135.21 of this Regulation.

(Wording given by Resolution n° 494, of 10.17.2018)

135.67 Information on potentially dangerous weather conditions and irregularities in communications or navigation facilities

Whenever a pilot encounters a potentially dangerous weather condition in flight or an irregularity in communications or navigation facilities, the disclosure of which the pilot considers essential to the safety of other flights, he/she must notify an appropriate ground radio station as soon as practicable.

135.69 Restrictions or suspension of operation: continuation of a flight in an emergency

(a) During operations under this Regulation, if a certificate holder or pilot-in-command becomes aware of conditions, including airport and runway conditions, that are a risk to safe operations, the certificate holder or pilot-in-command, as the case may be, shall restrict or suspend operations, as necessary, until these conditions are corrected.

(b) A pilot-in-command may only consent to a flight proceeding to an airport where he/she intends to land under the conditions referred to in paragraph (a) of this section if, in the opinion of that pilot-in-command, there is a reasonable likelihood that those conditions considered a danger for safe operations may be corrected at the time of arrival or if there is no other safe procedure. In the latter case, the continuation of the flight towards the airport is an emergency situation according to section 135.19 of this Regulation.

(Wording given by Resolution n° 494, of 10.17.2018)

135.71 Airworthiness review

A pilot-in-command can only start a flight if he/she finds that the airworthiness inspections required by section 91.409 of RBAC 91, or by sections 135.419 or 135.425, as applicable, have been carried out.

(Wording given by Resolution $n^{\rm o}$ 612, of 09.03.2021)

135.73 ANAC inspections and examinations

The certificate holder and each person linked to it must, at any time, allow ANAC to carry out inspections or examinations (including follow-up flight) to verify the holder's compliance with the Brazilian Aeronautical Code, with the applicable RBAC and with its certification certificate and its operating specifications.

(Wording given by Resolution n° 494, of 10.17.2018)

<u>135.75 Observer's front seat:</u> admission to the cockpit: ANAC designated server credential

(a) Whenever, upon performing inspection tasks, a server designated by ANAC presents his/her credentials to the pilot-in-command of an aircraft operated by a certificate holder, that server designated by ANAC shall have free and uninterrupted access to the cockpit of that aircraft. However, this paragraph does not limit the emergency authority of a pilot-in-command to remove anyone from the cockpit in the interest of safety.

(b) An observer seat in the cockpit, or a front seat for a passenger with a headset or loudspeaker, must be provided for use by a server designated by ANAC when conducting en route inspections. The suitability of the location of this passenger seat and the earphone or loudspeaker for use in conducting an en route inspection is determined by ANAC.

(c) A person may only occupy the observer seat in the cockpit during takeoffs and landings if that person is:

(1) a server designated by ANAC in verification of pilot or operating procedures;

(2) an air traffic controller, duly authorized by ANAC and the certificate holder, observing traffic control procedures;

(3) a suitably qualified certificate holder;

(4) a crew member of another certificate holder, duly qualified, authorized by the certificate holder operating the aircraft to make specific trips on a route; or

(5) a technical representative of the aircraft manufacturer or its components whose obligations are directly related to the flight monitoring of equipment or operational procedures, provided that his/her presence in the cockpit is indispensable for the fulfillment of his/ her obligations and that he/she has written authorization from the responsible supervisor, listed in the certificate holder's company's general manual as having that authority.

(d) It is forbidden to occupy the observer's seat in the cockpit without having a seat in the passenger compartment at their disposal, except those persons referred to in paragraphs (c)(1) to (c)(5) of this section.

(Wording given by Resolution n° 494, of 10.17.2018)

<u>135.77 Responsibility for</u> <u>operational control</u>

The certificate holder is responsible for operational control and must list, in the company's general manual required by section 135.21 of this Regulation, the name and title of each person authorized by it to exercise operational control.

(Wording given by Resolution n° 494, of 10.17.2018)

<u>135.79 Flight location requirements</u>

(a) The certificate holder must have procedures in place to locate each of its flights so as to: (1) provide the certificate holder with at least the information required for a Visual Flight Plan (PLN);

(2) allow timely provision of notification to a search and rescue station if the aircraft is delayed or missing; and

(3) provide the certificate holder with the location, date and estimated time to reestablish communications, if the flight is being operated in an area where communications cannot be maintained.

(b) Flight location information shall be maintained at the certificate holder's primary base of operations, or at any other location designated by the certificate holder in the flight location procedures, until the flight ends.

(c) The certificate holder must provide ANAC with a copy of its flight location procedure and its modifications and additions, unless these procedures are included in the company's general manual required by this Regulation.

(d) The certificate holder must designate, in its company's general manual or in the procedures referred to in paragraph (c) of this section, the persons responsible for carrying out the procedures required by this section.

(Wording given by Resolution nº 494, of 10.17.2018)

<u>135.80 Information on emergency</u> and survival equipment

The certificate holder must keep listings containing information on the emergency and survival equipment on board each of its aircraft permanently available for immediate communication to a search and rescue coordination center. This information should include, as applicable, the number, color, type and capacity of inflatable boats and life jackets, pyrotechnic signaling equipment, details of survival kits, first aid and universal precautions, supply of drinking water, types and frequencies of the portable emergency locator transmitters (ELT) transported and any other information deemed relevant for search and rescue operations.

(Wording given by Resolution nº 494, of 10.17.2018)

135.81 Operational information and its changes

The certificate holder must inform each person linked to it of the operating specifications applicable to the person's duties and responsibilities and must make the following information available to his/her pilots in an updated form, to allow flight planning on the ground:

(a) aeronautical publications (aeronautical route and terminal charts: departure and approach by instruments procedures, ROTAER, AIP, etc.);

(b) this Regulation and the RBAC 91; (Redação dada pela Resolução nº 612, de 09.03.2021)

(c) aircraft equipment manuals and aircraft flight manual or equivalent; and

(d) for international operations, the Aeronautical Information Publication (AIP) or a commercial publication that contains the same information regarding the operational and entry requirements of the countries involved.

(Wording given by Resolution n° 494, of 10.17.2018)

135.83 Required operational information

(a) An air operator must provide the following materials, in an up-to-date and appropriate form, accessible to the pilot at his/her workstation and for compulsory use in flight:

(1) a cockpit checklist;

(2) for multi-engine aircraft or for aircraft with a retractable landing gear, a checklist of emergency cockpit checks containing the procedures required by paragraph (c) of this section, as appropriate;

(3) relevant aeronautical charts;

(4) for IFR operations, navigation chart on airways, charts of terminal areas, IFR approach and departure charts and other documents relevant to the operation;

(5) for multi-engine aircraft, performance data in climb with an inoperative engine. If the aircraft is approved for use in IFR operations, this data must be sufficient to allow the pilot to verify compliance with paragraph 135.181 (a)(2) of these Rules; and (Wording given by Resolution No. 494, of October 17, 2018)

(6) all essential information related to search and rescue services in the area in which they will operate.

(b) Each checklist required by paragraph (a)(1) of this section must contain the following procedures: (1) before the engines start;

(2) before take-off;

(3) cruise;

(4) before landing;

(5) after landing; and

(6) stopping the engines.

(c) Each emergency checklist required by paragraph (a)(2) of this section must contain the following procedures, as appropriate:

 emergency operation of the fuel, hydraulic, electrical and mechanical systems;

(2) emergency operation of instruments and controls;

(3) procedures for inoperative engine; and

(4) any other emergency procedure necessary for security.

135.85 Transport of persons without complying with the passenger transport provisions of this Regulation

The following persons may be transported on board an aircraft without complying with the passenger transport provisions of this Regulation:

(a) a crew member or other person linked to the certificate holder;

(b) a person necessary for the safe handling of animals on the aircraft;

(c) a person necessary for the safe handling of dangerous articles;

(d) a person exercising the task of security or guard of honor accompanying a shipment made under the authority of the Brazilian Government;

(e) a military courier or a military route supervisor accompanying a cargo carried under a military air transport contract, if that transport has been specifically authorized by a Brazilian Armed Force;

(f) a server designated by ANAC conducting an en route inspection; or

(g) a person, authorized by ANAC, who is performing a task related to a certificate holder's cargo operation.

(Wording given by Resolution nº 494, of 10.17.2018)

135.87 Cargo transportation, including carry-on luggage

(a) It is only permitted to carry cargo on an aircraft, including carry-on luggage, if:

 it is transported in an approved cargo transport cabinet, shelf or compartment and installed on the aircraft;

(2) it is secured by an approved means; or

(3) it is transported under the following conditions:

(i) in the case of cargo, properly secured by a seat belt or a lashing strap having sufficient strength to eliminate the possibility of slipping under all conditions normally expected on the ground and in flight; in the case of carry-on luggage, secure in order to avoid movement during aerial turbulence;

(ii) packaged or covered to avoid possible injury to the occupants;

(iii) not imposing any load on the seats or the floor structure that exceeds the load limitations of these components;

(iv) not being located in a position obstructing access to or use of any required emergency exit or normal exits, or use of the aisle between the cockpit and the passenger cabin, or in such a way as to impair the visibility of "no smoking" and "fasten your seat belts" signs to any passenger, unless auxiliary signs or other approved means are provided to notify passengers;

(v) not being located directly above seated occupants, except in approved closed compartments ("overhead bins");

(vi) kept in accordance with this section for takeoffs and landings; and

(vii) for cargo-only operations, paragraph (a)(3) (iv) of this section does not apply if the cargo is placed so that at least one emergency or normal exit remains available so that all occupants have an exit of the aircraft unobstructed in the event of an emergency.

(b) Each passenger seat under which carry-on luggage can be placed shall be provided with means to prevent that luggage from sliding under sufficiently severe impacts to induce the final forces of inertia specified for the RBAC emergency landing conditions in accordance with which the aircraft was certified.

(c) When cargo is carried in cargo compartments that have been designed to require the physical entry of a crew member to extinguish any fire that may occur in flight, the cargo must be positioned so that a crew member can effectively reach all parts of that compartment with the jet of the contents of a portable fire extinguisher.

(Wording given by Resolution $n^{\rm o}$ 494, of 10.17.2018)

135.89 Pilot requirements: use of oxygen

(a) Non-pressurized aircraft. The pilot of a non-pressurized aircraft must use oxygen continuously when flying:

(1) at altitudes above 10,000 feet and up to 12,000 feet MSL, for any part of the flight at those altitudes that is more than 30 minutes long; and

(2) above 12,000 feet MSL.

(b) Pressurized aircraft.

(1) Whenever a pressurized aircraft is operated at a cabin pressure altitude greater than 10,000 feet MSL, each pilot must comply with paragraph (a) of this section.

(2) Whenever a pressurized aircraft is operated at altitudes above 25,000 feet and up to 35,000 0 feet MSL, unless each pilot has an approved quick-fit oxygen mask:

(i) at least one pilot at the controls must wear a duly put on and adjusted oxygen mask that either continuously delivers oxygen or automatically delivers oxygen whenever the cabin pressure altitude exceeds 12,000 feet MSL; and

(ii) during this flight, each other pilot in service in the cockpit must have an oxygen mask, connected to an oxygen supply, located in such a way as to allow immediate put on of that mask on the pilot's face, secured and adjusted for use.

(3) Whenever a pressurized aircraft is operated at altitudes above 35,000 feet MSL, at least one of the pilots at the controls must wear a duly put on and adjusted oxygen mask required by paragraph (b) (2)(i) of this section.

(4) If a pilot leaves his/her position on an aircraft operating at altitudes above 25,000 feet MSL, the pilot who remains at the controls must put on and wear an approved oxygen mask until the other pilot returns to his/her position on the aircraft.

(Wording given by Resolution nº 494, of 10.17.2018)

135.91 Portable oxygen and oxygen concentrators for medical use by passengers

(a) Except as provided in paragraphs (d) and (e) of this section, a certificate holder may only permit the transport or operation of equipment for the storage, generation or supply of medical oxygen if the conditions of paragraphs (a) to (c) of this section are met. A certificate holder can only allow a passenger to take and operate a portable oxygen concentrator if the requirements of paragraphs (b) and (f) of this section are met.

(1) the equipment must be:

(i) of a type approved or in accordance with the manufacturing, packaging, branding and maintenance requirements of the Brazilian Association of Technical Standards (ABNT):

(ii) when owned by the certificate holder, maintained under the approved maintenance program for that holder;

(iii) free of flammable contaminants on all external surfaces;

(iv) built in such a way that valves, connections and indicators are protected from damage during transportation or operation; and

(v) appropriately safe.

(2) When oxygen is stored in liquid form, the equipment must have been under the certificate holder's approved maintenance program since its purchase as new or since the container was purged last.

(3) When oxygen is stored as compressed gas:

(i) if owned by the certificate holder, it must be maintained under the approved maintenance program for that holder; and

(ii) the pressure of any oxygen cylinder cannot exceed the nominal pressure of the cylinder.

(4) The pilot-in-command must be advised when the equipment is on board and when it is intended to be used. (5) The equipment must be stored, and each person using the equipment must be seated, so as not to restrict access or use of any required normal or emergency exits or an aisle in the passenger cabin.

(b) It is forbidden to smoke or create an open flame and the certificate holder must not allow anyone to smoke or create an open flame within a 10-foot radius of transported oxygen storage and supply equipment in accordance with paragraph (a) of this section or a portable oxygen concentrator transported and operated in accordance with paragraph (f) of this section.

(c) The certificate holder may not permit any person, other than a person trained in the use of medical oxygen equipment, to connect or disconnect oxygen cylinders or any other auxiliary components while any passenger is on board the aircraft.

(d) Paragraph (a)(1)(i) of this section does not apply when the equipment is provided by a professional or a medical emergency service for use on board an aircraft in a medical emergency when no other practical means of transport (including another appropriately equipped certificate holder) is reasonably available and the person transported under medical emergency is accompanied by a person trained in the use of medicinal oxygen.

(e) The certificate holder who, according to paragraph (d) of this section, deviates from paragraph (a)(1)(i) of this section in a medical emergency, must, within 10 business days after the deviation, send to ANAC a complete account of the operation involved, including a description of the deviation and its reasons.

(f) Portable oxygen concentrators.

(1) Acceptance criteria. A passenger may only carry or operate a portable oxygen concentrator for personal use on board an aircraft, and a certificate holder may only allow a passenger to carry or operate a portable oxygen concentrator on an aircraft operated under this regulation during all phases of flight if the portable oxygen concentrator meets the following requirements:

(i) is registered with the National Health Surveillance Agency (Anvisa) or submitted to an equivalent recognition procedure by a similar body from a foreign country; (ii) does not emit radio frequency that interferes with the aircraft systems;

(iii) generates a maximum oxygen gauge pressure less than 200 kPa at 20°C;

(iv) does not contain any dangerous article subject to RBAC No. 175, unless it is batteries used to power portable electronic devices, which are an exception for passengers or crew and do not require approval from the certificate holder; and

(v) presents a label on the external surface, applied in a way that guarantees that the label will be kept affixed for the life of the concentrator and that it contains a declaration, by the manufacturer of the portable oxygen concentrator, that the concentrator is suitable for transportation on board of aircraft and meets the acceptance criteria of paragraph (f) (1) of this section. The label provided for in this paragraph may be waived, with authorization from ANAC, in cases where the manufacturer's country does not require its display, provided that the other acceptance criteria have been verified.

(2) Operational requirements. Portable oxygen concentrators that meet the acceptance criteria of paragraph (f) (1) of this section can only be carried and operated by a passenger on an aircraft if the certificate holder ensures that the following requirements are met:

(i) exit seats. No person operating a portable oxygen concentrator can occupy an exit seat. For the purposes of this paragraph, the definition of exit seat in section 135.129 applies; and

(ii) storage of the concentrator. During aircraft movement on the ground, take-off and landing, the concentrator must remain stored under the seat in front of the user passenger or in another place accepted by ANAC in a way that does not block an aisle or the entrance to a row. If the concentrator is operated by the user passenger, it must be operated only on a seat located in such a way as not to restrict any passenger access to, or use of, any required normal or emergency exits or aisles of the passenger cabin.

(Wording given by Resolution n° 549, of 03.20.2020)

<u>135.93 Autopilot: minimum</u> altitudes of use for airplanes

(a) Definitions. For the purposes of this section:

(1) Takeoff/initial climb and go-around/ approach heights are defined in relation to the airport's altitude;

(2) heights for en route operations are defined in relation to the altitude of the terrain; and

(3) heights for approach are defined in relation to the altitude of the contact zone (TDZE), unless the height is expressly defined in reference to the decision height (DH)/decision altitude (DA) or the minimum descent altitude (MDA).

(b) Takeoff and initial climb. It is forbidden to use an autopilot for take-off or initial climb at a height less than 500 feet or at a height less than twice the maximum height loss for autopilot malfunction as set out in the airplane's flight manual, whichever is higher, unless the autopilot is used at a height greater than the highest height between:

(1) the minimum engagement height of the autopilot specified in the airplane's flight manual; and

(2) at a minimum height specified by ANAC.

(c) En route. It is forbidden to use an autopilot en route, including ascending and descending, at a height less than the greatest height between:

(1) 500 feet;

(2) twice the maximum height loss for autopilot malfunction for cruising conditions, as established in the airplane's flight manual; and

(3) a minimum height specified by ANAC.

(d) Approach. It is prohibited to use an autopilot at a height less than 50 feet below the decision height (DH)/decision altitude (DA) or minimum descent altitude (MDA) for the instrument approach procedure used, except as follows:

(1) for aircraft with loss of height specified in the airplane flight manual for approach operations:

(i) at a height greater than or equal to twice the maximum loss of height for autopilot malfunction, if higher than the height of 50 feet below the decision height (DH)/decision altitude (DA) or altitude minimum descent (MDA); (ii) at a height greater than or equal to 50 feet above the loss of height for malfunction of the autopilot, when the following conditions are met:

(A) the reported weather conditions are below the visual conditions;

(B) the appropriate visual references for the approach procedure used have been established; and

(C) the autopilot is engaged and receiving lateral and vertical references;

(iii) the highest height between the maximum height loss for autopilot malfunction specified in the airplane's flight manual and the height of 50 feet above the contact zone altitude (TZDE), when the following conditions are met:

(A) the reported weather conditions are below the visual conditions; and

(B) the autopilot is engaged and receiving lateral and vertical references; or

(iv) at a higher height specified by ANAC;

(2) for autopilots with approach height limitations specified in the airplane's flight manual, the highest height between:

(i) the minimum height of use specified for the selected coupled approach mode;

(ii) 50 feet; and

(iii) the height specified by ANAC;

(3) for autopilots with a loss of height in the event of a malfunction specified in the airplane's flight manual equal to zero or negligible, the highest height between:

(i) 50 feet; and

(ii) the height specified by ANAC; and

 (4) if making a go-around or missed approach with the autopilot engaged, using a certified autopilot and operating in accordance with paragraph
(e) of this section.

(e) Go-around/missed approach. It is forbidden to engage an autopilot during a go-around or missed approach at a height less than the minimum engagement height specified for take-off and initial climb set out in paragraph (b) of this section. This minimum height of use of the autopilot does not apply if the go-around or missed approach is initiated with the autopilot engaged. Performing the go-around or missed approach with the autopilot engaged cannot adversely affect the maintenance of safe separation with obstacles.

(f) Landing. Except for paragraph (d) of this section, the minimum heights of use of the autopilot do not apply to operations with autopilot when an approved mode of the automatic landing system is used for landing. The automatic landing system must be authorized in the certificate holder's operating specifications.

(g) This section does not apply to operations conducted with helicopters. (Wording given by Resolution n° 494, of 10.17.2018)

<u>135.95 Crew and ground personnel:</u> <u>limitations on use</u>

A certificate holder can only use a person's services for ground services or as a crew member if the person performing those services:

(a) holds an appropriate license, with valid qualifications (if applicable);

(b) is qualified, according to the applicable RBAC or RBHA, for the operation in which the person is being used; and

(c) is instructed regarding his/her obligations and responsibilities and the relationship between them and flight operations.

(Wording given by Resolution n° 494, of 10.17.2018)

135.97 Aircraft and facilities for obtaining recent experience and familiarization with new areas, routes and airports

(a) The certificate holder must provide aircraft and facilities for each of its pilots to maintain and demonstrate their skills in conducting all operations for which it is authorized.

(b) The certificate holder must provide resources for familiarization with new areas, routes and airports for each of its pilots to maintain and demonstrate their skills in conducting all operations for which he/she is authorized. Familiarization procedures must be included in the company's general manual required by section 135.21 of this Regulation.

(Wording given by Resolution $n^{\rm o}$ 494, of 10.17.2018)

135.99 Flight crew composition

(a) The certificate holder may not operate an aircraft with a flight crew smaller than that specified for the aircraft in the operational limitations of the aircraft's flight manual or required by this Regulation for the type of operation to be conducted.

(b) The certificate holder may not operate an aircraft with passenger configuration for 10 seats or more, excluding any pilot seat, without a second pilot-in-command.

(Wording given by Resolution n° 494, of 10.17.2018)

135.100 Flight crew obligations

(a) The certificate holder cannot determine, and any flight crew member cannot perform, any service during critical phases of the flight, except those services required for the safe operation of the aircraft. Tasks such as radio calls to the company requesting a supply of "galley" or confirming passenger connections, messages to passengers promoting the company or drawing attention to points of interest on the ground, and filling in the logbook or flight report are not required for the safe operation of the aircraft. (Wording given by Resolution n° 494, of 10.17.2018)

(b) The flight crew member may not perform and the pilot-in-command may not allow any activity during critical phases of the flight that could divert any flight crew member from performing their duties or that could interfere in any way with the proper performance of those duties. Activities such as eating, engaging in non-essential conversations, making unnecessary communications to passengers or reading publications unrelated to conducting the flight are not activities required for the safe operation of the aircraft. (Wording given by Resolution n° 494, of 10.17.2018)

(c) For the purposes of this section, the critical phases of the flight include all ground operations involving rollover, take-off and landing and all other flight operations conducted below the altitude of 10,000 feet, except for cruise flight.

Note: rollover or taxiing is defined as "movement of an aircraft, by its own means, on the ground of an airport".

135.101 Second-in-command pilot required on IFR flights

A certificate holder may only operate an aircraft carrying passengers on an IFR flight if there is a second pilot-in-command on the aircraft, with valid IFR qualification, except as provided in section 135.105 of these Rules.

(Wording given by Resolution nº 494, of 10.17.2018)

135.103 Passengers on board while on the ground

(a) Unless there is a flight crew member in the aircraft's cockpit, a certificate holder cannot keep passengers on board, while on the ground, with the aircraft in one of the following conditions:

(1) being replenished with flammable fluids;

(2) with one or more engines running; or

(3) with any combustion equipment in operation (APU, cooling turbine, combustion heater, etc.).

(b) In addition, for operations with aircraft with a passenger configuration of 20 seats or more, excluding any pilot seat, during intermediate landings where passengers remain on board to continue their journey, the certificate holder must keep a flight attendant and the main door of access to the aircraft must remain open (or, in the event of bad weather, ready to be opened), with means that allow the aircraft to be abandoned quickly (ladder, finger, armed slide, etc.).

(c) A certificate holder cannot keep passengers on board, while on the ground, if conditions (a)(1) and (a)(2) of this section occur simultaneously.

(Wording given by Resolution nº 494, of 10.17.2018)

135.105 Exception to

pilot-in-command requirements: use of approved autopilot system

(a) Except as provided in sections 135.99 and 135.111 of this Regulation and unless two pilots are required for VFR operations, a person may operate an aircraft without a second pilot-in-command provided the aircraft is equipped with an autopilot system approved in operation and that its use is authorized by the appropriate operating specifications.

(b) The certificate holder may only use a person, and a person may only act as a pilot-in-command under this section on an aircraft in regular operation, as defined in RBAC No. 119, if that person has at least 100 flight hours as a pilot-in-command of aircraft of the same manufacture and model as the aircraft to be operated, and, in addition, complies with all other applicable requirements of this Regulation. (Wording given by Resolution $n^{\rm o}$ 526, of 08.06.2019)

(c) The certificate holder may request an amendment to its operating specifications, to obtain authorization for the use of an autopilot system in place of a second pilot-in-command.

(d) ANAC may issue an amendment to the certificate holder's operating specifications, authorizing the use of an autopilot system instead of a second pilot-in-command, if:

(1) the autopilot is able to operate the aircraft's controls to keep it in flight and maneuver it on the three flight axis (longitudinal, transverse and vertical); and

(2) the certificate holder demonstrates, to the satisfaction of ANAC, that the operation using the autopilot system can be conducted safely and in accordance with this Regulation.

(e) The amendment must contain any conditions or limitations on the use of the autopilot system that ANAC deems necessary to be in the interest of safety.

(Wording given by Resolution n° 494, of 10.17.2018)

<u>135.107 Flight attendant</u> requirements

A certificate holder may only operate an aircraft that has a passenger configuration of more than 19 seats, excluding any pilot seat, if there is a qualified flight attendant on board the aircraft.

(Wording given by Resolution nº 494, of 10.17.2018)

135.109 Pilot in command and second pilot-in-command: designation

(a) The certificate holder must designate:

(1) one pilot-in-command for each flight; and

(2) a second pilot-in-command for each flight where 2 pilots are required.

(b) The pilot-in-command designated by the certificate holder for a flight must remain as a pilot-in-command for the entire duration of that flight.

(Wording given by Resolution nº 494, of 10.17.2018)

135.111 Second pilot-in-command required for Category II operation

It is only permitted to operate an aircraft in Category II operations if a second pilot-in-command is duly qualified in the operation and on the aircraft.

(Wording given by Resolution nº 494, of 10.17.2018)

135.113 Pilot seat occupation

The certificate holder may not operate a certified type aircraft after October 15, 1971, which has a passenger configuration with more than 8 seats excluding any pilot seats, if any of the pilot seats is occupied by a person other than a pilot-in-command, a second pilot-in-command, a certified examiner of the certificate holder or an authorized ANAC designated server.

(Wording given by Resolution n° 494, of 10.17.2018)

135.115 Handling of controls

The pilot-in-command may not allow a person to handle an aircraft's flight controls during flights conducted under this Regulation, nor may a person handle those controls, unless that person is:

(a) a pilot linked to the certificate holder, qualified on the aircraft; or

(b) a server designated by ANAC, with authorization from the pilot-in-command, qualified in the aircraft and on a flight operations verification mission.

(Wording given by Resolution nº 494, of 10.17.2018)

135.117 Verbal instructions to passengers before take-off

(a) Before each take-off, each pilot-in-command of an aircraft carrying passengers must ensure that all passengers have been verbally instructed on:

(1) No smoking on board. Each passenger must be instructed on the ban on smoking on board. This instruction must include a statement that Brazilian standards require passengers to comply with the guidelines contained in the signs and, where applicable, the light signals (when lit) both attached to the aircraft. If the aircraft has a lavatory, a statement must be included that it is strictly forbidden to smoke inside it and, when this lavatory has a smoke detector, it is forbidden to interfere or tamper with the functioning of the smoke detector installed in that lavatory.

(2) use of seat belts, including instructions on how to fasten, adjust and remove them. Each passenger must be instructed on when, where and under what conditions the seat belts must be fitted over their bodies. This instruction should emphasize the obligation to comply with the guidelines contained in the light signs (if any), the signs fixed on the aircraft and the verbal instructions of the crew regarding the use of safety belts.

(3) placing the seat backs in an upright position before each take-off and landing;

(4) location and way to open the passenger entrance door and emergency exits;

(5) location of emergency and survival equipment, including those required by sections 135.166, 135.167, 135.176 and 135.177 of this Regulation;

(6) when the flight involves overflying large expanses of water, landing procedures in the water and use of the required flotation equipment;

(7) when the flight involves operation above 12,000 feet MSL, normal and emergency use of oxygen;

(8) location and operation of fire extinguishers;

(9) use of portable electronic equipment on board, according to section 135.144; and

(10) location and content of passenger instruction cards required by paragraph (e) of this section.

(b) Before each take-off, the pilot-in-command must ensure that each person who may need assistance from another person to move more quickly to an exit if an emergency occurs, and that person's assistant (if any), were properly instructed on the procedures to be followed if an emergency evacuation occurs. This paragraph does not apply to a person who received this instruction in the previous segment of the same flight, on the same aircraft.

(c) The verbal instructions required by paragraphs (a) and (b) of this section must be given by the pilot-in-command or another authorized crew member.

(d) Except as provided in paragraph (c) of this section, for aircraft certified to

carry 19 passengers or less, the verbal instructions required by paragraph (a) of this section must be given by the pilot-in-command, a crew member or other person person designated by the certificate holder in the company's general manual required by section 135.21 of this Regulation.

(e) The verbal instructions required by paragraph (a) of this section must be supplemented by printed cards, which must be placed in convenient positions for the use of each passenger. Cards must:

(1) be appropriate for the aircraft on which they will be used;

(2) contain a diagram of the emergency exits and the method of operating them;

(3) based on the guidelines issued by the manufacturer, contain information on the positions to be taken by passengers in case of forced landing of the aircraft; and

(4) contain other instructions necessary for the use of emergency equipment on board the aircraft.

(f) Subject to the provisions of paragraphs (c) and (d) of this section, the verbal instructions required by paragraph (a) of this section may be given by means of a pre-recorded tape playback device, which is audible from each passenger seat, under normal noise levels.

(Wording given by Resolution $n^{\rm o}$ 494, of 10.17.2018)

135.119 Prohibition of carriage of arms on board

(a) Except as provided in paragraph (b) of this section, a person, while on board an aircraft being operated by a certificate holder, may not carry or bring a dangerous or deadly weapon with him/her, whether it is concealed or not.

(b) Exceptions to paragraph (a) of this section provided for in the National Civil Aviation Security Program against Unlawful Interference Acts (PNAVSEC) and the regulations arising therefrom must be complied with.

(c) The certificate holder must establish in the company's general manual its own rules and procedures for complying with the provisions contained in the National Civil Aviation Security Program against Unlawful Interference Acts (PNAVSEC) and in the regulations resulting therefrom. (Wording given by Resolution nº 494, of 10.17.2018)

135.121 Alcoholic beverages

(a) It is forbidden to drink any alcoholic beverage on board an aircraft, unless the certificate holder operating the aircraft has served the drink.

(b) The certificate holder may not serve alcoholic beverages to a person on board its aircraft if that person appears to be drunk.

(c) The certificate holder cannot allow a person to board any of its aircraft if that person appears to be drunk.

(Wording given by Resolution nº 494, of 10.17.2018)

135.122 Storage of food, drinks and passenger service equipment while the aircraft is moving on the ground and during takeoffs and landings

(a) A certificate holder may not move the aircraft on the ground, take off or land an aircraft while any food, drink and related artifacts provided by it are in a passenger seat.

(b) A certificate holder can only move on the ground, take off or land an aircraft, if trays and tables used for passengers' meals and drinks are placed and secured in the places where they are kept.

(c) A certificate holder may only allow its aircraft to move on the ground, take-off and land, if each passenger service cart is secured in the position where it is normally stored.

(d) Each passenger must obey the instructions given by the crew regarding the matters in this section.

(Wording given by Resolution nº 494, of 10.17.2018)

135.123 Duties in emergencies and emergency evacuations

(a) The certificate holder shall designate, for each crew member required in each type of aircraft, the functions to be performed in an emergency or in a situation requiring emergency evacuation. The certificate holder must ensure that these functions can be practically exercised and that they meet any emergency with a reasonable probability of occurrence, including the incapacity for a certain crew member or his/her inability to reach the passenger compartment due to the displacement of the cargo on an aircraft with mixed cargo/passenger loading.

(b) The certificate holder must describe, in the company's general manual required by section 135.21 of this Regulation, the functions of each required crew category, designated in compliance with paragraph (a) of this section.

(Wording given by Resolution nº 494, of 10.17.2018)

135.125 Aircraft security

The certificate holder conducting operations under this Regulation must comply with the general security requirements established by ANAC in the National Civil Aviation Security Program against Unlawful Interference Acts (PNAVSEC) and in the resulting regulation.

(Wording given by Resolution nº 494, of 10.17.2018)

<u>135.127 Passenger warning</u> requirements and smoking ban on board

(a) It is only permitted to conduct operations under this Regulation if the warning light signals to passengers of "no smoking" (or similar) remain accessible throughout the flight or one or more "no smoking" signs (or similar), meeting the requirements of sections 23.1541, 25.1541, 27.1541 and 29.1541 of RBAC n° 23, 25, 27 or 29 as applicable, remain displayed throughout the flight. If both signs and illuminated signs are used, the latter must remain on throughout the flight.

(b) [Reserved]

(c) Smoking is prohibited on board an aircraft operated under this Regulation.

(d) It is prohibited to obstruct, turn off or destroy a smoke detector installed in the lavatory of an aircraft.

(e) During all segments of the flight, the light signal "No Smoking" (or similar) must be on, or the sign "No Smoking" (or similar) must be visible, during the entire movement of the aircraft on the ground, for each take-off or landing, and at any other time considered necessary by the pilot-in-command.

(f) The passenger information requirements in paragraphs 91.517 (b) and (d) of the RBAC 91, are in addition to the requirements set out in this section. (Wording given by Resolution n° 612, of 03.09.2021) (g) Each passenger must obey verbal or visual instructions regarding the matters in this section.

(Wording given by Resolution n° 494, of 10.17.2018)

135.128 Use of seat belts and child safety seats

(a) Except as provided in this paragraph, each person on board an aircraft operated under this Regulation must occupy an approved seat or bed, with an individual seat belt adjusted over his/her body, during aircraft movement on the ground, takeoffs and landings. For floatplanes and aircraft with floats, during operations in the water, the people in charge of docking and unberthing the aircraft do not need to meet the requirements regarding the occupation of seats and the use of seat belts. The seat belt provided for use by a seat occupant cannot be used by more than one person. Subject to the preceding requirements, a child may:

(1) be held by an adult who is occupying an approved seat or bed, provided that the child is less than two years old and does not occupy or use any restraint device; or

(2) with the exception of any other RBAC requirement, occupy a child safety seat provided by the certificate holder or one of the persons mentioned in paragraph (a)(2)(i) of this section, provided that:

(i) the child is accompanied by a parent, guardian or person designated by the child's parent or guardian to ensure the child's safety during the flight;

(ii) the safety seat has been approved for use on aircraft by a Brazilian or foreign aeronautical authority, in accordance with national standards or the International Civil Aviation Organization (ICAO). The approval must be evidenced by a label attached to the safety seat; and

(iii) the certificate holder is responsible for verifying compliance with the requirements below:

(A) the safety chair must be properly fixed to an approved seat or bed facing the front of the aircraft;

(B) the child must be properly secured by the fastening system of the safety seat and must not exceed the specified weight limit for which the seat has been approved; and (C) the safety chair must have the label referred to in paragraph (a)(2)(ii) of this section. The label must contain the maximum weight for which it has been approved.

(b) A certificate holder cannot prohibit a child from occupying a child safety seat provided by the parent, guardian or person responsible for the child, provided that the child has an approved seat or bed pass, or can use an approved seat or bed made available to him/her by the certificate holder, and provided that the requirements set out in paragraphs (a)(2) (i) to (a)(2)(iii) of this section are met. This section does not prohibit the certificate holder from providing its own child safety seats or that, consistent with operational safety practices, determine the most appropriate location for the passenger seat where a safety seat will be attached.

(Wording given by Resolution n° 494, of 10.17.2018)

135.129 Exit seats

(a)

(1) Applicability. This section applies to all certificate holders operating under this Regulation with helicopters with more than 19 seats for passengers or in which they conduct scheduled operations with aircraft having 10 or more seats for passengers. (Wording given by Resolution n° 526, of 08.06.2019)

(2) Obligation to establish suitability. The certificate holder shall establish, considering the capacity necessary to perform the applicable tasks of paragraph (d) of this section, the suitability of each person to allow him/ her to occupy an exit seat. For the purposes of this section:

(i) exit seat means:

(A) each seat having direct access to an aircraft exit; and

(B) each seat in a row of seats through which passengers must pass to gain access to an exit, from the seat next to the exit to the seat next to the aisle closest to the exit.

(ii) a passenger seat with direct access means a seat from which a passenger can directly reach an exit without going through an aisle or by-passing any obstruction.

(3) Persons designated to establish suitability. The certificate holder must designate, in the company's general

manual required by this Regulation, the persons responsible for establishing the suitability, in a non-discriminatory manner and consistent with the requirements of this section, of each person to occupy an exit seat.

(4) Submission for identification approval. The certificate holder must identify, for each passenger seat configuration in its fleet and in accordance with the definitions in this paragraph, which are the "exit seats" of each of its aircraft. This identification must be submitted for approval by ANAC as part of the procedures that must be approved according to paragraph (n) of this section.

(b) A certificate holder cannot authorize a person to occupy a seat affected by that section if it is found that the person is likely to be unable to perform one or more of the applicable tasks listed in paragraph (d) of this section because:

(1) the person lacks sufficient mobility, strength or dexterity in both arms and hands and/or both legs:

(i) to move forward, sideways or downward, towards the operating mechanisms of the emergency exit and slide;

(ii) to grasp and pull, push, twist or otherwise manipulate said mechanisms;

(iii) to push, squeeze, pull or otherwise open emergency exits;

(iv) to lift, support and deposit in close seats, or to maneuver on the backrests of the front row seats, objects of the size and weight of an emergency exit door on the wings;

(v) to remove obstructions similar in size and weight to an emergency exit door on the wings;

(vi) to quickly reach the emergency exit;

(vii) to remain balanced while removing obstructions;

(viii) to quickly abandon the aircraft;

(ix) to stabilize an escape slide after opening; or

(x) to assist others in using an escape slide;

(2) the person is under 15 years of age or is unable to perform one or more of the applicable tasks listed in paragraph (d) of this section without the assistance of an adult (parents, relatives or friends);

(3) the person is unable to read and understand the instructions required

by that section and the instructions regarding emergency evacuations provided by the certificate holder in written or graphical form or, furthermore, the person is unable to understand the oral instructions given by crew members;

(4) the person does not have sufficient visual capacity to perform one or more of the applicable tasks listed in paragraph (d) of this section without the aid of visual aids superior to contact lenses or glasses;

(5) the person does not have sufficient hearing capacity to hear and understand instructions shouted by the flight attendants without the aid of hearing aids superior to a common hearing aid;

(6) the person does not have adequate capacity to exchange oral information with other passengers; or

(7) the person has:

(i) a condition or responsibility, such as caring for a young child, that may prevent him/her from performing one or more of the applicable tasks listed in paragraph (d) of this section; or

(ii) a condition that could cause him/ her to be injured when attempting to perform one or more of the applicable tasks listed in paragraph (d) of this section.

(c) Each passenger must comply with the instructions given by a crew member, or by another person authorized by the certificate holder, implementing the seat occupation restrictions in accordance with this section.

(d) The certificate holder shall include on the passenger information card for each exit seat affected by that section, in the primary language in which passengers are given oral instructions, information that, in the event of an emergency in which there is no crew member available to assist, a passenger occupying any exit seat may be called upon to perform one of the following tasks:

(1) locate an emergency exit;

(2) recognize an emergency exit opening mechanism;

(3) understand the instructions for operating the emergency exit;

(4) operate an emergency exit;

(5) assess whether opening an emergency exit will increase the risks to which passengers are exposed; (6) follow oral guidance or gestures given by a crew member;

(7) support or secure an emergency exit door so that it does not prevent the use of the exit;

(8) assessing the condition of a slide, opening and stabilizing it after opening, helping others to use it for escape;

(9) passing quickly through an emergency exit; and

(10) assess, select and follow a safe path from an emergency exit.

(e) Passenger information cards.

(1) The certificate holder must include in the passenger information card for each exit seat the following:

(i) in the primary language in which the crew will issue emergency commands, the selection criteria set out in paragraph (b) of this section and a request for a passenger to identify himself or herself to be switched if he/she:

(A) does not meet the selection criteria of paragraph (b) of this section;

(B) has a condition, not evident, that prevents him/her from performing the applicable tasks listed in paragraph (d) of this section;

(C) may be injured as a result of performing one or more of the aforementioned tasks; or

(D) does not wish to perform these tasks;

(ii) request, in the language of the certificate holder and in English, for the passenger who feels unable to read, speak, or understand the language (or the graphic form) used in the instructions required by this section and those on emergency evacuation, identify him/herself to a crew member to change seats;

(iii) information that he/she may be injured in the body as a result of performing one or more of these tasks; and

(iv) that he/she may refuse to perform these tasks.

(f) The certificate holder must disclose to the public, at all boarding and ticket sales locations at each airport where it conducts passenger operations, the written procedures established to determine whether or not a person can occupy an exit seat. (g) A certificate holder may only authorize the taxi or "push back" if at least one requested crew member has verified that there is no exit seat occupied by a person that such crew member believes is unable to perform one of the applicable tasks listed in paragraph (d) of this section.

(h) The certificate holder shall include in the verbal instructions to passengers a reference to the passenger information cards required by paragraphs (d) and (e), the selection criteria set out in paragraph (b) and the tasks to be performed established in paragraph (d) of this section.

(i) The certificate holder must include in the verbal instructions to passengers a request for a passenger to identify him/ herself, allowing his/her repositioning, if he/she:

(1) cannot meet the selection criteria set out in paragraph (b) of this section;

(2) has a condition, not evident, that prevents him/her from performing the applicable tasks listed in paragraph (d) of this section;

(3) may be injured as a result of performing one or more of those tasks; or

(4) does not wish to perform these tasks.

(j) A certificate holder cannot require a passenger to disclose the reasons why he/she wants to switch places.

(k) If a certificate holder finds, according to this section, that a passenger designated to occupy an exit seat is likely to be unable to perform the tasks listed in paragraph (d) of this section, or even if a passenger requires a non-exit seat, the certificate holder should, as soon as possible, reposition that person to a non-exit seat.

(I) In the event that all non-exit seats are occupied and it is necessary to reposition a passenger occupying an exit seat, the certificate holder must move to that latter seat a person who can and accepts to carry out the evacuation tasks that may become necessary.

(m) A certificate holder may refuse to transport a person under this section only if:

(1) the passenger refuses to obey the instructions, given by a crew member or other person authorized by the certificate holder, regarding compliance with the restrictions on occupying exit seats established by this section; or (2) the only seat that could physically accommodate that person is an exit seat.

(n) In order to comply with this section, certificate holders must:

(1) establish procedures providing for:

(i) the criteria listed in paragraph (b) of this section;

(ii) the tasks listed in paragraph (d) of this section;

(iii) the requirements for disclosing the information required by this section for passenger information cards, for crew members responsible for verifying the correct occupancy of exit seats, for oral information for passengers, for the designation of seats and for the refusal to transport a passenger, all in accordance with this section;

(iv) how to resolve disputes created by the implementation of the provisions of this section, including functional identification of the person in charge, at the airport, of receiving complaints and resolving them; and

(2) submit its procedures to ANAC for assessment and approval.

(o) The certificate holder must designate the seats for passengers, before boarding them, in a manner consistent with the criteria listed in paragraph (b) and the tasks listed in paragraph (d) of this section to the maximum practicable extent.

(Wording given by Resolution n° 494, of 10.17.2018)

135.131 Flight simulation of abnormal or emergency situations

It is prohibited to simulate abnormal or emergency procedures or to simulate meteorological conditions by instruments (BMI) by artificial means in a public air transport operation.

(Included by Resolution No. 494, of October 17, 2018)

135.133 Reports on collision with fauna

The certificate holder or pilot-in-command of aircraft flying on Brazilian airspace must inform the Aeronautical Accident Investigation Prevention Center – CENIPA if its aircraft has suffered a collision with one or more birds, unless it has already been reported as an accident or incident. It should also be informed if a group of birds is seen that could endanger air operations near airport sites.

(Included by Resolution No. 494, of October 17, 2018)

SUBPART C

AIRCRAFT AND EQUIPMENT

135.141 Applicability

This Subpart establishes requirements for aircraft and equipment for operations under this Regulation. The requirements of this Subpart are in addition to the aircraft and equipment requirements of the RBAC 91. However, this Regulation does not require duplication of any equipment required by both regulations.

(Wording given by Resolution n° 612, of 03.09.2021)

135.143 General requirements

(a) It is only permitted to operate an aircraft under this Regulation if the aircraft and its equipment comply with the applicable RBAC and/or RBHA rules.

(b) Except as provided in section 135.179, it is only permitted to operate an aircraft under this Regulation if the required instruments and equipment have been approved and are in serviceable condition.

(c) Unless otherwise specified by the Airspace Control Department – DECEA, aircraft operating under this Regulation must have transponder equipment installed that meets the performance and environmental conditions requirements of OTP (TSO) -C74c (Mode A/C), or later revisions, or OTP (TSO) -C112 (Mode S).

(1) Airplanes that perform international flights must have transponder equipment installed that meets the OTP (TSO) -C112 (Mode S).

(Wording given by Resolution nº 494, of 10.17.2018)

135.144 Portable electronic devices

(a) Except as provided for in paragraph (b) of this section, it is prohibited to use or authorize the use of any electronic device in any civil aircraft registered in Brazil operating under this Regulation. (Wording given by Resolution n° 494, of 10.17.2018)

(b) Paragraph (a) of this section does not apply to:

(1) portable voice recorders;

- (2) hearing aids;
- (3) pacemakers;
- (4) electric shavers; or

(5) portable oxygen concentrators that comply with the requirements of section 135.91; or (Wording given by Resolution No. 549, of March 20, 2020)

(6) any other portable electronic device that the holder of a certificate issued under RBAC No. 119 has determined not to cause interference with the navigation or communication systems of the aircraft on which it will be used. (Included by Resolution No. 549, of March 20, 2020)

(c) The determination required by paragraph (b)(6) of this section must be made by the holder of a certificate issued under RBAC No. 119 operating the aircraft in which the particular device is intended to be used. (Wording given by Resolution n° 549, of 03.20.2020)

(d) Except as provided in paragraph (a) of this section, certificate holders may authorize the use of cell phones on board aircraft provided that:

(1) they are airplanes with passenger configuration for more than 20 seats and with a fuel refueling system under pressure;

(2) these planes are parked in the designated place for passengers to board or disembark, with the engines turned off, with the door(s) open and with systems sensitive to electromagnetic interference deactivated; and

(3) the certificate holder has established a procedure appropriate to the circumstances and contained in the company's general manual required by section 135.21 of this Regulation.

(Wording given by Resolution n^{o} 494, of 10.17.2018)

<u>135.145 Operational evaluation</u> <u>flights and validation tests</u>

(a) The certificate holder may only permit the operation of an aircraft, other than a jet engine, for which type certification requirements require 2 pilots for VFR operation and which has not been previously operated by this holder of certification under this Regulation, if he/she have performed at least 25 hours of operational evaluation flight with this aircraft model, or aircraft of similar design, in a manner acceptable to ANAC, including: (1) five hours of night flight, if flights are authorized;

(2) five instrument approach procedures, under simulated or real instrument flight conditions, if IFR flights are authorized; and

(3) approaches at a representative number of airports, as determined by ANAC.

(b) The certificate holder may only permit the operation of a jet engine if it has performed at least 25 hours of operational assessment flight with a jet engine in a manner acceptable by ANAC, including:

(1) five hours of night flight, if flights are authorized;

(2) five instrument approach procedures, under simulated or real instrument flight conditions, if IFR flights are authorized; and

(3) approaches at a representative number of airports, as determined by ANAC.

(c) The certificate holder cannot carry passengers on an aircraft during the operational evaluation flights, except those necessary for the evaluation and those designated by ANAC to observe the evaluation. However, pilot training on these flights is authorized.

(d) For the purposes of paragraph (a) of this section, an aircraft is not considered to be of similar design to another if:

(1) it has other aeronautical engines, according to RBAC No. 01 classification, than those with which the original aircraft was certified; or

(2) there are changes in the aircraft or its components that materially affect flight characteristics.

(e) Validation tests are required to determine that the certificate holder is able to conduct operations safely and in compliance with applicable regulatory standards. Validation tests are required for the following authorizations:

(1) incorporation of an aircraft for which two pilots are required for VFR operations or a jet aircraft, if this aircraft, or an aircraft of the same manufacturer or similar design has not been approved or validated for operations under this part;

(2) operations outside Brazilian airspace;

(3) Class II navigation permits; and

(4) performance or authorization of special operators.

(f) Validation tests must be carried out by methods acceptable to ANAC. Actual flights may not be required when the applicant can demonstrate incumbency and compliance with appropriate regulations, without conducting the flight.

(g) Validation tests and operational evaluation flights can be carried out simultaneously when appropriate.

(h) ANAC may authorize deviations from this section if the operator proves that special circumstances make full compliance with this section unnecessary.

(Wording given by Resolution n° 494, of 10.17.2018)

135.147 Duplicate flight controls

It is only permitted to operate an aircraft in operations requiring two pilots if it is equipped with dual flight controls and in operation. However, if the aircraft has been certified without requiring two pilots, a single stick, transferable by rotation from one station to another ("throw over control"), is acceptable.

(Wording given by Resolution n° 494, of 10.17.2018)

<u>135.149 Equipment requirements:</u> <u>general</u>

It is only permitted to operate an aircraft if it is equipped with:

(a) a sensitive altimeter adjustable by barometric pressure for each pilot required;

(b) heating or de-icing equipment for each carburetor or, for pressure carburetors, an alternate source of air;

(c) for reaction planes, in addition to two gyroscopic tilt and pitch indicators (artificial horizon) for use in the pilots' positions, a third indicator installed in accordance with the instrument requirements set out in paragraph 121.305(k) of RBAC no. 121;

(d) [reserved]; and

(e) for aircraft with turbine engines, other equipment that ANAC, at its discretion, requires.

(Wording given by Resolution nº 494, of 10.17.2018)

135.150 Passenger warning and crew intercom systems

It is only permitted to operate an aircraft having a configuration for passengers with more than 19 seats, excluding any seat for crew members, if it is equipped with:

(a) a passenger warning system that:

(1) is capable of operating independently of the crew intercom system required by paragraph (b) of this section, except for microphones, headsets, handsets, selector switches and signaling devices;

(2) is approved in accordance with section 21.305 of RBAC No. 21;

(3) is accessible for immediate use from each of the two cockpit pilot positions;

(4) for each emergency exit required at floor level that has a flight attendant seat adjacent to it, have a microphone readily accessible to the flight attendant seated, except when a single microphone can serve more than one exit and that the proximity between the exits allow unattended verbal communication between seated flight attendants;

(5) is able to be operational within 10 seconds at each of the flight attendant posts in the passenger cabin where it is accessible for use;

(6) is audible on all passenger seats, lavatories, flight attendant seats and flight attendant workstation; and

(7) for transport category airplanes manufactured on or after November 27, 1990, meets the requirements of section 25.1423 of RBAC No. 25.

(b) an intercom system for crew members that:

(1) is capable of functioning independently of the passenger warning system required by paragraph (a) of this section, except for microphones, headsets, handsets, selector switches and signaling devices;

(2) is approved in accordance with section 21.305 of RBAC No. 21;

(3) provides a means of bilateral communication between the cockpit and:

(i) each passenger cabin; and

(ii) each "galley" located in a location other than the main floor of the passengers; (4) is accessible for immediate use from each of the flight deck cockpits;

(5) is accessible for use in at least one scheduled flight attendant's workstation in each passenger cabin;

(6) is able to be operational within 10 seconds at each of the flight attendant posts in the passenger cabin where it is accessible for use; and

(7) for large planes the reaction:

(i) is accessible for use in a sufficient number of flight attendant posts so that all emergency exits at floor level (or the access aisles to those exits if they are located between "galleys"), in each passenger cabin, are observable from one or more of the flight attendant stations equipped with the system;

(ii) has an alert system incorporating audible and visual signals for use by the flight crew to alert flight attendants and for use by flight attendants to alert flight crew;

(iii) for the alert system required by paragraph (b)(7)(ii) of this section, there is a means for the recipient of a call to determine whether the call is normal or emergency; and

(iv) when the plane is on the ground, provide a means of bilateral communication between the ground personnel and at least two positions in the cockpit. The position for use of the system by ground personnel should be located so that the person using it can stay out of sight of people inside the plane.

(Wording given by Resolution nº 494, of 10.17.2018)

135.151 Voice recorder in the cabin

(a) It is only allowed to operate a multi-engine aircraft with turbine engines, having a configuration for passengers of six or more seats and for which two pilots are required by the certification or operating rules, if it is equipped with an approved voice recorder in the cockpit that:

(1) is installed in accordance with the requirements of paragraphs: 23.1457(a)(1) and (2), (b), (c), (d) (1)(i), (2) and (3), (e), (f) and (g) of RBAC No. 23; 25.1457(a)(1) and (2), (b), (c), (d) (1) (i), (2) and (3), (e), (f), and (g) RBAC No. 25; 27.1457(a)(1) and (2), (b), (c), (d) (1) (i), (2) and (3), (e), (f), and (g) RBAC 27 and 29.1457(a) (1) and (2), (b), (c), (d) (1)(i), (2) and (3), (e), (f), and (g) of RBAC No. 29, as applicable; and (2) is operated continuously from the beginning of the checklist before the flight until the end of the checklist after the flight.

(b) It is only permitted to operate a multi-engine aircraft with turbine engines, which has a configuration for passengers with 20 or more seats, if it is equipped with an approved voice recorder in the cockpit that:

(1) is installed in accordance with sections 23.1457 (except paragraphs (a)(6), (d)(1)(ii), (4) and (5)), 25.1457 (except paragraphs (a)(6), (d)(1)(ii), (4) and (5)), 27.1457 (except paragraphs (a)(6), (d) (1)(ii), (4) and (5)) or 29.1457 (except paragraphs (a)(6), (d)(1)(ii), (4) and (5)), of RBAC No. 23, 25, 27 and 29, respectively, as applicable; and

(2) is operated continuously from the beginning of the checklist before the flight until the end of the checklist after the flight.

(c) In the event of an accident or occurrence requiring immediate notification to ANAC and which determines the end of the flight, the certificate holder must keep the flight recording for at least 60 days or, if required by ANAC, for a longer period long. The information obtained from the recording can only be used in accordance with art. 88-I to 88-L of Law No. 7,565, of December 19, 1986.

(d) For those aircraft equipped to continuously record audio signals received by a labiophone or mask microphone, flight crew members are required to use the labiophone below 18,000 feet above average sea level. It is only permitted to operate a large aircraft with turbine engines manufactured after October 11, 1991, or in which a voice recorder was installed after October 11, 1995, if the aircraft is equipped to record audio signals received by a labiophone or a mask microphone, in accordance with paragraph 25.1457(c)(5) of RBAC No. 25.

(e) For compliance with this section, an approved voice recorder may be used having a recording erasure device provided that, during the operation of the recorder:

(1) the information is recorded in accordance with paragraph (a) of this section and only recordings made more than 15 minutes are deleted or obliterated; or

(2) the information is recorded in accordance with paragraph (b) of this section and only the recordings made more than 30 minutes are deleted or obliterated.

(f) All aircraft subject to paragraphs (a) or (b) of this section, which are manufactured before April 7, 2012 and which are required to have a recorder in accordance with section 135.152, must have a voice recorder, which also:

(1) meets requirements 23.1457(d) (6) of RBAC No. 23, or 25.1457(d)(6) of RBAC No. 25, as applicable; and

(2) if the aircraft is a transport category, with the requirements of paragraphs 25.1457(a)(3), (a)(4) and (a)(5) of RBAC No. 25.

(g)

(1) It is only allowed to operate a multi-engine aircraft with turbine engines, manufactured from April 7, 2012, which has a passenger configuration of six or more seats, in which two pilots are required by certification or operating rules and that it is necessary to have a data recorder in section 135.152, if it is equipped with an approved "cockpit" voice recorder, which also:

(i) is installed in accordance with sections 23.1457, 25.1457, 27.1457 or 29.1457, of RBAC No. 23, 25, 27 and 29, respectively, as applicable;

(ii) is operated continuously from the beginning of the checklist (checklist), before the flight, until the end of the checklist after the flight; and

(iii) keeps at least the last 2 hours of information recorded using a recorder that meets TSO-C123a, or later version.

(2) It is only allowed to operate a multi-engine aircraft with turbine engines, manufactured from April 7, 2012, having a passenger configuration of 20 or more seats, and that it is necessary to have a flight data recorder in accordance with section 135.152, if it is equipped with an approved "cockpit" voice recorder, which also:

(i) is installed in accordance with sections 23.1457, 25.1457, 27.1457 or 29.1457, of RBAC No. 23, 25, 27 and 29 respectively, as applicable;

(ii) is operated continuously from the beginning of the checklist (checklist), before the flight, until the end of the checklist after the flight; and

(iii) keeps at least the last 2 hours of information recorded using a recorder that meets TSO-C123a, or later version.

(h) All aircraft that, by this section, must have a voice recorder in the cockpit and a flight data recorder, as of April 7, 2012, must record all messages generated by the communication equipment by datalink, as required by the certification regulations applicable to the aircraft, if they have this equipment installed.

(Wording given by Resolution n° 494, of 10.17.2018)

135.152 Flight data recorders

(a) Except as provided for in paragraph (k) of this section, it is only permitted to operate a multi-engine aircraft with turbine engines having a passenger configuration of 10 to 19 seats excluding any crew seats and which was manufactured after October 11, 1991, if the aircraft is equipped with one or more approved flight data recorders, which use digital techniques to record and retain data and which allow a prompt recovery of the data retained in the recording. The parameters specified in Appendices B or C, as applicable, must be recorded within the specified ranges, precision, resolutions and recording intervals. The recorder must retain at least 8 hours of aircraft operation. (Wording given by Resolution nº 494, of 10.17.2018)

(b) It is only permitted to operate a multi-engine airplane with turbine engines having a passenger configuration of 20 to 30 seats or a multi-engine helicopter with turbine engines having a configuration for passengers with 20 or more seats, if the aircraft is equipped with one or more approved flight data recorders that use digital techniques to record and retain data and allow for prompt recovery of the data retained in the recording. The parameters of Appendices D or E of this Regulation, as applicable and as listed below, must be recorded within the specified ranges, accuracy, resolution and recording intervals:

(1) Except as provided in paragraph (b)(3) of this section, for aircraft of type certified before October 1, 1969, the following parameters must be recorded:

- (i) time;
- (ii) altitude;
- (iii) speed;

(iv) vertical acceleration;

(v) bow;

(vi) time of each radio transmission between aircraft-air traffic control;

(vii) pitching attitude;

(viii) rolling attitude;

(ix) longitudinal acceleration;

(x) position of the control column or position of the pitch control surface; and

(xi) thrust of each engine;

(2) Except as provided in paragraph (b)(3) of this section, for aircraft of a type certified after September 30, 1969, the following parameters must be recorded:

(i) time;

(ii) altitude;

(iii) speed;

(iv) vertical acceleration;

(v) bow;

(vi) time of each radio transmission between aircraft-air traffic control;

(vii) pitching attitude;

(viii) rolling attitude;

(ix) longitudinal acceleration;

(x) position of the depth compensator;

(xi) position of the control column or position of the pitch control surface;

(xii) position of the steering wheel or the lateral control surface;

(xiii) position of the pedals or position of the yaw control surface;

(xiv) thrust of each engine;

(xv) position of each thrust reverser;

(xvi) position of the trailing edge flaps or their control lever; and

(xvii) position of the leading edge flaps or their control lever; and

(3) for aircraft manufactured after October 11, 1991, all parameters listed in Appendices D or E of this Regulation, as applicable, must be recorded.

(Wording given by Resolution nº 494, of 10.17.2018)

(c) Whenever a flight data recorder required by this section is installed, it must be operating continuously, from the moment the airplane starts the take-off run or the rotary wing aircraft starts to leave the ground until the aircraft has completed the landing run or the rotary-wing aircraft has landed at its destination.

(d) Except as provided in paragraph (e) of this section and except for recorded data that has been deleted as authorized by this section, the certificate holder shall retain the recorded data set out in paragraph (a) of this section until the aircraft has been used for at least 25 hours of the operating time specified in paragraph (c) of this section. In addition, the certificate holder must retain the recording of the data set out in paragraph (b) of this section for an airplane until it has been operated for at least 25 hours and for a helicopter until it has been operated for at least 10 hours, considering the operating time provided for in paragraph (c) of this section. One (1) hour of recording can be erased for the purpose of testing the recorder or the recording system. Any erasure made in accordance with this paragraph must be of the oldest data already accumulated at the time of the test. Except as provided in paragraph (e) of this section, no recording needs to be kept for more than 60 days. (Wording given by Resolution nº 494, of 10.17.2018)

(e) In the event of an accident or occurrence which requires immediate communication to ANAC and which results in termination of the flight, the certificate holder must remove the aircraft recording and retain the data required by paragraphs (a) and (b) of this section for at least 60 days or for a longer period if so required by ANAC. The information obtained from the recording can only be used in accordance with art. 88-I to 88-L of Law No. 7,565, of December 19, 1986.

(f)

(1) For airplanes manufactured on or before August 18, 2000, and all other aircraft, each flight data recorder required by this section must be installed in accordance with requirements 23.1459 (except paragraphs (a)(3)(ii) and (6)), 25.1459 (except paragraphs (a)(3)(ii) and (7)), 27.1459 (except paragraphs (a)(3)(ii) and (6)), or 29.1459 (except paragraphs (a) (3)(ii) and (6)), as applicable. The correlation required by paragraph (c) of the aforementioned sections, as applicable, need only be determined for an aircraft of a group of aircraft that:

(i) are of the same type;

(ii) in which the recorder models and their facilities are identical; and

(iii) in which there are no differences in type design with regard to the installation of the first pilot's instruments correlated with the flight recorder. The most recent calibration of the instruments, including the recording from which this calibration was derived, must be retained by the certificate holder.

(2) For airplanes manufactured after August 18, 2000, each flight data recorder required by this section must be installed in accordance with requirements 23.1459(a) (except paragraphs (a)(3)(ii) and (6)), (b), (d) and (e) of RBAC No. 23 or 25.1459(a) (except paragraphs (a)(3)(ii) and (7)), (b), (d) and (e) RBAC No. 25, as applicable. A correlation must be established between the recorded values and the corresponding values being measured. The correlation must have a sufficient number of points to establish the conversion of the recorded values to engineering units or discrete values over the entire operating range of the parameter. Except for planes having separate speed and altitude sensors as an integral part of a flight data recording system, a single correlation can be established for any group of planes:

(i) that are of the same type;

(ii) in which the flight data recording system and its installation are the same; and

(iii) in which there is no difference in the type design with regard to the installation of those sensors associated with the flight data recording system. The certificate holder must retain sufficient documentation to convert the recorded data required by the applicable Appendix to engineering units and discrete values.

(g) Each flight data recorder required by this section, which records the data specified in paragraphs (a) and (b) of this section, must have an approved device that facilitates the location of the recorder when submerged.

(h) The operational parameters to be recorded by the digital flight data recorders required by paragraphs (i) and (j) of this section are as follows (the phrase "when the information source is installed" indicates that the recording of the parameter is not required if you need to modify the installed equipment):

(1) time;

(2) altitude;

(3) speed;

(4) bow – primary reference of the crew (if selectable, record, discreet, true or magnetic);

(5) normal (vertical) acceleration;

(6) pitching attitude;

(7) rolling attitude;

(8) manual activation of the radio transmitter or CVR/DFDR synchronization reference;

(9) thrust/power of each engine – the crew's primary reference;

(10) autopilot engagement situation;

(11) longitudinal acceleration;

(12) triggering the pitch control;

(13) activation of the roling control;

(14) activation of the steering pedal;

(15) position of the primary pitch control surface;

(16) position of the primary lateral control surface;

(17) position of the primary yaw control surface;

(18) lateral acceleration;

(19) position of the depth compensator surface or the parameters of paragraph (a)(82) of this section if currently recorded;

(20) position of the trailing edge flap or its control in the cabin (except when the parameters of paragraph (h)(85) of this section apply); (Wording given by Resolution n° 494, of 10.17.2018)

(21) position of the leading edge flap or its control in the cabin (except when the parameters of paragraph (h)(86) of this section apply); (Wording given by Resolution n° 494, of 10.17.2018)

(22) position of each thrust reverser (or equivalent for propeller planes);

(23) selection of the ground spoiler or aerodynamic brake (except when the parameters of paragraph (h)(87) of this section apply); (Wording given by Resolution n° 494, of 10.17.2018)

(24) total air temperature or outside air temperature;

(25) modes and engagement status of the Automatic Flight Control System (AFCS), including "autothrottle";

(26) radio altitude (when the information source is installed); (27) deviation from the "localizer", azimuth from the MLS;

(28) deviation from the "glideslope", elevation of the MLS;

(29) passage through the marker beacon;

(30) general alarm ("master warning");

(31) air/ground sensor (primary system of the airplane: main landing gear or mouthpiece);

(32) angle of attack (when the information source is installed);

(33) low hydraulic pressure (each system);

(34) ground speed (when the information source is installed);

(35) ground proximity alarm system (GPWS);

(36) position of the landing gear or its control in the cockpit;

(37) drift angle (when the information source is installed);

(38) wind direction and speed (when the information source is installed);

(39) latitude and longitude (when the information source is installed);

(40) "stick shaker/pusher" (when the information source is installed);

(41) windshear - "windshear" (when the information source is installed);

(42) position of the levers;

(43) additional engine parameters (as designated in Appendix F of this Regulation); (Wording given by Resolution n° 494, of 10.17.2018)

(44) collision prevention embedded system – ACAS;

(45) DME 1 and 2 distances;

(46) frequencies selected in Nav 1 and Nav 2;

(47) adjustment of the selected altimeter (when the information source is installed);

(48) selected altitude (when the information source is installed);

(49) selected speed (when the information source is installed);

(50) on the selected Mach (when the information source is installed);

(51) selected vertical speed (when the information source is installed);

(52) selected bow (when the information source is installed);

(53) selected flight path (when the information source is installed);

(54) decision height – DH – selected (when the information source is installed);

(55) EFIS presentation format;

(56) format of the presentation of the device of multiple alerts;

(57) thrust control (when the information source is installed);

(58) desired thrust (when the information source is installed);

(59) amount of fuel in the compensation tank (when the information source is installed);

(60) primary system for navigation reference;

(61) ice (when the information source is installed);

(62) vibration alarm for each engine (when the information source is installed);

(63) over-temperature alarm for each engine (when the information source is installed);

(64) low oil pressure alarm for each engine (when the information source is installed);

(65) engine overrun alarm (when the information source is installed);

(66) position of the running compensator surface;

(67) position of the running compensator surface;

(68) brake pressure (selected system);

(69) application of the brake pedal (right and left);

(70) angle of skidding (when the information source is installed);

(71) position of the engine bleed valve (when the information source is installed);

(72) selection of anti-icing or de-icing systems (when the information source is installed);

(73) computed center of gravity (when the information source is installed);

(74) status of the AC electric bar;

(75) status of the DC electric bar;

(76) position of the APU bleed valve (when the information source is installed);

(77) hydraulic pressure (each system);

(78) loss of pressure in the cabin;

(79) computer failure;

(80) heads-up display (when the information source is installed);

(81) "para-visual" display (when the information source is installed);

(82) position of the pitch compensator command in the cockpit;

(83) position of the running compensator command in the cockpit;

(84) position of the steering compensator command in the cockpit;

(85) position of the trailing edge flaps and their control in the cockpit;

(86) position of the leading edge flaps and their control in the cockpit;

(87) position of the ground spoiler and selection of the aerodynamic brake; and (Wording given by Resolution No. 494, of October 17, 2018)

(88) all command forces of the cockpit flight controls (steering wheel, column and pedals). (Wording given by Resolution n° 494, of 10.17.2018)

 (i) For all turbine-powered airplanes with a passenger seating configuration of 10 to 30 seats, excluding any crew seats, and manufactured after August 18, 2000:

(1) the parameters listed in paragraphs (h)(1) to (h)(57) of this section must be recorded within the ranges, precision, resolutions and recording intervals specified in Appendix F of this Regulation.

(2) in proportion to the capacity of the recording system, all additional parameters for which information sources are installed and connected to the recording system must be recorded within the ranges, accuracy, resolutions and recording intervals specified in Appendix F of this Regulation.

(j) For all airplanes with turbine engines with a passenger configuration of 10 to 30 seats, excluding any crew member seats, which were manufactured after August 19, 2002 the parameters listed in paragraphs (a)(1) to (a)(88) of this section must be recorded within the ranges, precision, resolutions and recording intervals specified in Appendix F of this Regulation. (k) For aircraft manufactured before August 18, 1997, the following types do not need to comply with this section: Bell 212, Bell 214ST, Bell 412, Bell 412SP, Boeing Chinook (BV- 234), Boeing/Kawasaki Vertol 107 (BV/KV-107-II), de Havilland DHC-6, Eurocopter Puma 330J, Sikorsky 58, Sikorsky 61N and Sikorsky 76A. (Wording given by Resolution n° 494, of 10.17.2018)

(I) On April 7, 2014, all aircraft manufactured before April 7, 2012, must also meet requirements 23.1459 (a)(7) of RBAC No. 23, 25.1459 (a)(8) of RBAC No. 25, 27.1459 (e) of RBAC No. 27, or 29.1459(e) of RBAC No. 29, as applicable.

(m) All aircraft manufactured as of April 7, 2012, must have a flight data recorder installed, which also:

(1) meets requirements 23.1459 (a) (3), (a)(6), and (a)(7) of RBAC No. 23, 25.1459 (a)(3), (a)(7), and (a)(8) RBAC No. 25, 27.1459 (a)(3), (a) (6), and (e) RBAC No. 27, or 29.1459 (a)(3), (a) (6) and (e) RBAC No. 29, as applicable; and

(2) store the 25 hours of information required in paragraph (d) of this section using a recorder that satisfies TSO-C124a, or later version. (Wording given by Resolution n° 494, of 10.17.2018)

135.152 a Digital flight data recorders for 10 to 19 seat airplanes

(a) Except as provided for in paragraph (f) of this section, only an airplane with turbine engines having a passenger configuration, excluding any seat required for crew members, from 10 to 19 seats and which has been submitted for registration in Brazil or that has been registered outside of Brazil and incorporated into the operating specifications of a Brazilian operator after October 11, 1991, if it is equipped with one or more approved flight data recorders that use a digital method to record and retain data and to promptly retrieve that data from the recording. Airplanes submitted for registration in Brazil after October 11, 1991, must meet the requirements of this section or the applicable requirements of the paragraphs of section 135.152 of this Regulation. Additionally:

(1) the parameters listed in paragraphs 135.152(h)(1) to (h)(18) of this Regulation must be recorded within the ranges, specifications and resolutions specified in Appendix B of this Regulation, except that:
(i) the parameter listed in paragraph 135.152(h)(12) or paragraph 135.152(h)(15) of this Regulation must be recorded; the parameter listed in paragraph 135.152(h) (13) or paragraph 135.152 (h)(16) of this Regulation must be recorded; and the parameter listed in paragraph 135.152(h)(14) or paragraph 135.152 (h)(17) of this Regulation must be recorded;

(ii) for airplanes with more than two engines, the parameter listed in paragraph 135.152(h)(18) of this Regulation, provided that there is sufficient capacity in the installed recorder, must also be recorded;

(iii) the parameters listed in paragraph 135.152(h)(12) to (h)(17) of this Regulation can be registered, each one, from a single source; and

(iv) any parameter for which Appendix B of this Regulation does not present values must be recorded within the ranges, precision and resolutions specified in Appendix M of RBAC No. 121.

(2) proportionally to the capacity of the recording system (DFDAU or equivalent and DFDR), the parameters listed in paragraphs 135.152(h) (19) to (h)(22) of this Regulation must also be recorded within the ranges, precision, resolutions and recording intervals specified in Appendix B of this Regulation.

(3) the approved flight data recorder required by this section must be installed as soon as practicable, but not later than the next major maintenance inspection to be carried out after August 18, 1999. Any schedule that keeps the plane out of service for 4 days or more and that includes access to large structural components is considered a major inspection maintenance schedule.

(Wording given by Resolution n° 494, of 10.17.2018)

(b) For airplanes with turbine engines having a passenger configuration, excluding any seat required for crew members, from 10 to 19 seats and which was manufactured after August 18, 2000:

(1) the parameters listed in paragraphs 135.152(h)(1) to (h)(57) of this Regulation must be recorded within the ranges, precision, resolutions and recording intervals specified in Appendix M of RBAC No. 121; (2) in proportion to the capacity of the recording system, all additional parameters listed in paragraph 135.152(h) of this Regulation and for which information sources are installed and linked to the recording system must be registered within the ranges, precision, resolutions and recording intervals specified in Appendix M of RBHA 121 until August 20, 2001. (Wording given by Resolution n° 494, of 10.17.2018)

(c) For all airplanes with turbine engines having a passenger configuration, excluding any seat required for crew members, from 10 to 19 seats and which was manufactured after August 18, 2002, the parameters listed in paragraphs 135.152(h)(1) to 135.152(h)(88) must be recorded within the ranges, accuracy, resolution and recording intervals specified in Appendix M of RBAC No. 121.

(d) Each flight recorder required by this section must be installed in accordance with the requirements of RBAC No. 25, paragraphs 25.1459(a), (b), (d) and (e). A correlation must be established between the values recorded by the flight data recorder and the corresponding values being measured. The correlation must contain a sufficient number of points to allow an accurate conversion of the values recorded in engineering units, or discrete states, over the entire operating range of the parameter. A single correlation can be established for a group of airplanes:

(1) that are of the same type;

(2) in which the model of the flight recorder and its installation are identical;

(3) in which there is no difference in the type design with respect to the installation of the sensors associated with the flight data recorder system. Correlation documentation must be kept by the certificate holder.

(e) All aircraft subject to this section are also subject to the requirements and exceptions set out in paragraphs 135.152(c) to 135.152(e) and 135.152(g) of these Rules.

(f) For airplanes manufactured before August 18, 1997, the following types do not need to comply with this section, but must continue to comply with the applicable paragraphs of section 135.152 of this Regulation, as appropriate: Beech Aircraft series 99, Beech Aircraft 1300, Beech Aircraft 1900C, Construcciones Aeronáuticas SA (CASA) C-212, deHavilland DHC- 6, Dornier 228, HS-748, Embraer EMB 110, Jetstream 3101, Jetstream 3201 and Fairchild Aircraft SA- 226 and Fairchild Metro SA-227. (Wording given by Resolution n° 494, of 10.17.2018)

<u>135.153 [Reserved] (Wording</u> provided by Resolution No. 494, of <u>10.17.2018)</u>

<u>135.154 Ground proximity</u> perception and warning system (EGPWS)

(a) It is only permitted to operate an airplane with turbine engines configured for passengers with 10 or more seats, excluding any pilot seat, if the airplane is equipped with an approved ground proximity perception and warning system that meets the requirements for OTP Class A equipment (TSO) -C151 (equipment provided with the ground detection function in front of the plane). The airplane must also have an approved display showing the position on the ground of the points perceived by the system; and

(b) It is only permitted to operate an airplane with turbine engines with configuration for passengers with 6 to 9 seats, excluding any pilot seat, if the airplane is equipped with an approved ground proximity perception and warning system that meets at least requirements for OTP Class B (TSO) -C151 equipment.

(c) Aircraft flight manual. The aircraft flight manual must contain appropriate procedures for:

(1) the use of the ground proximity perception and warning system;

(2) appropriate reaction of the flight crew in response to visual and audible alerts from the ground proximity perception and warning system;

(3) correct operation of the system by the crew; and

(4) deactivation of the system in emergency conditions and in planned and abnormal conditions. (Wording given by Resolution n° 494, of 10.17.2018)

135.155 Fire extinguishers: aircraft carrying passengers

It is only permitted to operate an aircraft carrying passengers if it is equipped with fire extinguishers, of an approved type, for use in the cockpit and passenger cabin, as follows: (a) the type and quantity of the extinguishing agent must be suitable for all types of foreseeable fire;

(b) at least one manual fire extinguisher must be provided and properly positioned in the cockpit, for use by the crew; and

(c) at least one manual fire extinguisher must be placed and properly positioned in the passenger cabin of:

(1) each large airplane with configuration for passengers with more than 6 seats, excluding any pilot seat;

(2) each turbine engine multi-engine airplane with a configuration for passengers with more than 6 seats, excluding any pilot seat;

(3) each aircraft not listed in paragraphs (c)(1) and (c)(2) of this section with configuration for passengers with more than 9 seats, excluding any pilot seat.

(Wording given by Resolution $n^{\rm o}$ 494, of 10.17.2018)

<u>135.157 Requirements for oxygen</u> <u>equipment</u>

(a) Non-pressurized aircraft – It is only permitted to operate a non-pressurized aircraft, at the flight altitudes established in this section, if it is equipped with oxygen masks and sufficient oxygen to supply pilots in accordance with the provisions of paragraph 135.89(a) and to supply, when flying:

(1) at altitudes above 10,000 and up to 15,000 feet MSL, oxygen for at least 10% of the aircraft's occupants, other than pilots, for the portion of the flight at those altitudes that lasts longer than 30 minutes; and

(2) above 15,000 feet MSL, oxygen for each aircraft occupant other than pilots.

(b) Pressurized aircraft – Operating a pressurized aircraft is allowed only:

(1) at altitudes above 25,000 feet MSL, if masks and oxygen are available to provide at least 10 minutes of supplemental oxygen to each aircraft occupant, other than pilots, for use during a descent due to cabin loss of pressurization; and

(2) if it is equipped with oxygen masks and with sufficient oxygen to comply with paragraph (a) of this section whenever the cabin pressure altitude exceeds 10,000 feet MSL and,

if there is a pressurization failure, to comply with paragraph 135.89(a) or to provide two hours of oxygen for each pilot, whichever is greater, in addition to supply while flying:

(i) at flight levels above 10,000 and up to 15,000 feet MSL, oxygen for at least 10% of the aircraft's occupants, other than pilots, for the portion of the flight at these altitudes that lasts longer than 30 minutes; and

(ii) above 25,000 feet MSL, oxygen for each occupant of the aircraft, other than pilots, for one hour, unless, at all times during the flight above that altitude, the aircraft can safely descend to 15,000 feet MSL within four minutes, in which case only 30 minutes of supply is required.

(c) The equipment required by this section must have the means to:

(1) allow the pilot to determine, promptly and in flight, the amount of oxygen available at each source of supply and whether oxygen is being delivered to the supply units; or

(2) in the case of individual supply units, allow each user to make these determinations as to the delivery and supply of oxygen for him/herself; and

(3) allow pilots to use undiluted oxygen, at their discretion, at altitudes above 25,000 feet MSL.

(Wording given by Resolution n° 494, of 10.17.2018)

135.158 Pitot heating indication system

(a) It is only permitted to operate a transport category airplane equipped with a flight instruments pitot tube heating system if the airplane is also equipped with a system for indicating the functioning of the heating system that meets the section 25.1326 of RBHA 25 (or equivalent provision), effective April 12, 1978.

(Wording given by Resolution nº 494, of 10.17.2018)

<u>135.159 Equipment requirements:</u> <u>transportation of passengers on a</u> <u>VFR night flight</u>

(a) It is only permitted to operate an aircraft on a VFR night flight, carrying passengers, if it is equipped with:

(1) a gyroscopic indicator of curve ratio per pilot required, except on the following aircraft:

(i) airplanes with a third attitude indication system usable for all 360° flight attitudes in pitch and roll and installed in accordance with the instrument requirements set out in paragraph 121.305(j) of RBAC No. 121;

(ii) helicopters with a third attitude indication system usable in all flight attitudes of 80° of pitch and 120° of roll and installed in accordance with paragraph 29.1303(g) of RBAC No. 29; and

(iii) helicopters with an approved maximum take-off weight of 6,000 lbs or less;

(2) a pilot slip indicator required;

(3) a gyroscopic pitch and pitch indicator (artificial horizon) per pilot required;

(4) a required pilot gyro indicator;

(5) a generator or generators capable of supplying all probable combinations of continuous electrical charges in flight to supply the required equipment and recharge the battery; and

(6) lighting:

(i) an anti-collision light system;

(ii) instrument lights that make all instruments, switches and meters easily readable and whose direct light rays do not reach the pilots' eyes; and

(iii) a portable torch, in good operating condition, per pilot station.

(b) For the purposes of paragraph (a)(5) of this section, a continuous electric charge in flight includes charges that continuously drain current during flight, such as radio equipment and electrically powered instruments and lights, but does not include occasional charges intermittent.

(Wording given by Resolution nº 494, of 10.17.2018)

135.161 Communication and navigation equipment: passenger transport in night VFR or day VFR flight in controlled areas

(a) It is only permitted to operate an aircraft carrying passengers on a VFR night flight, or a day VFR flight in controlled areas, if it has radio equipment for bilateral communications capable, in flight, of transmitting to and receiving from a ground station far 25 NM at least.

(b) It is only permitted to operate an aircraft carrying passengers on a VFR night flight if it has radio navigation equipment capable of receiving signals from the earth stations to be used.

(Wording given by Resolution nº 494, of 10.17.2018)

<u>135.163 Equipment requirements:</u> <u>aircraft carrying passengers on IFR</u> <u>flight</u>

(a) It is only permitted to operate an aircraft on an IFR flight carrying passengers if it has the following equipment and instruments:

(1) a vertical speed indicator for each required pilot;

(2) an external temperature indicator;

(3) a pitot tube, with heating system, for each required speed indicator;

(4) a power failure alarm device or a vacuum indicator to show the available energy for gyroscopic instruments for each power source;

(5) an alternating source of static pressure for altitude, speed and vertical speed indicators;

(6) for single-engine aircraft:

(i) two independent sources of electricity generation, each of which is capable of supplying all probable combinations of continuous electrical loads in flight to supply the required equipment and instruments; or

(ii) in addition to the primary source of electricity generation, a backup battery or an alternate source of electricity that is capable of supplying 150% of the electrical loads of all the required instruments and equipment necessary for safe operation in an emergency aircraft for at least an hour;

(7) for multi-engine aircraft, at least two generators or alternators mounted on different engines, for which any combination of half of the total power still provides sufficient power to supply the electrical loads of all required instruments and equipment necessary for safe operation, in emergency, of the aircraft. For multi-engine helicopters, the two required generators can be mounted on the main rotor gearbox; and

(8) two independent sources of energy for the required gyroscopic instruments (with means of selecting each one), of which at least one is a vacuum pump or engine driven generator. Each source must be capable of supplying all gyroscopic instruments, and must be installed in such a way that the failure of one instrument does not interfere with the power supply for the other instruments or with the other supplying sources. Single-engine aircraft are an exception, as long as the curve ratio indicator has a separate power source from the artificial horizon power supply and the gyroscopic compass. For the purposes of this paragraph, for multi-engine aircraft, each engine driven source must be installed on a different engine.

(b) For the purposes of this section, "continuous electrical charge in flight" includes charges that continuously drain current during flight, such as radio equipment, electrical instruments and lights, but does not include occasional intermittent charges.

(Wording given by Resolution n° 494, of 10.17.2018)

135.165 Communication and navigation equipment: flights over large expanses of water or IFR

(a) It is only permitted to operate a multi-engine aircraft in a regular operation as defined in RBAC No. 119, or a reaction plane having a configuration for passengers of 10 or more seats, excluding any seat for crew members on IFR flight or over large expanses of water, if it is equipped with the following communications and navigation equipment, appropriate to the ground facilities to be used and the value of the required navigation performance for the route to be flown ("Required Navigation Performance" -RNP) and capable of receiving and transmitting to at least one ground station at any point on this route: (Wording given by Resolution nº 526, of 08.06.2019)

(1) two transmitters;

(2) two microphones;

(3) two headphones or a headset and a speaker;

(4) a marker beacon receiver;

(5) two independent receivers for navigation; and

(6) two independent receivers for communications.

(b) It is only permitted to operate an aircraft other than those specified in paragraph (a) of this section in IFR operations or over large expanses of water, if it is equipped with the following communications and navigation equipment, appropriate to the ground facilities that will be used and the navigation performance value required for the route to be flown ("Required Navigation Performance" – RNP) and capable of receiving and transmitting to at least one ground station at any point on that route:

(1) a transmitter;

(2) two microphones;

(3) two headphones or a headset and a speaker;

(4) a marker beacon receiver;

(5) two independent receivers for navigation;

(6) two independent receivers for communications;

(7) only for operations over large expanses of water, an additional transmitter; and

(8) only for helicopters in off-shore operations, when required, a naval VHF.

(c) For the purposes of paragraphs (a)(5), (a)(6), (b)(5) and (b)(6) of this section, a receiver is independent if the functioning of any of its parts does not depend on the functioning of any part of another receiver. However, a receiver that can receive both communications and navigation signals can be used in place of two separate receivers, one for navigation signals and one for communications signals.

(d) Subject to the requirements of paragraphs (a) and (b) of this section, the installation and use of a single long-range navigation system and a single navigation system may be authorized by ANAC and approved in the operating specifications of the certificate holder and the installation and use of one sole long-range communications system for operations over large expanses of water. The factors below are among those that are analyzed by ANAC to grant authorization:

(1) the flight crew's ability to reliably determine the aircraft's position fixes within the degree of accuracy required by the ATC;

(2) the length of the route to be flown; and

(3) the duration of very high frequency (VHF) communications failures.

(e) For the purposes of this section, operation over a large expanse of water means an operation conducted over water at a horizontal distance from the shore or coastline of 186 km (100 nautical miles) or more. (Wording given by Resolution $n^{\rm o}$ 494, of 10.17.2018)

135.166 Emergency equipment: operation on uninhabited terrain or jungle

It is only allowed to operate an aircraft under this Regulation on uninhabited terrain or over the jungle, if it has the following equipment for survival and search and rescue:

(a) pyrotechnic signaling equipment;

(b) for helicopters, a portable emergency or survival locator (ELT) transmitter, which is in operational condition, which meets the requirements of paragraphs 91.207(c) and (g) of RBAC No. 91. (Wording provided by Resolution No. 546, of March 18, 2020)

(c) a survival kit placed in a canvas bag (or similar), with content approved by ANAC and appropriate to the route to be flown, or:

(1) signaling material, regardless of the pyrotechnic equipment required by paragraph (a) of this section;

(2) enough material to purify water and provide a minimum of calories, for the consumption of each occupant for 24 hours;

(3) fire maker;

(4) a knife and survival manual;

(5) insect repellent;

(6) table salt;

(7) a flashlight, a compass and a whistle; and

(8) a first aid kit (may be the same as required by paragraph 135.177(b)(1)); and

(d) subject to paragraph (c) of this section, the survival allowance required by it may be waived on an airplane equipped with an automatic ELT transmitting at 406 MHz or on a helicopter whose ELT required by paragraph (b) of this section transmits on said frequency.

(Wording given by Resolution $n^{\rm o}$ 494, of 10.17.2018)

135.167 Emergency equipment: operation over large expanses of water and off-shore operations with helicopters

(a) It is only permitted to operate an aircraft over large expanses of water if it has, installed in a visible or visibly marked location and easily accessible by the occupants in the event of a landing on the water, the following equipment:

(1) for each occupant, an approved life jacket equipped with a survival locator lamp. The vest must be easily accessible from each seat occupied; and

(2) enough boats approved (with respect to buoyancy) to transport all occupants of the aircraft.

(Wording given by Resolution nº 494, of 10.17.2018)

(b) Each lifeboat required by paragraph (a) of this section must be equipped with at least the following:

(1) an approved location light;

(2) an approved pyrotechnic signaling device; and

(3) one of the following sets:

(i) a survival kit, appropriate to the route to be flown; or

(ii) a hood (to serve as a candle, shade and collect rainwater);

(iii) a radar reflector;

(iv) a boat repair kit;

(v) a container to remove water from the boat;

(vi) a mirror for signaling;

(vii) a whistle;

(viii) a dinghy knife (without tip);

(ix) a CO2 capsule for filling the boat;

(x) a manual filling pump;

(xi) two oars;

(xii) a 23 m (75 feet) long cord;

(xiii) a magnetic compass;

(xiv) a sea marker;

(xv) a portable electric flashlight, in good operating condition; (Wording given by Resolution n^o 494, of 10.17.2018)

(xvi) a supply of emergency rations for two days, providing at least 1000 calories/day for each person;

(xvii) a set of sea water desalination for every two people of the boat's capacity, or 600 g of water for each person of the boat's capacity;

(xviii) a fishing set; and

(xix) a survival manual appropriate to the area where the aircraft will be operated.

(c) It is only permitted to operate an aircraft over large expanses of water if one of the boats required by paragraph (a) of this section is attached to a floating or waterproof ELT or survival ELT that is in operational condition, that meets the requirements of paragraphs 91.207(c) and (g) of RBAC No. 91. (Wording provided by Resolution No. 546, of March 18, 2020)

(d) Helicopters operating on fixed or floating off-shore platforms, in addition to meeting the requirements of paragraphs (a), (b) and (c) of this section, must also be of a certified type for normal landing in the water (have floats or have a "hull" fuselage).

(e) For the purposes of this section, operation over a large expanse of water means:

(1) for an type airplane non-certified in the transport category, an operation conducted over water at a horizontal distance from the shore or coastline greater than 93 km (50 nautical miles);

(2) for airplane type certified in the transport category, an operation conducted over water at a horizontal distance from the bank or coastline equal to or greater than 186 km (100 nautical miles); and

(3) for a helicopter, an operation conducted over water at a horizontal distance from the coast (or margin) greater than 93 km (50 nautical miles) and more than 93 km (50 nautical miles) from a fixed or floating helipad in the water ("Off-shore").

135.169 Additional airworthiness requirements

(a) Except for airplanes certified in the regional transport category, it is only permitted to operate a large aircraft if it meets the additional airworthiness requirements of sections 121.213 to 121.283 and 121.307 of RBAC No. 121.

(b) It is only allowed to operate a small airplane that has a configuration for passengers of 10 seats or more, excluding seats for a pilot, if it is of a type certified in Brazil: (Wording given by Resolution n° 524, of 02.08.2019)

(1) in the transportation category;

(2) before July 1, 1970, in the normal category and meets the special re-

quirements for airplanes in operations under this Regulation;

(3) before July 19, 1970, in the normal category and meets the special certification requirements of the SFA (Special Federal Aviation Regulation)
23 of the FAA;

(4) in the normal category and meets the requirements of Appendix A of this Regulation;

(5) in the normal category and meets the requirements of section 1. (a) of FAA SFAR 41; (Wording given by Resolution No. 524, of August 2, 2019)

(6) in the normal category and meets the requirements of section 1. (b) of FAA SFAR 41; (Wording given by Resolution No. 524, of August 2, 2019)

(7) in the regional transport category; or

(8) in the normal category, such as a multi-engine aircraft with certification level 4 as defined in RBAC No. 23. (Included by Resolution No. 524, of August 2, 2019)

(c) It is forbidden to operate a small airplane with a passenger configuration of 10 seats or more, excluding any pilot seat, with a seating configuration greater than the maximum seating configuration used in that type of airplane in operations in accordance with the effective provisions equivalent to this Regulation prior to August 19, 1977. This paragraph does not apply to:

(1) an airplane certified in the transport category; or

(2) an airplane that meets:

(i) Appendix A of this Regulation, provided that its configuration for passengers, excluding pilot seats, does not exceed 19 seats; or

(ii) SFAR 41.

(d) Cargo and luggage compartments.

(1) Each Class C or D compartment, as defined in section 25.857 of RBAC No. 25, with an internal volume greater than 200 cubic feet and belonging to a transport category airplane certified after January 1, 1958, must have paneling panels of ceiling and wall that are built with:

(i) fiberglass reinforced resin;

(ii) materials that meet the test requirements of Appendix F, part III, of RBAC No. 25; or (iii) in the case of roofing installations approved before March 20, 1989, aluminum.

(2) To comply with this paragraph, the term "ceiling" includes any design features, such as joints and fasteners, that may affect the ceiling's ability to contain fires.

(3) For transport category airplanes, with configuration for more than 19 passengers, each Class D compartment, of any volume, must meet the standards of 25.857(c) and 25.858 of RBAC No. 25 for Class C compartments, unless the operation is a cargo-only operation, when then each Class D compartment must meet the requirements of paragraph 25.857(e) of RBAC No. 25 for Class E compartments.

(4) [Reserved].

(e) Conversion and reconfiguration reports ("retrofits").

(1) Until all Class D compartments on transport category airplanes listed in the operating specifications issued to the certificate holder for operations carried out under this Regulation have been converted or reconfigured with an appropriate detection and suppression system, the holder of the certificate must submit to ANAC periodic written reports containing the information specified below:

(i) the serial number of each aircraft listed in the operating specifications issued to the certificate holder for operations under this Regulation in which all Class D compartments have been converted to Class C or Class E compartments; and

(ii) the serial number of each aircraft listed in the operating specifications issued to the certificate holder for operations under this Regulation in which all Class D compartments have been reconfigured to meet Class C detection and suppression requirements or Class E fire detection.

(2) The report must be submitted to ANAC by the holder every six months. (Wording given by Resolution n° 494, of 10.17.2018)

135.170 Interior materials

(a) An airplane is only permitted to operate in accordance with a supplementary type certificate (or an amendment to a type certificate) issued in accordance with SFAR 41 for maximum approved take-off weight greater than 5670 kg (12,500 lb), if the aircraft complies with the requirements for interior materials established by RBAC No. 25 or 14 CFR Part 25.

(b) Except for regional transport category aircraft and SFAR 41 certified aircraft, it is only permitted to operate a large aircraft if it meets the following additional airworthiness requirements:

(1) except for those materials included in paragraph (b)(2) of this section, all interior materials in each compartment used by crew or passengers must comply with the provisions of paragraph 25.853 of RBAC No. 25 in effect on the dates below or as thereafter amended:

(i) Except as provided in paragraph (b)(1)(iv) of this section, each airplane with a passenger configuration of 20 or more seats and manufactured after August 19, 1988, but before August 20, 1990, must comply with the provisions for the heat release ratio test established by paragraph 25.853(d) in effect on March 6, 1995 (former paragraph 25.853 (a-1) in effect on August 20, 1986), except that the total heat released during the first 2 minutes of sample exposure cannot exceed 100 kilowatt-minutes per square meter and the peak heat-release ratio cannot exceed 100 kilowatt-meters per square meter;

(ii) each airplane with a passenger configuration of 20 or more seats and manufactured after August 19, 1990 must comply with the provisions for the heat and smoke release ratio test established by paragraph 25.853(d) in effect on March 6, 1995 (former paragraph 25.853(a-1) in effect on September 26, 1988);

(iii) except as provided in paragraphs (b)(1)(v) or (vi) of this section, each aircraft whose application for type certification was submitted before May 1, 1972, whatever its configuration for passengers, when a substantially complete replacement of the cabin interior is made after April 30, 1972, must comply with the provisions of paragraph 25.853 in effect on April 30, 1972;

(iv) except as provided for in paragraphs (b)(1)(v) or (vi) of this section, each airplane whose application for obtaining type certification was submitted after May 1, 1972, whatever its configuration for passengers, when a substantially complete replacement of the cabin interior is carried out after that date, it must meet the interior material requirements according to which it obtained type certification;

(v) Except as provided for in paragraph (b)(1)(vi) of this section, each airplane of type certified after January 1, 1958, when a substantially complete replacement of cabin interior components identified in paragraph 25.853(d) is carried out on or after that date, it must comply with the provisions for the heat release ratio test established by said paragraph, in force on March 6, 1995 (former 25.853 (a-1) in effect on August 20, 1986), except that the total heat released during the first 2 minutes of exposure of the sample cannot exceed 100 kilowatt-minutes per square meter and the peak heat-release ratio cannot exceed 100 kilowatt per square meter;

(vi) each airplane of type certified after January 1, 1958, when a substantially complete replacement of cabin interior components identified in paragraph 25.853(d) is performed after August 19, 1990, must meet the provisions of the heat and smoke release ratio test and established by said paragraph, effective on March 6, 1995 (formerly 25.853 (a-1) effective on August 20, 1986);

(vii) Except for the provisions of this section, ANAC may authorize deviations from paragraphs (b)(1)(i), (b)(1) (ii), (b)(1)(v) or (b)(1)(vi) of this section, for specific components inside the cabin that do not meet the applicable flammability and smoke emission requirements, if it is found that there are special circumstances that make compliance with these paragraphs impracticable. Such deviation concessions are limited to those airplanes manufactured within 1 year after the applicable date set out in this section and to those airplanes on which the cabin interior has been renovated within 1 year after said dates. The petition for these deviations must include a complete and detailed analysis of each component subject to paragraph 25.853(d) effective March 6, 1995 (former paragraph 25.853(a-1) effective August 20, 1986), the proposed steps to achieve full compliance with this section and, for the few components for which compliance will not be achieved within the prescribed period, plausible reasons for this occurrence; and

(viii) subject to the provisions of this section, standardized galley carts and containers, which do not meet the flammability and smoke emission requirements of paragraph 25.853(d) in effect on March 6, 1995 (former paragraph 25.853(a-1) in force on August 20, 1986), can be used in an airplane that must comply with paragraphs (b) (1)(i), (b)(1)(ii), (b)(1)(v) or (b)(1)(vi) of this section, provided that these carts and containers were manufactured before March 6, 1995; and

(2) Airplanes of type certified after January 1, 1958 must have all seat cushions in any compartment occupied by crew or passengers (except those in flight crew seats) meeting the requirements for fire protection in seat cushions of paragraph 25.853(c), in effect on November 26, 1984.

(c) Thermal/acoustic insulation materials. For transport category airplanes with type certification issued after January 1, 1958:

(1) for airplanes manufactured before September 2, 2005, when a thermal acoustic insulation is installed in the fuselage to replace the existing one, that insulation must meet the flame propagation requirements of section 25.856 of RBAC No. 25, in effect on September 22, 2009 if:

(i) it is an insulation blanket; or

(ii) it is installed around air ducts; and

(2) for airplanes manufactured after September 2, 2005, thermal/acoustic insulation materials installed in the fuselage must meet the flame propagation requirements of section 25.856 of RBAC No. 25, in effect on September 22, 2009.

(Wording given by Resolution nº 494, of 10.17.2018)

135.171 Seat and shoulder belts: installation on crew seats

(a) It is only permitted to operate a reaction plane or an aircraft having a passenger configuration of 10 seats or more, excluding any pilot seat, if approved seat and shoulder belts are installed on each crew member seat.

(b) Each crew member occupying a seat equipped with safety and shoulder belts must keep them in place and adjusted during takeoffs and landings. However, if the adjusted belts prevent the crew member from exercising all of his/her required obligations, they can be loosened. (Wording given by Resolution nº 494, of 10.17.2018)

135.173 Requirements for lightning detection equipment

(a) It is only permitted to operate an aircraft that has a configuration for passengers of 10 or more seats, excluding any pilot seat, carrying passengers, except a helicopter operating in daytime visual conditions, if the aircraft is equipped with an airborne thunderstorm detection equipment (storm-scope type) or a weather radar, both approved, installed on the aircraft. (Wording given by Resolution n^o 494, of 10.17.2018)

(b) It is only permitted to operate a helicopter that has a passenger configuration of 10 or more seats, excluding any pilot seat, in night VFR operations carrying passengers when weather information indicates that there is a reasonable likelihood that thunderstorms or other potentially dangerous weather conditions, which can be detected by the airborne thunderstorm detection equipment, occur along the route to be flown, if the helicopter is equipped with thunderstorm detection equipment ("storm-scope" type) or a weather radar, both approved. (Wording given by Resolution nº 494, of 10.17.2018)

(c) It is only permitted to start a flight under night IFR or VFR conditions when meteorological information indicates that there is a reasonable probability that thunderstorms or other potentially dangerous weather conditions, which can be detected by the airborne lightning detection equipment required by paragraphs (a) or (b) of this section, occur along the route to be flown, if the installed detection equipment is in satisfactory operating conditions. (Wording given by Resolution nº 494, of 10.17.2018)

(d) If the airborne lightning detection equipment becomes inoperative en route, the aircraft must be operated in accordance with the instructions and procedures specified for the event in the company's general manual required by section 135.21 of these Rules. (Wording given by Resolution n° 494, of 10.17.2018)

(e) This section does not apply to aircraft during training, testing and ferry flights.

(f) Despite any other provision of this Regulation, an alternative source of electrical supply is not required for lightning detection equipment.

135.175 Requirements for airborne weather radar

(a) It is only permitted to operate a large transport category aircraft in operations carrying passengers if an approved weather radar is installed on the aircraft. (Wording given by Resolution n° 494, of 10.17.2018)

(b) It is only permitted to start a flight under IFR or night VFR conditions when known weather information indicates that thunderstorms or other potentially dangerous weather conditions that can be detected by weather radar are reasonably likely to be expected along the route to be flown, if the weather radar equipment required by paragraph (a) of this section is in satisfactory operating condition. (Wording given by Resolution n° 494, of 10.17.2018)

(c) If the weather radar equipment becomes inoperative in flight, the aircraft must be operated in accordance with the instructions and procedures specified in the company's general manual required by section 135.21 of this Regulation. (Wording given by Resolution n° 494, of 10.17.2018)

(d) This section does not apply to aircraft during training, testing and ferry flights.

(e) Despite any other provision of this Regulation, an alternative source of electrical supply is not required for airborne weather radar equipment.

135.176 First Aid Kit

(a) It is only permitted to operate an aircraft carrying passengers if that aircraft has a first aid kit on board to treat injuries that may occur on board or in minor accidents. The set must be properly packaged and positioned so that it is readily visible and accessible by the aircraft occupants, and must contain the items specified in paragraph 135.177(b) (1) of these Rules. The requirement in paragraph 135.177(b)(1)(xviii) of this Regulation is optional for aircraft with a capacity of 19 seats or less.

(Wording given by Resolution nº 494, of 10.17.2018)

<u>135.177 Emergency equipment</u> requirements for aircraft having a configuration for passengers with more than 19 seats

(a) It is only permitted to operate an aircraft having a configuration for passengers with more than 19 seats if that aircraft has emergency equipment on board that must be readily accessible to crew members in the cockpit or passenger cabin, carefully kept in a safe place and free from dust, moisture or temperatures that can damage them.

(b) In accordance with paragraph (a) of this section, the certificate holder must carry the following emergency equipment on board:

(1) an approved first aid kit for treating injuries that may occur on board or in minor accidents, containing the following items:

(i) a list of the content;

(ii) swabs or antiseptic cottons (pack of 10);

(iii) simple or adhesive bandage: 7.5 cm \times 4.5 m (or approximate size);

(iv) triangular bandage and safety pins ("diaper type");

(v) compress for burns: 10 cm × 10 cm (or approximate size);

(vi) sterile compress: 7.5 cm \times 12 cm (or approximate size);

(vii) sterile gauze: 10.4 cm \times 10.4 cm (or approximate size);

(viii) adhesive tape: 2.5 cm (roll);

(ix) sterile adhesive tapes (dressings) (or equivalent);

(x) small towels or wipes moistened with antiseptic substances;

(xi) eyepiece (tampon), or tape;

(xii) round-tip scissors with blades of less than 6 cm in length measured from the axis;

(xiii) adhesive, surgical tape: 1.2 cm \times 4.6 m;

(xiv) tweezers;

(xv) disposable gloves (multiple pairs);

(xvi) thermometers (non-mercurial);

(xvii) mouth-to-mouth resuscitation mask with unidirectional valve;

(xviii) silicone resuscitator/reviver (AMBU);

(xix) first aid manual, updated version;

(xx) medical incident registration form;

(xxi) mild to moderate analgesics (which do not require a medical prescription);

(xxii) antiemetics (that do not need a medical prescription);

(xxiii) nasal decongestant (that does not require a medical prescription);

(xxiv) antacid (which does not require a medical prescription); and

(xxv) antihistamine (which does not require a medical prescription);

(2) a set of universal precautions for handling body fluids of passengers suspected of having infectious diseases, containing the following items:

(i) dry powder that converts liquid organic waste into a sterile granulated gel;

(ii) germicidal disinfectant for cleaning surfaces;

(iii) scarves;

(iv) disposable protective face mask, surgical type;

(v) protective glasses;

(vi) (disposable) gloves;

(vii) protective apron;

(viii) large size absorbent towel;

(viii) shovel with spatula (or equivalent);

(ix) plastic bag for the disposal of infectious material; and

(x) instructions;

(3) a hatchet placed so that it is accessible to crew members, but inaccessible to passengers during normal operation;

(4) signs, visible to all passengers, to indicate that smoking is prohibited and when seat belts must be adjusted. These signs, if they are luminous, must be constructed and installed in such a way that they can be lit during any movement of the aircraft on the ground and during each take-off, each landing and whenever the pilot-in-command deems necessary. The non-smoking signs, if they are luminous, must be lit as required by paragraph 135.127 of this Regulation; and

(5) [reserved].

(c) Each item of equipment must be regularly inspected, according to the inspection periods established in the company's general manual provided for in section 135.21 of this Regulation, to ensure good conditions of use and immediate applicability for the intended purposes. (Wording given by Resolution $n^{\rm o}$ 494, of 10.17.2018)

135.178 Additional emergency equipment

It is only permitted to operate an airplane with a configuration for passengers with more than 19 seats if the airplane has the additional emergency equipment specified in paragraphs (a) to (I) of this section.

(a) Emergency evacuation means. Each emergency exit of a land plane carrying passengers (except exits on the wings) that is more than 1.83 m (6 feet) above the ground, with the plane stopped and with landing gear lowered, must have an approved means of helping occupants to descend to the ground. The means of assistance for an exit at the floor level must meet the requirements of paragraph 25.809(f)(1), in force on April 30, 1972, except for an airplane whose application for type certification was submitted after the said date, which must meet the requirements against which it was certified.

(b) Internal marks for emergency exits. The following must be accomplished on each plane carrying passengers:

(1) each passenger emergency exit, means of access and means of opening must be conspicuously marked. The identification and location of each passenger emergency exit must be recognizable at a distance equal to the width of the cabin. The location of each passenger emergency exit must be indicated by a sign visible by an occupant approaching it along the main aisle of the cabin. There must be a location sign:

 (i) over the aisle, or elsewhere on the ceiling if it is more practical due to the low height of the ceiling, for emergency exits over the wings;

(ii) close to each floor level emergency exit, except for a single sign that can serve two of these exits if both can be easily visible from the sign's location; and

(iii) in each partition, fixed or not, that prevents the view along the cabin, either forwards or backwards, to indicate emergency exits positioned beyond or hidden by the partition; if this is not possible, the sign can be placed in another appropriate place; and (2) each passenger emergency exit identification and/or location mark must meet the following:

(i) for an airplane whose type certification application was submitted before May 1, 1972, each emergency exit identification mark and each location sign for these exits must meet the requirements of paragraph 25.812 (b), in effect April 30, 1972; and

(ii) for an airplane whose type certification application was submitted on or after May 1, 1972, each exit identification mark and each location sign for these exits must meet the requirements for internal emergency exit marks according to which the plane has been certified. In these planes, no signal can continue to be used if their luminescence (brightness) falls below 250 microlamberts.

(c) Illumination of the internal marks of the emergency exits. Each airplane carrying passengers must have an emergency lighting system that is independent from the main lighting system; however, the cabin's general lighting sources may be common to both systems as long as the emergency system power source is independent from the main system power source. The emergency lighting system must:

(1) illuminate each emergency exit identification and location sign;

(2) provide sufficient general lighting in the passenger cabin to ensure that the average lighting, measured at 40-inch intervals, at the height of the seat arms, in the center of the main passenger aisle, is at least 0,05 foot-sail; and

(3) for airplanes of type certified after January 1, 1958, include lighting near the floor marking the way to the emergency exits, as established by paragraph 25.812(c), in force on November 26, 1984.

(d) Operation of the emergency lights. Except for lights that are part of the emergency light subsystem provided to meet RBAC No. 25.812 (h) (as described in paragraph (h) of this section), which serve no more than one of the evacuation aids, which are independent of the aircraft's main lighting system and are automatically activated when the assistive device is activated, each light required by paragraphs (c) and (h) of this section must: (1) be manually operable not only from the cockpit, but also from a point in the passenger cabin that is easily accessible from a normal flight attendant seat;

(2) have a means to avoid inadvertent actuation of manual controls;

(3) when armed or switched on, from both trigger locations, remain on or light up when the airplane's normal electrical power system is interrupted;

(4) be armed or switched on during rolling, takeoffs and landings. In demonstrating compliance with this paragraph, the cross-section of the fuselage need not be considered;

(5) provide the required level of lighting for at least 10 minutes in the critical environmental conditions caused by an emergency landing; and

(6) have a control device that has the "ON", "OFF" and "ARMED" positions.

(e) Mechanism for opening emergency exits.

(1) For an airplane carrying passengers for which the type certification application was submitted before May 1, 1972, the location of the opening mechanism for each emergency exit and instructions for opening it must be shown by marks placed at or near the exit and these marks must be legible from a distance of 30 inches. In addition, for each type I or II exit with a locking mechanism released by rotating a lever, the opening instructions must include:

(i) a red arrow with a rod at least 3/4 inch wide and a tip twice the width of the rod, extending through an arc of at least 70° and with a radius approximately equal to 3/4 the length of the lever; and

(ii) the word "open" in red 1" height letters, placed horizontally near the tip of the red arrow.

(2) For an airplane carrying passengers whose type certification application was submitted on or after May 1, 1972, the location of each emergency exit mechanism and instructions for opening it must be shown in accordance with the requirements against which the airplane has been certified. In these planes, no opening or covering mechanisms can continue to be used if their luminescence (brightness) falls below 100 microlamberts. (f) Access to emergency exits. On each plane carrying passengers, access to each emergency exit must be provided as follows:

(1) each passage between individual passenger areas or leading to a type I or type II emergency exit must be unobstructed and must be at least 20 inches wide;

(2) there must be sufficient space close to the type I and type II emergency exits, which are included in paragraph (a) of this section, to allow a crew member to assist the evacuation of passengers without reducing the unobstructed passage width required by paragraph (f) (1) of this section;

(3) there must be access, from the main aisle, to each type III and type IV emergency exit. The aisle access to these exits must not be obstructed by seats, beds or other protuberances that may reduce the effectiveness of the exit. In addition, for transport category airplanes certified after January 1, 1958, signs must be installed in accordance with paragraph 25.813(c) of RBAC No. 25 for each type III exit after December 3, 1992;

(4) if it is necessary to pass through a passage between passenger cabins to reach any required emergency exit from any passenger cabin seat, that passage must be unobstructed. However, curtains can be used if they allow free entry into the passageway;

(5) no door can be installed on partitions between passenger cabins; and

(6) if it is necessary to pass through a door separating the passenger cabin from other areas to reach a required emergency exit from any passenger seat, that door must have a lock that keeps it in the open position and it must remain open and held in that position during each take-off and landing. The lock must be able to withstand the loads imposed on it when subjected to the final loads of inertia, relative to neighboring structures, listed in paragraph 25.561(b) of RBAC No. 25.

(g) External marks for emergency exits. Each passenger emergency exit and its external means of opening must be marked on the external surface of the airplane. There should be a colored strip 5 cm (2 in.) wide, surrounding the outer perimeter of each emergency exit on the side of the fuselage. If the airplane has areas of its external covering that can be cut to facilitate the rescue of people, these areas must be demarcated by a segmented strip, each segment 3 cm (1.2 in.) wide and 9 cm (3, 5 in.) long; the corners of the area must be demarcated by two continuous segments forming right angles and the interval between segments must not exceed 2 m (79 in.). Each external mark, including the strips, must be readily distinguishable from the surrounding areas in the fuselage by color contrast. Markings must meet the following:

(1) if the reflectance of the darkest color is 15% or less, the reflectance of the lightest color must be at least 45%;

(2) if the reflectance of the darkest color is greater than 15%, there must be a difference of at least 30% between its reflectance and the reflectance of the lighter color; and

(3) exits not positioned on the sides of the fuselage must have external means of opening and the applicable opening instructions conspicuously marked in red or, if the red is not conspicuous, in relation to the background color, in bright yellow. Additionally, if the opening mechanism for these exits is located on a single side of the fuselage, a conspicuous sign, informing this fact, must be placed on the other side of the fuselage. Reflectance is the ratio between the luminous flux reflected by a body and the luminous flux it receives.

(h) External emergency lighting and escape route.

(1) Each airplane carrying passengers must be equipped with external lighting, meeting the following requirements:

(i) for an airplane whose type certification application was submitted before May 1, 1972, the requirements of RBHA 25.812(f) and (g), in effect on April 30, 1972; and

(ii) for an airplane whose type certification application was submitted on May 1, 1972 or at a later date, the emergency external lighting required by the requirements under which the airplane received type certification.

(2) Each airplane carrying passengers must be equipped with a non-slip escape route meeting the following requirements: (i) for an airplane whose type certification application was submitted before May 1, 1972, the requirements of RBHA 25.803(c), in effect on April 30, 1972; and

(ii) for an airplane whose application for type certification was submitted on May 1, 1972 or at a later date, the non-slip escape route requirements under which the airplane received type certification.

(i) Floor level exits. Each floor-level door or exit positioned on the side of the fuselage (except doors that lead to a cargo compartment not accessible from the passenger cabin) that is 44 inches. or more in height and 20 inches, or more in width, but no wider than 46 inches, each ventral passenger exit and each tail cone exit must meet the requirements in this section for floor level emergency exits. However, ANAC may authorize deviations from this paragraph if it considers that special circumstances make total compliance impractical and that an acceptable level of security can be achieved.

(j) Additional emergency exits. Approved emergency exits, in addition to the minimum required number of exits, must meet all applicable provisions of this section, except those in paragraphs (f)(1), (2) and (3). These exits must be easily accessible.

(k) In each large reaction airplane carrying passengers, each ventral or tail-cone exit must be:

(1) designed and constructed so that it cannot be opened in flight; and

(2) marked with a sign readable from a distance of 30 inches. and positioned in a conspicuous location near the exit opening, informing that it was designed and built in such a way that it cannot be opened in flight.

(I) Portable flashlights. It is only permitted to operate an airplane carrying passengers if it is equipped with portable flashlights stored in accessible places on each flight attendant seat.

(Wording given by Resolution n° 494, of 10.17.2018)

135.179 Inoperative instruments and equipment

(a) [Reserved]

(b) It is only permitted to take off with an aircraft with inoperative instruments and equipment installed if the following conditions are met:

(1) there must be an approved minimum equipment list (MEL) for the aircraft;

(2) there must be a letter from ANAC authorizing operations in accordance with the approved MEL. The flight crew must have direct access before each flight to all information contained in the approved MEL through printed documentation or other means approved in the certificate holder's operating specifications and made available to them. A MEL approved as authorized by the operating specifications constitutes an approved change to the aircraft type design without requiring new certification;

(3) the approved MEL must:

(i) be prepared in accordance with the limitations specified in paragraph (c) of this section; and

(ii) provide procedures for the operation of the aircraft with certain instruments and equipment in an inoperative condition;

(4) records identifying inoperable equipment and instruments and the information required by paragraph (b)(3)(ii) of this section must be available for the pilot's knowledge; and

(5) the aircraft must be operated in accordance with all conditions and limitations contained in the MEL and the operating specifications authorizing its use.

(c) The following instruments and equipment cannot be included in MEL:

(1) instruments and equipment that are specifically or otherwise required by the airworthiness requirements under which the aircraft has received type certification and which are essential for safe operation under all operating conditions;

(2) instruments and equipment that an airworthiness directive requires to be in working condition, unless the airworthiness directive itself provides otherwise; and

(3) the instruments and equipment required by this Regulation for specific operations. (d) Subject to the provisions of paragraphs (c)(1) and (c)(3) of this section, an aircraft with inoperative instruments and equipment may be operated under a special flight permit issued in accordance with sections 21.197 and 21.199 of RBAC No. 21.

(Wording given by Resolution n° 494, of 10.17.2018)

135.180 Embedded collision prevention system (ACAS)

(a) Unless otherwise authorized by ANAC, it is only permitted to operate an airplane with a turbine engine and an approved maximum take-off weight above 15,000 kg, if it is equipped with an embedded collision avoidance system (ACAS II or TCAS II, type 7.0, or later) approved.

(b) Unless otherwise authorized by ANAC, it is only permitted to operate an airplane that has turbine engines and a passenger configuration with more than 19 seats, excluding any crew member seat, if it is equipped with an airborne collision prevention system (ACAS II or TCAS II, type 7.0, or later) approved.

(c) The manuals required by section 135.21 must contain the following information about ACAS II:

(1) adequate procedures and appropriate actions of the crew for the operation of the equipment, including the information that, in the event of a collision alarm issued by the ACAS II system, the pilot-in-command must comply exclusively with the guide-lines issued by the system itself; and

(2) a description of all sources of information that must be operational for ACAS II to operate properly.

(d) It is only permitted to operate an airplane equipped with a TCAS II in RVSM airspace if that equipment is of the TCAS II type 7.0 (ACAS II) type, or subsequent type.

(Wording given by Resolution nº 494, of 10.17.2018)

<u>135.181 Performance requirements:</u> <u>aircraft operating IFR</u>

(a) Except as provided for in paragraph(b) of this section, it is prohibited to:

(1) operate a single-engine aircraft carrying passengers on an IFR flight, unless:

(i) sections 135.101, 135.163 (as applicable) and 135.165 of this Regulation are met;

(ii) the aircraft has a turbine engine and is certified for this type of operation; and

(iii) the operation is conducted in accordance with the aircraft flight manual approved by the certifying agency.

(2) operate a multi-engine aircraft carrying passengers on IFR flights, at a weight that does not allow them to climb, with the critical engine inoperative, at least 50 feet/minute when flying at the minimum altitude of the route to be flown, or 5000 feet MSL, whichever is higher.

(b) Subject to the restrictions in paragraph (a)(2) of this section, multi-engine helicopters, transporting passengers in off-shore operation, may conduct these operations under IFR conditions with a weight that allows the helicopter to have a rate of climb of at least 50 feet/min with the critical engine inoperative when operating at the minimum altitude of the route to be flown, or 1500 feet MSL, whichever is higher.

(Wording given by Resolution nº 494, of 10.17.2018)

<u>135.183 Performance requirements:</u> <u>land-based aircraft operating over</u> <u>water</u>

It is only permitted to operate a land-based aircraft carrying passengers on water if:

(a) it is operated at an altitude that allows land to be reached in the event of an engine failure;

(b) this operation is necessary for take-off and landing;

(c) it is a multi-engine aircraft operated at a weight that allows a climb, with the critical engine inoperative, of at least 50 feet/minute at an altitude of 1000 feet above the surface; or

(d) it is a helicopter equipped with an approved helicopter flotation device. (Wording given by Resolution n° 494, of 10.17.2018)

<u>135.185 Empty weight and center</u> of gravity: update required

(a) An aircraft is only allowed to operate if the empty weight and center of gravity have been calculated with values established by actual weighting of the aircraft within the preceding 36 months. (Wording given by Resolution n° 494, of 10.17.2018)

(b) Paragraph (a) of this section does not apply to:

(1) aircraft that has received the original type certification within the preceding 36 months; and

(2) aircraft operated under a weight and balance system approved in the certificate holder's operating specifications.

SUBPART D

LIMITATIONS FOR VFR AND IFR OPERATIONS. METEOROLOGICAL CONDITIONS REQUIREMENTS

135.201 Applicability

This Subpart establishes rules for operational limitations for VFR/IFR operations and the associated atmospheric conditions for operations under this Regulation.

135.203 to 135.205 [Reserved]

(Wording given by Resolution nº 494, of 10.17.2018)

135.207 VFR: surface reference requirement for helicopters

It is only permitted to operate a helicopter in VFR conditions if the pilot has visual references to the surface or, at night, visual luminous references to the surface under the helicopter sufficient to control the flight safely.

(Wording given by Resolution n° 494, of 10.17.2018)

135.209 Range for VFR flight

(a) It is only permitted to start a VFR operation on an airplane if, considering the known wind and weather conditions, that airplane has enough fuel and lubricating oil to fly to the destination airport and, assuming normal fuel and lubricating oil consumption in cruise:

(1) during the day, fly at least another 30 minutes; and

(2) at night, fly at least another 45 minutes.

(b) It is only permitted to initiate a VFR operation on a helicopter if, considering

the known wind and weather conditions, that helicopter:

(1) has sufficient fuel and lubricating oil to fly to the destination airport;

(2) can fly for an additional 20 minutes, assuming normal fuel and lubricating oil consumption at optimal cruising speed; and

(3) has an additional amount of fuel and lubricating oil sufficient to compensate for increased consumption in the event of possible contingencies.

(Wording given by Resolution $n^{\rm o}$ 494, of 10.17.2018)

135.211 en route VFR: operational limitations

It is only permitted to operate an aircraft carrying passengers, on an en route VFR flight, if:

(a) [reserved]

(b) the aircraft is operated under the following conditions:

(1) for multi-engine aircraft, if the atmospheric conditions allow, in the event of a critical engine failure, the aircraft to descend or continue the flight within the required minimum visibility conditions; and

(2) for single-engine aircraft, if atmospheric conditions allow the aircraft to descend for landing in the event of an engine failure while maintaining the required minimum visibility conditions.

(Wording given by Resolution $n^{\rm o}$ 494, of 10.17.2018)

135.213 Weather forecasts and information

(a) Whenever a person operating an aircraft under this Regulation, needs to use meteorological information and/or forecasts, he/she must use the information and forecasts made by the Aeronautical Command or other bodies approved or recognized by it. However, for VFR operations, the pilot-in-command can use information based on his/her own observations or the observations of other pilots. (Wording given by Resolution n° 494, of 10.17.2018)

(b) For the purposes of paragraph (a) of this section, meteorological information prepared and provided to pilots, for IFR operations at an airport, must be prepared at the airport where the operations will be conducted and disclosed there.

<u>135.215 IFR flight: operational</u> <u>limitations</u>

(a) Except as provided in paragraphs (b), (c) and (d) of this section, it is prohibited to operate an aircraft on IFR flight outside controlled airspace or on an airport that does not have an approved instrument approach procedure.

(1) It is only permitted to operate an aircraft in IFR flight in accordance with the instrument flight rules established by this Regulation and by the Aeronautical Command or by the aeronautical authorities of the country overflown, when operating outside Brazilian airspace.

(b) ANAC may issue operating specifications to the certificate holder that allows it to operate on IFR on routes outside controlled airspace, if:

(1) the operator demonstrates to ANAC that the flight crew is able to navigate, without visual land references, on a predicted route without deviations greater than 5° or 5 NM, whichever is less, from that route; and

(2) ANAC determines that the proposed operation can be carried out safely.

(c) An operator may operate an aircraft on IFR flight outside controlled airspace, if it is approved for that operation and if that operation is necessary for:

(1) performing an instrument approach to an airport for which an updated standard or special instrument approach procedure is approved and in use;

(2) ascend to controlled airspace during an approved missed approach procedure; or

(3) perform an IFR exit from an airport that has an approved instrument approach procedure.

(d) ANAC will issue operating specifications to the operator that will allow it to leave an airport that does not have an approved standard instrument approach procedure, when ANAC determines that it is necessary to perform an IFR exit from that airport and that the planned operation may be carried out safely. The approval to operate on that airport does not include an approval to perform an IFR approach to that airport. (Wording given by Resolution $n^{\rm o}$ 494, of 10.17.2018)

135.217 IFR: take-off limitations

(a) It is only permitted to take off an aircraft from an airport in IFR flight where the weather conditions are at or below the minima for take-off, but below the minima allowed for landing, if an alternate airport exists:

(1) less than 1 hour flight from the take-off airport (considering normal cruising speed, with calm air); and

(2) for multi-engine airplanes at a distance not exceeding the equivalent of one hour of flight time, at cruising speed, with an inoperative engine.

(b) In order for an airport to be selected as a take-off alternative, the information available in accordance with section 135.213 of this Regulation must indicate that, in the expected period of use, the meteorological conditions will be above the minimum use of the intended airport.

(Wording given by Resolution n° 494, of 10.17.2018)

135.219 IFR: meteorological minima of the destination airport

It is only permitted to take off an aircraft from an airport in IFR flight or to start an IFR operation if the latest weather information or forecasts indicate that the weather conditions at the estimated time of arrival at the next airport where it is intended to land will be at or below the approved minimum for IFR landing at the same airport.

(Wording given by Resolution n° 494, of 10.17.2018)

<u>135.221 IFR: meteorological minima</u> of the alternate airport

(a) Airplanes. It is only permitted to designate an airport as an alternate airport if the weather information or forecasts indicate that, at the estimated time of arrival at that airport, local atmospheric conditions will be at or below the IFR landing minima approved for it.

(b) Helicopters. Unless otherwise authorized by ANAC, it is only permitted to designate an airport as an alternate airport on an IFR flight plan if the weather information or forecasts indicate that, at the estimated time of arrival at that airport, the ceiling and visibility will be kept to a minimum or above the meteorological minima indicated below: (1) if there are approved instrument approach procedures for the alternate airport, the ceiling must be 200 feet above the minimum for the procedure to be used, and visibility must be at least 1 mile (1.6 km), and greater than the visibility required for the procedure to be used; or

(2) if there are no approved instrument approach procedures for the alternate airport, the ceiling and visibility must allow descent from the minimum altitude en route (MEA), approach and landing under visual flight rules.

(Wording given by Resolution nº 494, of 10.17.2018)

135.223 Autonomy for IFR flight

(a) It is only permitted to operate an aircraft under IFR conditions if it has sufficient fuel and oil (considering weather information or forecasts or any combination thereof) to:

(1) complete the flight to the first airport where it is intended to land;

(2) fly from that airport to the alternate airport; and

(3) then fly for 45 minutes at normal cruising speed or, for helicopters, then fly for 30 minutes at normal cruising speed.

(b) Except as provided in paragraph (a) of this section, for operations with airplanes to react on specific routes or on international flights, ANAC may authorize the use of the autonomy requirements of paragraph 121.645(a) of RBAC No. 121, provided that the operator demonstrates that acceptable safety levels will be achieved.

(Wording given by Resolution n° 494, of 10.17.2018)

135.225 IFR: meteorological minima for take-off, approach and landing

(a) A pilot may only initiate an instrument approach procedure for an airport if:

(1) the airport has meteorological facilities operated by the Aeronautical Command or an agency recognized by it; and

(2) the last meteorological information issued by the body mentioned in paragraph (a)(1) of this section indicates that the atmospheric conditions are at or below the minimum IFR approach approved for the airport. (b) A pilot may only start the final segment of an instrument approach to an airport if the last meteorological information issued by the agency mentioned in (a)(1) of this section indicates that the atmospheric conditions of the airport are at or below the minimum IFR approximation approved for it.

(c) If the pilot has already started the final segment of an instrument approach, complying with the provisions of paragraph (b) of this section, and is informed that atmospheric conditions have fallen below the lows, then the pilot can continue the approach and landing can be done if the following two conditions are met:

(1) the most recent meteorological information was received by the pilot when the aircraft is in one of the following phases of the approach:

(i) at the end of an ILS approach, having passed the final approach fix;

(ii) at the end of a radar approach (ASL or PAR) having passed to the final approach controller; or

(iii) at the end of an approach using VOR, NDB or a comparable approach system and the aircraft:

(A) has passed the final approach fix; or

(B) where there is no final approach fix, has completed the base curve, is stabilized in the final approach course for the airport runway and at the correct distance provided by the procedure; and

(2) the pilot judges, upon reaching the minimum descent altitude set in the procedure (MDA or DA/DH), that the real atmospheric conditions are at least equal to the minimum established for the procedure being performed.

(d) For each pilot-in-command of an airplane with turbine engines that has not accumulated at least 100 hours of flight time as a pilot-in-command of that type of aircraft, the MDA or DA/DH and the minimum visibility established in the approach by instruments procedures must be increased by 100 feet and 900m (½ mile), respectively, but without exceeding the ceilings and minima for the airport when used as an alternate airport.

(e) [Reserved]

(f) If minima are specified for take-off from a given airport, a pilot may not take off IFR from that airport when the weather conditions reported by the body described in paragraph (a)(1) of this section are below these minima.

(g) If no minima are specified for take-off from a given airport, the pilot may not take off IFR from that airport when the weather conditions reported by the body described in paragraph (a)(1) of this section are below the general IFR minima established by the DECEA.

(Wording given by Resolution n° 494, of 10.17.2018)

135.227 Ice conditions: operational limitations

(a) A pilot may not take off with an aircraft that has ice, frost or snow attached to any rotor blade, propeller, windshield, wing, stabilizer or control surface, engine installation or any part of the speedometer system, altimeter, vertical speed indicator or flight attitude indicating instruments system, except that take-offs can be performed with frost under the wings in the area of the fuel tanks if authorized by ANAC.

(b) A certificate holder can only authorize the take-off of an airplane, as well as a pilot can only take off with that airplane, if the weather conditions are such that there is a reasonable probability that ice, frost or snow will stick to the airplane, if the pilot has completed all applicable training required by section 135.341 of these Rules and if one of the following requirements is met:

(1) a pre-take-off contamination check, which has been established by the certificate holder for the specific type of airplane and approved by ANAC, has been completed within the 5 minutes preceding take-off. A pre-take-off contamination check is a check made to ensure that an airplane's wings and control surfaces are free from frost, ice or snow; or

(2) the certificate holder has an alternative approved procedure and, under this procedure, it has been determined that the airplane is free from frost, ice or snow; or

(3) the certificate holder has an approved defrost/anti-icing program that meets the requirements of paragraph 121.629(c) of RBAC No. 121 and the take-off meets that provided for in that program.

(c) A pilot may only fly under IFR rules under known or anticipated conditions of light or moderate ice formation or under VFR rules under known conditions of light or moderate ice formation if:

(1) the aircraft has defrosting or anti-icing equipment in operation protecting each rotor or propeller blade and each windshield, wing, stabilizer or control surface and each system of speed, altitude, rate of climb and flight attitude instrument;

(2) the airplane has the ice protection provisions provided for in paragraph A135.17(b) of Appendix A of this Regulation; or

(3) the airplane meets the provisions for type certification for transport category aircraft, including certification requirements for flying in icy conditions.

(d) A pilot may only operate a helicopter on IFR flight under known or anticipated icing conditions, or on VFR flight under known icing conditions, if the helicopter has been certified and is adequately equipped for operation in ice formation conditions.

(e) Except for an airplane that has the ice protection provisions provided for in paragraph A135.17(b) of Appendix A of this Regulation or those provided for aircraft certified in the transport category, the pilot cannot fly an aircraft under known conditions or expected heavy ice formation.

(f) If reliable information received by the pilot-in-command indicates that the ice formation predictions will not materialize in view of weather changes since the last weather forecast, the restrictions in paragraphs (b), (c) and (d) of this section based on forecasts of weather conditions.

(Wording given by Resolution nº 494, of 10.17.2018)

135.229 Airport and non-registered landing and take-off areas requirements (Wording given by Resolution n° 546, of 03.18.2020)

(a) The certificate holder can only use an airport if it is registered or approved and suitable for the proposed operation, considering items such as dimensions, resistance, surface, obstructions, lighting, opening hours, approach aids and means of air traffic control.

(b) An aircraft pilot carrying passengers at night may only take off or land at an airport if: (1) the pilot has determined the wind direction by observing an illuminated ground indicator or by information from the local ground station. In the case of take-off, the wind direction can be determined by personal observation of the pilot; and

(2) the boundaries of the area to be used for landing or take-off are clearly shown:

(i) for airplanes, by boundary or runway lights; and

(ii) for helicopters, by lights or reflective materials that demarcate the limits or the runway.

(c) For the purposes of paragraph (b) of this section, if the area to be used for take-off or landing is marked by lamps or candlesticks, its use must be approved by ANAC.

(d) Helicopter landings and takeoffs from unregistered areas, or landings and takeoffs from unregistered areas in the water, are authorized under certain conditions, as set out in sections 91.329 and 91.331 of RBAC No. 91, with application of section 135.77 of this regulation as to the responsibilities involved. (Wording given by Resolution n^o 546, of March 18, 2020)

(Wording given by Resolution $n^{\rm o}$ 494, of 10.17.2018)

SUBPART E

FLIGHT CREW REQUIREMENTS

135.241 Applicability

Except as provided in section 135.3, this Subpart establishes flight crew requirements for operations under this Regulation.

135.242 Flight crew: general

(a) The certificate holder may only use a person as a flight crew member and a person may only exercise the duties of a flight crew member on an aircraft operating under this Regulation, if that person:

(1) has a license appropriate to the functions to be performed, issued by ANAC;

(2) has in his/her possession the license required by paragraph (a)(1) of this section and the technical qualification certificate, all valid and compatible with the activity being carried out;

(3) has a valid CMA, compatible with the activity being carried out; and

(4) is linked to the certificate holder, with an employment contract in accordance with current labor legislation.

(b) In the case of a new type of aircraft, the certificate holder may use as pilot-in-command of the aircraft a pilot from the manufacturer and/or seller of the aircraft, until a sufficient number of its pilots-in-command reach the marks established by the sections 135.243 and 135.244 of this Regulation, as applicable, but in no case, for more than 180 calendar days after formal receipt of the first aircraft of the new type. Additionally:

(1) there must be a contract between the aircraft manufacturer and/or seller and the certificate holder, providing for training in the new type of aircraft; and

(2) the pilot(s) of the aircraft manufacturer and/or seller must have an employment contract with them and must be qualified by ANAC as set out in paragraph 135.244(b)(3) of this Regulation or, if foreign, must be approved by ANAC, according to the provisions of art. 158 of Law No. 7565, of December 19, 1986.

(c) Each crew member, when requested, must submit to ANAC, for inspection, the documents required by paragraph (a)(2) of this section.

(d) Any certificate holder operating under this Regulation must abide by the age restrictions for the pilots-in-command prerogatives established by RBAC No. 61.

(e) [Reserved]

(f) The certificate holder cannot allow a crew member to exercise and a crew member cannot exercise two or more simultaneous functions on board an aircraft, even if that crew member is qualified by ANAC to exercise more than one function on board.

(Wording given by Resolution n° 494, of 10.17.2018)

135.243 Qualifications for pilot-in-command

(a) The certificate holder may only use a person and a person may only work as a pilot-in-command in operations carrying passengers:

(1) which use a reaction plane or an airplane having a passenger configuration, excluding any crew member seat, equal to or greater than 10 seats, or even a multi-engine plane employed in scheduled operations,

if that person has an airline pilot license in the airplane category, IFR license and class or type license, as applicable, all valid; or (Wording given by Resolution No. 526, of 08.06.2019)

(2) in which a helicopter used in scheduled operations is used, if that person holds an airline pilot license in the helicopter category, IFR license and class or type license, as applicable, all valid. (Wording given by Resolution n° 526, of 08.06.2019)

(b) Except as provided in paragraph (a) of this section, the certificate holder may only use a person and a person may only work as a pilot-in-command of an aircraft operating VFR, if that person:

(1) holds at least one commercial pilot license, in the appropriate category, with class or type qualification, as applicable, valid;

(2) has at least 500 flight hours as a pilot, including a minimum of 100 flight hours in navigation, of which at least 25 have been flown at night; and

(3) for an airplane, having an IFR qualification for an airplane or an airline pilot's license with an airplane category qualification.

(c) Except as provided in paragraph (a) of this section, the certificate holder may only use a person and a person may only work as a pilot-in-command of an aircraft operating IFR, if that person:

(1) holds at least one commercial pilot license in the appropriate category, with class or type certification, as applicable, valid;

(2) has at least 1200 flight hours as a pilot, including a minimum of 500 flight hours in navigation, 100 hours of night flight and 75 hours of flight by real or simulated instruments, of which at least 50 hours are acquired in real flight; and:

(i) for an airplane, has an IFR airplane license or an airline pilot license with an airplane category license; or

(ii) for helicopter, has IFR helicopter certification or an airline pilot license with helicopter category certification.

(d) Paragraph (b)(3) of this section does not apply if:

(1) the airplane used is single-engine, with a conventional engine;

(2) the certificate holder is not authorized to conduct any scheduled passenger air transport operation; (Wording given by Resolution n^{o} 526, of 08.06.2019)

(3) the area of operations, as specified in the certificate holder's operating specification, is an area in which the primary means of navigation is navigation by contact, with radio navigation aids apart, inexistent or unsuitable for use by aircraft flying at low altitudes, and where the primary means of transport is by air;

(4) each flight is conducted in VMC conditions, during daytime;

(5) the distance of each flight, from the certificate holder's base to any destination, does not exceed 300 NM, except if it is possible to maintain radio contact with ATS or ATC bodies every flight hour, for the purpose of monitoring the operation; and

(6) the type of operation established by this paragraph is authorized in the certificate holder's operating specification.

(e) Except as provided in paragraph (b) (2) of this section, for aircraft certified for operation with a single pilot, if the operating specifications of the certificate holder do not authorize the conduct of any scheduled passenger air transport operation, authorizing only in VMC conditions during daytime, the pilot-in-command must have at least 300 hours of total flight time as a pilot, including 50 hours of travel time and 10 hours of night flight time. (Wording given by Resolution n° 526, of 08.06.2019)

(f) For operation with helicopters certified for operation with a single pilot, if the operating specifications of the certificate holder only authorize VFR operations for those helicopters, the pilot-in-command does not need to be IFR-enabled for helicopter when the flight is performed during the daytime, or, if performed at night, when it occurs entirely in ATZ, CTR or TMA, including projections of its lateral limits, or even, in the absence of these air spaces, within a radius of 50 km (27 NM) of the departure airport.

(Wording given by Resolution nº 494, of 10.17.2018)

135.244 Operational experience: pilot-in-command

(a) The certificate holder may only use a person and a person may only work as a pilot-in-command of an aircraft in scheduled operations as defined in RBAC No. 119, if that person, before being designated pilot-in-command, has completed in the basic type and model of the aircraft and in the pilot-in-command position, the following operational experience in each type and basic model of aircraft to be flown: (Wording given by Resolution n° 526, of 08.06.2019)

(1) single-engine aircraft – 10 hours;

(2) multi-engine aircraft, with conventional engines – 15 hours;

(3) multi-engine aircraft with turbine engines (except reaction planes) – 20 hours; and

(4) reaction planes – 25 hours.

(b) When acquiring operational experience, each person must meet the following:

(1) Operational experience must be acquired after successfully completing the appropriate ground and flight training program for the aircraft and the function to be performed on board. Provisions approved for acquiring operational experience must be included in the certificate holder's training program;

(2) experience must be gained in flight during scheduled operations carrying passengers conducted under this Regulation. However, in the case of an aircraft not previously approved for use by the certificate holder, the operational experience gained on shuttle flights or on the aircraft's operational assessment flights may be considered for the purposes of this section; (Wording given by Resolution n° 526, of 08.06.2019)

(3) each person must acquire operational experience performing the functions of pilot-in-command under the supervision of a qualified instructor pilot; and

(4) hours of operational experience can be reduced by no more than 50% of the hours required by this section, by replacing each flight hour with 1 landing and 1 take-off.

(Wording given by Resolution n° 494, of 10.17.2018)

135.245 Qualifications for second-in-command pilot

(a) Except as provided in paragraph (b) of this section, the certificate holder may only use a person and one person may only work as a second pilot-in-command of an aircraft, if that person has at least a commercial pilot license or multi-crew pilot, in the appropriate category, is qualified for IFR flight and for the aircraft, and has completed the appropriate training program for the aircraft and on-board function approved for the certificate holder.

(b) The second pilot-in-command of an aircraft does not need to have IFR clearance if section 135.243 does not require IFR clearance for the pilot-in-command of that aircraft.

(Wording given by Resolution n° 494, of 10.17.2018)

135.247 Recent experience: pilot-in-command

(a) Except as provided in paragraph (b) of this section, the certificate holder may only use a person and a person may only work as a pilot-in-command of an aircraft if that person complies with the recent experience requirements of section 61.21 of the RBAC No. 61.

(b) Paragraph 61.21(a)(2) of RBAC No. 61 does not apply to a pilot-in-command of a certified turbine engine airplane for a crew of more than one pilot, provided the pilot has met the requirements of the paragraphs (b)(1) or (2) of this section.

(1) To operate under this alternative, the pilot-in-command must have at least one commercial pilot's license with qualification for the airplane type, for each type of airplane that is certified for a crew with more than one pilot, and:

(i) the pilot must have recorded at least 1500 hours of experience as a pilot;

(ii) for each aircraft certified for a crew with more than one pilot, the pilot must have performed and recorded takeoffs and landings proving recent experience as required by paragraph 61.21(a)(1) of RBAC No. 61 as an exclusive pilot-in-command of the flight controls;

(iii) the pilot must have executed and registered within the 90 days preceding the operation, on a certified airplane for a crew with more than one pilot, at least 15 hours of flight on the type of airplane for which the pilot intends to operate; and

(iv) the pilot must have executed and registered, as an exclusive pilot-in-command of the flight controls, at least 3 takeoffs and 3 landings with a complete stop, in a plane with a turbine engine that requires a crew with more than one pilot. The pilot must perform takeoffs and landings in the period starting 1 hour after sunset and ending 1 hour before sunrise, within the 6 months preceding the month of the flight.

(2) In order to operate under this alternative, the pilot-in-command must have at least one commercial pilot license with qualification for the airplane type, for each type of airplane that is certified for a crew with more than one pilot, and:

(i) the pilot must have recorded at least 1500 hours of experience as a pilot;

(ii) for each aircraft certified for a crew with more than one pilot, the pilot must have performed and recorded takeoffs and landings proving recent experience as required by paragraph 61.21(a)(1) of RBAC No. 61 as an exclusive pilot-in-command of the flight controls;

(iii) the pilot must have executed and registered within the 90 days preceding the operation, on a certified airplane for a crew with more than one pilot, at least 15 hours of flight on the type of airplane for which the pilot intends to operate; and

(iv) within 12 months preceding the month of the flight, the pilot must have completed an approved training program under the terms of RBAC No. 142. The approved training program must require and the pilot must perform at least 6 takeoffs and 6 landings with one complete stop as a pilot in exclusive command of the flight commands in a flight simulation training device (FSTD) representative of a turbine-powered plane that requires more than one pilot as crew. The visual system of the FSTD must have been adjusted to represent the period that begins 1 hour after sunset and ends 1 hour before sunrise.

(c) A pilot who has lost pilot-in-command prerogatives because he/she does not meet the recent experience requirements of paragraph (a) or (b) of this section, must recover them by meeting the requirements of those paragraphs under the supervision of a qualified instructor pilot.

(Wording given by Resolution n° 494, of 10.17.2018)

SUBPART F

CREWS: FLIGHT TIME LIMITATIONS AND REST REQUIREMENTS

135.261 Applicability

This Subpart is applicable to flight crews and flight attendants acting on board aircraft operating in accordance with this Regulation.

<u>135.263 Flight time limitations and</u> rest requirements

Flight time limitations, rest requirements and other rules that regulate the exercise of the aeronaut profession are contained in Law No. 13475, of August 28, 2017, and in its regulations. For crew members engaged in flights with systematic connections or in scheduled operations, the articles of the Law referring to regional air transport companies are applicable.

(Wording given by Resolution $n^{\rm o}$ 526, of 08.06.2019)

SUBPART G

REQUIREMENTS FOR CREW EXAMINATIONS

135.291 Applicability

Except as provided in section 135.3, this Subpart:

(a) establishes the examinations required for pilots and flight attendants and for the approval of accreditation of pilot examiners in operations under this Regulation; and

(b) allows personnel from civil aviation training centers (CTAC) certified or validated in accordance with RBAC No. 142, or from class aircraft manufacturers (according to the criteria of RBAC No. 61), of their own manufacture, and that meets the requirements of sections 135.337 to 135.340, as applicable, provide training and examinations under contract or other agreement for persons subject to the requirements of this Subpart.

(Wording given by Resolution n° 494, of 10.17.2018)

<u>135.293 Initial and periodic</u> <u>examination requirements for</u> <u>pilots</u>

(a) The certificate holder can only use a person as a pilot and a person can only work as a pilot on a flight if, within the 12

calendar months preceding that flight, that pilot has passed an oral or written exam, applied by a server designated by ANAC or by an accredited pilot examiner on the pilot's knowledge in the following areas:

(1) the appropriate provisions of RBAC No. 61, RBAC 91 and of this Regulation, as well as the operating specifications and the general manual of the certificate holder's company; (Wording given by Resolution n° 612, of 09.03.2021)

(2) for each type of aircraft to be flown by the pilot, the powerplant, the main components and systems, the main equipment, operational performance and limitations, normal and emergency operating procedures and the contents of the aircraft's flight manual or equivalent, as applicable;

(3) for each type of aircraft to be flown by the pilot, the method of determining compliance with weight and balance limitations for take-off, landing and en-route operations;

(4) navigation and use of navigation aids appropriate to the pilot's operation or qualifications, including, where applicable, instrument approach facilities and procedures;

(5) air traffic control procedures, including IFR procedures when applicable;

(6) meteorology in general, including principles of frontal systems, ice, fog, thunderstorms and windshear and, if appropriate for the certificate holder's operations, high altitude meteorology;

(7) procedures for:

(i) recognizing and avoiding severe atmospheric situations;

(ii) getting out of severe atmospheric situations in case of inadvertent entry, including low windshear (except helicopter pilots who do not need to be tested in low windshear); and

(iii) operating in or near thunderstorms (including better penetration altitudes), turbulent air (including clear sky turbulence), ice, hail and other potentially dangerous weather conditions; and

(8) new equipment, procedures or techniques, as appropriate.

(b) The certificate holder may only use a person as a pilot and a person may only work as a pilot on a flight if, within the 12 calendar months preceding that flight, that pilot has passed a proficiency exam administered by a designated ANAC server or by an examining pilot accredited in the aircraft class, if a single-engine plane other than reaction plane, or in the aircraft type, whether a helicopter, multi-engine plane or the reaction plane, in order to determine the pilot's proficiency in the practical execution of the maneuvers and techniques on that aircraft or class of aircraft. The extent of the proficiency exam will be determined by the ANAC designated server or accredited examiner conducting the exam. The proficiency exam may include any of the maneuvers and procedures normally required for the original issuance of the particular pilot license required for authorized operations and appropriate for the category, class or type of aircraft involved. For the purposes of this paragraph, type, for an airplane, means any group of airplanes that ANAC considers to have similar means of propulsion, same manufacturer and without significant differences in maneuverability or flight characteristics. For the purposes of this paragraph, type, for a helicopter, means a basic model from the same manufacturer.

(c) The instrument proficiency exam required by section 135.297 may replace the proficiency exam required by this section for the type of aircraft used in the exam.

(d) For the purposes of this Regulation, the proficient execution of a procedure or maneuver by the person to be used as a pilot requires that the person obviously dominates the aircraft, without any doubt as to the successful execution of any phase of the flight.

(e) The ANAC designated server or the accredited pilot examiner will certify the proficiency of each successful pilot in the knowledge exam and the proficiency exam, recording the results in the pilot's records.

(f) Parts of a required proficiency exam may be performed on an FSTD and/ or other training device, if approved by ANAC.

(Wording given by Resolution nº 494, of 10.17.2018)

<u>135.295 Initial and periodic</u> <u>examination requirements for flight</u> <u>attendants</u>

The certificate holder can only use a person as a flight attendant and a person can only work as a flight attendant on a flight if, within the 12 calendar months preceding that flight, the certificate holder has verified by appropriate initial or periodic examination, applied by an ANAC designated server or an accredited examining flight attendant, that such person has knowledge and incumbency in the following areas, as appropriate for the duties and responsibilities that will be assigned to him/her:

(a) pilot-in-command authority;

(b) treatment of passengers, including procedures that must be followed to provide adequate assistance to passengers in need of special assistance (PNAE) and to deal with disturbed persons or other persons whose conduct may jeopardize safety;

(c) crew members' duties, functions and responsibilities during landing and evacuation of people who may need assistance from another person to move quickly to an exit in an emergency;

(d) instructions to passengers;

(e) location and operation of portable fire extinguisher and other items of emergency equipment;

(f) appropriate use of cabin equipment and controls;

(g) location and operation of oxygen equipment for passengers;

(h) location and operation of all normal and emergency exits, including escape ramps and escape lines; and

(i) seat accommodation of people who may need assistance from another person to move quickly to an emergency exit as provided for in the certificate holder's company general manual.

(Wording given by Resolution n° 494, of 10.17.2018)

<u>135.297 Pilot-in-command:</u> requirements for instrument flight proficiency examination

(a) The certificate holder may only use a person as a pilot-in-command and a person may only work as a pilot-in-command of an aircraft flying IFR if within the 6 calendar months preceding that flight the pilot has passed an instrument flight proficiency exam, applied by an ANAC designated server or by an accredited pilot examiner.

(b) A pilot may only perform any precision instrument approach procedure under IMC conditions if, within the 6 calendar months preceding that flight, the pilot has demonstrated proficiency in the type of procedure to be performed. A pilot may only perform any non-precision instrument approach procedure under IMC conditions if, within the 6 calendar months preceding that flight, the pilot has demonstrated proficiency in performing this type of approach procedure or in two other types of non-precision approach. Instrument approach procedures must include at least one direct approach procedure, a circling approach for landing and a missed approach. Each type of approach must be conducted to the minimum approved for the procedure being performed.

(c) The proficiency exam required by paragraph (a) of this section consists of an oral or written exam on the equipment in use and a flight exam under real or simulated IFR conditions. The equipment exam should include questions about emergency procedures, engine operation, fuel and lubrication systems, power adjustments, stall speeds, best idle speed, propeller and supercompressor operation, and hydraulic, mechanical and electric systems, as appropriate. The in-flight examination must include instrument navigation, simulated emergency recovery and instrument approaches involving the navigation facilities that the pilot is authorized to use. Each pilot running a proficiency exam must demonstrate the proficiency standards set out in paragraph 135.293(d). Additionally:

(1) the instrument proficiency exam must:

(i) for a pilot-in-command of an airplane referred to in paragraph 135.243(a), include procedures and maneuvers required of an airline pilot qualified in the particular type of airplane, if appropriate; and

(ii) for a pilot-in-command of a helicopter or airplane mentioned in paragraph 135.243(c), include the procedures and maneuvers required of an IFR qualified commercial pilot and, if applicable, qualified in the particular type of aircraft; and (2) the instrument proficiency exam must be administered by an accredited pilot examiner or a designated ANAC servant.

(d) If the pilot-in-command is designated to fly only on one type of aircraft, the proficiency exam required by paragraph (a) of this section must be conducted on that type of aircraft.

(e) If the pilot-in-command is designated to fly more than one type of aircraft, that pilot must perform the proficiency exam required by paragraph (a) of this section on each type of aircraft on which he/she flies, alternatively, but no more than one in-flight examination during each period described in paragraph (a) of this section.

(f) If the pilot-in-command is designated to fly both single-engine and multi-engine aircraft, that pilot must perform the first proficiency exam required by paragraph (a) of this section on multi-engine aircraft; each subsequent exam will be performed alternately on single and multi-engine aircraft, but not more than one in-flight exam during each period described in paragraph (a) of this section. Parts of the required in-flight exam may be performed on an FSTD and/or other training device, if approved by ANAC.

(Wording given by Resolution $n^{\rm o}$ 494, of 10.17.2018)

135.299 Pilot in command: en-route and airport examinations

(a) The certificate holder may only use a pilot and a person may only work as a pilot-in-command of a flight if, within the 12 calendar months preceding that flight, that pilot has passed a flight exam on one of the types of aircraft flown by him/ her. The in-flight exam must:

(1) be applied by a server designated by ANAC or by an accredited pilot examiner;

(2) consist of at least one flight over a route segment; and

(3) include landings and takeoffs at one or more representative airports. In addition to the requirements of this paragraph, if the pilot is authorized to conduct IFR operations, at least one flight must be flown on the airway, on an approved route outside the airway, or on a part-out-of-air route.

(b) The ANAC designated server or accredited pilot examiner shall determine whether the pilot being examined satisfactorily performs the duties and responsibilities of a pilot-in-command conducting operations under this Regulation and shall record the results of the exam in the pilot's records.

(c) The certificate holder must establish, in the company's general manual required by section 135.21 of this Regulation, the procedures that will ensure that each pilot, who has not flown on a route or to an airport within the preceding 90 days, before take off familiarize himself/ herself with all the information required for the safe conduct of the flight.

(Wording given by Resolution n° 494, of 10.17.2018)

135.301 Crew: standards for exam acceptance

(a) If a crew member needs to perform an examination required by this Regulation in a given calendar month and perform that examination in the calendar month before or after the scheduled month, that crew member is considered to have performed the examination in the calendar month in which it was due.

(b) If a pilot being examined under this Subpart fails to perform any of the reguired maneuvers, the pilot examiner may provide additional training in the course of the verification. In addition to requiring the unsuccessful maneuver to be repeated, the examiner may request the repetition of any other maneuvers he/she deems necessary to assess the pilot's proficiency. If the pilot being examined cannot demonstrate satisfactory performance to his/her examiner, the certificate holder cannot use that pilot, nor can that pilot fly as a member of the minimum crew required in operations under this Regulation until a new examination is satisfactorily completed, which it will be done after proof of having received a new theoretical and/or practical instruction.

(Wording given by Resolution $n^{\rm o}$ 494, of 10.17.2018)

135.303 Authorization for pilot accreditation: application and issuance

(a) The certificate holder who wishes to approve the accreditation of one of its pilots must submit an application to ANAC. The pilot to be accredited must pass the written or oral exams and the in-flight exam. The accreditation document describes the in-flight examinations that the pilot is qualified to apply and the category, class or type of aircraft, as applicable, in which the accredited pilot is qualified.

(Wording given by Resolution nº 494, of 10.17.2018)

SUBPART H

TRAINING

135.321 Applicability and terms used

(a) Except as provided in section 135.3, this Subpart establishes the applicable requirements for a certificate holder subject to this Regulation:

(1) to contract or otherwise arrange to use the services of a CTAC certified or validated under RBAC No. 142, or a class aircraft manufacturer (according to criteria of RBAC No. 61), of its own manufacture, to perform the training and exam duties;

(2) to establish and maintain an approved training program for the crews, examiners, instructors and operations personnel used by this certificate holder; and

(3) for the qualification, approval and use of FSTD and other training devices in conducting the program.

(b) For the purposes of this Subpart and Subpart G, the following terms and definitions apply:

 initial training. It is training for a function required for a crew member who has not been qualified and has not worked in that function on an aircraft;

(2) transition training. It is training for a function required for a crew member who has been qualified and worked in the same function on another aircraft;

(3) level training. It is the training required for a crew member who has been qualified and worked as a second-in-command pilot on a particular type of aircraft, before starting to work as a pilot-in-command on that type of aircraft;

(4) difference training. It is the training required for a crew member who has been qualified and worked on a particular type of aircraft before starting to work in the same function on a particular variant of the same type of aircraft, if so deemed necessary by ANAC; (5) periodic training. It is the training required for a crew member to remain properly trained and permanently proficient in each aircraft, function on board and type of operation in which the crew member works;

(6) in flight. The maneuvers, procedures or functions that must be conducted in an aircraft;

(7) CTAC. An organization operating in accordance with the applicable requirements of RBAC No. 142, which provides training and examinations under contract or other form of agreement for certificate holders subject to the requirements of this Regulation;

(8) requalification training. It is the training required for crew members previously trained and qualified, but who have lost the qualification for not having completed within the required period:

(i) the requirements for the periodic pilot examination of section 135.293;

(ii) the requirements for the examination of proficiency in instruments of section 135.297; or

(iii) the route examination requirements of section 135.299; and

(9) proficiency exam:

(i) for pilots: practical exam carried out in an approved FSTD or in a flight not conducted under this Regulation; and

(ii) for flight attendants: practical exam carried out on an FSTD or on static aircraft;

and

(10) qualified. It means that the pilot must have the appropriate category and class, type and operation qualifications valid, have successfully completed the approved training program for the approved operations for the certificate holder and have the recent experience requirements met, in a specific aircraft and function on board.

(Wording given by Resolution nº 494, of 10.17.2018)

135.323 Training program: general

(a) The certificate holder who is required to have a training program under section 135.341 must: (1) design, obtain the appropriate initial approval and final approval, and execute a training program in accordance with this Subpart and Subpart K that ensures that each crew member, flight instructor, flight examiner and that each person who performs or directly supervise any function related to compliance with RBAC 175 is properly trained to perform his/her duties; (Wording given by Resolution No. 608, of 02.11.2021)

Note: for more information on operational requirements for hazardous articles, see Subpart K. (Included by Resolution No. 608, of 02.11.2021);

(2) obtain from ANAC, initial approval and final approval of the training program, before its implementation;

(3) provide adequate ground and in-flight training facilities and resources and appropriately qualified ground instructors for the training required by this Subpart;

(4) for each type of aircraft used and, if applicable, for each particular variant of each type, provide and keep up to date appropriate training materials, tests, forms, instructions and procedures for use in conducting the training and examinations required by this Regulation; and

(5) have a sufficient number of flight instructors, flight examiners and FSTD instructors to conduct such training, flight examinations and FSTD courses permitted by this Subpart.

(b) If a crew member has to complete the periodic training required by this Subpart in a given calendar month and finishes it in the calendar month before or after the scheduled month, ANAC will consider that the training was completed in the month in which it was due.

(1) A crew member may perform his/ her duties during the 1-calendar month grace period after the end of the calendar month in which periodic training is due.

(c) Each instructor or examiner, who is responsible for a particular ground training subject, flight training segment, in FSTD and/or other training device approved by ANAC, or exam under this Regulation, must certify proficiency and the knowledge of each crew member, flight instructor or flight examiner at the end of the training or exam. This certification must be included in the records of the person examined and approved. When the certification required by this paragraph is made through computer registration, the person certifying the approval must be identified in that registration. In this case, there is no need for that person's signature.

(d) Matters applicable to more than one aircraft or more than one function on board that have been satisfactorily completed during training previously performed by the certificate holder for another aircraft or other function on board do not need to be repeated during subsequent training other than periodic training.

(e) FSTD and/or other training device approved by ANAC can be used in the training program.

(Wording given by Resolution nº 494, of 10.17.2018)

135.324 Training program: special rules

(a) In addition to the certificate holder, only another certificate holder, according to this Regulation, a CTAC certified or validated according to RBAC No. 142, or a manufacturer of class aircraft (according to criteria of RBAC No. 61), of its own manufacture, are eligible under this Subpart to provide training and examinations, under contract or otherwise, to persons subject to the requirements of this Subpart.

(b) A certificate holder may only contract or use any other form of agreement to obtain the service of a CTAC certified or validated under RBAC No. 142, to provide training and examinations required by this Regulation if that CTAC:

(1) has applicable training specifications issued under RBAC No. 142;

(2) has facilities, training equipment and teaching material for the course, meeting the applicable requirements of RBAC No. 142;

(3) has approved curricula, curriculum segments and portions of curriculum segments applicable to use in training courses required by this Subpart; and

(4) has sufficient instructors and qualified examiners under the applicable requirements of sections 135.337 to 135.340 of this Regulation to provide training and examinations to persons subject to the requirements of this Subpart. (Wording given by Resolution n° 494, of 10.17.2018)

<u>135.325 Training program and</u> reviews: initial and final approval

(a) To obtain initial approval and final approval of a training program or a review of an approved program, the certificate holder must submit to ANAC:

(1) a summary of the proposed or revised curriculum, providing sufficient information for a preliminary assessment of the program or proposed revision; and

(2) additional information that ANAC considers relevant.

(b) If the training program or the proposed revision meets this Subpart, ANAC will grant, in writing, an initial approval authorizing the certificate holder to conduct the training under the approved program. After an evaluation of the program's efficiency, ANAC will inform the certificate holder of the deficiencies, if any, that must be corrected.

(c) ANAC will grant final approval of the proposed program or review if the certificate holder demonstrates that the training, conducted in accordance with the program approved under paragraph (b) of this section, ensures that each person who satisfactorily completes it is adequately trained to perform their duties.

(d) Whenever ANAC considers that, in order to maintain the adequacy of a training program with final approval, revisions to the program are necessary, the certificate holder must, after being notified by ANAC, make all the changes deemed necessary. Within 30 days after receiving notification from ANAC, the certificate holder may submit a reconsideration request, in which case the entry into force of the changes will be pending ANAC's final decision. However, if ANAC considers that an emergency requires urgent action in the interest of security, it can determine a review with immediate effectiveness.

(Wording given by Resolution n° 494, of 10.17.2018)

<u>135.327 Training program:</u> <u>curriculum</u>

(a) The certificate holder shall prepare and maintain a written training program curriculum for each type of aircraft and for each type of crew required by the type. The curriculum must include the ground and flight training required by this Subpart. (b) Each training program curriculum must contain the following:

(1) a list of the main ground training subjects, including emergency matters, that will be taught;

(2) a list of all training devices, mockups, system trainers, procedure trainers and other instructional aids to be used in training; and

(3) detailed descriptions or pictorial posters of the normal, abnormal and emergency maneuvers, functions and procedures that will be performed in each phase of training and in-flight examinations, indicating the maneuvers, functions and procedures to be performed on aircraft, FSTD and/ or other training device approved by ANAC during training and flight exams.

(Wording given by Resolution n° 494, of 10.17.2018)

135.329 Requirements for training crew members

(a) The certificate holder shall include in its training programs, as appropriate for each particular type of crew member, the following initial and transition ground training:

(1) basic indoctrination of ground for persons newly linked to the certificate holder, including instruction of at least the following:

(i) duties and responsibilities of the crew, as applicable;

(ii) the appropriate provisions of this Regulation;

(iii) content of the certificate and operating specifications (not applicable to flight attendants);

(iv) appropriate parts of the general manual of the certificate holder's company;

(v) for flight attendants, aircraft basics and theory of flight;

(vi) the safe transport of dangerous goods by air, in accordance with the requirements of RBAC No. 175;

(vii) the SGSO;

(viii) civil aviation security (AVSEC); and

(ix) human factors and CRM.

(2) the initial and transitional ground training provided for in sections

135.345 and 135.349, as applicable; and

(3) the emergency training provided for in section 135.331.

(b) Each training program must provide the initial and transition flight training provided for in section 135.347, as applicable.

(c) Each training program must provide the periodic flight and ground training provided for in section 135.351.

(d) Level elevation training provided for in sections 135.345 and 135.347, for a particular type of aircraft, may be included in order to promote crew members who have been qualified and work as second-in-command pilots in that type of aircraft.

(e) In addition to initial, transition, level elevation and periodic training, each training program must provide ground and flight training, instruction and practice necessary to ensure that each crew member:

(1) remain adequately trained and permanently proficient for each function on board, type of aircraft and type of operation in which the crew member works; and

(2) qualify for new equipment, facilities, procedures and techniques, including aircraft changes.

(Wording given by Resolution nº 494, of 10.17.2018)

<u>135.330 Team resource</u> management (CRM) training

(a) The certificate holder must establish and maintain a team resource management (CRM) training program that includes initial and periodic training. The training program must include instruction in at least:

(1) leadership and managerial skills of the pilot-in-command;

(2) communication, decision and coordination processes, including communication with air traffic control bodies, with personnel that perform flight location activities and other operational activities and with passengers;

(3) formation and maintenance of teams;

(4) time and workload management;

(5) error and threat management strategies;

(6) monitoring and automation;

(7) maintenance of situational awareness;

(8) effects of fatigue on performance, prevention and mitigation strategies;

(9) effects of stress and stress reduction strategies;

(10) effects of the use of alcohol and other drugs on performance; and

(11) training in judgment and decision making adapted to the aviation environment and the operations of the certificate holder.

(b) The certificate holder may only use a person as a member of the flight crew if that person has completed initial and, every 24 months, staff resource management training in accordance with the certificate holder's approved training program.

(c) Staff resource management training conducted prior to the approval of the training program established in accordance with paragraph (a) of this section may be used to fully or partially comply with the training required by paragraph (b) of this section, to the extent that equivalence is shown between the curriculum given (or part of it) and the minimum curriculum required by paragraph (a) of this section.

(d) To grant credits, as established in paragraph (c) of this section, ANAC considers instructional aids, training devices, methods and procedures to address the CRM content, which have been previously used by the certificate holder and included in its training program required by sections 135.341, 135.345, 135.349 or specific ANAC standard.

(e) The certificate holder must develop a continuous system of evaluation and validation of its CRM training programs, in order to verify if the proposed objectives are being achieved.

(f) For the purposes of this section, a CRM facilitator is an instructor who is qualified to teach CRM courses.

(1) The certificate holder can only use a person and a person can only serve as a CRM facilitator in a training program established under this Subpart if, within the previous 24 months, that person has undergone a training program in CRM.

(g) The CRM training program required by paragraph (f)(1) of this section must in-

clude instruction in at least CRM philosophy, knowledge, techniques and skills.

(Included by Resolution No. 494, of October 17, 2018)

135.331 Emergency crew training

(a) Each training program shall provide emergency training in accordance with this section, for each type, model and configuration of aircraft, each crew member and each type of operation conducted, as appropriate for each crew member and the certificate holder.

(b) Emergency training must be annual and provide the following:

 instructions on emergency procedures and assignments, including crew coordination;

(2) individual instruction on the location, functioning and operation of emergency equipment, including:

(i) equipment used in landings on the water and in emergency evacuation;

(ii) first aid equipment and its appropriate use; and

(iii) portable fire extinguishers, with emphasis on the type of extinguishing agent to be used in the different classes of fire;

(3) instructions on emergency procedures, including:

(i) rapid decompression;

(ii) fire on board in flight and on the ground and smoke control procedures, with an emphasis on electrical equipment and corresponding circuit breakers located inside the aircraft;

(iii) water landing and evacuation;

(iv) illnesses, bruises or other abnormal situations involving passengers or crew; and

(v) unlawful interference and other unusual situations; and

(4) review and study of accidents and incidents previously occurred with the certificate holder, involving real emergency situations.

(Wording given by Resolution n° 494, of 10.17.2018)

(c) Each crew member must perform at least the following emergency exercises, using appropriate emergency procedures and equipment, unless ANAC considers that, for a particular exercise, the crew member can be adequately trained by a demonstration of the exercise:

(1) landing on water, if applicable;

(2) emergency evacuation;

(3) fire extinguishing and smoke control;

(4) operation and use of emergency exits, including opening and using escape slides, if applicable;

(5) use of oxygen for crew and passengers;

(6) removal and filling of aircraft lifeboats, use of lifelines and boarding passengers and crew in boats, if applicable; and

(7) placement and inflation of life jackets and use of other flotation equipment, if applicable.

(Wording given by Resolution n° 494, of 10.17.2018)

(d) Crew members flying in operations above 25,000 feet in altitude must be instructed on:

(1) breathing problems;

(2) hypoxia;

(3) duration of consciousness, at altitude, without supplemental oxygen;

(4) expansion of gases;

(5) formation of gas bubbles in the blood; and

(6) physical phenomenon and decompression incidents.

135.333 [Reserved]

135.335 Approval of FSTD and other training devices

(a) Training courses using FSTD and other training devices may be included in the certificate holder's training programs, provided they are approved by ANAC.

(b) Each FSTD and/or other training device to be used in a training course or exam required by this Subpart, must:

(1) be specifically approved for:

(i) the certificate holder; and

(ii) the particular maneuver, procedure or crew involved;

(2) maintain functional performance and other characteristics that are required for approval;

(3) additionally, in the case of flight simulator (FFS):

(i) be approved for the type of aircraft and, if applicable, for the particular variation of the type in which the training or examination will be conducted; and

(ii) be altered to conform to any alteration of the aircraft to be simulated that changes the performance, operation or other characteristics required for approval;

(4) before the start of each working day, be subjected to a functional pre-flight; and

(5) have a book for the daily record of usage and observed discrepancies; this book must be completed by instructors or examiners at the end of each training or exam session.

(c) A private FSTD and/or other training device approved by ANAC may be used by more than one certificate holder.

(d) In granting initial approval and final approval of a training program (or its revisions), ANAC takes into account the FSTD and/or other training device approved by ANAC, and the procedures and methods listed in the holder curriculum certificate required by section 135.327 of this Regulation.

(e) For an FSTD to be used in place of an aircraft to satisfy the flight training requirements of this Regulation, it must:

(1) be qualified or validated, and approved in accordance with this section and meet the requirements established by Appendix H of RBAC No. 121 or provisions that will replace it; and

(2) be used as part of an approved program that meets the training requirements of 135.347 and Appendix H of RBAC No. 121.

(Wording given by Resolution n° 494, of 10.17.2018)

135.337 Qualifications: aircraft examiner and FSTD examiner and/ or other training device approved by ANAC

(a) For the purposes of this section and section 135.339:

(1) aircraft examiner is a person qualified to conduct in-flight exams in an aircraft, in FSTD and/or in another training device approved by ANAC for a particular type of aircraft;

(2) FSTD examiner and/or other training device approved by ANAC is a person qualified to conduct in-flight examinations, but only on an FSTD and/or other training device approved by ANAC for a particular type of aircraft; and

(3) aircraft examiner and FSTD examiner and/or other training device approved by ANAC are examiners that perform the functions described in sections 135.321(a) and 135.323(a)(5) and (c) of this Regulation.

(b) A certificate holder may only use a person and a person may only work as an aircraft examiner in a training program established under this Subpart if, for a particular type of aircraft involved, that person:

(1) holds a pilot's license and the qualifications required for a pilot-in-command in operations under this Regulation;

(2) has satisfactorily completed the phases of training for the aircraft that are required to act as a pilot-in-command in operations under this Regulation;

(3) has satisfactorily completed the appropriate proficiency exams required to work as a pilot-in-command in operations under this Regulation;

(4) has satisfactorily completed the applicable training requirements required by section 135.339 of these Rules;

(5) has a valid and suitable CMA to work as a pilot-in-command in operations under this Regulation;

(6) has met the recent experience requirements of section 135.247 of these Rules; and

(7) has been approved by ANAC as an aircraft examiner.

(c) A certificate holder can only use a person and a person can only work as an examiner on FSTD and/or other training device approved by ANAC in a training program established under this Subpart, if that person, in relation to the aircraft type involved, complies with the provisions of paragraph (b) of this section, or if that person:

(1) holds the license and qualifications required to act as a pilot-in-command in operations under this Subpart, except for the CMA;

(2) has satisfactorily completed the training phases for the aircraft that are required to serve as a pilot-in-command in operations under this Regulation;

(3) has successfully completed the proficiency exams, which are required to serve as a pilot-in-command in operations under this Regulation;

(4) has successfully completed the applicable training requirements in section 135.339 of these Rules; and

(5) has been approved by ANAC as an FSTD examiner and/or other training device approved by ANAC.

(d) Compliance with the requirements of paragraphs (b)(2), (3) and (4) or (c)(2), (3) and (4) of this section, as applicable, should be noted in the records of individual training provided by the certificate holder.

(e) An examiner who does not have an appropriate CMA may work as an examiner on FSTD and/or other training device approved by ANAC, but may not serve as a flight crew member in operations under this Regulation.

(f) A flight examiner in FSTD and/or other training device approved by ANAC must perform the following:

(1) flying at least 2 flight segments as a crew member required for the type, class or category of aircraft involved within the 12 months preceding the performance of any examiner service on an FSTD and/or other training device approved by ANAC; or

(2) satisfactorily complete an approved route observation program within the period established by the program and which must precede the performance of any examiner service in an FSTD and/or other training device approved by ANAC.

(g) The flight segments or the route observation program required by paragraph (f) of this section are considered to have been completed in the required month if completed in the calendar month before or after the calendar month in which they were due.

(Wording given by Resolution n° 494, of 10.17.2018)

135.338 Qualifications: aircraft flight instructor and FSTD flight instructor and/or other training device approved by ANAC

(a) For the purposes of this section and section 135.340:

(1) aircraft flight instructor is a person who is qualified to give instruction in aircraft, in FSTD and/or other training device approved by ANAC for a particular type, class or category of aircraft;

(2) FSTD flight instructor and/or an instruction in other ANAC approved training device is a person who is qualified to teach in an FSTD and/ or another ANAC approved training device for a particular type, class or category aircraft; and

(3) flight instructor in FSTD and/or on other training device approved by ANAC are the instructors who perform the functions described in paragraphs 135.321(a) and 135.323 (a)(5) and (c) this Regulation.

(b) A certificate holder may only use a person and a person may only serve as an aircraft flight instructor in a training program established under this Subpart if, in relation to the type, class or category of the aircraft involved, that person:

(1) holds the license and qualifications required to serve as a pilot-in-command in operations under this Regulation;

(2) has satisfactorily completed the phases of training for the aircraft that are required to act as a pilot-in-command in operations under this Regulation;

(3) has satisfactorily completed the proficiency exams that are required to act as a pilot-in-command in operations under this Regulation;

(4) has satisfactorily completed the applicable training requirements in section 135.340 of these Rules;

(5) has a valid and suitable CMA to work as a pilot-in-command in operations under this Regulation;

(6) has satisfied the recent experience requirements of section 135.247 of this Regulation.

(c) A certificate holder can only use a person and a person can only act as a flight instructor in FSTD and/or another training device approved by ANAC in a training program established under this Subpart, if that person meets the provisions of paragraph (b) of this section in relation to the relevant aircraft type, class or category, or if that person:

(1) holds the license and qualifications, except CMA, required to act as a pilot-in-command under this Regulation; (2) has satisfactorily completed the training phases for the aircraft that are required to act as a pilot-in-command in operations under this Regulation;

(3) has satisfactorily completed the proficiency exams that are required to act as a pilot-in-command in operations under this Regulation; and

(4) has satisfactorily completed the applicable training requirements in section 135.340 of these Rules.

(d) Compliance with the requirements of paragraphs (b)(2), (3) and (4) or (c)(2), (3) and (4) of this section, as applicable, should be noted in the records of individual training provided by the certificate holder.

(e) A person who does not have a CMA cannot act as a flight instructor on an aircraft nor can he/she act as a member of the flight crew in operations under this Regulation.

(f) A flight instructor in FSTD and/or other training device approved by ANAC must perform the following:

(1) fly at least two flight segments as a crew member required for the type, class or category of the relevant aircraft within the 12-month period preceding the execution of any flight instructor activity in FSTD and/or other training device approved by ANAC; or

(2) satisfactorily complete an approved route observation program within the period established by this program and which must precede the execution of any flight instructor activity in FSTD and/or other training device approved by ANAC.

(g) The flight segments or the route observation program required by paragraph (f) of this section are considered to have been completed in the required month if completed in the calendar month before or after the calendar month in which they were due.

(Wording given by Resolution n° 494, of 10.17.2018)

135.339 Initial, transition and exam training: aircraft examiner and examiner in FSTD and/or other training device approved by ANAC

(a) A certificate holder can only use a person and a person can only serve as an examiner if: (1) that person has satisfactorily completed the initial or transition examiner training; and

(2) within the previous 24 calendar months, this person has successfully conducted a proficiency exam under the observation of a server designated by ANAC or an accredited examiner linked to the operator. The examination under observation can be performed in part or in whole on an aircraft or in FSTD and/or other training device approved by ANAC.

(b) The examination under observation required by paragraph (a)(2) of this section is considered to have been completed in the required month if completed in the calendar month before or after the calendar month in which it was due.

(c) Initial ground training for an examining pilot should include the following:

(1) the duties, responsibilities and functions of an examining pilot;

(2) the applicable provisions of this Regulation, the aeronautical regulations and the certificate holder's policies and procedures;

(3) the appropriate methods, procedures and techniques for conducting the required examinations;

(4) the proper assessment of a pilot's performance, including the identification of:

(i) inadequate or insufficient training; and

(ii) an applicant's personal characteristics that may adversely affect security;

(5) corrective actions in the case of unsatisfactory examinations; and

(6) the methods, procedures and limitations approved for the performance of the aircraft's normal, abnormal and emergency procedures.

(d) Transitional ground training for an examining pilot must include approved methods, procedures and limitations to perform the required normal, abnormal and emergency procedures applicable to the aircraft for which the examining pilot is transitioning.

(e) Initial and transition flight training for an aircraft examiner must include the following:

(1) security measures for emergency situations that may occur during an examination;

(2) the potential results of security measures that were not taken, were taken out of time or are improper;

(3) training and practice in conducting in-flight exams from the left and right pilot seats, performing the required normal, abnormal and emergency procedures, in order to ensure incumbency in conducting in-flight exams of pilots required by this Regulation; and

(4) the safety measures to be taken, from either of the two pilot seats, for emergency situations that may arise during the exam.

(f) The requirements of paragraph (e) of this section can be met in aircraft, in FSTD and/or other training device approved by ANAC, as appropriate.

(g) Initial and transition flight training for FSTD examiner and/or other training device approved by ANAC must include the following:

(1) training and practice in conducting in-flight exams, performing the required normal, abnormal and emergency procedures, in order to ensure incumbency in conducting in-flight exams required by this Regulation. This training and practice must be carried out in the FSTD and/or another training device approved by ANAC; and

(2) training in the operation of the FSTD and/or another training device approved by ANAC, to ensure incumbency in conducting the in-flight exams required by this Regulation.

(Wording given by Resolution n° 494, of 10.17.2018)

135.340 Initial, transition and exam training: aircraft flight instructor and FSTD flight instructor and/or other training device approved by ANAC

(a) A certificate holder can only use a person and a person can only act as a flight instructor if:

(1) this person has successfully completed initial or transition training for flight instructor; and

(2) within the previous 24 calendar months, this person has successfully conducted instruction under the observation of a server designated by ANAC or an accredited examiner linked to the certificate holder. The instruction under observation can be carried out in part or in whole in aircraft or in FSTD and/or other training device approved by ANAC.

(b) The instruction under observation required by paragraph (a)(2) of this section is considered to have been completed in the required month if completed in the previous calendar month or in the calendar month following the month in which it is due.

(c) Initial ground training for flight instructors must include the following:

(1) flight instructor's activities, roles and responsibilities;

(2) the applicable regulations and standards and the certificate holder's policies and procedures;

(3) the methods, procedures and techniques applicable in conducting the flight instruction;

(4) appropriate assessment of student performance, including identification of:

(i) improper and insufficient training; and

(ii) a candidate's personal characteristics that may adversely affect security;

(5) corrective actions in the event of unsatisfactory training progress;

(6) the methods, procedures and limitations approved to perform the normal, abnormal and emergency procedures required on the aircraft; and

(7) except for flight instructor license holders:

(i) the fundamental principles of the teaching-learning process;

(ii) teaching methods and procedures; and

(iii) the instructor-student relationship.

(d) Transition ground training for flight instructors must include approved methods, procedures and limitations to perform the required normal, abnormal and emergency procedures applicable to the type, class or category of aircraft for which the flight instructor is in transition.

(e) Initial and transition flight training for aircraft flight instructors must include the following:

(1) security measures for emergency situations that may arise during instruction; (2) the potential results of inappropriate or inconvenient safety measures taken during the investigation;

(3) training and practice, from the left and right pilot seats, of the required normal, abnormal and emergency maneuvers, in order to ensure incumbency in conducting the flight instruction required by this Regulation; and

(4) the safety measures to be taken, from either of the two pilot seats, for emergency situations that may arise during instruction.

(f) The requirements of paragraph (e) of this section can be met in aircraft, in FSTD and/or other training device approved by ANAC, as appropriate.

(g) Initial and transition flight training for a flight instructor in FSTD and/or other training device approved by ANAC must include the following:

(1) training and practice in the normal, abnormal and emergency procedures required to ensure incumbency in conducting the flight instruction required by this Regulation. These maneuvers and procedures must be performed in part or in whole in FSTD and/or another training device approved by ANAC; and

(2) training in the operation of the FSTD and/or other training device approved by ANAC, to ensure incumbency in conducting the flight instruction required by this Regulation.

(Wording given by Resolution nº 494, of 10.17.2018)

<u>135.341 Training program: pilots</u> and flight attendants

(a) The certificate holder must establish and maintain an approved pilot training program and the certificate holder using flight attendants must establish and maintain an approved flight attendant training program, which are appropriate for the operations in which each pilot and each flight attendant are involved. Programs must ensure that pilots and flight attendants are adequately trained to meet the applicable knowledge and practice requirements required by sections 135.293 to 135.301.

(b) The certificate holder, for whom a training program is required by paragraph (a) of this section, must include in that program both ground and in-flight training curricula for:

- (1) initial training;
- (2) transition training;
- (3) level elevation training;
- (4) difference training; and
- (5) periodic training.

(c) The certificate holder, for whom a training program is required by paragraph (a) of this section, must provide appropriate and updated study materials for the use of each pilot and each flight attendant.

(d) The certificate holder must provide copies of the training programs for pilots and flight attendants, as well as their modifications and additions, to ANAC. If the certificate holder uses third-party training facilities, a copy of the training programs, or appropriate parts thereof, used in those facilities must also be provided. ANAC publications used in the curricula can only be referenced in the copy of the training program to be provided to ANAC, with no need to attach copies of these publications.

(Wording given by Resolution nº 494, of 10.17.2018)

<u>135.343 Initial and periodic training</u> requirements for crew members

A certificate holder may only use a person and a person may only work as a crew member in operation under this Regulation if that crew member has completed, within the 12 calendar months preceding that operation, the appropriate phases of the initial or periodic training program established for the type of function that the person will perform.

(Wording given by Resolution nº 494, of 10.17.2018)

<u>135.345 Pilot: initial, transition and</u> level elevation ground training

Initial, transition and level elevation ground training for pilots must include instruction in at least the following, as applicable to their assignments:

(a) General matters:

(1) procedures for the certificate holder to release and locate flights;

(2) principles and methods for determining weight and balance and runway limitations for take-off and landing;

(3) knowledge of meteorology in order to ensure practical knowledge of atmospheric phenomena, including principles of frontal, ice, fog, thunderstorms, windshear and, if appropriate, high altitude meteorology systems;

(4) air traffic control systems, procedures and phraseology;

(5) navigation and use of navigation aids, including instrument approach procedures;

(6) normal and emergency communications procedures;

(7) familiarization with visual references before and during the descent below the decision altitude or the minimum descent altitude in approach by instrument;

(8) ETOPS, if applicable;

(9) [reserved]; and

(10) other instructions necessary to ensure the incumbency of the pilot.

(b) For each type of aircraft:

(1) general description;

(2) performance characteristics;

(3) powertrain system;

(4) main components;

(5) main aircraft systems (flight controls, electrical, hydraulic, etc.), other systems if applicable, principles of normal, abnormal and emergency operation and appropriate procedures and limitations;

(6) knowledge and procedures for:

(i) recognizing and avoiding severe weather conditions;

(ii) getting out of severe atmospheric conditions, in case they are found inadvertently, including, for airplanes, low altitude windshear;

(iii) operating in or near storms (including better penetration altitude), turbulent air (including clear sky turbulence), ice, hail and other potentially dangerous weather conditions; and

(iv) operate airplanes during ground-ice conditions (that is, at any time when conditions are such that frost, ice or snow can reasonably be expected to adhere to the plane), if the certificate holder intends to authorize takeoffs on ground ice conditions, including:

(A) the use of operating time when using defrost/antifreeze fluid;

(B) defrost/anti-icing procedures for the aircraft, including responsibili-

ties and procedures for inspections and checks;

(C) communications;

(D) contamination of the aircraft's surface (i.e., frost, ice or snow adhesion) and identification of critical area; knowledge of how contamination adversely affects aircraft performance and flight characteristics;

(E) type and characteristics of defrost/antifreeze fluids, if used by the certificate holder;

(F) pre-flight inspection procedures for low temperature conditions; and

(G) techniques for recognizing contamination on the plane;

(7) operational limitations;

(8) cruise control and fuel consumption;

(9) flight planning;

(10) each normal and emergency procedure; and

(11) aircraft flight manual or equivalent.

(c) Transition and level elevation ground training for pilots may be reduced in accordance with paragraph 135.323 (d).

(Wording given by Resolution n° 494, of 10.17.2018)

<u>135.347 Pilots: training in</u> <u>initial, transition, elevation and</u> <u>differences flight</u>

(a) Initial, transition, level elevation, and differences training for pilots must include flight and practice of each procedure and maneuver contained in the approved training program curriculum.

(b) The maneuvers and procedures required by paragraph (a) of this section must be performed in flight, except for maneuvers and procedures that can be performed in FSTD and/or other training device approved by ANAC, as authorized by this Subpart.

(c) If the certificate holder's approved training program includes a training course using an FSTD and/or other training device approved by ANAC, each pilot must satisfactorily complete:

(1) training and practice in the FSTD and/or other training device approved by ANAC at least of the maneuvers and procedures that this Subpart allows to be performed in FSTD and/or another training device approved by ANAC; and (2) an examination on the aircraft, FSTD and/or other training device approved by ANAC for the level of pilot-in-command or second-in-command pilot proficiency, as applicable, at least in the maneuvers and procedures that can be performed in FSTD and/or other training device approved by ANAC.

(d) A certificate holder may opt for an initial, transition, level elevation and differences training program for pilots, carried out primarily in FSTD and/or another training device approved by ANAC, provided that:

(1) the program complies with the provisions of paragraph (a) of this section and other applicable provisions of this Subpart;

(2) at the end of the training, the pilot passes the flight exam in FSTD and/ or another training device approved by ANAC conducted by an ANAC designated server or an accredited examining pilot;

(3) if the training is conducted in a level C flight simulator, after the examination provided for in paragraph (d)(2) of this section, the pilot performs, with an aircraft instructor, 5 aircraft landings or 8 helicopter landings. This paragraph does not apply to examinations conducted in a level D flight simulator; and

(4) if the training is conducted in a level B flight simulator, in addition to that provided for in paragraph (d)(3) of this section, all the planned maneuvers that cannot be conducted in the level B flight simulator must be performed in aircraft. The examination provided for in 135.293(b) (or 135.293(c)) of this Regulation must be completed in an aircraft to include the maneuvers specified in this paragraph.

(e) After completing flight training and undergoing the examination provided for in paragraph 135.293(b) of this Regulation, the pilot will receive the certificate of technical qualification in the type of equipment. Thereafter, persons assigned to exercise the function of pilot-in-command must obtain operational experience as required in section 135.244 of this Regulation.

(Wording given by Resolution n° 494, of 10.17.2018)

<u>135.349 Initial and transition</u> ground training: flight attendants

(a) Initial and transition ground training for flight attendants should include instruction on at least the following subjects:

(1) general matters:

(i) the authority of the pilot-in-command; and

(ii) guidance and control of passengers, including providing adequate assistance to passengers with disabilities and procedures to be followed in the case of unruly persons or persons whose conduct may impair safety; and

(iii) awareness of the types of dangerous articles that may or may not be carried in a passenger cabin; (Included by Resolution n° 608, of 02.11.2021)

Note 1: the requirements for training flight attendants on the carriage of dangerous goods are included in RBAC n° 175. (Included by Resolution n° 608, of 02.11.2021)

Note 2: for more information on operational requirements for dangerous articles, see Subpart K. (Included by Resolution No. 608, of 02.11.2021)

(2) for each type of aircraft:

 (i) general description of the aircraft, emphasizing the physical characteristics that can serve as guidance in landings on the water, evacuations and other in-flight emergencies, including associated duties;

(ii) the use of the passenger warning and crew intercommunication system, including emergency procedures in case of attempted kidnapping and other unusual situations;

(iii) knowledge, location and operation of flight and emergency safety equipment and systems; and

(iv) proper use of "galley" equipment and controls of the cabin's conditioning and ventilation systems.

(b) Transition training for flight attendants may be reduced in accordance with paragraph 135.323(d).

(Wording given by Resolution $n^{\rm o}$ 494, of 10.17.2018)

135.351 Periodic training

(a) The certificate holder must ensure that each crew member receives periodic training, is properly trained and maintains proficiency with respect to the type of aircraft. Periodic training must be annual.

(b) Periodic ground training for crew members must include at least the following:

(1) an oral or written assessment to determine the crew member's knowledge of the aircraft and the function on board involved; and

(2) the necessary instructions on the subjects required for initial ground training by this Subpart, as appropriate, including training for low altitude windshear and training in ground operations during ice conditions, as set out in sections 135.341 and 135.345, respectively, as well as emergency training.

(c) Periodic flight training for pilots must include at least aircraft training, FSTD and/or other training device approved by ANAC for the maneuvers and procedures provided for in this Subpart, ending with satisfactory examination required by section 135.293 of this Regulation.

(Wording given by Resolution nº 494, of 10.17.2018)

SUBPART I

OPERATIONAL LIMITATIONS FOR AIRPLANE PERFORMANCE

(Subpart with wording given by Resolution No. 494, of 10.17.2018)

135.361 Applicability

(a) This Subpart establishes operational limitations for aircraft performance, applicable to the operation of the aircraft categories listed in section 135.363 when operating under this Regulation.

(b) For the purposes of this Subpart, "effective runway length" for landing means the distance between the point at which the obstacle release plane, associated with a runway threshold, intersects the runway's center line and the end of the runway.

(c) For the purposes of this Subpart, "obstacle clearance plane" means an inclined plane, rising from the runway at a 1:20 gradient in relation to the horizontal plane and going on a tangent path or freeing all obstructions within a specific area around the runway, as shown in the profile view of the area. In plan view, the center line of that specific area coincides with the center line of the runway, starting at the point where the obstacle clearance plane intersects that line and proceeding to a point located at least 460 m (1500 feet) away from the initial point. Then, the central line coincides with the projection of the take-off path on the ground (in the case of take-off) or with the corresponding projection of the approach path (for landings) or even, in case these paths have not been established. it continues consistent with curves of at least 1200 m (4.000 feet) in radius until reaching a point beyond which the obstacle clearance plane clears all obstacles. This area extends laterally for 60 m (200 feet) to either side of the center line between the interception point of the obstacle release plane and the threshold. Thereafter, it increases uniformly up to 150 m (500 feet) for each side of the center line up to 460 m (1500 feet) for the start point and then maintains the width of 150 m (500 feet) for each side of the center line.

135.363 General

(a) The certificate holder operating a large transport category airplane with conventional engines must comply with the limitations set out in sections 135.365 to 135.377.

(b) The certificate holder operating a large transport category airplane with turbine engines must comply with sections 135.379 to 135.387; however, if it operates a large certified turboprop transport aircraft after August 29, 1959, but of a previously certified type with the same number of conventional engines, it can meet sections 135.365 to 135.377.

(c) The certificate holder operating a large aircraft not included in the transport category must comply with sections 135.389 to 135.395 and any determination of compliance must be based only on approved performance data. For the purposes of this Regulation, a large aircraft not included in the transport category is an aircraft whose type was certified before July 1, 1942.

(d) The certificate holder operating a small transport category airplane must comply with section 135.397.

(e) The certificate holder operating a small plane not included in the transport category must comply with section 135.399.

(f) The performance data in the airplane's flight manual applies in determining compliance with sections 135.365 to 135.387. When conditions are different from those on which the performance data was based, compliance is determined by interpolation or by computing the effects of change on specific variables, provided that the results of the interpolation or computation are substantially as accurate as the results of tests on flight.

(g) It is prohibited to take off a large transport category airplane with conventional engines with a weight greater than the weight that would be allowed for the runway being used (determined according to the runway limitations for take-off of the operational rules of the transport category of this Subpart) after taking into account the operating temperature correction factors of section 4a.749a-T or section 4b.117 of the United States of America Civil Air Regulations in effect on January 31, 1965 and the applicable airplane flight manual.

(h) ANAC may authorize deviations from this Subpart in the operating specifications if special circumstances make the literal observance of a requirement unnecessary for security.

(i) The 10-mile distance specified in sections 135.369 to 135.373 may be reduced to 5 miles, for no more than 20 miles, when operating under VFR or when navigation facilities provide reliable and accurate identification of the location of prominent elevations and obstructions between 5 and 10 miles for each side of the intended course.

(j) The certificate holder operating a regional transport category airplane must comply with section 135.398.

(k) Notwithstanding the provisions of sections 135.375, 135.377, 135.385, 135.387, 135.393 and 135.395 of this Regulation, if authorized by ANAC, the effective length of the runways for landing provided for in these sections may be increased to up to 80%. (Included by Resolution No. 606, of 11.02.2021)

<u>135.364 Aircraft limitations.</u> <u>Route type</u>

(a) Except for airplanes with exclusively cargo configuration with more than two engines, a certificate holder may only operate an aircraft outside the country, at more than 180 minutes of flight from a suitable airport (at cruising speed with an inoperative engine under standard atmosphere and calm air), as defined in Appendix G of this Regulation.

(b) A twin-engine reaction plane, prevented from taking a route by paragraph (a) of this section, may do so if:

(1) its airworthiness certification specifically allows operations beyond the time described in paragraph (a) of this section, taking into account its type design and reliability aspects;

(2) the certificate holder demonstrates that he/she is able to maintain the level of reliability required for ETOPS approval;

(3) all special maintenance requirements are fully met;

(4) all flight dispatch requirements are met;

(5) all necessary in-flight operational requirements are established;

(6) the operator has the procedures described above in the company's general manual or in a specific manual for ETOPS operations accepted by ANAC; and

(7) ANAC approves the operation through its inclusion in the operating specifications of the certificate holder.

<u>135.365 Large transport category</u> <u>airplanes with conventional</u> <u>engines: weight limitations</u>

(a) It is forbidden to take off a large transport category airplane with conventional engines from an airport located at an altitude outside the range of altitudes in which its maximum take-off weights were determined.

(b) It is prohibited to take off a large transport category airplane with conventional engines to a destination airport located at an altitude outside the range of altitudes in which its maximum landing weights were determined.

(c) It is forbidden to designate or accept the designation, for a large transport category airplane, of an alternate airport located at an altitude outside the altitude range in which the maximum landing weights of that airplane were determined.

(d) It is prohibited to take off a large transport category airplane with conventional engines weighting more than the maximum authorized take-off weight for the altitude of the airport. (e) It is prohibited to take off a large transport category airplane with conventional engines, if its estimated weight on arrival at the destination airport, considering normal en route fuel and oil consumption, is greater than the maximum landing weight provided for the altitude of this airport.

<u>135.367 Large transport category</u> <u>airplanes with conventional</u> <u>engines: take-off limitations</u>

(a) In the case of a large transport category airplane with conventional engines, it is only permitted to take off that airplane if it is possible:

(1) to safely stop the airplane on the runway, as shown by the acceleration and stop data from the airplane's flight manual, at any time during take-off until the critical engine failure speed is reached;

(2) if the critical engine fails at any time after reaching the critical engine failure speed, V1, to continue to take off and reach a height of 50 feet, as indicated by the take-off path data in the airplane's flight manual, before passing over the end of the runway; and

(3) clear all obstacles by at least 50 feet vertically (as shown by the take-off path data) or by 200 feet horizontally within the limits of the airport and 300 feet horizontally beyond those limits, without tilting before reaching the height of 50 feet (as shown by the take-off path data) and, afterwards, without a pitch greater than 15°.

(b) In applying the requirements of this section, corrections must be made for any gradient of the runways to be used. To consider the effect of the wind, calm air take-off charts can be corrected by considering no more than 50% of any known headwind component and no less than 150% of any known tailwind component.

<u>135.369 Large transport category</u> <u>airplanes with conventional</u> <u>engines: en route limitations with</u> <u>all engines operating</u>

(a) In the case of a large transport category airplane with conventional engines, it is prohibited to take off this airplane with a weight, assuming normal fuel and oil consumption, which does not allow a rate of climb (in feet per minute), with all engines operating, at least 6.90 Vso (which is the number of feet per minute obtained by multiplying the number of knots for 6.90) at an altitude of at least 1000 feet above the highest elevation or obstruction within 10 miles to each side of the intended course.

(b) This section does not apply to large transport category airplanes with conventional engines certified under Part 4a of the United States of America's Civil Air Regulations.

135.371 Large transport category airplanes with conventional engines: en route limitations with an inoperative engine

(a) Except as provided for in paragraph (b) of this section, in the case of a large transport category airplane with conventional engines, it is prohibited to take off that airplane with a weight, assuming normal fuel and oil consumption, which does not allow a rate of climb (in feet per minute), with an inoperative engine, of at least (0.079 - 0.106/N) Vso² (where N is the number of installed engines and Vso is expressed in knots) at an altitude of at least 1000 feet above the highest elevation or obstruction within 10 miles on either side of the intended course. However, for the purposes of this paragraph, the rate of climb for transport category aircraft certified under Part 4a of the United States of America's Civil Air Regulations is 0.026 Vso².

(b) Instead of the requirements of paragraph (a) of this section, a person may, according to an approved procedure, operate a large transport category airplane with conventional engines at an altitude with all engines running that allows the plane, after the failure of an engine, to proceed to an alternate airport where the landing can be made according to section 135.377 of this Regulation, assuming normal fuel and oil consumption. After the failure has occurred, the flight path must clear the ground and any obstacles within 5 miles on each side of the intended course for at least 2,000 feet.

(c) If a procedure approved under paragraph (b) of this section is used, the certificate holder must comply with the following:

(1) the rate of climb (as established in the airplane's flight manual for the appropriate weight and altitude) used in calculating the airplane's flight path can be decreased by an amount in feet per minute equal to (0.079 - 0.106/N) Vso² (where N is the number of engines installed and Vso is expressed in knots) for airplanes certified according to RBAC No. 25 and for 0.026 Vso² for airplanes certified according to part 4a of the "Civil Air Regulations" of the United States of America;

(2) the altitude with all engines operating must be sufficient that, in the event of the critical engine becoming inoperative at any point along the route, the flight can proceed to an alternate airport predetermined using this procedure. In determining the take-off weight, it is assumed that the airplane passes over the critical obstruction, after the engine failure, at a point no closer to the said obstruction than the approved navigation radio fix closest to it, unless ANAC authorizes a different procedure based on adequate operational safeguards;

(3) the airplane must meet the provisions of paragraph (a) of this section at 1000 feet above the airport used as an alternate airport in the procedure;

(4) the procedure must include an approved method of considering winds and temperatures that may adversely affect the flight path;

(5) in compliance with this procedure, fuel jetting is permitted if the certificate holder demonstrates that he/ she has an appropriate training program, that appropriate instructions are provided to the flight crew and that all other precautions are taken to ensure a safe procedure; and

(6) the certificate holder and the pilot-in-command must jointly choose an alternate airport for which appropriate weather information or forecasts, or any combination thereof, indicate that the atmospheric conditions at that airport will be at or below the established meteorological minima for alternate airports when the flight arrives there.

135.373 Transport category aircraft (RBAC n° 25) with four or more conventional engines: en-route limitations with two inoperative engines

(a) It is only permitted to operate an airplane certified according to RBAC No. 25 and having four or more conventional engines if:

(1) there is no point along the intended course that is more than 90 minutes (with all engines operating at cruise power) away from an airport that meets section 135.377; or

(2) it is operated at a weight that allows the airplane, with the two critical engines inoperative, to rise to 0.013 Vso2 feet per minute (that is, the number of feet per minute obtained by multiplying the number of square knots by 0.013) at an altitude of 1000 feet above the highest elevation or obstruction within 10 miles on either side of the intended course, or at an altitude of 5000 feet, whichever is greater.

(b) For the purpose of paragraph (a)(2) of this section, it is assumed that:

(1) the two engines fail at the point that is most critical to take-off weight;

(2) fuel and oil consumption are normal with all engines operating to the point where the two engines fail, with two engines operating beyond this point;

(3) when it is assumed that the engines fail at an altitude above the established minimum altitude, compliance with the rate of climb established at the predicted minimum altitude does not need to be demonstrated during the descent from the cruising altitude to the predicted minimum altitude, if these requirements are met once the predicted minimum altitude is reached and assuming a descent along a net flight path with a descent rate of 0.013 Vso² greater than the ratio in the approved performance data; and

(4) if fuel jetting is expected, the weight of the airplane at the point where the two engines fail is considered to be no less than that which includes enough fuel to proceed to an airport that meets section 135.377 and to reach a height of at least 1000 feet vertically above that airport.

<u>135.375 Large transport category</u> <u>airplanes with conventional</u> <u>engines: landing limitations</u> <u>at the destination airport</u>

(a) Except as provided in paragraph (b) of this section, in the case of a large transport category airplane with conventional engines, it is only allowed to take off that airplane if its estimated weight on arrival at the destination airport, assuming normal en-route fuel and oil consumption, allow a complete landing (landing and stop on the runway) at this airport, within 60% of the effective length of each of the runways described below, considering that the airplane passes at a height of 50 feet over the vertical point of the point of intersection of the obstacle release plane with the center line of the runway. For the purpose of determining the authorized landing weight at the destination airport, it is considered that the airplane must land:

(1) on the runway and in the most favorable direction, considering calm air; or

(2) on the most suitable runway, considering the direction and intensity of the wind predicted at the estimated landing time, the maneuverability characteristics of the aircraft type on the ground and other conditions, such as landing aids and terrain characteristics. For the influence of the wind on approach and landing, it is permitted to consider no more than 50% of the headwind component and no less than 150% of the tailwind component.

(b) An airplane that would be prohibited from taking off because it cannot comply with paragraph (a)(2) of this section, may take off if it indicates an alternate airport where it can meet all the requirements of this section, when the complete landing takes 70% of the effective runway length.

135.377 Large transport category airplanes with conventional engines: landing limitations at the alternate airport

It is only permitted to indicate an airport as an alternate airport in the flight plan if the airplane (at the estimated weight of the estimated landing time at that airport and based on what is assumed in 135.375 (a)(1) and (2)) can perform a complete landing using 70% of the effective length of the airport runway.

<u>135.379 Large transport category</u> <u>airplanes with turbine engines:</u> <u>take-off limitations</u>

(a) In the case of a large transport category airplane with turbine engines, it is prohibited to take off that airplane with a weight greater than that indicated in the airplane's flight manual for the altitude of the airport and for the ambient temperature existing at take-off.

(b) In the case of a large transport category airplane with turbine engines, of a certified type in its country of origin after August 26, 1957, but before August 30, 1959, it is prohibited to take off that airplane with a weight greater than that indicated in the airplane flight manual for the minimum distances required for take-off. For airplanes of a type certified in their country of origin after September 30, 1958, the take-off distance may include a "clearway" distance, provided that this distance is not more than half the distance of the take-off run.

(c) In the case of a large transport category airplane with turbine engines, of a type certified in its country of origin after September 25, 1959, it is prohibited to take off that airplane with a weight greater than that indicated in the flight manual in order to allow for the following:

(1) the acceleration and stopping distance, as defined in section 25.109 of RBAC No. 25, cannot exceed the length of the runway, plus the length of any "stopway";

(2) the take-off distance cannot exceed the runway length plus the length of the clearway, and the length of the considered clearway cannot exceed half the length of the runway; and

(3) the take-off run cannot be longer than the runway length.

(d) In the case of a large transport category airplane with turbine engines, it is prohibited to take off this airplane with a weight greater than that listed in the airplane's flight manual:

(1) for an aircraft certified after August 26, 1957, but before October 1, 1958 (SR422), which allows a take-off path that clears all obstacles at least (35 + 0.01 D) feet vertically (D is the distance along the intended flight path from the end of the runway in feet), or at least 200 feet horizontally within the limits of the airport and at least 300 feet horizontally after passing the limits; or

(2) for an airplane of type certified after September 30, 1958 (SR422A, 422B), which allows a mesh of take-off flight paths that clears all other obstacles by a height of at least 35 feet vertically, or at least 200 feet horizontally within an airport boundaries and at least 300 feet horizontally after passing this limit.

(e) In determining maximum weights and minimum distances provided for in paragraphs (a) to (c) of this section, corrections must be made for the altitude of the airports, the effective gradient of the runways, the ambient temperature and the existing wind component at take-off and, if the airplane flight manual contains performance information on a wet runway, the runway surface conditions (whether dry or wet). Distances on wet runways associated with grooved runways or with a porous friction layer, if listed in the airplane flight manual, may only be used for runways that are actually grooved or treated with a porous friction layer and that the operator verifies have been designed, built and maintained in an acceptable manner by ANAC.

(f) For the purpose of this section, it is assumed that the airplane is not tilted before reaching a height of 50 feet, as shown by the take-off path or in the net take-off path data (as appropriate) in the airplane flight manual and that after the maximum inclination does not exceed 15°.

(g) For the purposes of this section, the terms "take-off distance" and "take-off run" have the same meanings used in the rules under which the airplane was originally certified.

135.381 Large transport category airplanes with turbine engines: en-route limitations with an inoperative engine

(a) In the case of a large transport category airplane with turbine engines, it is prohibited to take off this airplane with a weight that, assuming normal fuel and oil consumption, is greater than that which allows compliance with paragraphs (a) (1) or (a)(2) of this section (according to data in the airplane flight manual for en route net flight path with an inoperative engine), based on the expected en route ambient temperatures. The airplane must have a weight that:

(1) provide a positive gradient at an altitude of at least 1000 feet above any elevation or obstacle within a range of 5 land miles on either side of the intended path and, in addition, if this aircraft was certified after August 29, 1958 (SR 422B), provide a positive gradient at 1500 feet over the vertical of the airport where the plane is supposed to land after the engine failure; and

(2) allow a net flight path in which the airplane continues to fly at cruising altitude to an airport where a landing in accordance with section 135.387 can be performed, freeing all elevations and obstructions within a range

of 5 land miles to each side of the intended path at least 2000 feet high and with a positive gradient at 1000 feet above the airport where the airplane is supposed to land after the engine failure or, if this airplane is of a type certified after September 30, 1958 (SR 422A, 422B), with a positive gradient 1500 feet above the airport where the plane is supposed to land after engine failure.

(b) For the purposes of paragraph (a)(2) of this section, it is assumed that:

(1) engine failure occurs at the most critical point on the route;

(2) the airplane passes over the critical obstruction, after the engine failure, at a point no closer to the said obstruction than the approved navigation radio fix closest to it, unless ANAC authorizes a different procedure based on appropriate operational safeguards;

(3) an approved method is used to consider adverse winds;

(4) jettisoning of fuel is permitted if the certificate holder demonstrates that the crew members are properly trained, that the training program is adequate and that all precautions have been taken to ensure a safe procedure;

(5) the alternate airport is selected and meets the minimum meteorological requirements; and

(6) fuel and oil consumption after engine failure is the same consumption as foreseen in the net flight path data approved in the airplane's flight manual.

135.383 Large transport category airplanes with turbine engines: en route limitations with two engines inoperative

(a) Airplanes of a type certified after August 26, 1957, but before October 1, 1958 (SR 422). A person is only allowed to operate a large turbine engine transport category aircraft along an intended route if:

(1) there is no point along the intended route that is more than 90 minutes away (with all engines operating at cruise power) from an airport that meets the requirements of section 135.387 of this Regulation; or

(2) its weight, according to the data of the en route net flight path with

two inoperative engines in the airplane flight manual, allows the airplane to fly from the point where the simultaneous failure of the two engines is assumed to an airport that meets that provided for in section 135.387 of this Regulation, with a net flight path (taking into account the expected temperatures along the route) having a positive gradient in altitude of at least 1000 feet above any elevation or obstruction in the 5-mile range to each side of the intended path or at an altitude of 5000 feet, whichever is greater.

Note: For the purposes of paragraph (a)(2) of this section, it is assumed that the two engines fail at the most critical point on the route and that, if fuel jetting is provided, the weight of the plane at the point where the engines fail includes enough fuel to fly to the airport and reach a height of at least 1000 feet high on the vertical of the airport and that this fuel and oil consumed after engine failure is the same consumption predicted in the net flight path data of the airplane flight manual.

(b) Aircraft of type certified after September 30, 1958, but before August 30, 1959 (SR 422A). A person is only allowed to operate a large transport category airplane with turbine engines along an intended route if:

(1) there is no point along the intended route that is more than 90 minutes away (with all engines operating at cruise power) from an airport that meets the requirements of section 135.387 of this Regulation; or

(2) its weight, according to the data of the en route net flight path with two inoperative engines in the airplane flight manual, allows the airplane to fly from the point where the simultaneous failure of the two engines is assumed up to an airport that meets that provided for in section 135.387 of this Regulation, with a net flight path (taking into account the expected temperatures along the route) having a positive gradient in an altitude of at least 1000 feet above any elevation or obstruction in the 5-mile range to each side of the intended path or at an altitude of 2000 feet, whichever is greater.

Note: For the purpose of paragraph (b)(2) of this section, it is assumed that the two engines fail at the most critical point on the route, that the weight of the plane at the point where the engines fail includes

enough fuel to fly to the airport, reaching the vertical thereof at a height of at least 1500 feet and then flying another 15 minutes in power and/or cruising thrust, and that the consumption of fuel and oil after engine failure is the same consumption predicted in net flight path data in the airplane flight manual.

(c) Aircraft of type certified after August 29, 1959 (SR 422B). A person is only allowed to operate a large transport category airplane along a route if:

(1) there is no point along the intended route that is more than 90 minutes away (with all engines operating at cruise power) from an airport that meets the requirements of section 135.387 of this Regulation; or

(2) its weight, considering the data of the en route net flight path with two inoperative engines in the airplane flight manual, allows the airplane to fly from the point where the simultaneous failure of the two engines is assumed up to an airport that meets the requirements of section 135.387 of this Regulation, with a net flight path (considering the ambient temperatures expected along the path) vertically ridding at least 2000 feet of all elevations and obstructions within a range of 5 land miles for each side of the intended path. For the purposes of this paragraph, it is assumed that.

(i) the two engines fail at the most critical point en route;

(ii) the net flight path has a positive gradient at 1500 feet above the airport where the landing is expected to be made after engine failure;

(iii) the jettisoning of fuel can be approved if the certificate holder demonstrates that the crew members are properly instructed, that the training program is adequate and that all precautions are taken to ensure a safe procedure;

(iv) the weight of the plane at the point where the failure of the two engines is assumed provides sufficient fuel to continue to the airport, reaching its vertical at a height of at least 1500 feet and then flying another 15 minutes at power and/or cruise thrust; and

(v) fuel and oil consumption after engine failure is the same consumption as predicted by the net flight path data in the airplane's flight manual.

135.385 Large transport category airplanes with turbine engines: landing limitations at the destination airport

(a) In the case of a large transport category airplane with turbine engines, it is prohibited to take off that airplane with a weight that (assuming the normal consumption of fuel and oil during the flight to the destination airport or alternate airport) causes the weight of the airplane, upon arrival, to exceed the landing weight provided for in the airplane flight manual for the altitude of the destination or alternate airport at the expected ambient temperature at the time of landing.

(b) Except as provided in paragraphs (c), (d), (e), (f) or (g) of this section, in the case of a large transport category airplane with turbine engines, it is only permitted to take off that airplane if its weight at the destination, considering normal en route fuel and oil consumption and according to the landing distance charts in the airplane flight manual for the altitude and expected wind at the destination airport, at the estimated landing time, allows performance of a complete landing at the destination airport within 60% of the effective length of each of the runways described below, considering that the plane passes at a height of 15 m (50 feet) over the vertical of the intersection point of the obstacle clearance plane with the runway centerline. For the purpose of determining the authorized landing weight at the destination airport, it is considered that the airplane must land:

(1) on the runway and in the most favorable direction, considering calm air; or

(2) on the most suitable runway, considering the direction and intensity of the wind predicted at the estimated landing time, the maneuverability characteristics of the aircraft type on the ground and other conditions such as landing aids and terrain characteristics.

(c) A turboprop aircraft, which would be prohibited from taking off because it is unable to comply with paragraph (b)(2) of this section, may take off if it indicates an alternate airport that meets all the requirements of this section, except that the airplane can run a complete landing within 70% of the actual runway length.

(d) It is only permitted to take off a jet engine when the weather information and forecasts indicate that the runway at the destination airport may be wet or slippery at the estimated landing time if the effective length of that runway is at least 115% of the runway length required by paragraph (b) of this section. However, if it is demonstrated, in real conditions, for a specific type and model of airplane, that landing techniques on wet runways require shorter distances (but never less than those required by paragraph (b) of this section) and if these techniques and distances are approved and included in the airplane's flight manual, ANAC may authorize operations in accordance with them.

(e) A reaction plane is only allowed to take off when the weather information and forecasts indicate that the runway at the destination airport may be contaminated at the estimated time of arrival if the landing distance available (LDA) is at least equal to the higher of the following values:

(1) the distance determined in accordance with paragraph (d) of this section; or

(2) 115% of the distance determined according to the approved data for landing distance with contaminated runway, or its equivalent, accepted by ANAC.

(f) On a specially prepared contaminated runway, it is permitted to use a shorter landing distance than that required in paragraph (e) of this section, but not less than that required in paragraph (b) of this section, if the aircraft flight manual has specific additional information about landing distances on contaminated runways.

(g) A reaction plane, which would be prohibited from taking off for failing to comply with paragraph (b)(2) of this section, may take off if an alternate airport is indicated where it can meet all the requirements of paragraph (b) of this section.

135.387 Large transport category airplanes with turbine engines: landing limitations at an alternate airport

(a) It is only permitted to designate an airport as an alternate airport for a large transport category airplane with turbine engines if (based on what is assumed in 135.385(b)) that airplane, at the expected weight at the time of arrival, can perform a complete landing at 70% of the effective runway length of the airport, in the case of a turboprop airplane, and 60% of the effective runway length, in the case of a reaction plane, always con-

sidering that the plane passes 15 m (50 feet) above the point where the obstacle clearance plane intersects the center line of the runway.

<u>135.389 Large airplanes not</u> included in the transport category: take-off limitations

(a) In the case of a large airplane not included in the transport category, it is forbidden to take off this airplane with a weight greater than the weight that would allow the airplane to be brought to a safe stop within the effective length of the runway, from any point during take-off before reaching 105% of the minimum control speed (the lowest speed at which an airplane can be safely controlled in flight after an engine becomes inoperative) or 115% of the stall speed without power on the engines in the take-off configuration, whichever is greater.

(b) For the purposes of this section:

(1) it can be assumed that take-off power is used on all engines during acceleration;

(2) not more than 50% of the known headwind component or not less than 150% of the known tailwind component can be considered;

(3) the average runway gradient (the difference between the elevation of the runway ends divided by the total length) should be considered if it is greater than 0.5%;

(4) the airplane is assumed to be operated in a standard atmosphere; and

(5) for takeoffs, "effective runway length" means the distance between the start of the runway at which the take-off is initiated to the point at which the obstacle release plane, associated with the other side of the runway, intersects the center line the runway.

135.391 Large airplanes not included in the transport category: en route limitations with an inoperative engine

(a) Except as provided in paragraph (b) of this section, in the case of a large airplane not included in the transport category, it is prohibited to take off this airplane with a weight that does not allow a rate of climb of at least 50 feet per minute, with the critical engine inoperative, at an altitude of at least 1000 feet above

the highest obstruction within the range of 5 miles on each side of the intended path, or 5000 feet, whichever is greater.

(b) Subject to paragraph (a) of this section, if ANAC understands that the safety of operations is not impaired, a person may operate the aircraft at a height that allows the aircraft, in the event of an engine failure, to clear all obstructions within the 5-mile range on either side of the intended 1000-foot route. If this procedure is used, the rate of descent to the appropriate weight and altitude is assumed to be 50 feet per minute greater than the rate contained in the approved performance data. Before approving these procedures, ANAC will consider the following for the route, route segment or area involved:

(1) the reliability of forecasting weather and wind conditions;

(2) the location and types of navigation aids;

(3) the prevailing weather conditions, particularly the frequency and amount of turbulence normally encountered;

(4) characteristics of the terrain;

(5) air traffic problems; and

(6) any other operational factors that affect operations.

(c) For the purpose of this section, it is assumed that:

(1) the critical engine is inoperative;

(2) the inoperative engine propeller is in the minimum drag position;

(3) the wing flaps and the landing gear are in the most favorable position;

(4) the engines in operation are operating at the maximum continuous power available;

(5) the plane is operating in a standard atmosphere; and

(6) the weight of the plane is progressively reduced by the expected fuel and oil consumption.

135.393 Large airplanes not included in the transport category: landing limitations at the destination airport

(a) In the case of a large airplane not included in the transport category, it is prohibited to take off this airplane with a weight that: (1) considering the estimated oil and fuel consumption, is greater than the weight that allows a landing with a total stop within 60% of the effective length of the most suitable runway at the destination airport; or

(2) is greater than the permissible weight if the landing is to be made:

(i) on the runway with the longest effective length in a calm wind; or

(ii) on the runway required by the probable wind, taking into account no more than 50% of the headwind component or not less than 150% of the tailwind component.

(b) For the purpose of this section, it is assumed that:

(1) the plane passes directly over the intersection of the obstacle clearance plane and the runway at a height of 50 feet, on a steady approach ramp and at an indicated true speed of at least 1.3 Vso;

(2) landing does not require exceptional pilot skill; and

(3) the plane is operating in a standard atmosphere.

135.395 Large airplanes not included in the transport category: landing limitations at the alternate airport

It is only permitted to select an airport as an alternate airport for a large aircraft not included in the transport category if the aircraft (with the estimated weight at the time of arrival), based on what was assumed in paragraph 135.393(b) of this Regulation, can be brought to a landing with a total stop within 70% of the effective runway length.

<u>135.397 Small transport category</u> <u>airplanes: operational performance</u> <u>limitations</u>

(a) A person is only permitted to operate a small transport category airplane with a conventional engine if that person complies with the weight limitations of section 135.365, the take-off limitations of section 135.367 (except paragraph (a) (3)) and landing limitations of sections 135.375 and 135.377 of this Regulation.

(b) A person is only permitted to operate a small turbine engine transport category aircraft if that person complies with the take-off limitations of section 135.379 (except paragraphs (d) and (f)) and the landing limitations of sections 135.385 and 135.387 of this Regulation.

135.398 Operational performance limitations: regional transport category aircraft

(a) A person is only permitted to operate a regional transport category airplane if that person complies with the take-off weight limitations contained in the airplane's flight manual.

(b) It is prohibited to take off a regional transport category airplane with a weight greater than that provided for in the airplane flight manual to allow a net take-off path, freeing all obstacles by a vertical distance of at least 35 feet or by a horizontal distance of at least 200 feet while within the limits of the airport and for a horizontal distance of at least 300 feet after passing those limits.

(c) A person is only allowed to operate a regional transport category airplane if that person complies with the landing limitations set out in sections 135.385 and 135.387 of this Regulation. For the purposes of this paragraph, sections 135.385 and 135.387 are applicable to all regional transport category airplanes, although their applicability is established for transport category turbo-engine airplanes.

(d) In determining maximum weights, minimum distances and flight paths according to paragraphs (a) to (c) of this section, corrections must be made for the runway to be used considering the elevation of the airport, the effective gradient of the runway, ambient temperature and wind components at take-off.

(e) For the purposes of this section, it is assumed that the airplane is not tilted until it reaches a height of 50 feet, as shown in the net take-off path data provided for in the airplane's flight manual, and then the maximum inclination cannot exceed 15°.

135.399 Small aircraft not included in the transport category: operational performance limitations

(a) Only one person is allowed to operate a small airplane with conventional or turboprop engines, the type of which has been certified under paragraphs 135.169(b)(2), (3), (4), (5) or (6) of this Regulation, if that person complies with the take-off weight limitations contained in the airplane's flight manual or equivalent, in all operations conducted under this Regulation. In addition, if the airplane type has been certified in accordance with paragraphs 135.169(b)(4) or (5) of this Regulation, that person must comply with the landing weight limitations contained in the airplane's flight manual or equivalent when conducting operations under this Regulation.

(b) A person is only permitted to operate an airplane whose type has been certified in accordance with paragraph 135.169(b) (6) of this Regulation, if that person complies with the landing weight limitations set out in sections 135.385 and 135.387 of this Regulation. For the purposes of this paragraph, sections 135.385 and 135.387 are applicable to small airplanes with conventional or turboprop engines, although their applicability has been established for large transport category airplanes with turbine engines.

SUBPART J

MAINTENANCE, PREVENTIVE MAINTENANCE AND CHANGES

(Wording given by Resolution n° 494, of 10.17.2018)

135.411 Applicability

(a) This Subpart establishes rules in addition to those contained in other regulations on maintenance, preventive maintenance and changes, applicable to certificate holders, as follows:

(1) aircraft whose type has been certified with a passenger configuration, excluding any pilot seats, with 9 seats or less, must be maintained in accordance with RBAC No. 43 and RBAC 91, and in accordance with sections 135.412, 135.413 (except paragraph 135.413(b)), 135.415, 135.417, 135.421, 135.423 (except paragraph 135.423(b) and 135.423(c)), 135.433, 135.435 and 135.437 of this Regulation. An inspection program approved in accordance with section 135.419 of this Regulation can be used; and (Wording given by Resolution nº 612, of 03.09.2021)

(2) aircraft whose type has been certified with a passenger configuration, excluding any pilot seats, with 10 seats or more, must be maintained according to a maintenance program in accordance with sections 135.413, 135.415, 135.417 and 135.423 to 135.443 of this Regulation. (Wording given by Resolution $n^{\rm o}$ 612, of 03.09.2021)

(b) Unless otherwise required, a certificate holder may choose to maintain its aircraft in accordance with paragraph (a)(2) of this section.

(c) Single-engine aircraft used in IFR operations for the transportation of passengers must also be maintained in accordance with paragraphs 135.421(c), (d) and (e) of this Regulation.

(d) A certificate holder who decides to operate in accordance with section 135.364 must maintain its aircraft in accordance with the requirements of paragraph (a)(2) of this section and the additional requirements of Appendix G to this Regulation.

(Wording given by Resolution n° 494, of 10.17.2018)

135.412 Facilities, resources, equipment, tools, materials and technical data for maintenance, preventive maintenance and changes

Until February 26, 2022, the set of resources and facilities for maintenance, preventive maintenance and changes owned and/or contracted by the certificate holder cannot be less than the set of facilities and resources for maintenance, preventive maintenance and changes required by RBAC No. 145, to certify an aeronautical workshop. approved to perform maintenance, preventive maintenance and changes to the same types of equipment operated by the certificate holder. The scope of this section includes the certificate holder's associated inspection system, where applicable, which cannot be less than that required by RBAC No. 145.

(Wording given by Resolution n° 612, of 03.09.2021)135.413 Responsibility for airworthiness

(a) The certificate holder is primarily responsible for the airworthiness of its aircraft, including cells, engines, propellers, rotors, equipment and parts, must maintain its aircraft in accordance with this Regulation and must repair defects that have occurred between the maintenance events required by RBAC No. 43.

(b) The certificate holder who maintains its aircraft in accordance with paragraph 135.411(a)(2) must:

(1) perform maintenance, preventive maintenance and changes to is aircraft, including cells, engines, propellers, rotors, normal and emergency equipment and parts, according to its manual and this Regulation; or

(2) enter into a contract with another person to perform maintenance, preventive maintenance and changes. However, the certificate holder must ensure that any work performed by the other person is performed in accordance with its manual and this Regulation.

(Wording given by Resolution n° 494, of 10.17.2018)

135.415 Service difficulties report

(a) The certificate holder must report the occurrence or detection of each failure, malfunction, or defect in an aircraft with respect to:

- (1) fire in flight and whether the related fire alarm system functioned properly;
- (2) fire in flight not protected by a related fire alarm system;

(3) false (spurious) fire alarm during the flight;

(4) an engine gases exhaustion system that causes damage to the engine, adjacent structures, equipment or components in flight;

(5) an aircraft component that causes the accumulation or circulation of smoke, steam, or toxic or harmful gases in the cockpit or passenger cabin during the flight;

(6) engine shutdown in flight due to flameout;

(7) engine shutdown in flight when a damage to the engine or structure caused by an external source occurs;

(8) engine shutdown in flight due to ingestion of ice or a foreign object;

(9) shutdown of more than one engine in flight;

(10) a propeller feathering system or the ability of the over-speed (firing) control system during flight;

(11) a fuel system or a fuel jetting system that affects the flow of fuel or causes a dangerous leak during flight;

(12) an uncontrolled extension or retraction of the landing gear, or opening or closing of its doors, during the flight; (13) components of the brake system that result in loss of the acting braking force when the aircraft is moving on the ground;

(14) aircraft structure that requires major repair;

(15) cracks, permanent deformation or corrosion of the aircraft structure, if greater than the maximum acceptable by the manufacturer or ANAC;

(16) aircraft components or systems that result in emergency action being taken during the flight (except shutting down an engine);

(17) emergency evacuation systems or components, including all exit doors, evacuation lighting systems found to be defective or failing to perform their intended function during an emergency or during inadvertent training, testing, maintenance, demonstrations or openings;

(18) other events related to service difficulties defined by ANAC;

(19) cracking, permanent deformation or corrosion of structural parts that are not covered by the manufacturer's approved instructions; and

(20) aircraft components or systems that result in the need for an emergency flight action, other than engine shutdown.

(Wording given by Resolution n° 494, of 10.17.2018)

(b) For the purposes of this section, "in flight" means the period between the time the aircraft leaves the earth's surface, at take-off, until the moment it touches that surface, at landing.

(c) In addition to the reports required by paragraph (a) of this section, the certificate holder must report any other failure, malfunction or defect in an aircraft that occurs or is detected at any time, if, in its opinion, that failure, malfunction or defect has affected or may affect the safety of the aircraft's operation. (Wording given by Resolution n^o 494, of 10.17.2018)

(d) The certificate holder must submit each report required by this section, covering the 24-hour period beginning at 9 am local each day until 9 am local the following day, to a central collection point determined by ANAC. Each occurrence report covering a 24-hour period must be submitted to ANAC within 96 hours following the reported period, less the hours of non-working days. A copy of this report must be submitted to the type project holder within the same timeframe. (Wording given by Resolution n° 494, of 10.17.2018)

(e) The certificate holder must submit reports required by this section in a format acceptable to ANAC. Each report must contain at least the following:

(1) the aircraft type and nationality and registration marks; (Wording given by Resolution n° 494, of 10.17.2018)

(2) the operator's ma,e;

(3) the date;

(4) the nature of the failure, malfunction, or defect;

(5) identification of the part and system involved, including available information relevant to the type designation of the major component and the time since the last overhaul, if known;

(6) apparent cause of failure, malfunction or defect (e.g., wear and tear, crack, design deficiency, or human error);

(7) other pertinent and necessary information for a complete identification and determination of the severity or corrective actions related to the failure, malfunction or defect found; and

(8) a unique identification of the occurrence, in a form acceptable to ANAC.

(f) A certificate holder who is also an aircraft type certificate holder (including supplemental type certificate) or an approved aeronautical product certificate does not need to submit the reports required by this section, if it has submitted the reports required by section 21.3 of RBAC n° 21.

(g) It is prohibited to delay the submission of a report required by this section, even if not all the required information is available. (Wording given by Resolution n° 494, of 10.17.2018)

(h) When the certificate holder obtains additional information, including information from the manufacturer or other agency, regarding a report required by this section, it must promptly send it as a supplement to the original report and reference the date of submission of the first report.

(i) Whenever a certificate holder obtains supplementary information to complete

a report required by this section, it must send it as a supplement to the original report and use the unique identification of the occurrence.

<u>135.417 Interruption summary</u> report

The certificate holder must submit to ANAC, within the first 10 working days of each month, a summary report for the previous month of the following occurrences:

(a) each interruption to a flight, unforeseen change of aircraft en route, unexpected stop or deviation from a route, caused by known or suspected difficulties or malfunctions that do not require reporting under section 135.415; and

(b) the number of propellers in flight, listed by type of propeller and engine and aircraft in which it is installed. Propeller flagging for training purposes, demonstrations and in-flight exams do not need to be reported.

(Wording given by Resolution nº 494, of 10.17.2018)

135.419 Approved aircraft inspection program

(a) Whenever ANAC considers that the aircraft inspections required or permitted by RBAC 91 are not adequate for the purposes of this Regulation, it may modify the operating specifications of the certificate holder, in accordance with section 119.51 of RBAC No. 119, requiring or allowing the establishment of an inspection program for any type and model of aircraft for which the certificate holder has exclusive use of at least one aircraft, as defined in paragraph 135.25(b). (Wording given by Resolution n° 612, of 03.09.2021)

(b) A certificate holder who requests modification of its operating specifications, to include an approved inspection program for its aircraft, must attach that program to the application submitted to ANAC for approval.

(c) The certificate holder who is required to use an approved inspection program for its aircraft must submit the program to ANAC for approval, within 30 days after being informed about it, unless ANAC determines another deadline.

(d) The aircraft inspection program submitted to ANAC for approval must contain the following: (1) instructions and procedures for conducting inspections on aircraft (which must include the necessary tests and checks), defining in detail the parts and areas of the cell, engines, propellers, rotors and components, including emergency equipment, which must be inspected;

(2) a program for carrying out the inspections required by paragraph (d) (1) of this section, expressed in terms of operating time, calendar time, number of system operations or any combination of the same items; and

(3) instructions and procedures for recording discrepancies found during inspections and corrective actions or extending the correction of such discrepancies, including the form and distribution of those records.

(e) After approval, the certificate holder must include the inspection programs approved in the company's general manual required by section 135.21 of this Regulation.

(f) Whenever ANAC deems it necessary to revise an approved inspection program, in order to adapt it to new circumstances, the certificate holder will be notified in writing, and must make the determined changes. However, the certificate holder has the right to request reconsideration from ANAC, having 30 days, after receiving notification of review, to do so. Except in the case of an emergency requiring immediate action in the interest of security, filing a reconsideration request suspends the effectiveness of the review notification until ANAC's final decision.

(g) The certificate holder, who has an approved aircraft inspection program, must maintain each aircraft subject to the program inspected under it.

(h) The marks of each aircraft subject to an approved inspection program must be included in the certificate holder's operating specification.

(Wording given by Resolution n° 494, of 10.17.2018)

135.421 Additional maintenance requirements

(a) The certificate holder operating an aircraft with type certification for a passenger configuration, excluding any pilot seats, with 9 seats or less, must comply with the maintenance program recommended by the manufacturers, or with a program approved by ANAC for each engine, propeller, rotor, components and

for each item of emergency equipment required by this Regulation.

(b) For the purpose of this section, a manufacturer's maintenance program is one contained in the maintenance manual or maintenance instructions specified by the manufacturer, as required by the RBACs, for the aircraft, engines, propellers, rotors, components and emergency.

(c) For each single-engine airplane to be used for the carriage of passengers in IFR operations, the certificate holder must incorporate the following in its maintenance program:

(1) the engine trend monitoring program recommended by the manufacturer, which includes an oil analysis, if appropriate; or

(2) an engine trend monitoring program approved by ANAC that includes an oil analysis every 100 hours or according to the interval recommended by the manufacturer, whichever is more frequent.

(d) For single-engine aircraft used in IFR operations carrying passengers, written maintenance instructions are required containing the methods, techniques and practices necessary to maintain the equipment specified in section 135.105 and in paragraphs (a)(6) and (a)(8) of section 135.163.

(e) A certificate holder may only operate a single-engine airplane under IFR conditions carrying a passenger if that certificate holder registers and maintains in the engine maintenance records the result of each test, observation and inspection required by the engine trend monitoring program applicable law specified in paragraphs (c)(1) and (c)(2) of this section.

(Wording given by Resolution n° 494, of 10.17.2018)

135.423 Organization of maintenance, preventive maintenance and changes

(a) The certificate holder who performs any maintenance (except mandatory inspections), preventive maintenance and changes and each person with whom it has a contract to perform such work must have an organization suitable for carrying out the work.

(b) The certificate holder, who performs any inspection required by its manual under the provisions of paragraphs 135.427(b)(2) or (3) (in this Subpart called "mandatory inspections"), and each person with whom it has entered a contract to perform these works must have a suitable organization to perform them.

(c) Each person, performing mandatory inspections in addition to other maintenance, preventive maintenance and alteration services, must organize the execution of these tasks in order to separate the mandatory inspection activities from the other activities. The separation must be made immediately below the level of administrative control with general responsibility for inspection and maintenance activities.

(Wording given by Resolution $n^{\rm o}$ 494, of 10.17.2018)

135.425 Maintenance, preventive maintenance and alteration programs

The certificate holder must prepare and submit to ANAC for approval a program of inspections and a program covering other maintenance, preventive maintenance and alterations activities, designed based on the airworthiness information provided by ANAC, by the organization that owns the type project, by countries of these organizations and the experience of the operator. These programs are established to ensure that:

(a) maintenance, preventive maintenance and changes made by it, or by others, are performed in accordance with the certificate holder's manual;

(b) there are competent professionals and adequate facilities and equipment for proper maintenance, preventive maintenance and changes; and

(c) each aircraft released for flight is airworthy and has been properly maintained to operate under this Regulation.

(Wording given by Resolution n° 494, of 10.17.2018)

135.427 Manual requirements

(a) The certificate holder must include in its manual the description of its organization required by section 135.423 and the list of people with whom it has entered a contract to perform any of its mandatory inspections and other maintenance, preventive maintenance, reconstruction and alteration services, including a general description of those services.

(b) The certificate holder must include in its manual the programs required by section 135.425, which must be followed when performing maintenance, preventive maintenance and alterations to the aircraft of the certificate holder, including cells, engines, propellers, rotors, normal and emergency equipment. These programs must include at least the following:

(1) methods of making routine changes or not (except mandatory inspections); preventive maintenance, reconstruction and alteration;

(2) the designation of maintenance and alteration items that require mandatory inspections, including at least those that may result in failure, malfunction or defect, affecting the safe operation of the aircraft if they are not performed properly or if suitable parts or materials are not used;

(3) the methods of performing mandatory inspections and the designation, by occupational title, of the personnel authorized to perform each mandatory inspection;

(4) procedures for re-inspection of work performed due to defects found in previous mandatory inspections;

(5) procedures, standards and limits required for mandatory inspections and for the acceptance or rejection of items requiring inspection, as well as for periodic inspections and calibration of precision tools, measuring devices and test equipment;

(6) procedures to ensure that all mandatory inspections have been carried out;

(7) instructions to prevent a person, who has performed a particular job, from performing a mandatory inspection required by that job;

(8) instructions and procedures to prevent an inspector's decision, with respect to a mandatory inspection, from being modified by people other than his/her direct supervisor or a person at the administrative control level responsible for not only general management but also maintenance inspections;

(9) procedures to ensure mandatory inspections and maintenance, preventive maintenance and alteration services, which have not been completed due to work interruption, are properly completed before the aircraft is approved for return to service;

(10) maintenance tasks organized by the respective intervals at which they

will be performed, considering the aircraft's use in advance;

(11) where applicable, the operator's maintenance program must include the aircraft's continued structural integrity program;

(12) where applicable, the descriptions of the reliability and condition monitoring program for the aircraft systems, components and powerplant;

(13) identification of mandatory maintenance tasks specified in the aircraft type design; and

(14) the design and application of the maintenance program must incorporate the principles of human factors.

(c) The certificate holder must include in its manual a convenient system (which may include coding) that guarantees the retrieving of the following information:

(1) description (or reference to data acceptable to ANAC) of each work performed;

(2) the name of the person who performed the work, if that work was performed by a person outside the holder's organization; and

(3) the name or other identification of the person who approved the work.

(d) For the purposes of this Regulation, the certificate holder must prepare this part of its manual containing information and maintenance instructions, in whole or in part, in printed form or in other forms acceptable by ANAC, which are retrievable in Portuguese or English. In the latter case, it must demonstrate that its maintenance personnel is able to read and understand that language.

(Wording given by Resolution nº 494, of 10.17.2018)

<u>135.429 Requirements for</u> mandatory inspection personnel

(a) It is only permitted to use a person to perform mandatory inspections if that person is appropriately accredited, trained, qualified and assigned to do so.

(b) It is only permitted to authorize a person to perform mandatory inspections if that person performs the inspection under the supervision and control of a chief inspector.

(c) A person cannot perform a mandatory inspection if that person has performed any item of work to be inspected.

(d) In the case of a helicopter operating in remote areas or locations, ANAC may approve procedures for the execution of inspection items required by a pilot when no other qualified person is available, provided that:

(1) the pilot is linked to the certificate holder;

(2) it can be demonstrated to ANAC's satisfaction that each pilot authorized to perform the required inspection is properly trained and qualified;

(3) the required inspection is the result of a mechanical failure and is not part of the certificate holder's continued airworthiness program;

(4) each item is inspected after each flight until it has been inspected by an appropriately accredited and qualified mechanic, as set forth in section 135.429 of this Regulation, other than the one that originally performed the work item; and

(5) each work item that is an inspection item required for part of the flight control system must be flight tested and re-inspected before the aircraft is approved for return to service.

(e) The certificate holder must maintain and determine that each certificate holder with whom it has entered a contract to perform mandatory inspections maintain an updated list of people who have been trained, qualified and assigned to conduct mandatory inspections. People must be identified by name, occupational title and the inspections they are authorized to perform. The certificate holder (or the certificate holder it hired to carry out mandatory inspections) must provide written information to each person so designated, describing the extent of his/ her responsibilities, his/her authority and his/her limitations as an inspector. This list must be made available to ANAC, if required.

(Wording given by Resolution nº 494, of 10.17.2018)

135.431 Continued analysis and supervision

(a) The certificate holder must establish and maintain a continuous system of analysis and supervision of the execution and efficiency of its inspection program and its maintenance, preventive maintenance and alterations programs, aiming at correcting any deficiencies of these programs, even if they are carried out by
third parties. (Wording given by Resolution nº 494, of 10.17.2018)

(b) Whenever ANAC deems that any of the programs described in paragraph (a) of this section does not contain adequate procedures and standards to comply with this Regulation, it will notify the certificate holder, determining the necessary changes.

(c) The certificate holder may request ANAC to reconsider the notification determining a program change. The application must be submitted to ANAC no later than 30 days after receipt of the notification. Except in the case of an emergency requiring immediate action, in the interest of security, the filing of a reconsideration request suspends the entry into force of the modification, until ANAC's final decision.

135.433 Maintenance training and preventive maintenance programs

The certificate holder with the function of performing maintenance or preventive maintenance must have a training program in place that ensures that each person (including inspection personnel) who determines the suitability of a job performed, is fully informed about techniques, procedures and new equipment in use and is competent to perform its duties.

(Wording given by Resolution nº 494, of 10.17.2018)

135.435 Qualifications required

(a) Except for maintenance, preventive maintenance, changes and mandatory inspections carried out by a certified workshop located outside of Brazil, each person directly responsible for performing maintenance, preventive maintenance and changes, and each person responsible for carrying out mandatory inspections must have an appropriate mechanic license, issued by ANAC, with the appropriate qualifications for the work it performs.

(b) For the purposes of this section, a "directly in charge" person is a person assigned to a position in which he/she is responsible for the work of a section, workshop or base that performs maintenance, preventive maintenance, alterations or other functions affecting airworthiness of aircraft. A person who is "directly in charge" does not need to physically direct and observe each performer, permanently, but needs to be available for consultation and decisions on matters requiring higher level instructions or decisions than the person performing the job.

(Wording given by Resolution nº 494, of 10.17.2018)

135.437 Authority to perform and approve maintenance, preventive maintenance and changes

(a) A certificate holder can execute or hire others to perform maintenance, preventive maintenance and changes in the aircraft of its fleet in accordance with its maintenance manual. In addition, a certificate holder referred to in paragraph 135.411(a)(2) may perform these functions to another certificate holder also included in the same paragraph in accordance with the maintenance manual of the other certificate holder. (Wording given by Resolution n^o 612, of 03.09.2021)

(b) A certificate holder may approve the return to service of any aircraft, cell, engine, propeller, rotor or equipment, after maintenance, preventive maintenance or changes made in accordance with paragraph (a) of this section. However, in the case of major repairs or major changes not listed in the aircraft's approved technical documentation, work must be carried out in accordance with approved design technical data.

(Wording given by Resolution nº 494, of 10.17.2018)

135.439 Maintenance record requirements

(a) The certificate holder must keep (using the system specified in the manual required by section 135.427) the following maintenance records, for the periods of time specified in paragraph (b) of this section:

(1) all records necessary to demonstrate that all requirements for issuing an airworthiness release as required by section 135.443 have been met;

(2) records containing the following information:

(i) the total service time of each cell, engine, propeller and rotor;

(ii) the current situation of limited life parts, of each cell, engine, propeller, rotor and equipment;

(iii) the time since the last overhaul of each item installed on each aircraft, which requires a general overhaul based on hard time; (iv) the identification of the current situation of aircraft inspections, including the time since the last inspection required by the inspection program under which the aircraft and its equipment are maintained;

(v) the current status of the applicable airworthiness directives (AD), including date and methods of compliance, and, if the airworthiness directive involves periodic actions, the time and date of the next required action; and

(vi) an updated list of major changes and major repairs to each cell, engine, propeller, rotor and equipment.

(b) The certificate holder must keep the records required by this section for the following periods of time:

(1) except for the records of the last general overhaul of each cell, engine, propeller, rotor and equipment, the records specified in paragraph (a)(1) of this section must be kept until the work is repeated or is superseded by another, or for 1 year after the end of work, whichever is greater;

(2) the records of the last general overhaul of each cell, engine, propeller, rotor and equipment must be kept until this work is superseded by work with equivalent objective and detail, or for 1 year, whichever is greater; and

(3) the records specified in paragraph (a)(2) of this section must be kept permanently and transferred with the aircraft, if the aircraft is sold to another person.

(c) The certificate holder must make available to the ANAC designated servers, whenever required, all maintenance records established by this section.

(Wording given by Resolution $n^{\rm o}$ 494, of 10.17.2018)

<u>135.441 Transfer of maintenance</u> records

The certificate holder selling an aircraft registered in Brazil must transfer to the buyer, at the time of sale, the following records of the aircraft, in clear language or in coded form that allows the maintenance and retrieval of information in a manner acceptable by ANAC:

(a) the records specified in paragraph 135.439(a)(2); and

(b) the records specified in paragraph 135.439(a)(1) that are not included in

paragraph (a) of this section, except when the buyer allows the seller to retain physical custody of those records. However, the custody of the records by the seller does not relieve the buyer of its responsibility, provided for in paragraph 135.439(c) of this Regulation, to make these records available to ANAC, for inspections and verifications.

(Wording given by Resolution nº 494, of 10.17.2018)

<u>135.443 Airworthiness</u> documentation and notes on aircraft maintenance records

(a) A certificate holder may only operate an aircraft that has undergone maintenance, preventive maintenance or alteration services, prepare, or cause the certificate holder with whom it entered a contract to perform maintenance, preventive maintenance or alterations to prepare:

(1) an airworthiness release; or

(2) an appropriate entry in the aircraft maintenance records.

(b) The airworthiness release or annotation required by paragraph (a) of this section must:

(1) be prepared in accordance with the procedure provided for in the certificate holder's manual;

(2) include a statement that:

(i) the work was carried out in accordance with the requirements of the certificate holder's manual;

(ii) all items requiring inspections were inspected by a qualified and authorized person, who certified that the work was satisfactorily completed;

(iii) there are no known conditions that prevent the airworthiness of the aircraft;

(iv) with regard to the work performed, the aircraft is in a position to operate safely; and

(3) be signed by a qualified and authorized mechanic. Each mechanic can only sign a document or note about a job he/she has performed if he/she is authorized to do so and has been hired to do it.

(c) Except for paragraph (b)(3) of this section, after maintenance, preventive maintenance or changes made by a workshop located outside Brazil, the documentation and airworthiness notes required by paragraph (a) of this section can be signed by a person authorized by this workshop.

(d) Instead of attesting to each of the conditions required by paragraph (b) of this section, the certificate holder may establish in its manual that the signature of a specific, qualified and authorized mechanic, constitutes this attestation.

(Wording given by Resolution n° 494, of 10.17.2018)

SUBPART K

DANGEROUS ARTICLES

(Subpart with the wording given by Resolution No. 608, of 02.11.2021)

135.501 Applicability and definitions

(a) This Subpart establishes rules regarding the carriage of dangerous articles by air to be followed by each certificate holder in accordance with the requirements established by RBAC No. 175, regardless of whether or not they have operational authorization to transport dangerous articles as cargo.

Note 1: the operator's responsibilities regarding the transport of dangerous articles and the requirements for notification of occurrences with dangerous articles are contained in RBAC n° 175.

Note 2: the relevant requirements for crew members or passengers on the transport of dangerous items such as luggage on board aircraft are contained in RBAC No. 175.

Note 3: the transport of dangerous articles other than cargo (e.g., aeromedical, search and rescue, etc.) is treated as a general exception of applicability in RBAC n° 175 and in Supplementary Instruction. Exceptions for the transport of dangerous items that are part of the aircraft equipment or that are used on board the aircraft during the flight are detailed in paragraph 175.11(a) of RBAC n° 175 and in Supplementary Instruction.

(b) Definitions. For the purpose of this Subpart, the following definitions apply:

(1) Cargo – Any good carried by an aircraft other than a mailbag or accompanied or lost luggage.

(2) COMAT – Operator's material, carried in an operator's aircraft and for its own benefit.

Note: for the purposes of this regulation, COMAT that meets the classification criteria for dangerous articles established by RBAC No. 175 is considered as cargo and must be carried in accordance with the requirements of that regulation (e.g., aircraft parts, such as chemical oxygen generators, fuel control units, fire extinguishers, oils, lubricants, cleaning products).

135.503 Air operators without operational authorization to transport dangerous items as cargo

(a) Operators who are not authorized to transport dangerous items must:

(1) establish a hazardous goods training program that meets the requirements of RBAC No. 175; and

(2) establish policies and procedures on hazardous articles in its operations manual that meet, at a minimum, the applicable requirements of RBAC No. 175, in order to enable its personnel to:

(i) identify and reject undeclared dangerous articles, including COMAT classified as a dangerous article; and

(ii) notify occurrences of hazardous items to the appropriate authorities, as required by RBAC No. 175.

<u>135.505 Operators authorized</u> to transport dangerous items as cargo

(a) To be able to transport dangerous items as cargo, the certificate holder must obtain prior authorization from ANAC in its Operating Specifications and must:

(1) establish a hazardous goods training program that meets the requirements of RBAC No. 175; and

(2) establish policies and procedures on hazardous articles in its operations manual that meet, at a minimum, the applicable requirements of RBAC No. 175, in order to enable its personnel to:

(i) identify and reject undeclared or underreported dangerous articles, including COMAT classified as a dangerous article;

(ii) notify occurrences of dangerous articles to the appropriate authorities, as required by RBAC No. 175;

(iii) accept, handle, store, transport, load and unload dangerous articles, including COMAT classified as dangerous articles, as cargo on board an aircraft; (iv) provide the pilot-in-command, in writing, with accurate and legible information regarding the dangerous items to be carried as cargo; and

(v) inform ANAC of the transport of dangerous articles carried out with origin or destination in Brazilian territory, as established in a specific rule.

135.507 Provision of information

The operator must ensure that its personnel involved in the acceptance, handling, loading and unloading of cargo, including subcontracted employees acting on its behalf, are informed of the operator's operational authorization with regard to the transport of dangerous goods and their limitations.

SUBPART L [RESERVED]

(Included by Resolution No. 494, of October 17, 2018)

SUBPART M

OPERATIONAL SAFETY MANAGEMENT SYSTEM

(Included by Resolution No. 494, of October 17, 2018)

135.701 Definitions

(a) For the purposes of this Subpart, the following definitions apply:

(1) risk analysis: a technique by which the consequences or impacts of a given hazard are objectively characterized, depending on their probability and severity, in a qualitative and/ or quantitative way;

(2) risk assessment: process aimed at obtaining conclusions about the results of a risk analysis, based on knowledge and technical criteria established as references;

(3) consequence: real or potential impact of a hazard, which can be qualitatively and/or quantitatively expressed. The same danger can generate more than one consequence;

(4) risk control: activities performed with the purpose of ensuring that the operational safety policy, processes and organizational procedures effectively contribute to mitigating or eliminating the risks of aeronautical incidents and accidents; (5) operational safety culture: a set of values, standards, attitudes and practices of a permanent nature within an organization committed to reducing the exposure of its staff and the general public to dangerous situations, by promoting shared concern, commitment and responsibilities related to operational safety;

(6) operational safety performance: a measurable result at the level of operational safety achieved by allocating efforts and resources within the scope of the activities of a civil aviation service provider or of a State, as established in its organizational policies and goals;

(7) operational safety assurance: a process that aims at providing reliance that the risk controls developed under the risk management process achieve the objectives of operational safety in an organization 's activities. This process can reveal new dangers, point out the need for new risk controls, as well as eliminate or modify existing risk controls;

(8) operational safety management: an organizational function that continuously seeks to identify and analyze hazards, as well as analyze, assess and control the risks inherent to an organization's activities, through a system that includes necessary policies, responsibilities, organizational structure, processes and procedures;

(9) operational safety risk management: a process that aims at identifying and implementing the necessary risk controls for operational safety in an organization's activities. This process should describe the organization's operating environment, identify and analyze hazards, analyze and assess the risks associated with them, and establish the necessary controls;

(10) change management: a process used by an organization to assess the results and impacts of internal or external changes on the organization and/or its activities in a planned manner, aiming at minimizing unwanted consequences and maximizing opportunities for improvement, ensuring the acceptable level operational safety;

(11) operational safety manager or director: person designated by the accountable manager of a certificate holder as the individually responsible person and focal point for the implementation and maintenance of the SGSO. The requirements for acceptance of that person by ANAC are defined in RBAC No. 119;

(12) accountable manager: unequivocally identifiable person who holds primary accountability for the performance of a certificate holder's SGSO. The unequivocal identification of the accountable manager must be supported by the organizational documents of the organization. In addition, the accountable manager must have the legal or hierarchical power to authorize or refuse any expenses related to the conduction of the operations, in accordance with the operational safety regulatory requirements;

(13) identification of hazards: the process of recognizing and recording hazards inherent to an organization's activities that could give rise to an accident, incident or other operational safety adverse event;

(14) operational safety performance indicator: a measurable parameter used to monitor and assess the performance of a certificate holder's operational safety;

(15) operational safety performance target: operational safety objective expressed in terms of operational safety indicators to be achieved in a given period;

(16) mitigation: intervention with the objective of mitigating or reducing a certain risk;

(17) danger: a condition that can cause or contribute to an accident, aeronautical incident or any other undesirable event related to operational safety;

(18) emergency response plan (PRE): formally documented organizational plan, which defines the required infrastructure, internal and external processes, responsible parties and their activities, communication procedures, operational safety, equipment and actions that must be carried out in reaction to emergencies, with the purpose of ensuring an orderly and efficient transition from a normal operating situation to an emergency operation situation and vice versa;

(19) operational safety policy: global intentions and guidelines with regard to operational safety, formally prepared by the organization's top management, documented and disseminated;

(20) proactive: any method that seeks to preventively identify operational safety risks by analyzing an organization's activities, prior to the occurrence of an accident, incident or other operation safety adverse event;

(21) probability: frequency of a given occurrence, expressed in on a quantitative basis;

(22) promoting operational safety: disseminating a culture focused on operational safety, conducting training and adopting incentives to share information that support the implementation and operation of the SGSO;

(23) reactive: any risk assessment method initiated in response to an event;

(24) primary accountability: obligations of a manager accountable before ANAC for actions performed directly by him/her, by other persons subordinated to him/her, or by those to whom he/she has delegated responsibility for the performance of any activities, for specific operational safety purposes;

(25) risk: assessment of the consequences or impacts of a hazard, expressed in terms of estimated probability and severity;

(26) operational safety: a situation in which the risks inherent to civil aviation activities are assessed, controlled and maintained at an acceptable level;

(27) severity: extent or severity of the loss or damage related to the consequences of a hazard;

(28) operational safety management system (SGSO): systematic approach to the management of operational safety in a certificate holder, including the necessary policies, responsibilities, organizational structures, processes and procedures. This approach includes the set of management tools and methodologies defined, structured and implemented in order to support and assist the decisions to be made by the certificate holder's accountable manager, thereby reducing the risks inherent in the organization's activities; and (29) tolerability: an index that relates assessed risk levels and decision making regarding the conditions necessary for the continuation or interruption of activities.

135.703 SGSO Structure

(a) The SGSO structure must comprise four components and twelve elements, as minimum requirements for its implementation:

(1) operational safety policy and objectives:

(i) senior management's responsibility and commitment;

(ii) primary accountability for operational safety;

(iii) designation of key operational safety personnel;

(iv) coordination of the emergency response plan; and

(v) SGSO documentation;

(2) management of operational safety risks:

(i) hazard identification process; and

(ii) risk assessment and control process;

(3) assurance of operational safety:

(i) process for monitoring and measuring operational safety performance;

(ii) change management process; and

(iii) SGSO continuous improvement process; and

(4) promoting operational safety:

(i) training and qualification; and

(ii) disclosure of the SGSO and communication about operational safety.

135.705 Operational safety policy and objectives

(a) Senior management's responsibility and commitment.

(1) The certificate holder must define an operational safety policy that:

 (i) reflects senior management's commitment to operational safety, including the promotion of a positive operational safety culture;

(ii) includes a clear statement on the provision and allocation of resources necessary for the implementation of the operational safety policy;

(iii) includes a policy for operational safety reporting;

(iv) clearly indicates what types of behavior are considered unacceptable by the organization, as well as the circumstances in which disciplinary actions will not be applied;

(v) is duly approved and signed by the accountable manager;

(vi) is communicated, with visible endorsement by senior management, throughout the organization; and

(vii) is periodically reviewed to ensure that it remains relevant and appropriate for the organization.

(2) The certificate holder must define operational safety objectives considering what is established in its operational safety policy. Operational safety objectives should:

(i) establish the reference for the monitoring and measurement of operational safety performance provided for in paragraph 135.709(a) of this Regulation;

(ii) reflect the senior management's commitment to continuously improve the organization's overall SGSO performance;

(iii) be communicated throughout the organization; and

(iv) be periodically reviewed to ensure that they remain relevant and appropriate for the organization.

(b) Primary accountability for operational safety.

(1) The certificate holder must:

 (i) clearly identify the accountable manager who, regardless of other functions, has ultimate responsibility and an obligation to be accountable, on behalf of the organization, for the implementation and maintenance of an effective SGSO;

 (ii) clearly define operational safety prerogatives and responsibilities across the organization, including senior management's operational safety prerogatives and responsibilities;

(iii) identify the responsibilities of all managers, regardless of other functions, as well as employees, in relation to operational safety performance;

(iv) document and communicate information regarding the operational safety prerogatives, responsibilities and authorities for the entire organization; and

(v) define the management levels with authority to make decisions regarding the tolerability of operational safety risks.

(c) Designation of key operational safety personnel.

 The certificate holder must appoint an operational safety director or manager, who will be responsible for implementing and maintaining the SGSO.

(2) To fulfill his/her responsibilities and functions, the operational safety director or manager must have:

 (i) direct access to the accountable manager and senior management personnel;

(ii) access to data and information on any aspect related to the certificate holder's operational safety; and

(iii) administrative autonomy to assess, audit and investigate any sector or process related to the certificate holder's operational safety.

(d) PRE coordination.

(1) The certificate holder must establish and maintain a response plan for accidents, incidents and other emergency situations related to its air operations.

(2) The certificate holder must ensure that its emergency response plan is properly coordinated with the emergency response plans of the organizations with which it interacts during the performance of its operations.

(e) SGSO documentation.

(1) The certificate holder must create and keep updated the SGSO documentation that describes:

(i) operational safety policy and objectives;

(ii) the SGSO's operational safety requirements;

(iii) the SGSO's processes and procedures;

(iv) the obligations, responsibilities and attributions of the members of the organization in relation to the processes and procedures of the SGSO; and

(v) the SGSO records and the respective controls necessary for their identification, storage, protection, retention and disposal.

(2) The certificate holder must create and maintain an operational safety management (MGSO) manual, which is part of the company's general manual, as part of its SGSO's documentation.

135.707 Operational safety risk management

(a) Hazard identification process.

(1) The certificate holder must create and maintain a process that ensures that hazards associated with its products or services are identified.

(2) The hazard identification process should be based on a combination of reactive and proactive methods of collecting operational safety data.

(b) Risk assessment and control process.

(1) The certificate holder must create and maintain a process that ensures the analysis, assessment and control of the operational safety risks associated with the identified hazards.

135.709 Ensuring operational

<u>safety</u>

(a) Process for monitoring and measuring operational safety performance.

(1) The certificate holder must create and maintain the means necessary to monitor and measure the organization's operational safety performance and to validate the effectiveness of its operational safety risk controls.

(2) The certificate holder's operational safety performance should be monitored and measured against its SGSO's operational safety performance indicators and targets.

(b) Change management process.

(1) The certificate holder must create and maintain a process to identify changes that may affect the level of operational safety risk of its products or services and to identify and manage the operational safety risks that may arise from these changes.

(c) SGSO continuous improvement process.

(1) The certificate holder must monitor and evaluate the effectiveness of the SGSO processes in order to allow continuous improvement of the overall performance of the system.

135.711 Promotion of operational safety

(a) Training and qualification.

(1) The certificate holder must create and maintain an operational safety training program that ensures that its employees are trained and competent to perform their duties within the SGSO.

(2) The scope of the operational safety training program must be appropriate for the participation of each individual within the SGSO.

(b) Disclosure of the SGSO and communication about operational safety.

(1) The certificate holder must create and maintain formal means of disseminating the SGSO and communicating about operational safety that:

(i) ensures that its staff is aware of the SGSO to a degree compatible with their positions;

(ii) transmits critical information about operational safety;

(iii) explains why specific operational safety actions are taken; and

(iv) explains why operational safety procedures are introduced or changed.

[APPENDICES TO RBAC NO. 135 HAVE BEEN DELETED FROM THIS VERSION]

CIVIL AVIATION INSTRUCTION No. 3134-0799 OF JULY 9, 1999

TITLE: PUBLIC AIR TRANSPORT OF NURSES

PRELIMINARY INFORMATION

PURPOSE

Provide guidelines, standards and procedures to be used by operators engaged or who intend to engage in the provision of non-scheduled public air transport services for sick passengers.

BACKGROUND

Decree n° 65.144, of 09/12/69, which institutes the Civil Aviation System of the Ministry of Air Force.

APPROVAL

Ordinance No. 459/DGAC, of July 9, 1999, which will come into force on the date of its publication in the Federal Official Gazette.

CORRELATIONS

RBHA 135, 10, 21, 23, 25, 27, 29, 39, 43, 61, 67 and 91;

Brazilian Aeronautical Code, (Law No. 7.565, of 02/19/86);

Law n° 7.183, of 04/05/84, which regulates the exercise of the aeronaut's profession;

Law No. 6.839, of 10/30/80, which provides for the registration of companies in the inspection bodies for the exercise of professions.

Ordinance No. 466/SPL, dated 08/26/93, which regulates the transportation services for the sick by an Air Taxi company;

Ordinance 622/GM5, of 08/29/90, which approves the regulatory instructions for Air Taxi services; CFM Resolution No. 1.529/98 – Normalization of Medical Activity in the Urgency/Emergency Area in its prehospital phase.

CANCELLATION

IAC 3134-135-1096, of 11/05/96.

AIR BRIG. – CESAR COSTA Head of Technical Subdepartment

LIEUTENANT AIR BRIGADIER – MARCOS ANTÔNIO DE OLIVEIRA Director-General

1 GENERAL PROVISIONS

The content of this IAC does not replace or modify the rules and procedures contained in the RBHA and other aeronautical legislation documents in force, applicable to operators, aircraft, technical crew and the types and kinds of air operations involved in said service.

1.1 For the purposes of this IAC, the following definitions are valid:

1.1.1 Ambulance aircraft: – is the aircraft constructed to transport patients with medical equipment, fixed or removable, and with medical materials necessary for the level of care to be provided during the flight by a health professional.

1.1.2 Place of performance: – is the place where an ambulance aircraft takes a patient to transport him/her, providing medical services on board.

1.1.3 Transport sick persons: – it is the mission of transporting a patient under medical care, including moving to the place of work.

1.1.4 CFM: – Federal Council of Medicine

1.1.5 CRM: Regional Council of Medicine

2 INITIAL PROVISIONS

2.1 Operators who propose to start an air transport service for sick persons, but who are not yet holding an Air Transport Company Homologation Certificate (CHETA), must know this IAC, comply with what is determined or consider its recommendations. Regardless, the rules of RBHA 135 are mandatory.

2.2 This IAC is recommended and not mandatory for police and/or civil defense air operations, provided for in subpart K of RBHA 91 – General Civil Aircraft Operations Rules.

2.3 This IAC is also of recommended and non-compulsory application for the unpaid transportation of sick persons by aircraft belonging to the bodies of direct public administration, independent governmental agencies, public companies, mixed-capital companies and foundations of indirect public administration.

2.4 The transportation of sick persons from places where there are active risk conditions (fires, turmoil, gunfire, etc.), with the threat to the safety of the aircraft and the crew, cannot be handled by air transport companies. Such operations are regulated by subpart K of RBHA 91 Police and Civil Defense Air Operations.

2.5 Public air transport for sick persons also follows the rules of the CFM and CRM.

3 SPECIFIC EQUIPMENT

3.1 The installation of any additional equipment must be requested from the DAC.

3.2 In case the installation of this equipment falls within the definition of major modification, as stated in RBHA 10 and detailed in appendix A of RBHA 43, this equipment must be installed on the aircraft according to technical data, previously approved by the aeronautical authority.

3.3 Depending on the equipment, its installation may require the issuance of a Supplemental Type Approval Certificate (CHST) by the Aerospace Technical Center (CTA). If the applicant has doubts about the requirements applicable to certain equipment, he/she should, before installing it, consult the CTA or DAC.

3.4 Typically, the Supplementary Type Approval Certificate (CHST) contains operating instructions and supplements, weight and balance data, and instructions for continued airworthiness. The aircraft maintenance program must be revised and submitted for DAC approval in order to contain, as applicable, the inspection periods, hydrostatic tests and the periodicity of measuring instruments and check of the fixation of the support structure and the equipment.

3.5 Instructions for such installations and removals must be included in the company manual required by RBHA 135.

3.6 The operator must ensure that the installation of all additional equipment

is compatible with all systems previously installed on the aircraft. Navigation and communication equipment may need recalibration after the installation of certain equipment, therefore, before returning the aircraft to service, a flight test must be performed to determine if there are radio frequency or electromagnetic interferences (IRF/IEM) with the aircraft's navigation, communications and control systems. Such test must be carried out according to the procedures accepted or approved by the Aeronautical Authority.

3.7 Flight tests must be performed under visual conditions, during the day and must include not only the additional equipment installed, but also all items of portable medical equipment that are intended to be used during the transport of patients. The test results, where the acceptability of installations is verified, must be permanently annotated in the aircraft records.

3.8 It is necessary to consider that medical equipment can also be affected by the aircraft-s electronic equipment, therefore, they must also be checked for accuracy before being used on a patient.

3.9 RBHAs require that any installed equipment, including portable devices, be properly secured. The structure supporting each equipment must be designed to withstand all loads (up to the specified final inertia loads for emergency landing conditions) required by RBHA 23, 25, 27 or 29 as applicable.

3.10 Equipment installed on board of aircrafts must meet the static and dynamic loads specified in the applicable RBHA.

3.11 Each installation must be done by qualified personnel.

3.12 Frequent removals and replacements may constitute maintenance and must be done by a qualified technician to perform them.

3.13 If installation or removal of a certain equipment does not require tools and can be done in accordance with instructions and procedures contained in the company manual, any trained person may be authorized by the company to install or remove such equipment.

3.14 The shelves and/or supports must be removed and replaced by a mechanic qualified by the DAC, but the equipment to be used in the care of sick persons must be installed in such a way as to be easily removed, in case it is necessary to accompany the patient. 3.15 The components of the oxygen systems (cylinders, pipes, gauges, regulators, etc.) that have been installed in the aircraft according to approved technical data, become accessories of the same.

3.16 The medical oxygen system with a single refueling point can be refilled by a person trained by the operator.

3.17 The oxygen bottle installed in support in the passenger cabin, with a regulator, trachea and mask, can be removed and refilled by a person trained by the operator.

3:18 If the refueling installation requiring removal and installation of cylinders or disconnection of pipes, whatever the type of connector used, it should be carried out by a duly qualified mechanic.

3.19 Stretchers must comply with Sections 23,785, 25,785, 27,785 and 29,785, of RBHA 23, 25, 27 and 29, respectively, as applicable, and must have fixing devices that meet sections 23,651, 25,651, 27,651 and 29,651, as applicable.

3:20 The defibrillators should be tested on the ground before being used in flight. In order to avoid inadvertent electric shock to crew and other passengers, appropriate means must be used to remove the patient from the aircraft structure.

3.21 The use of the equipment and accessories below is recommended.

3.21.1 Device for cutting electric power transmission cables, in the case of helicopters.

3.21.2 Searchlight for helicopters with minimum 90° vertical and 180° horizontal movement that can be controlled without the pilot removing his/ her hands from the flight controls.

3.21.3 A restraint device for patients, including a shoulder belt. In the case of child restraint seats, they must meet the safety and strength requirements set out in RBHA 135.

3.21.4 Supplementary lighting system to allow adequate patient care, which can be incorporated into the emergency lighting system with its own battery. During night operations, however, there must be ways to prevent lighting from invading the cockpit area.

3.21.5 Intercom system that allows communication between the crew and health professionals. Such a system is particularly important if the noise level in the cabin is greater than 72 Db.

4 APPROVAL

4.1 Each airline company that provides air transportation services for sick persons must prepare a specific manual, which must be available on their aircraft and in their base of operations.

4.2 Such manual will be analyzed by the DAC and must comply with the applicable rules of the CFM and CRM.

4.3 The following items should be included in the manual, in addition to those required in section 135.23 of RBHA 135.

4.3.1 An organization chart of the company where a doctor, duly registered with the CRM, occupies the same position as the Head of Operations or the Head of Maintenance.

4.3. 2 Refueling procedures with engines running or stopped. Refueling with rotors rotating and passengers on board is normally not permitted (see paragraph 91.102 (f)). However, specific conditions may lead the helicopter crew to consider such a hypothesis. This procedure will only be authorized if the operator has developed specific and strict procedures for it. Such procedures must be included in the company manual and must be included in the initial and periodic training program for the crew.

4.3.3 The type of medical oxygen system installed, including cylinders, pipes, gauges, regulators and other system components, as well as the method of refueling.

4.3.4 Instructions (or reference) for maintaining the modifications incorporated in the aircraft.

4.3.5 Procedures and instructions for installing and removing additional equipment installed for the sole purpose of serving sick persons.

4.3.6 Flight release and tracking procedures.

4.3.7 Special actions and procedures that may be required in transporting sick persons, including:

4.3.7.1 Procedures that require coordination between health professionals and crew;

4.3.7.2 In-flight emergencies and emergency evacuation when driving patients on board; and

4.3.7.3 Special ground procedures (boarding, rolling, loading, unloading, etc.).

4.4 For helicopters of any size, a weight and balance program using medium weights for crew members, health professionals, patients and companions must be developed.

4.5 The weight and balance program for airplanes with conventional engines or the reaction with a maximum configuration of 9 seats for passengers must use the actual weight of health professionals, crew members and patients. For other planes, the use of estimated weight is permitted.

4.6 Given the specificity of the transportation of sick persons, the DAC recommends the use of radios capable of providing air-to-ground communication for coordination with the organization that will receive the patient or with the necessary ground transportation for locomotion.

4.7 Records

4.7. 1 Maintenance Records

4.7.1.1 Each operator must meet the requirements for maintenance records provided for in section 135.439 and/or 91.417. When the aircraft is transferred, the operator must comply with sections 135.441 and/or 91.419 – Transfer of Maintenance Records, of RBHA 135 and 91, respectively.

4.7.2 Flight records

4.7.2.1 The records required by section 135.63 of RBHA 135 must be kept at the operator's main base or at another location accepted by the DAC. The following records must be kept:

4.7.2.1.1 Flight time and rest records for crew members. The flight hours and rest records of the crew must contain the information necessary to demonstrate compliance with the legislation that provides for the profession of aeronauts; and

4.7.2.1.2 Records Flight tracking – records of monitoring of each flight must be kept for a minimum period of 30 days after the end of flight. In the case of multi-engine aircraft or turbine engines, the load manifest must also be maintained.

4.8 Facilities

4.8.1 The company's facilities include the administrative office required by section 135.27, the maintenance area and the operational area. Items to be checked by DAC inspectors must include the manual required by 135.21.

4.8.1.1 Operations – the facilities in the operations sector must have suitable areas for flight planning, technical crew stopovers, flight monitoring and files. In addition, classrooms and/ or training devices must be available to provide training for crew members.

4.8.1.2 Helipads in hospitals – must meet the criteria of the legislation for Helipads/Public Heliports projects.

4.9 Training Requirements

4.9.1 Crew

No operator may employ a pilot in transport operations of sick persons and no pilot may work on board in such operations unless:

4.9.1.1 He is qualified by the DAC for that type of aircraft.

4.9.1.2 He has his/her CCF valid and issued by the aeronautical authority.

4.9.1.3 He has completed a specific training program approved for the operator.

4.10 Training Program

4.10.1 Companies that intend to offer transportation services for sick people must provide initial and periodic training programs for their crew, in addition to those required by subpart H of RBHA 135, following the standards therein specified.

4.10.2 The basic requirements for training crew members are included in subparts E, F, G and H of RBHA 135, as applicable, in addition to the following:

4.10.2.1 Measures to be taken before each flight, including the safety of the landing and take-off areas, matching, as far as possible, the patient's needs with those of the flight;

4.10.2.2 Methods of embarkation and disembarkation of the crew, health professionals, patients and companions;

4.10.2.3 Performance, under the approved operating conditions, of the aircraft to be used;

4.10.2.4 Normal and emergency procedures in the operation of the aircraft, including those related to additional equipment installed; 4.10.2.5 Landings and takeoffs in restricted areas (in the case of helicopters); and

4.10.2.6 Full knowledge of the company manual.

4.10.3 The transport operations for sick people require strict security around the aircraft during boarding and disembarking, arrivals and departures. To this end, companies must develop training programs for ground personnel covering at least the following issues:

4.10.3.1 Personal safety in and around the aircraft, including DAC rules applicable to the safety of the aircraft involved;

4.10.3.2 Loading and unloading the aircraft with engines/rotors running and stopped

4.10.3.3 Use of visual signs to guide and park aircraft;

4.10.3.4 Coordination with local authorities (police and firefighters) to deal with fuel and/or fire leaks in hospital helipads; and

4.10.3.5 Safe handling of oxygen equipment for all personnel involved. All personnel authorized to replenish oxygen must be trained in the use of recommended procedures. If liquid oxygen (LOX) is used, its specific nature thereof must be emphasized. It is recommended that this item be taught by a mechanic with knowledge of oxygen systems, and qualified by the DAC.

4.10.4 Maintenance personnel should be trained, if applicable, to maintain modifications made to aircraft to incorporate medical equipment.

4.10.5 Upon being homologated by the DAC, receiving the Air Transport Company Homologation Certificate, and before operating any flight to transport sick people, the company must comply with the provisions of Law No. 6.839, of October 30, 1980, which provides for the registration of companies in the inspection bodies for the exercise of professions.

5 OPERATIONS

5.1 Transport of sick people does not mean, "a priori", operations under the emergency conditions authorized by Section 135.19.

5.2 It is recommended that each operator develops a system for monitoring their flights, in order to be able to locate, activate, modify them and control their departure, landing times and pertinent information. Such a system shall be described in the Manual provided in 135.21 and will comply with the provisions of section 135.79.

5.3 It is also recommended that companies develop a system for obtaining meteorological information to be used before the release of any flight.

5.4 At the commander's discretion, Air Traffic Control may be asked for landing priority. Discernment in such a request is recommended.

5.5 Each operator must also develop a coordination process in case that meteorology requires a diversion to an alternative airdrome, whether or not provided for in the flight plan.

5.6 Landing and take-off areas

5.6.1 Helicopter landing and take-off operations at locations that are not approved or registered shall comply with the requirements established by IMA 100-4 and section 91.327 of RBHA 91.

ORDINANCE No. 70/DGAC OF FEBRUARY 11, 1999

Sets forth the conditions for Airline Code Sharing.

THE DIRECTOR GENERAL OF THE CIVIL AVIATION DEPARTMENT, in the use of his/ her attributions and in accordance with art. 192 of Law No. 7.565, of Dec.19, 1986, which provides for the Brazilian Aeronautical Code, and considering Notice No. 001/GM5/006, of March 12, 1996, which complements the Policy for Commercial Air Transport Services from Brazil, resolves:

Art. 1

The Code Share is a commercial cooperation agreement and its operation consists of placing the flight identification code of an airline on a flight operated by another airline.

Art. 2

Code Share operations involving Brazilian companies are subject to prior approval by the Civil Aviation Department - DAC.

Sole paragraph. Codeshare agreements will be approved by the Civil Aviation Department, and will be suspended whenever they fail to serve the public interest, or for non-compliance with the established rules.

Art. 3

In international air transport, only designated airlines may operate under Codeshare agreements.

§ 1° Codeshare operations will be carried out exclusively between points included in the Route Chart of the respective Airline Agreements.

§ 2° Codeshare operations involving companies from two Contracting Parties will be limited to the total number of frequencies allocated to participating airlines.

§ 3° The flight identification code of an airline of the other Contracting Party may be included in domestic flight, provided that the points to be connected are provided in a Bilateral Agreement and the foreign company does not transport or markets local traffic.

§ 4° The operation of capacity allocated to a company of a Contracting Party by a company of the other Contacting Party is prohibited.

Art. 4

The commercialization of transport codeshare air services must be carried out in the name of the contract carrier. who will be fully responsible for the full compliance of the obligations set forth in the transport agreement enter into with the passenger, even if the operation is carried out by another company.

Art. 5

Code-Shared flights must be identified with an asterisk or other typographic symbol both in printed forms and in presentations on the screens of the Computer Reservation Systems (SRC), limited to a maximum of three times.

Sole paragraph. Code-Shared flights must be clearly identified as such, both in print and in SRC screen presentations.

<u>Art. 6</u>

The airlines and their agents are obliged to inform the passenger, at the time of ticket purchase, that the intended trip will use total or partial Code-Sharing indicating the airlines that will carry out the flight; the possible change of equipment; the estimated waiting time for connections and other relevant data. Such information must be printed on a complementary card, which will be delivered to the passenger together with the ticket.

Art. 7

The airlines must discriminate, in the statistical information usually presented to the DAC, the services in code-sharing arrangements.

Art. 8

This Ordinance takes effect on the date of its publication.

LIEUTENANT AIR BRIGADIER -MARCOS ANTÔNIO DE OLIVEIRA

Director-General

NATIONAL CIVIL AVIATION AGENCY – ORDINANCE No. 649/SAS OF MARCH 18, 2016

Establishes procedures for approval of code sharing agreements.

THE AIR SERVICES MONITORING SUPER-INTENDENT, in the use of his/her attributions under that art. 39, XXXIX, of the Internal Regulation approved by Resolution No. 110, of September 15, 2009, and in view of the provisions of art. 192 of Law No. 7.565, of December 19, 1986, and in Ordinance No. 70/DGAC, of February 11, 1999,

RESOLVES:

<u>Art. 1</u>

Establish procedures to comply with Ordinance No. 70/DGAC, of February 11, 1999, which sets forth the conditions for codeshare operations.

<u>Art. 2</u>

Requests for codeshare operations will be submitted to ANAC using the form contained in the Exhibit to this Ordinance.

Sole paragraph. The code sharing agreement must be maintained for the entire term with the contracting parties, and for up to two (2) years after the end of the agreement.

<u>Art. 3</u>

The form must be submitted to ANAC, with at least fifteen (15) business days prior to the start of operations, duly signed by the legal representative of the requesting company, with the respective powers. (Wording by Ordinance No. 910/SAS, of March 16, 2018)

Sole paragraph. (Revoked by Ordinance No. 910/SAS, of March 16, 2018)

<u>Art. 4</u>

Companies not authorized to operate in Brazil are required to present Air Operator Certificate.

<u>Art. 5</u>

This Ordinance takes effect on the date of its publication.

RICARDO BISINOTTO CATANANT

[THE EXHIBIT TO THE ORDINANCE WAS DELETED FROM THIS VERSION]

NATIONAL CIVIL AVIATION AGENCY – RESOLUTION No. 491 OF SEPTEMBER 5, 2018

Establishes requirements and procedures for Brazilian air transport companies regarding the designation and use of frequencies for the purpose of performing regular international air services.

THE BOARD OF OFFICES OF THE NA-TIONAL CIVIL AVIATION AGENCY – ANAC, in the exercise of the competence granted to it by art. 11, item V, of Law No. 11.182, of September 27, 2005, and considering the provisions contained in process No. 00058.009737/2016-06, deliberated and approved at the 18th Deliberative Meeting of the Board of Offices, held on September 4, 2018,

RESOLVES:

CHAPTER I

PRELIMINARY PROVISIONS

<u>Art. 1</u>

Requirements and procedures are established for Brazilian air transport companies regarding the designation and use of frequencies for the purpose of performing regular international air services.

<u>Art. 2</u>

For the purposes of this Resolution, it is considered:

I – international frequency (frequency): unit for counting regular air services, for each week, corresponding to a regular air service between Brazil and a foreign country including, if any, the regular return air service, regardless of the respective routes; and

II – incoming company: Brazilian airline company whose number of frequencies allocated to a given market of a foreign country is less than fifteen percent (15%) of the total frequencies agreed for the Brazilian party, for this same market between Brazil and such country.

CHAPTER II

REQUIREMENTS FOR PERFORMING INTERNATIONAL REGULAR AIR SERVICE RELATING TO AIR SERVICES AGREEMENTS

<u>Art. 3</u>

For a Brazilian air transport company to be able to perform international regular air service, the following issues must be observed:

I – compliance with the provisions of agreements on air services or other international instruments with the countries involved;

II – designation for regular air service between countries, if applicable; and

III – for markets where there is a maximum number of frequencies that can be allocated, or there are different limits for traffic rights or points in the route chart, the frequency allocated to the operation.

Sole paragraph. Compliance with the aspects included in items I to III of this article does not constitute full flight authorization, and the company must comply with the relevant national and foreign legislation, the other regulations of ANAC and other bodies, as well as the operational capacity of each airport.

CHAPTER III

FREQUENCY ALLOCATION

<u>Art. 4</u>

To request the allocation of frequencies, a Brazilian airline company must file its request with ANAC in the form established in the Ordinance of the competent superintendency.

Sole paragraph. The request that is incomplete or has not been made in the manner provided for in the caption will be filed.

<u>Art. 5</u>

The analysis of the allocation request should consider:

I – the possibility of performing a regular air service to the desired country, in accordance with the agreements in force between Brazil and the foreign country;

II – the designation of the company for the foreign country in question, when applicable, or, if not, the absence of restrictions for its designation; and

III – the existence of frequencies available for all allocations requested in the process or, in case of insufficient quantity, obtaining frequencies in the distribution referred to in art. 7.

Sole paragraph. If the agreements in force between Brazil and the foreign country for which the frequency is requested provide for different frequency limits due to either the points in the route table, or traffic rights, or the nature of the service (mixed or exclusively freighter), or other operating characteristics, the allocation procedure will consider such specificities as distinct market segments.

<u>Art. 6</u>

As part of the allocation process, consultation with other Brazilian regular airline companies about their respective interests in requesting frequencies for the same market may be carried out in the following situations:

I – when there has been a change in the number of frequencies agreed upon between the countries, for the same market, in the three (3) months prior to the date of the request;

II – when it comes to the redistribution of low-use frequencies;

III – when the original request implies that less than seven (7) frequencies are available for the market in question; or

IV – in other situations in which ANAC considers that the decrease in the number of available frequencies may imply an increase in the entry barrier of other Brazilian companies for operations to the market in question.

§ 1 The consultation, to be carried out in the form established in the Ordinance of the competent superintendence, shall establish a period of not less than ten (10) days for the company, if interested, to submit its request for allocation to such market, under the terms of article 4.

Paragraph 2. In cases where a company's request occurs in response to the consultation, filing after expiration of the stipulated response period implies that such request will not participate in the frequency distribution process provided for in article 7, being treated as an independent and subsequent request.

<u>Art. 7</u>

In cases where there is participation, in the process, of more than one company that meets all allocation requirements, and the sum of the requested frequencies is greater than the number of available frequencies, the distribution of the available frequencies will be carried out as follows, and the result may imply full, partial or non-fulfillment of requests:

I – up to fifty percent (50%) of the available frequencies, rounded up to the next whole number, will be distributed equally among the incoming requesting companies, complying with the limit requested by each company and the market share limit that characterizes the company as an incoming company;

II – the other frequencies will be distributed equally among all the requesting companies, complying with the limit requested by each company.

§ 1 During distribution, in cases where there is less frequencies than the number of requesting companies, the tiebreaker criteria will be, in the following order:

I – not having frequency with low usage in the market in question; and

II – lower market share resulting from the allocation.

§ 2 If there is a tie in the criteria of paragraph 1, the distribution of the remaining frequencies will be carried out by drawing lots.

<u>Art. 8</u>

When applicable, if a Brazilian airline contemplated with frequency allocation is not designated to carry out operations for the respective country, its designation will be formalized in terms of the respective understandings with the country in question.

<u>Art. 9</u>

Requests from Brazilian airlines to carry out operations under the Fortaleza Agree-

ment must comply with the provisions of the "Procedure for Handling Sub-Regional Air Transport Service Requests".

CHAPTER IV

LOW USE, WAIVER AND LOSS OF INTERNATIONAL FREQUENCY

<u>Art. 10.</u>

Frequencies with low use may be reallocated if there is a request for allocation by another company and there are no available frequencies.

§ 1 The company to which a low-use frequency was allocated will not be able to participate in any reallocation process, however, it will be able to participate in any reallocation of low-use frequencies allocated to other companies.

§ 2 In the event of the situation described in the caption, the company to which the frequency was allocated will be notified, and must stop using it within one hundred and fifty (150) days, after which the frequency will be reallocated.

§ 3 If there are frequencies with low use allocated to more than one company in the same market, those that have the lowest percentage of use referred to in item I of art. 11 of this Resolution will be reallocated and, in the event of a tie in this criterion, the following criteria will be applied sequentially:

 I – greater market share, according to the measurement updated at each frequency reallocation made in a given distribution; and

ll – draw.

<u>Art. 11.</u>

For markets where frequencies are not available, low usage will be considered:

I – considering each frequency individually, those frequencies that are used in less than fifty percent (50%) of the weeks of the evaluation period; and

II – considering the set of frequencies allocated to the company, those frequencies that need to be disregarded in order to reach the minimum usage level of ninety percent (90%) of the set, during the evaluation period.

§ 1 The evaluation will be published in the months of February and August and will cover the period of twenty-six (26) consecutive weeks, discounting the three (3) months prior to the publication.

§ 2 The frequency that enters the condition of low use will remain in this condition until the next assessment and, if it is not reallocated, it will be reassessed.

§ 3 For the individual evaluation of the frequencies referred to in item I of the caption, the frequencies allocated to the company will be numbered sequentially, and the operations actually performed by the company each week will be associated with the frequencies by filling them in the numerical sequence, regardless of the route.

§ 4 For the calculation of the frequency usage levels referred to in the caption, the equivalent criteria provided for in Resolution No. 338, of July 27, 2014, or any regulation that may replace it, will be adopted as a reference for non-penalty for any operations not performed, to calculate the regularity index.

§ 5 During the twenty-six (26) weeks immediately following an allocation, or, in the case of reallocations referred to in art. 10 of this Resolution, during the nine (9) weeks immediately following the relocation, the respective frequency will be, for the purpose of evaluation of low usage, considered as used.

§ 6 Any possible period prior to the allocation that is part of the evaluation interval will also be considered as the full usage of the allocated frequencies.

<u>Art. 12.</u>

The company that gives up using the allocated frequency must communicate the return to ANAC, which will return such frequency to the condition of availability.

Sole paragraph. For markets where there are no frequencies available, the frequency returned after thirty (30) days from the allocation will be computed as a frequency of low usage by the company, unless it has complied with, with effective operation in the last evaluation cycle, the criteria of items I and II of art. 11 of this Resolution.

<u>Art. 13.</u>

The cancellation of the concession will imply the automatic loss of all frequencies allocated to that company.

<u>Art. 14.</u>

The loss of designation, as well as the deliberate or repeated non-compliance with the agreements and other under-

standings about air services in relation to a country, implies the loss of all frequencies allocated to the company for the country of such designation.

CHAPTER V

FINAL PROVISIONS

<u>Art. 15.</u>

For countries whose understandings with Brazil provide for different frequency limits due to the points in the route table, or traffic rights, or the nature of the service (mixed or freighter) or other operating characteristics, possible conflicts of use of such limits by the companies will be settled by ANAC, considering the previous use in the twelve (12) immediately preceding months.

<u>Art. 16.</u>

The evaluations referred to in art. 11 will only consider periods subsequent to the enter into force of this Resolution.

<u>Art. 17.</u>

ANAC will publish on its website the list of allocated and underutilized frequencies.

<u>Art. 18.</u>

The following are revoked:

I – Resolution No. 57, of October 10,
2008, published in the Official Gazette – DOU of October 13, 2008,
Section 1, pages 9 and 10;

II – Resolution No. 154, of June 25, 2010, published in the DOU of June 28, 2010, Section 1, pages 64 to 67; and

III – partially, Resolution No. 26, of May 16, 2008, published in the DOU of May 19, 2008, Section 1, page 53, and only its art. 3 will be kept in force one hundred and eighty (180) days after the publication of this Resolution.

<u>Art. 19.</u>

This Resolution enters into force:

I - one hundred and eighty (180) days after its publication, regarding arts.10 and 11; and

II – on the date of its publication, regarding the other provisions.

JOSÉ RICARDO PATARO BOTELHO DE QUEIROZ

Director-President

LAW No. 10,744 OF OCTOBER 9, 2003

Provides for the assumption, by the Union, of civil liabilities before third parties in the case of terrorist attacks, acts of war or related events, against Brazilian registered aircraft operated by Brazilian public airlines companies, excluding air taxi companies.

Let it be known that the President of the Republic adopted Provisional Measure No. 126, of 2003, which the National Congress approved, and I, José Sarney, President of the National Congress, for the purposes of that provided for in art. 62 of the Federal Constitution, as amended by Constitutional Amendment 32, combined with art. 12 of Resolution No. 1, of 2002-CN, enact the following Law:

<u>Art. 1</u>

The Union is authorized, in the form and criteria established by the Executive Branch, to assume civil liability expenses with third parties in the event of damage to property and persons, passengers or not, caused by terrorist attacks, acts of war or related events, which have occurred in Brazil or abroad, against Brazilian registered aircraft operated by Brazilian airlines companies, excluding air taxi companies.

§ 1 The global amount of civil liability expenses referred to in the caption is limited to the equivalent in BRL to one billion United States dollars (US\$ 1,000,000,000.00) for the total of events against Brazilian registered aircraft operated by Brazilian public airlines, excluding air taxi companies.

§ 2 The civil liabilities expenses before third parties, in the event of damage to persons referred to in the caption of this article, are limited exclusively to the repair of bodily damages, illnesses, death or disability suffered as a result of the acts referred to in the caption of this article, except, among others, pain and suffering, offense to honor, to affection, to freedom, to profession, to respect for the dead, to the psyche, to health, to name, to credit and to well-being, without the need for the occurrence of economic loss.

§ 3. Acts of war are understood as any war, invasion, foreign enemy acts, hostilities with or without declared war, civil war, rebellion, revolution, insurrection, martial law, military or usurped power or attempts to usurp power.

§ 4° A terrorist act is any act of one or more persons, whether or not they are agents of a sovereign power, for political or terrorist purposes, whether the resulting loss or damage is accidental or intentional.

§ 5 The related events, referred to in the caption of this article, include strikes, riots, civil unrest, labor unrest, malicious act, act of sabotage, confiscation, nationalization, seizure, subjection, detention, appropriation, kidnapping or any illegal seizure or improper exercise of control of the aircraft or flight crew by any person or persons on board the aircraft without the consent of the operator.

<u>Art. 2</u>

It will be incumbent upon the Finance Minister to define the rules for the operationalization of the assumption referred to in this Law, according to provisions to be set forth by the Executive Branch.

<u>Art. 3</u>

It will incumbent upon the Minister of Defense, after hearing the competent bodies, to certify that the expense referred to in art. 1 of this Law occurred due to terrorist attacks, acts of war or related events.

<u>Art. 4</u>

The Executive Branch is authorized to set criteria for suspension and cancellation of the assumption referred to in this Law.

<u>Art. 5</u>

The Federal Government is authorized to issue National Treasury bonds, the characteristics of which will be defined by the Finance Minister, to meet civil liabilities expenses vis-à-vis third parties in the event of damage to property and persons, passengers or not, caused by terrorist attacks, acts of war or related events, against Brazilian registered aircraft operated by Brazilian airline companies, excluding air taxi companies.

<u>Art. 6</u>

The Federal Government will be subrogated to all rights arising from payments made against those who, by act, fact or omission have caused the losses paid by the Federal Government or have contributed to them, the airline or the beneficiary being obliged to provide the means necessary to exercise this subrogation.

<u>Art. 7</u>

In the event of a positive difference, in favor of the airline, between the amount paid for insurance coverage until September 10, 2001 and the amount paid for the same purpose after that date, that difference should be paid to the National Treasury as a condition for the assumption of expenses referred to in art. 1 of this Law.

<u>Art. 8</u>

Art. 2 of Law No. 9.825 of August 23, 1999, is amended to read as follows:

"Art. 2 The revenue referred to in article 1 of this Law will be used to amortize the federal public debt securities.

Sole paragraph. The revenue referred to in the caption of this article may be destined to meet possible civil liability expenses before third parties in the event of damage to property and persons, passengers or not, caused by terrorist attacks, acts of war or related events, against Brazilian registered aircraft operated by Brazilian public airlines companies, excluding air taxi companies. "(NR)

<u>Art. 9</u>

This Law will enter into force on the date of its publication.

<u>Art. 10.</u>

Law No^e 10,605, of December 18, 2002 is revoked.

Brasília, July 31, 2003; 182nd year of Independence and 115th year of the Republic.

National Congress, on October 9, 2003; 182nd year of Independence and 115th year of the Republic

SENATOR JOSÉ SARNEY

President of the National Congress

BRAZILIAN CIVIL AVIATION REGULATION -RBAC No. 137

AMENDMENT No. 04

CERTIFICATION AND OPERATIONAL RE-QUIREMENTS: AEROSAGRICULTURAL OPERATIONS

SUBPART A

GENERAL

137.1 Applicability

(a) This Regulation applies to any individual or legal entity operating or intending to operate agricultural aircraft:

(1) in specialized public air services (SAE) for the promotion or protection of agriculture in general (commercial use); and

(2) in private operations to promote or protect agriculture in general (non-commercial use).

(b) This Regulation establishes:

(1) the type of Air Operator Certificate (COA) issued by ANAC for companies operating agricultural aircraft for commercial purposes; and

(2) the requirements that an air operator, who is operating agricultural aircraft for commercial purposes, must comply with, both to obtain and maintain a COA that authorizes aero agricultural operations, and to obtain and maintain the Operating Specifications (EO) for each type of operation to be conducted and for each class and size of aircraft to be operated.

(c) Aero agricultural operations conducted in Brazil by individuals or legal entities must comply with, in addition to the provisions of this Regulation, the requirements contained in RBHA 91, or RBAC that will replace it, and other applicable rules.

(d) Failure to comply with the requirements set out in this Regulation makes the aero agricultural operator subject to the sanctions provided for in Law No. 7.565, of December 19, 1986 – Brazilian Aeronautical Code (CBA).

137.3 Definitions and concepts

(a) For the purposes of this Regulation, the definitions in RBAC 01 and the definitions below are valid:

(1) landing area for aero agricultural use means an area destined to be used for occasional landing, and must be of temporary use and restricted to the aero agricultural activity;

(2) Air Operator Certificate (COA) means a document issued by ANAC that confirms that a requesting company has undergone the certification process established by ANAC and complies with the regulatory requirements established for the intended operation;

(3) consequence means the potential outcome of a hazard;

(4) emergency means any event that has the potential to cause major damage, disorder, paralyze or significantly impact the activities of the aero agricultural company for a considerable period of time, which may involve economic, political, social, economic or any other situation;

(5) Operating Specifications (EO) means the document issued by ANAC, bound and inseparable from the COA, which contains the authorizations, limitations and procedures according to which each type of operation must be conducted, as well as procedures according to which each class and size of aircraft must be operated and maintained;

(6) Operational Safety Risk Management (GRSO) means the identification of hazards, the analysis and elimination and/or mitigation of risks that threaten the capabilities of a civil aviation organization, so that they are maintained at an acceptable level;

(7) [reserved] (Wording given by Resolution No. 503, of 02.07.2019)

(8) [reserved] (Wording given by Resolution No. 503, of 02.07.2019)

(9) Operational Safety Performance Indicators (IDSO) means a quantitative measurement of the operational safety performance of a Civil Aviation Service Provider (PSAC), expressed in quantifiable terms, associated with the results of a given activity performed by the service provider;

(10) Operational Safety Management Manual (MGSO) means the document, in paper or electronic media, which aims to formalize and publicize the company's operational safety approach;

(11) Operational Safety Performance Goals (MDSO) means a reference to the desired level of operational safety performance for a PSAC within a defined period, and must be expressed in numerical terms and accepted by ANAC;

(12) Acceptable Operational Safety Performance Level (NADSO) means a measurable benchmark (IDSO and MDSO) for measuring the operational safety performance of a PSAC, proposed in its SGSO as part of its operational safety objectives, and which should be accepted by ANAC;

(13) aero agricultural operations mean air operations that aim to protect or promote the development of agriculture in any of its aspects, through the application in flight of fertilizers, seeds, insecticides, herbicides and other pesticides, water dispensing stands and fire fighting in fields and forests, combating insects, disease vectors or other related jobs;

(14) nocturnal agricultural operations mean operations carried out in the period between 30 minutes after sunset and 30 minutes before sunrise;

(15) danger means the condition, object or activity that can potentially cause injury to people, damage to property (equipment or structures), loss of personnel or reduced ability to perform a specific function;

(16) probability means, in the context of the SGSO, the possibility that an event, as a consequence of an existing danger, may occur;

(17) Brazilian Civil Aviation Operational Safety Program (PSO-BR) means the document that presents the Brazilian process for the management of civil aviation operational safety, including the Specific Operational Safety Program of the National Civil Aviation Agency (PSOE) -ANAC) and the Aeronautical Command Specific Operational Safety Program (PSOE-COMAER), aligned with Brazil's commitments in international agreements;

(18) Specific Operational Safety Program of the National Civil Aviation Agency (PSOE-ANAC) means the document that presents the requirements for the performance of ANAC, as a regulatory body, in the areas of its legal competence: Exhibits 1, 6, 8 and 14 of the International Civil Aviation Convention, as established in the PSO-BR, and the guidelines and requirements of ANAC to guide the implementation and development of SGSO by its regulated entities (PSAC);

(19) Civil Aviation Service Providers (PSAC) means the organizations that provide civil aviation services, defined in the PSOE-ANAC, and that must develop, implement, maintain and adopt the continuous improvement of an SGSO accepted by ANAC, aiming at ensure operational safety in its activities;

(20) Operational Safety Requirements (ReqSO) means the means and tools to be used by PSAC to achieve the goals accepted by ANAC;

(21) risk means the assessment of the consequences of a hazard, expressed in terms of probability and severity, using the worst possible condition as a reference;

(22) operational headquarters means the location chosen by a COA holder issued under this Regulation, where most of its technical and operational management and management activities are centralized;

(23) operational safety means the state in which the risk of injury to persons or damage to property is reduced and maintained at or below an acceptable level, through a continuous process of hazard identification and risk management;

(24) severity means the degree of the consequence of an event, as a result of an existing danger or an unsafe situation, taking as reference the worst possible condition; and (25) Operational Safety Management System (SGSO) means a set of management tools and methods organized in order to support the decisions that must be taken by a PSAC regarding the risk related to its daily activities. Includes the organizational structure; accountabilities; procedures and processes; and the measures necessary to implement the guidelines for the management of operational safety.

<u>137.5 Certification, authorization</u> and prohibition

(a) The company that intends to provide SAE in the aero agricultural modality (commercial use) must obtain and keep a COA and respective EO valid before beginning such operations.

(b) The issuance or renewal of the authorization to operate an SAE company in the aero agricultural modality is subject to the presentation of a valid COA issued under this Regulation. (Wording given by Resolution No. 503, of February 7, 2019)

(c) The COA holder may only carry out commercial aero agricultural operations in accordance with this Regulation after the publication by ANAC of the authorization to operate.

(d) No one can carry out commercial aero agricultural operations without an appropriate COA, respective EO and without an authorization to operate issued by ANAC on their behalf or that of their representative, or in violation of the provisions of such documents.

137.7 Operating Specifications (EO)

(a) The approvals, authorizations, limitations and exemptions included in the EO will remain valid for the duration of the respective COA.

(b) Except for the EO paragraphs identifying types of authorized operations, the EO are bounded, but are not part of the COA.

137.9 Use of the trade name

(a) No COA holder may permit the operation of an airline under this Regulation using a different trade name than that contained in the company's EO.

(b) No COA holder may permit the operation of an airline under this Regulation, unless the company's commercial name is legibly written on the aircraft, with letters between 5 and 15 centimeters high, and is always clearly visible and understandable by a person on the ground.

SUBPART B

CERTIFICATION, OPERATING SPECIFICATIONS AND OTHER REQUIREMENTS FOR AERO AGRICULTURAL OPERATIONS

137.101 General requirements

(a) In order to obtain a COA to operate under this Regulation, the applicant must obtain a legal operating authorization from ANAC before filing the certification request.

(b) No one may conduct an aero agricultural commercial operation or initiate such operations under this Regulation unless he/she has:

(1) a record of establishment at the Ministry of Agriculture, Livestock and Supply (MAPA);

(2) an authorization to operate to conduct SAE issued by ANAC;

(3) a valid COA;

(4) EO; and

(5) an SGSO in operation or under implementation in accordance with subpart E of this Regulation.

(c) The COA applicant must be able to demonstrate its commitment to ensuring operational safety and that his/her operations will comply with the operational safety requirements established by ANAC.

(d) The COA applicant must present all the documentation provided for in section 137.107 of this Regulation for each stage of the certification process, within the established deadline, otherwise its process may be suspended or filed, as the case may be.

(e) The COA applicant must be aware that the counting of the time for analysis, by ANAC, of the submitted documentation, will start from its formal delivery.

<u>137.103 Requirements for</u> agricultural aircraft

(a) The COA holder must own one or more aircraft that:

(1) are registered in the SAE category, as provided for in Resolution No. 293, of November 19, 2013, or a standard that will replace it; (Wording given by Resolution No. 503, of February 7, 2019) (2) have a valid Airworthiness Certificate (CA), issued by ANAC, definitive or provisional, attesting to the airworthiness condition thereof;

(3) have registration granted by the Brazilian Aeronautical Registry (RAB);

(4) have the SAE company as operator; and

(5) are of aircraft categories and classes listed in the operator's EO as authorized models for operation under this regulation. (Wording given by Resolution n° 555, of 12.05.2020)

<u>137.105 Economic, financial and</u> <u>legal requirements</u>

(a) The economic, financial and legal requirements necessary to obtain authorization to operate from an SAE company are established in specific rules of ANAC.

(b) If it is found that for economic, financial or legal reasons the COA holder does not demonstrate the ability to conduct a safe operation, his/her COA will no longer be valid, in accordance with the provisions of section 137.113 of this Regulations, without prejudice to the other consequences arising from the specific rules referred to in paragraph (a) of this section.

137.107 Aero agricultural operator certification process

(a) The certification process described in this Regulation is applicable to:

(1) companies requesting a COA; and

(2) companies already certified that require changes in their operations, by amending the approved EO or the COA issued.

(b) In order to obtain the COA, the applicant must comply with the 5 stages defined below:

(1) Phase 1 - prior request;

(2) Phase 2 - formal request;

(3) Phase 3 - document evaluation;

(4) Phase 4 – demonstrations and inspections; and

(5) Phase 5 – issue of the certificate.

(c) A COA applicant must meet all requirements determined for a stage of the certification process before moving on to the next stage of the process.

(d) ANAC, at its discretion, may approve the realization of more than one phase simultaneously, taking into account the complexity of the intended operations. In this case, the applicant must be able to demonstrate that it has met the requirements established for each phase that is being simultaneously dealt with.

(e) In Phase 1 of the certification process (prior request), a COA applicant must contact ANAC and inform it of its intention to obtain a COA.

(f) After Phase 1 is completed, the COA applicant must start preparing the documents that make up the Formal Application Package (PSF), necessary for Phase 2 of the certification process, which must contain the Certification Request Letter (CRC) with the following exhibits:

(1) company documents, including MGSO;

(2) initial declaration of conformity, according to the ANAC model, referring to the relevant sections of RBHA 91, or RBAC that will replace it, and all sections of this Regulation. This exhibit should be a complete listing of all sections and requirements with the corresponding compliance method to be adopted by the COA applicant or an indication that the requirement is not applicable thereon;

(3) the proposed management and qualification structure of the applicant company, containing the identification and qualification of the management personnel required in this Regulation;

(4) documents evidencing purchase, leasing, contracts and/or letters of intent, which must constitute objective evidence that the applicant company is able to safely conduct the proposed operations, in appropriate facilities, with appropriate operational support services, duly contracted, taking into account the level of complexity of such operations;

(5) requests for exemptions, if necessary, and must do so in accordance with the provisions of RBAC 11; and

(6) other documents, at the discretion of ANAC.

(g) In Phase 2 of the certification process (formal application), a COA applicant must:

(1) present the CRC signed with the PSF to ANAC, and it should be noted that:

(i) the period between the date proposed for the start of operations indicated in the CRC and the date of its formal presentation to ANAC must be at least 90 days;

(ii) acceptance of the CRC defines the formal beginning of the process for obtaining the COA; and

(iii) the presentation of the CRC and the PSF represents the beginning of Phase 2 of the certification process;

(2) provide for the correction of errors or omissions identified in the PSF, if applicable; and

(3) wait for formal notification from ANAC stating that the objectives foreseen for this phase of the certification process have been achieved, which ends Phase 2 of the process.

(h) In Phase 3 of the certification process (document review), a COA applicant must:

(1) provide the corrections identified by ANAC and related to any incomplete or deficient document, or even if any non-conformity is detected in the procedures proposed in relation to regulations or operational safety practices;

(2) ensure that the requested corrections are provided and delivered to ANAC within the deadlines agreed for the conclusion of the next phases of the certification process;

(3) be aware that approval or acceptance:

(i) granted individually to a document analyzed does not imply acceptance or final approval of the entire PSF, nor does it guarantee that the applicant company will receive its COA; and

(ii) when issued, will only have a final evaluation character after the completion of the certification process;

(4) wait for formal notification from ANAC informing that the objectives provided for this phase of the certification process have been achieved, which enables it to start Phase 4 of the certification process; and

(5) be prepared to proceed with the demonstrations required by the next phase.

(i) In Phase 4 of the certification process (demonstrations and inspections), a COA applicant must:

(1) submit his/her plan to receive inspection from ANAC, when the following statements must be made:

(i) carry out, in an acceptable manner by ANAC, all operational evaluation flights in accordance with the applicable maintenance and operation requirements of RBHA 91, or RBAC that will replace them, in addition to those contained in this Regulation; and

(ii) demonstrate that the procedures for implementing and operating the SGSO are in accordance with the planning contained in the MGSO;

(2) to be able, together with ANAC, to demonstrate the effectiveness of its policies, methods, procedures and applicable instructions, as described in the documents submitted for certification;

(3) carry out the demonstrations in the presence of an ANAC INSPAC, which must include:

(i) proof of the actual performance of the activities or operations intended by the operator; and

(ii) on-site assessments of aircraft maintenance equipment and support; and

(4) provide corrections for non-conformities identified during the ANAC inspection, since, only after the approval of all demonstrations and inspections to which it has been submitted, the COA requesting company has demonstrated its ability to operate as safely as required.

(j) In phase 5 of the certification process (issuing the certificate), and after satisfactory completion of the previous four phases, as well as verification of compliance with the requirements of paragraph 137.111 (a) of this Regulation, ANAC will issue the COA and the respective EO, and will forward them to its holder, which ends the certification process. (Wording given by Resolution No. 516, of May 8, 2019)

(k) The COA holder must maintain the compliance of its operations in relation to that provided for in this Regulation and the authorizations, approvals and limitations granted by ANAC.

137.109 COA content

(a) The COA includes at least:

(1) the COA number;

(2) the name, the corporate name (if different from the name), the CNPJ and the location of the COA holder's operational headquarters;

(3) information from the operator's Federation Unit;

(4) the issuing authority;

(5) the location indicator, as registered with ANAC, if at an airdrome that functions as the operational headquarters of the COA holder operating under this Regulation;

(6) the effective date of the COA; and

(7) the name, signature and position of the person responsible for issuing the COA.

(b) The information provided for in this section will be translated into English.

137.111 Issue or rejection of a COA

(a) In order to issue an COA, it is necessary that:

(1) after carrying out the necessary checks, ANAC finds that the applicant:

(i) meets the applicable requirements of this Regulation;

(ii) has a legal operating authorization, issued by ANAC, if the company is not yet in operation; or has a valid authorization to operate, issued by ANAC, if the company is already operating;

(iii) has a SGSO operating or being implemented in accordance with the planning accepted by ANAC, in accordance with subpart E of this Regulation;

(iv) meets the applicable requirements of RBHA 91, or RBAC that may replace it; and

(v) has:

(A) a method of controlling and supervising his/her flight operations;

(B) maintenance agreements with a workshop approved by ANAC; and

(C) an aircraft or more, certified for aero agricultural operations.

(b) The issuance of a COA may be dismissed if, after carrying out the necessary checks, ANAC finds that: (Wording given by Resolution No. 503, of 02.07.2019)

(1) the applicant is not properly equipped or is not able to conduct operations safely;

(2) the SGSO is not implemented or is not being implemented according to the planning accepted by ANAC;

(3) the applicant intends to place or has placed in an administrative posi-

tion listed in section 137.125 of this Regulation, a person who does not have the required qualification; or

(4) the applicant intends to place or has placed in an administrative position listed at 137.125(a) a person with a proven track record of inappropriate conduct and/or performance. For the purposes of the provisions of this paragraph, a history of inadequate conduct and/or performance is considered in cases where, for less than five years from the date of designation:

(i) as a result of finding an irregularity in which the designated person is directly liable for the irregularity while occupying an administrative position required by ANAC, a measure has been applied to a civil aviation service provider certified by ANAC:

(A) suspension or restriction of operations for more than 90 days by ANAC; or

(B) revocation, annulment or cancellation of certificates or authorizations; or

(ii) the designated person has suffered an administrative sanction provided for in art. 299, items I, V, VI or VII, of Law No. 7.565, of December 19, 1986, although on those occasions he/she did not occupy an administrative position required by ANAC for a civil aviation service provider.

(Wording given by Resolution No. 503, of February 7, 2019)

137.113 COA Validity

(a) A COA issued under this Regulation is effective as long as the holder thereof continues operations or until it is suspended, annulled or revoked by ANAC, in which case it must be returned to ANAC.

(b) A COA may be suspended, annulled or revoked if the applicant is no longer properly and adequately equipped or is not able to conduct its operations safely or if it is found, through inspection, survey or other verification that the safety of operations is compromised.

(c) A COA will be revoked, as an administrative sanction, only after completion of an administrative investigation process.

(d) [Reserved]. (Wording given by Resolution No. 516, of May 8, 2019)

(e) A COA will be automatically suspended if its holder loses the company record issued by MAPA. (f) Within 30 days after the date on which a COA holder terminates the operations under this Regulation, its COA must be returned to ANAC.

(g) The COA holder must, upon ANAC's determination, within thirty (30) days, extendable by ANAC for an equal period, replace any person who occupies an administrative position listed in section 137.125 and who has a proven track record of conduct and/or inadequate performance, in accordance with the criteria set forth in paragraph 137.111 (b)(4).

(1) Failure to observe the provisions of paragraph 137.113(g) results in the application of suspension, revocation or annulment of the COA.

(Included by Resolution No. 503, of February 7, 2019)

137.115 Amendments to the COA

(a) ANAC may amend any COA issued under this Regulation if:

(1) it is verified, through inspection, survey or other type of verification, that the security of the operations requires the amendment; or

(2) its holder requests the amendment and ANAC verifies that the amendment does not affect the security of operations.

(b) When a COA holder requests an amendment to his/her certificate, he/she must submit an application to ANAC at least 45 days before the date for the proposed amendment to take effect.

(c) When a COA holder requests reconsideration of a decision taken by ANAC regarding the amendment to its COA, the request for reconsideration must be forwarded to ANAC within 30 days after the date on which the holder was informed about the decision.

137.117 Obligations of the COA holder

(a) Each COA holder must keep segregated, at its operational headquarters, the COA, a complete set of his/her EOs and his/her MGSO, and must present them whenever required by ANAC's INSPAC or by a competent authority from different areas of the government.

(b) Each COA holder must keep all of its employees informed about the provisions of his/her EO and SGSO, applicable to the duties and responsibilities of each person employed in his/her operations.

137.119 Operational headquarters and change of address

(a) Each COA holder must have an operational headquarters and a certified, own or outsourced maintenance workshop, which may or may not be located on the same place.

(b) If the holder of an COA intends to change the address of his/her operational headquarters, he/she must submit an application to ANAC at least 90 days before the date for the change to take effect.

137.121 Contents of EO

(a) The EOs contain at least the information below:

(1) specific location of the operational headquarters;

(2) names of occupants of the required positions;

(3) types of operations to be performed;

(4) special authorization for night aero agricultural operation;

(5) categories and classes of aircraft authorized to perform operations under this regulation; (Wording given by Resolution n° 555, of 05.12.2020)

(6) the limitations of the areas of operations; and

(7) any other item that ANAC deems necessary.

137.123 Amendments to EOs

(a) ANAC may amend any EO issued under this subpart if:

(1) it is verified, through inspection, survey or other type of verification, that the security of the operations requires the amendment; or

(2) its holder requests the amendment, and ANAC verifies that the amendment does not affect the security of operations.

(b) When an COA holder requests an amendment to his/her EOs, he/she must submit an application to ANAC at least 45 days before the date for the proposed amendment to take effect.

(c) The amendments to the EOs defined in this section will only be valid after their implementation in the EOs.

137.125 Administration personnel required for operations conducted under this Regulation

(a) The COA holder must have qualified personnel at least in the following positions or equivalent positions:

(1) manager in charge;

(2) director or manager of operational safety; and

(3) chief pilot (required if there are more than three aircraft).

(b) The COA holder may choose to accumulate in the person designated as the manager in charge the responsibilities assigned by this Regulation to the director or manager of operational safety.

(c) The COA holder must forward to ANAC the designation of the required management personnel. (Wording given by Resolution No. 503, of February 7, 2019)

137.127 Requirements for administrative personnel required for operations conducted under this Regulation

(a) The COA holder must designate a Manager in Charge, who is the unique and identifiable person in the organizational structure of the COA holder who, regardless of other duties, has the following prerogatives:

(1) is formally appointed by the COA holder in such a way that this appointment reflects the prerogatives and responsibilities attributed to the function, starting to be included in the EO;

(2) has final authority on operations conducted under regulations applicable to the certificate holder;

(3) decides on the allocation of human, financial and technical resources from the COA holder;

and

(4) is held accountable for the operational safety performance of the COA holder.

(Wording given by Resolution No. 503, of February 7, 2019)

(b) The COA holder must designate an operational safety officer or manager who is the unique and identifiable person in the organizational structure of the COA holder who, regardless of other duties, meets the following criteria:

(1) has a formal relationship with the company and direct access to the manager in charge;

(2) meets the qualification criteria established by the COA holder to exercise this function before ANAC;

(3) know the relevant parts of the COA holder's manuals and their EOs;

(4) ensure that the processes necessary for the operation of the SGSO are established, implemented and maintained; and

(5) has access to the operational safety data and information necessary to exercise the responsibilities mentioned in 137.129 (b).

(Wording given by Resolution No. 503, of February 7, 2019)

(c) To act as chief pilot, a person must:

 be directly subordinated to the director or manager of operational safety;

(2) have at least a commercial pilot license (PC) with the appropriate qualification for the aircraft;

(3) have at least 3 years of experience as a pilot-in-command of aircraft operated under this Regulation; (Wording given by Resolution No. 503, of February 7, 2019)

(4) in the event that the appointed person does not meet the experience requirement required by paragraph (c)(3) of this section, the manager in charge may send a substantiated request to ANAC, containing the candidate's curriculum, which may or may not be approved by ANAC;

(5) prove that he/she does not accumulate this function with any other required by this section; and

(6) to be responsible, before ANAC, for the activities of the company's technical crew.

<u>137.128 Responsibilities of the</u> <u>manager in charge and the director</u> <u>or manager of operational safety</u>

(a) Regardless of other responsibilities to the organization, the Manager in Charge has the following responsibilities:

(1) ensure that the SGSO is implemented effectively in all areas of the certificate holder's organization, in accordance with applicable requirements, in a manner compatible with the size and complexity of the operations; (2) communicate to the entire organization the importance of conducting operations in compliance with applicable operational safety requirements;

(3) establish and sign the operational safety policy and communicate the importance of the commitment of all employees to that policy, ensuring that it remains appropriate for the certificate holder;

(4) ensure the availability of the necessary resources to guarantee the achievement of operational safety objectives and for the management of the SGSO;

(5) ensure that other managers' decision-making is guided by an institutionalized risk assessment process, considering the potential impacts of their decisions on operational safety;

(6) conduct critical analyzes of the management of the SGSO, in order to ensure continuous improvement of the system;

(7) regularly review the operational safety performance of the certificate holder, and take the necessary measures to deal with any unsatisfactory performance of operational safety;

(8) ensure that operational safety management prerogatives and responsibilities are clearly and objectively established and communicated in all areas of the certificate holder's organization;

(9) ensure that all personnel of the organization involved in activities with an impact on operational safety comply with the applicable requirements and internal criteria of competence, experience and training for the exercise of their prerogatives and responsibilities;

(10) ensure that operational safety objectives are established, and that they are measurable and aligned with the operational safety policy;

(11) ensure that strategic plans, systems, manuals and other internal normative documents related to the management of the SGSO are approved by the competent managers;

(12) ensure that effective mechanisms of internal communication and with the authorities are established, regarding the performance and continuous improvement of the SGSO; and

(13) ensure the integrity and performance of the SGSO, in the face of internal changes (in the organization or in the SGSO) or external changes that have potential impacts on the operation of the certificate holder.

(b) Regardless of other responsibilities to the organization, the director or manager of operational safety has the following responsibilities:

(1) coordinate the implementation, maintenance and integration of the SGSO in all areas of the certificate holder's organization, in accordance with the applicable requirements;

(2) facilitate the identification of hazards and the analysis of risks to operational safety;

(3) monitor the effectiveness of risk controls for operational safety;

(4) formalize with the Manager in Charge the need to allocate required resources for the implementation, maintenance and continuous improvement of the SGSO;

(5) plan and facilitate the promotion of operational safety in all areas of the certificate holder's organization;

(6) report regularly to the Manager in Charge about the performance of the SGSO and any need for improvement; and

(7) assist the Manager in Charge in the exercise of his/her responsibilities related to the management of operational safety, providing support for decision making."

(Included by Resolution No. 503, of February 7, 2019)

137.129 Inspections and surveys

(a) Every COA holder must allow ANAC inspections and surveys at any time and in any place, including the locations where air operations are being performed.

(b) After the inspections or surveys have been carried out and if there is evidence or suspicion of violations of the provisions of this Regulation, ANAC will take the appropriate administrative measures, which may result in the application of fine, suspension or revocation of the COA. A Conduct Adjustment Term (TAC) may be proposed by both parties under the terms provided for in specific ANAC regulations.

(c) Failure to implement the corrective measures proposed in the TAC within the period granted will subject the COA holder to suspension of its certificate.

SUBPART C

RULES FOR AERO AGRICULTURAL OPERATIONS

137.201 Aircraft and equipment requirements

(a) An agricultural aircraft operator may only use the aircraft for these such operations if:

(1) the aircraft is registered in Brazil, is certified for aero agricultural operation and has a valid airworthiness certificate;

(2) the aircraft meets the maintenance requirements contained in this Regulation and in RBAC No. 43 and 145 and in RBHA 91, or in the RBAC that may replace it, as applicable; (Wording given by Resolution No. 503, of February 7, 2019)

(3) operating manuals, technical publications, service bulletins, equipment manuals and other documents necessary for the proper conduct of operations are available to the pilot and maintenance personnel;

(4) the aircraft is equipped with appropriate and correctly installed belts and suspenders; and

(5) the aircraft does not carry passengers.

(b) An agricultural aircraft operator may only use specific equipment for aero agricultural operations if:

(1) the installation of this equipment on the aircraft has been approved by ANAC, in the case of major design changes; and

(2) there is, at the disposal of the pilot and maintenance personnel, the relevant technical manual or document, necessary for the installation and operation procedures of the equipment, suitable for the aircraft in which it can be installed.

(c) Every agricultural aircraft must be equipped with a cargo jetting device, capable of jettisoning, in case of emergency, at least half of the maximum agricultural product load approved for the aircraft, within 5 seconds, if single-engine, and 10 seconds, if multi-engine.

(d) If the aircraft is equipped with a device for jettisoning the tank of agricultural products as a whole, the jettisoning command of the tank must have a protection system that prevents inadvertent jettisoning. (e) An agricultural aircraft operator may use fuel not provided for in the approved type design of the agricultural aircraft provided that it operates under conditions acceptable to ANAC, established in a special flight permit.

137.203 Maintenance requirements

(a) The maintenance of aircraft engaged in aero agricultural operations must be in accordance with the requirements of RBACs No. 43 and 145, as well as subpart E of RBHA 91, or corresponding provisions of the RBAC that may replace it. (Wording given by Resolution No. 503, of February 7, 2019)

(b) The agricultural aircraft operator must ensure that the tasks performed are carried out in accordance with the manufacturer's maintenance instructions, using approved technical data and appropriate tools.

(c) An air operator that holds a COA can hire an aeronautical maintenance mechanic, qualified to work in a qualified in airframe and powerplant, to perform maintenance at the site of the aero agricultural operation, according to the limitations established in its EOs.

(d) [Reserved]. (Wording given by Resolution No. 509, of March 14, 2019)

137.205 Limitations for private agricultural aircraft operators

(a) The private operator of an agricultural aircraft cannot conduct aero-agricultural operations:

(1) remunerated or for the benefit of third parties;

(2) on any property, unless he/she is the owner or lessee; or

(3) not in accordance with the provisions of this Regulation.

137.207 Requirements for pilots

(a) Only agricultural pilots qualified according to RBAC No. 61 and with Aeronautical Medical Certificate (CMA), issued according to valid RBAC No 67, can carry out aero-agricultural operations. (Wording given by Resolution No. 503, of February 7, 2019)

137.209 Flight safety equipment

(a) No one may carry out aero-agricultural operations unless each crew member is using: (1) safety belts and suspenders properly placed and adjusted;

(2) when applying toxic products, breathing mask with protection filter against the inhalation of such products;

(3) anti-shock helmet, equipped with devices for fixing visors and noise mufflers; and

(4) closed shoes.

137.211 Operations on densely populated areas

(a) Except in the case of vector control, no one may operate an agricultural aircraft containing chemicals over densely populated areas, on vessels or over crowds of people outdoors.

<u>137.213 Atmospheric conditions for</u> aero-agricultural operations

(a) No one may conduct night-time aero-agricultural operations (beyond 30 minutes after sunset and before 30 minutes before sunrise), whatever the existing weather conditions, unless authorized by ANAC and in compliance with the requirements established paragraph 91.205(c) and section 91.209 of RBHA 91, or corresponding provisions of the RBAC that may replace it.

(b) No one may conduct aero-agricultural operations in uncontrolled airspace, if in the application area:

- (1) visibility in flight is less than 2.5 km; and
- (2) the ceiling is less than 500 feet above the ground.

(c) No one may conduct aero-agricultural operations in controlled airspace, whatever the existing atmospheric conditions, without the proper authorization by air traffic control with jurisdiction over that area.

SUBPART D

LANDING AREA FOR AERO-AGRICULTURAL USE AND AERO-AGRICULTURAL OPERATIONS IN AIRDROMES

137.301 Landing area for aero-agricultural use

(a) The construction and/or availability of a landing area for aero-agricultural use is the sole responsibility of the owner of the area. (b) The COA holder must conduct a GRSO prior to commencing operation in each location.

(c) The COA holder must prepare and maintain the GRSO analysis at the operational headquarters.

(d) The landing area for aero-agricultural use does not need to be registered with ANAC.

(e) No one may operate an aircraft in a landing area for aero-agricultural use, unless:

(1) the operation is exclusively for aero-agricultural activities, for a previously defined period;

(2) the owner of the area has agreed to its construction and use;

(3) the agricultural aircraft does not carry passengers;

(4) the area to be used meets the requirements for safely operating the agricultural aircraft at maximum performance, in accordance with the respective flight manual; and

(5) the use of the chosen area is not prohibited by any legal or regulatory device.

(f) The use of a landing area for aero-agricultural use is the sole responsibility of the agricultural aircraft operator.

(g) Night agricultural operation is prohibited in the landing area for aero-agricultural use.

(h) The agricultural aircraft operator must comply with the rules established by DE-CEA.

137.303 Aero-agricultural operations at airdromes

(a) The airdrome operator must ensure the operational safety of the airport infrastructure available for the activities developed there.

(b) The operation of agricultural aircraft is only permitted at airdromes under the following conditions:

(1) the owner of the registered airdrome has agreed to its use;

(2) the agricultural aircraft does not carry passengers;

(3) the operation of agricultural aircraft is not prohibited by any legal or regulatory provision.

(c) The **agricultural** aircraft **operator** must comply, during its operation, with

the rules related to air navigation established by DECEA.

SUBPART E

OPERATIONAL SAFETY MANAGEMENT SYSTEM

137.401 General requirements

(a) The Manager in Charge of the applicant or COA holder must develop, implement and maintain a SGSO, approved by his/her Manager in Charge.

(b) The Manager in Charge of the applicant or holder of the COA must present his/her MGSO in order to demonstrate how the following requirements relating to the four components and the twelve elements provided for in the structure of the SGSO of ANAC have been internalized, which are:

(1) operational safety policy and objectives:

(i) management's commitment;

(ii) management's responsibility for operational safety;

(iii) designation of key operational safety personnel;

(iv) coordination of the Emergency Response Plan (PRE); and

(v) documentation, including the MGSO and the SGSO Implementation Plan;

(2) management of operational safety risks:

(i) hazard identification processes; and

(ii) risk assessment and mitigation processes;

(3) ensuring operational safety:

(i) monitoring and measuring the performance of operational safety;

(ii) change management; and

(iii) continuous improvement of the SGSO; and

(4) promoting operational safety:

(i) training and qualification; and

(ii) communication about operational safety.

(c) The Manager in Charge of the applicant or COA holder must implement a SGSO compatible with the size, nature and complexity of the operations to be conducted by the COA holder, considering their EO and the dangers and risks related to such operations.

(d) The Manager in Charge of the applicant or COA holder must present an analysis of the missing person, on the existing structure and procedures, in order to verify, among the provisions in paragraph (b) of this section, which ones are present and functioning in the company and which need to be adequate or implemented.

(e) The COA holder, in order to operate under this Regulation, must have a SGSO in place. (Wording given by Resolution No. 503, of February 7, 2019)

(f) The Manager in Charge of the applicant or holder of the COA must submit to ANAC, for acceptance, the SGSO implementation plan, developed in phases, which must consider:

- (1) the results of the analysis on missing person, identifying the components and elements of the SGSO structure to be developed and put into operation in each phase; and
- (2) the implementation of new elements of the SGSO structure at each stage, complying with the provisions of section 137.403 of this Regulation.

(g) The activities planned for each phase developed, according to paragraph (f) of this section, must be inspected by ANAC at the end of each date proposed in the accepted implementation plan.

<u>137.403 SGSO implementation</u> planning process

(a) When planning the SGSO, the director or manager of operational safety of the applicant or holder of the COA should consider the following stages in developing the proposal for his/her implementation and operation:

(1) first stage – planning and organization of the SGSO, which includes the following aspects:

(i) the definition of the planning group;

(ii) the description of the system related to the organization's operation;

(iii) the analysis of the missing person, considering the existing resources in view of the requirements contained in paragraph 137.401(b);

(iv) the SGSO implementation plan, in accordance with the element provided for in paragraph 137.401 (b)(1)(v);

(v) the definition of management's commitment and management re-

sponsibility in accordance with the elements provided for in paragraphs 137.401 (b)(1)(i) and(ii);

(vi) the definition of the organizational structure, according to the element provided for in paragraph 137.401 (b) (1)(iii), in order to identify the responsibilities of those involved in the processes and procedures established in the SGSO;

(vii) the coordination of the PRE with the Airport Emergency Plan(s) (PLEM) of the airdrome(s) where it will operate (if any), according to the element provided for in paragraph 137.401 (b) (1)(iv);

(viii) the issuance of documentation related to the structure proposed by the organization to deal with operational safety documents, including the preparation and maintenance of the MGSO, in accordance with the element provided for in paragraph 137.401 (b)(1)(v); and

(ix) the promotion of operational safety, containing the operational safety training program for the personnel of the applicant or holder of the COA and the SGSO's disclosure program within the organization and with the community, in accordance with the elements provided for in paragraphs 137.401 (b)(4)(i) and(ii);

(2) second stage – implementation of the reactive processes of the SGSO, which includes the following aspects:

 (i) the demonstration of the implementation of the aspects dealt with in the first stage;

(ii) the establishment of hazard identification processes by the reactive method regarding the development and implementation of the management of basic information and analytical processes, in accordance with the element provided for in paragraph 1.37.401 (b)(2)(i);

(iii) the establishment of reactive GRSO, based on the identification of operational safety hazards obtained through reports, audits, inspections or other methods, which allow the assessment and implementation of mitigating actions of the assessed risks, according to the element provided for in paragraph 137.401 (b)(2) (ii);

(iv) the definition of a voluntary reporting system, as part of the proposed process for the COA holder to comply with the Civil Aviation Reporting Program within the scope of ANAC (PRAC-ANAC);

(v) the development of policies and procedures aimed at ensuring operational safety, by monitoring and measuring performance based on the results of the GRSO vis-à-vis the objectives of the COA holder, in accordance with the element provided for in paragraph 137.401 (b)(3);

(vi) the issuance of relevant documentation for the implementation of the SGSO and for the aspects of reactive GRSO, according to the element provided for in paragraph 137.401 (b)(1)(v); and

(vii) the promotion of operational safety with the implementation of the proposed program in accordance with the element provided for in paragraph (a)(1)(ix) of this section, mainly regarding aspects related to reactive GRSO;

(3) third stage – implementation of the preventive and predictive processes of the SGSO, which contemplate the following aspects:

(i) the maintenance of the processes developed in the first stage;

(ii) the demonstration of the implementation of the aspects dealt with in the second stage;

(iii) the establishment of hazard identification processes by preventive and predictive methods related to the development and implementation of the management of basic information and analytical processes, in accordance with the element provided for in paragraph 137.401(b)(2)(i);

(iv) the establishment of preventive and predictive GRSO, based on the identification of operational safety hazards obtained through reports, audits, inspections, analysis of daily activities or other methods, which allow the assessment and implementation of mitigating actions of the assessed risks, in accordance with the element provided for in paragraph 137.401(b)(2)(ii);

(v) the issuance of relevant documentation for the implementation of the SGSO and for the preventive and predictive aspects of the GRSO, in accordance with the element provided for in paragraph 137.401(b)(1)
 (v); and

(vi) the promotion of operational safety with the continuation of the proposed program according to paragraph (a)(1)(ix), mainly the aspects related to preventive and predictive GRSO; and

(4) fourth stage – ensuring operational safety and continuous improvement, which contemplates the following aspects:

(i) the maintenance of the processes developed in the first and second stages;

(ii) the demonstration of the implementation of the aspects dealt with in the third stage;

(iii) the development and establishment of NADSO, to be submitted to ANAC for acceptance, in accordance with the element provided for in paragraph 137.401 (b)(1)(i);

(iv) the issuance of relevant documentation for the implementation of the SGSO and for the aspects of ensuring operational safety and continuous improvement, in accordance with the element provided for in paragraph 137.401 (b)(1)(v); and

(v) the promotion of operational safety with the continuation of the proposed program according to paragraph (a)(1)(ix), mainly the aspects related to GRSO and the guarantee of operational safety.

(b) Once the SGSO is implemented, the COA holder must demonstrate the maintenance of all processes developed in paragraph (a) of this section.

SUBPART F

DOCUMENTATION

137.501 General requirements

(a) The **agricultural** aircraft **operator** must ensure that the following documents are available at the place of operation, and that it is not necessary to have them on board the aircraft during agricultural operations:

(1) certificate of nationality and registration;

(2) certificate of airworthiness;

(3) weight and balance sheet;

(4) Annual Maintenance Inspection Sheet (FIAM) or record of the last maintenance services that attested to the Annual Maintenance Inspection (IAM); (5) flight or operations manual;

(6) publication of the Aeronautical Command (COMAER) on procedures for the notification and confirmation of aeronautical accidents and incidents and ground occurrences;

(7) publication of COMAER about the responsibilities of aircraft operators in the event of an aeronautical accident and incident and ground occurrences;

(8) insurance policy; and

(9) station license, if applicable.

(b) The operator must ensure that the following documents are on board the aircraft during aero-agricultural operations:

(1) checklist; and

(2) logbook.

137.503 Additional requirements for COA holders

(a) In addition to the documents listed in section 137.501, a COA holder must ensure that the following documents are available at the place of operation, and it is not necessary to have them on board the aircraft during aero-agricultural operations:

(1) PRE; and

(2) copy of COA and EO.

137.505 Preparation of the MGSO

(a) The holder of an COA operating under this Regulation must develop and maintain his/her MGSO, on paper or electronic media, with the objective of formalizing and disclosing the company's operational safety approach.

(b) The MGSO of an COA holder, issued under this Regulation, must contain, when applicable, the following:

(1) identification of the COA holder;

(2) description of the operating environment of the COA holder (EO, area of operation and airdromes where he/she operates or maintains his/her aircrafts or have their headquarters);

(3) analysis of the missing person (declaration of conformity);

(4) SGSO implementation plan, reflecting the components/elements existing in the company in relation to the provisions of paragraph 137.401
(b) of this Regulation and the phased proposal, with the implementation schedule of the missing person;

(5) the company's operational safety policy and objectives;

(6) GRSO developed by the company;

(7) guarantee of the company's operational safety; and

(8) promotion of operational safety by the company.

(c) The COA holder must ensure that the above documentation is prepared in a clear and intelligible manner.

<u>137.507 MGSO submission and</u> initial acceptance process

(a) Once the MGSO has been prepared or updated, the manager in charge of the applicant or COA holder must approve it and forward it to ANAC, in order to obtain its acceptance.

(b) The MGSO must be sent for analysis by ANAC, signed by the director or manager of operational safety and by the manager in charge of the applicant or holder of the COA, in a printed copy and a digital copy in electronic media (in a "pdf" file).

(c) In cases where the MGSO presented is not accepted, ANAC will recommend the corrective actions necessary for its adequacy, in accordance with the provisions of this Regulation, as well as will set forth deadlines for the fulfillment of such actions.

(d) In the case of paragraph (c) of this section, it is incumbent upon the applicant or COA holder to make the correction (s) on his/her MGSO and continue the acceptance process, complying with the recommendations received and respecting the deadlines established by ANAC. Failure to meet the established deadlines will result in the filing of the process.

(e) Confirmation of acceptance of the MGSO occurs upon receipt, by the applicant or COA holder, of the respective acceptance document issued by ANAC.

(f) A copy of the acceptance document must be attached to each copy of the MGSO distributed by the company.

137.509 Validity of the MGSO

(a) After approval by the manager in charge of the applicant or COA holder, the MGSO, becomes a company commitment even before formal acceptance by ANAC.

(b) Once accepted by ANAC, through the acceptance document, the MGSO will have an indefinite validity period.

(c) The MGSO acceptance document may be revoked, suspended or annulled in the event of non-compliance with established requirements, recommendations, corrections and/or deadlines.

(d) In the case of paragraph (c) of this section, the aero-agricultural company will have its certification suspended and its certification process reviewed by ANAC.

137.511 MGSO update

(a) The COA holder must ensure that the MGSO is changed, when necessary, in order to remain up to date.

(b) Updates, amendments and/or revisions must be made in due course, on initiative of the COA holder, in the event of significant changes in the company, changes in the characteristics of its SGSO or to update its programs and schedules.

(c) ANAC may request an update, amendment or revision of the MGSO whenever a situation is identified that does not correspond to what is established in the regulation or in the face of a situation that constitutes a level of operational safety performance that is not acceptable by ANAC.

(d) The COA holder must incorporate all amendments required by ANAC within the period established in the corresponding notification.

(e) The MGSO and all subsequent amendments must be sent to ANAC to be analyzed and accepted.

(f) After accepting updates, amendments and/or revisions, the applicant or COA holder must send a new physical and digital copy of the MGSO, approved by its director or manager of operational safety and by its manager in charge.

(g) The COA holder must keep track of updates, amendments and/or revisions to his/her MGSO.

137.513 MGSO Disclosure

(a) The holder of a COA must disclose how his/her SGSO, contained in the MGSO, is structured to all sectors and respective employees of the company.

(b) The content of the MGSO may be disclosed in its entirety or only the relevant parts, according to the responsibility of each one in the implementation and/or operation of the SGSO in the company.

(c) The COA holder must ensure that his/ her employees have easy access to an updated copy of the parts of the MGSO relating to their duties and are aware of the corresponding changes.

137.515 Preparation of PRE

(a) The COA holder must develop and maintain a PRE, with operational safety assurance activities, formal emergency response processes, unless they are required to implement some other emergency management system as provided for in specific ANAC regulation.

(b) The COA holder must describe the procedures to be performed when the PRE is triggered, in addition to the responsibilities, actions and functions of each of the employees involved in emergency management.

(c) When the COA holder operates at an airdrome registered with ANAC, he/she must make his/her PRE compatible with the PLEM developed by the airdrome operator, in accordance with paragraph 137.403 (a)(1)(vii) of this Regulation.

137.517 Records and reports

(a) Each COA holder must keep, for at least 5 years, at its headquarters and make available to the INSPAC, whenever requested:

(1) the COA issued in his/her name;

(2) the EOs issued in his/her name;

(3) an updated listing of the aircraft(s) used or available for use in operations under this Regulation;

(4) an individual record of each pilot employed in operations under this Regulation, including:

(i) the pilot's full name and ANAC code;

(ii) the pilot's license (by type and number) and his/her qualifications;

(iii) the pilot's aeronautical experience in sufficient detail to determine his/her qualification to fly aircraft operating under this Regulation;

(iv) the pilot's current duties and the date on which he/she was assigned to them;

(v) the date of issue and the CMA class of the pilot;

(vi) the number of flight hours of the pilot with sufficient details to determine compliance with the flight limitations established by this Regulation; (vii) the pilot's accreditation as an accredited examiner, if applicable; and

(viii) any action taken regarding the dismissal of the pilot due to physical or professional disqualification;

(5) the name and address of each person or entity for which he/she has performed aero-agricultural operations;

(6) the date or period of the operations; and

(7) a listing with the name(s) and ANAC code(s) for each pilot employed in aero-agricultural operations.

(b) The COA holder must prepare and keep filed at its headquarters, for a minimum period of 5 years, and make available to the INSPAC, whenever requested, the GRSO analysis reports developed for the aero-agricultural operations.

(c) The COA holder must register and document the aspects related to the fulfillment of his/her SGSO, operational safety processes and GRSO cycles developed in his/her company.

(d) The COA holder must collect and store data related to its operational safety, including:

(1) number of civil aviation reports received;

(2) service difficulties encountered;

(3) abnormal occurrences, ground occurrences, incidents and accidents;

(4) educational and promotional activities carried out;

(5) the needs of those responsible for carrying out their duties;

(6) supervision of security activities; and

(7) operational safety recommendations (RSO) received from the accident and incident investigation agency, indicating which ones have been complied with.

(e) The COA holder must send, every six months and in a standard form, a report listing the accidents, incidents and abnormal occurrences in the last period, containing the date, time, location, aircraft and the description of the fact, as well as the mitigating actions taken, the respective schedules and those responsible for their implementation.

(f) The COA holder must send to ANAC, every six months and in a standard form, data related to his/her operational safety and to the fulfillment of the planned activities.

(g) The COA holder must prepare the half-yearly reports covering the semesters from January to June and from July to December.

(h) The COA holder must send to ANAC the reports related to first semester until July 15, and the reports related to the second semester until January 15 of the following year.

137.519 Aviation accident reporting

(a) Any person who becomes aware of any aircraft accident or the existence of aircraft spoils or remains has the duty to inform it to the nearest public authority and by the fastest means as provided for in Article 88 of the Brazilian Aeronautical Code.

(b) Air operators must immediately inform to the Aeronautical Command the occurrence of any aeronautical accident or incident involving aircraft that comes to their knowledge.

137.521 Logbook

(a) Aero-agricultural operators must use a logbook according to the model in Exhibit A of this Regulation, or they can use another model, provided that it contains, at least, the same information as the model proposed in Exhibit A of this Regulation.

(b) The pages related to the foreword, opening and closing must be in a single copy. Parts I and II must be, at least, in two copies each, so that the 2nd copy is detachable and filed for at least 5 years.

(c) All pages of the logbook must be printed by graphic process and numbered mechanically or typographically, with the opening being considered as the first page and the closing being the last page, and must be bound in book form, in a resistant cover and be protected against the possibility of possible damage.

(d) When the aircraft operates in a landing area for aero-agricultural use, the pilot must record in the observation field of the logbook the location where the landing area is located.

(e) Logbooks must be numbered according to the following criteria:

(1) sequential number/letters of the nationality and registration marks of the aircraft/last two digits of the year in which the logbook was opened; and (2) the numerical sequence of the logbook will be maintained regard-less of the change of year.

(f) If the aircraft undergoes brand changes, the previous brands' logbook must be closed and another one started with the new brand information.

(g) All closed logbooks, belonging to previous aircraft brands, must remain in the aircraft collection.

(h) In the case described in paragraph (f) of this section, the following text must be included in the "Observations" field of the previous logbook's closing: "This aircraft acquired the new PY-YYY brands on dd/mm/yyyy, and its records are closed on the page...", as well as the following text must be included in the field "Observations" on the opening of the first logbook of the new brands: "This aircraft previously had the brands PX-XXX".

(i) The responsibility for signing the logbook opening and closing should be of one the individuals who perform the following functions:

(1) aircraft owner and/or operator;

(2) manager in charge;

(3) chief pilot; or

(4) pilot who has an employment relationship or employment contract with the operator.

(j) In the case of aero-agricultural operations, the data related to a pilot's workday can be recorded on a single line in the logbook. If there is an interruption in the journey, as provided for in Law 13.475, of August 28, 2017, the data for each stage of the journey must be recorded in separate lines in the logbook. (Wording given by Resolution No. 516, of May 8, 2019)

(k) The data must be recorded by the pilot in the logbook immediately after the end of the operation.

(I) Logbooks must be maintained in accordance with the following criteria:

(1) for at least 5 years after cancellation of registration of the aircraft at ANAC;

(2) when transferring an operator (or owner) within the country, the logbook must accompany the aircraft; and

(3) when transferring an operator (or owner) that involves exporting the aircraft, a copy of the logbook must be kept by the operator who exported it for at least 5 years.

SUBPART G [RESERVED]

(Wording given by Resolution No. 503, of February 7, 2019)

[THE EXHIBIT TO RBAC NO. 137 HAS BEEN DELETED FROM THIS VERSION]

DECREE No. 92,319 OF JANUARY 23, 1986

It provides for the operation, in the country, of foreign companies whose object is the operation of air transport and ancillary services.

THE PRESIDENT OF THE REPUBLIC, using the attributions conferred on him/her by article 81, item III, of the Federal Constitution, and in view of Decree-Law No. 4.657, of September 4, 1942, Law No. 6.404, of December 15, 1976, and Decree-Law No. 32, of November 18, 1966,

DECREES:

CHAPTER I

GENERAL PROVISIONS

<u>Art. 1</u>

Foreign air transport companies, regular or non-regular, must obtain prior authorization from the Federal Government to operate in the country when designated according to bilateral agreements or when, in their absence, there is an interest in obtaining it unilaterally.

Sole paragraph. It also depends on prior authorization for the installation of agencies, branches, subsidiaries, offices or any other organizations of foreign companies, regular or non-regular, that do not operate lines in the Brazilian territory.

CHAPTER II

APPLICATION FOR AUTHORIZATION TO OPERATE IN THE COUNTRY

<u>Art. 2</u>

The authorization request referred to in the previous article, "caption", must be submitted to the Civil Aviation Department, indicating the place where the representation will be based, and accompanied with:

 I – proof that the company is organized according to the law of his/her country;

II – organizational documents and subsequent amendments;

III - the entire content of the bylaws;

IV – the list of partners or shareholders with their names, professions, domiciles and number of shares, quotas or ownership interest, except when, due to the applicable legislation in the country of their nationality, it is impossible to comply with such requirement;

V – copy of the act of the company body or competent authority that authorized the operation or installation of representation in Brazil and fixed the capital destined for operations in national territory;

VI – proof of appointment of a representative in Brazil, with the powers required by Brazilian law, as well as to accept the conditions under which authorization is given; and

VII - the last balance sheet.

§ 1 – The minimum capital allocated to operations in the national territory will be previously determined, in each case, by the Department of Civil Aviation, according to regulations to be implemented by that body.

§ 2 – All documents, which will be presented with a copy, must be authenticated, in accordance with the national law of the requesting company, legalized at the Brazilian Consulate of the respective headquarters, and a copy previously filed in the Registry Office of Deeds and Documents.

<u>Art. 3</u>

In the authorization, the Federal Government may establish the conditions it deems convenient to defend national interests, in addition to those required by special law.

<u>Art. 4</u>

Once the conditions are accepted by the representative of the requesting company, the Government will issue the Decree or Ordinance of authorization.

Sole paragraph. The authorization act – decree or ordinance – and the other acts mentioned in art. 2, after the respective copies have been authenticated by the Civil Aviation Department, they must be published in the Federal Official Gazette.

<u>Art. 5</u>

A copy of the official Union body that made the publication will be filed with the

Registry of Commerce of the place where the company's main place of business in the country will be located.

Sole paragraph. Together with the copy of the official Union body, the document evidencing the deposit, in cash, of the capital destined for operations in Brazil will also be filed with the Civil Aviation Department.

<u>Art. 6</u>

Foreign companies authorized to operate in the country are required to have a permanent representative in Brazil, with full powers to deal with any issues and resolve them definitively, being able to be sued and receive initial summons by the company.

§ 1 – The instrument for appointing a substitute for the representative of a foreign company may be filed with the Registry of Commerce only after the act has been ratified by the Civil Aviation Department.

§ 2 – Before acceptance by DAC, and his/ her filing in the Registry of Commerce, the representative cannot enter into relationships with third parties on behalf of the represented person.

<u>Art. 7</u>

Any changes that the foreign company makes in its bylaws or articles of association will depend on the approval of the Federal Government, to be effective in Brazilian territory.

Sole paragraph. The request for approval of modification must be made within a period not exceeding 60 days from the minutes of its implementation in the Company's Bylaws or Contract.

CHAPTER III

APPLICATION FOR AUTHORIZATION TO INSTALL BRANCHES

<u>Art. 8</u>

Regular or non-regular companies that do not operate in Brazil may install an agency, branch, subsidiary or office in the national territory. Sole paragraph. The authorization request must be accompanied by the documents referred to in items I, II, III, V, VI and VII of article 2.

<u>Art. 9</u>

The agency, branch, subsidiary or authorized office may sell tickets in the Brazilian territory.

CHAPTER IV

REPRESENTATION OF FOREIGN COMPANIES IN THE COUNTRY

<u>Art. 10</u>

Foreign companies that do not operate in the country, in place of a branch, subsidiary or office, may designate a general representative in the national territory.

<u>Art. 11</u>

Representation will be exercised by a legal entity organized in the country.

<u>Art. 12</u>

The representative company must apply to the Ministry of Air Force for authorization to operate, adding to its application:

a) articles of incorporation; and

b) duly translated representation contract.

Sole paragraph. Proof of organization will be waived when the representation has been entrusted to a legal entity already authorized to operate in the country.

<u>Art. 13</u>

The representation company may promote the company's advertising, but may not sell tickets or services from the represented company.

CHAPTER V

GENERAL PROVISIONS

<u>Art. 14</u>

Only companies authorized to operate in the country may have a General Sales Agent.

<u>Art. 15</u>

Companies operating in the country with an agency, branch, subsidiary or office, without being duly authorized, have one hundred and eighty (180) days to regularize the situation.

<u>Art. 16</u>

This Decree shall enter into force on the date of its publication, all provisions to the contrary being revoked, especially Decrees Nos 35.514 of May 18, 1954, 36.901 of February 14, 1955, and 90.802 of January 11, 1985.

Brasília, January 23, 1986; 165th year of Independence and 98^{th} year of the Republic.

JOSÉ SARNEY OCTÁVIO JÚLIO MOREIRA LIMA

BRAZILIAN CIVIL AVIATION REGULATION -RBAC No. 129

AMENDMENT No. 01

Operations of foreign air carriers within Brazil engaged in common carriage

SUBPART A

GENERAL

129.1 Applicability

This Regulation prescribes rules governing the operation of each designated or authorized foreign air carrier conducting common carriage between Brazil and other countries.

- 129.3 [Reserved]
- 129.5 [Reserved]
- 129.7 [Reserved]

129.9 [Reserved]

129.11 Scheduled operations

(a) Each foreign air carrier designated by the government of its country of origin shall conduct its operations within Brazil in accordance with Operations Specifications issued by ANAC under this Regulation and in accordance with the Standards and Recommended Practices contained in Part I of Annex 6 to the Convention on International Civil Aviation Organization. The Operations Specifications shall include, at least:

(1) airports to be used; and

(2) routes and airways to be flown, including rules and operating procedures necessary to prevent air collisions.

(b) An application for the issue or amendment of Operations Specifications must be submitted to ANAC at least 30 days before the intended beginning of operations in Brazil.

(c) The detailed information about the application for the issue or amendment of Operations Specifications are contained in Appendix A of this Regulation.

(d) In the case of a foreign air carrier does not operate its scheduled flights within Brazil over 60 days or does not reach the "Índice de Utilização de Frequência" (IUF) according to Article 3 of the Resolução ANAC number 26 issued on May 16, 2008, it shall send appropriate documentation in order to update its Operations Specifications.

129.12 Non-scheduled operations

(a) Each foreign air carrier authorized to perform non-scheduled flights shall conduct its operations within Brazil in accordance with the Standards and Recommended Practices contained in Part I of Annex 6 of the Convention on International Civil Aviation and in accordance with applicable provisions of this Regulation and in accordance with the Operations Specifications previously submitted to ANAC, in English or Portuguese, issued by the State of the explorer. The foreign air carrier or its representative in Brazil must complete and submit to ANAC. along with every request of flights, the statement of responsibility contained in Appendix B of this Regulation.

(b) The provisions contained in paragraph (a) of this section also apply to foreign air carriers doing charter flights to Brazilian air carriers. In this case the Brazilian company (charterer) shall act as legal representative of the foreign air carrier (charter) for the purpose of flights contracted.

129.13 Airworthiness and registration certificates

(a) No foreign air carrier may operate any aircraft within Brazil, unless that aircraft holds airworthiness certificates and valid registration issued or validated by the country of operator and registry of the aircraft and must display the nationality and registration markings of that country as stated in the Convention on International Civil Aviation.

(b) Notwithstanding the provisions of paragraph (a) of this section, an aircraft registered in a contracting State of ICAO may be authorized to operate through a lease, charter, exchange or similar arrangement by a company of another contracting State, if the State of registry of the aircraft, by means of a contract with the state of the company transfers to this State, in whole or in part, their functions and duties under the terms and scope of

Article 83 bis, subparagraph (a), since it served to paragraph (b) thereof, all of the Convention on International Civil Aviation.

(c) No foreign air carrier may operate an aircraft in Brazil, unless the operation is conducted within the limitations of certification and operation of the aircraft approved by the country of manufacture of the aircraft.

(d) Foreign air carriers shall send to ANAC documentation regarding to aircraft exchange arrangements in their flights to Brazil.

129.14 Maintenance requirements and Minimum Equipment List (MEL)

(a) Each foreign air carrier operating in Brazil must ensure that each of its aircrafts is submitted to a Maintenance Program as prescribed in Chapter 8 of Annex 6 of Convention on International Civil Aviation, approved by the Civil Aviation Authority of the country of operator and registry of the aircraft.

(b) No foreign air carrier may operate a foreign aircraft within Brazil with inoperative instruments or equipment unless it meets the terms of paragraph 6.1.3 of Annex 6 of the Convention on International Civil Aviation.

<u>129.15 Licensing of flight</u> <u>crewmember</u>

No person may act as a flight crewmember of an aircraft, unless holds a valid license or certificate issued or validated by the country in which the aircraft is registered, showing his competency to perform his duties connected with operating of that aircraft.

129.17 Radio equipment

(a) No foreign air carrier may conduct operations under IFR in Brazil, unless:

(1) the en route navigation aids necessary for aircraft to fly along the route are available for use and operational of the aircraft navigation equipment, required by this section;

(2) the aircraft used in those operations is equipped with at least the following: (i) except as provided in paragraph (c) of this section, two approved independent navigation systems suitable for navigating the aircraft along the route to be flown within the degree of accuracy required for ATC;

(ii) one marker beacon receiver providing visual and aural signals; and

(iii) one ILS receiver.

(3) any RNAV system used to meet the navigation equipment requirements of this section is authorized in the foreign air carrier's Operations Specifications

(b) No foreign air carrier under this Regulation may operate an aircraft under IFR or over the top, unless it is equipped with:

(1) at least two independent communication systems necessary under normal operating conditions to fulfill the functions specified in § 121.347(a) of RBAC 121; and

(2) at least one of the communication systems required by paragraph (b)(1) of this section must have two-way voice communication capability.

(c) Notwithstanding the requirements of paragraph (a)(2)(i) of this section, the aircraft may be equipped with a single approved independent navigation system for operations under IFR or over the top if:

(1) it can be shown that the aircraft is equipped with at least one other independent navigation system suitable for proceeding safely to a suitable airport and completing an instrument approach in the event of loss of the navigation capability of the single approved independent navigation system under this paragraph at any point along the route; and

(2) the aircraft has sufficient fuel so that the flight may proceed safely to a suitable airport by use of the remaining navigation system, and complete an instrument approach and land.

(d) Always if VOR navigation equipment is required by paragraph (a) or (c) of this section, no foreign air carrier may operate an aircraft unless it is equipped with at least one approved DME or suitable RNAV system.

129.18 Anti-collision system

(a) In operations in Brazil, any turbinepowered airplane of a foreign air carrier operating under this Regulation: (1) of more than 33,000 pounds maximum certificated takeoff weight, must operate that airplane with an appropriate class of Mode S transponder that meets Technical Standard Order (TSO) C-112, or a later version, and one of the following approved units:

(i) TCAS II that meets TSO C-119b (version 7.0), or a later version;

(ii) TCAS II that meets TSO C-119a (version 6.04A Enhanced) that was installed in the airplane before May 1, 2003. If that TCAS II version 6.04A Enhanced no longer can be repaired to TSO C-119a standards, it must be replaced with a TCAS II that meets TSO C-119b (version 7.0), or a later version; or

(iii) a collision avoidance system equivalent to TSO C-119b (version 7.0), or a later version, capable of coordinating with units that meet TSO C-119a (version 6.04A Enhanced), or a later version; or

(2) with a passenger-seat configuration, excluding any pilot seat, of 10-30 seats, must operate that airplane with:

(i) TCAS I that meets TSO C-118, or a later version; or

(ii) a collision avoidance system equivalent to excluding any TSO C-118, or a later version; or

(iii) a collision avoidance system and Mode S transponder that meet paragraph (a)(1) of this section.

129.19 Air traffic rules and other procedures

(a) Each pilot must be familiar with the applicable rules, the navigational and communications facilities, and the air traffic control and other procedures, of the areas to be traversed by him within Brazil.

(b) Each foreign air carrier shall establish procedures to assure that each of its pilots has the knowledge required by paragraph (a) of this section and shall check the ability of each of its pilots to operate safely according to applicable rules and procedures.

(c) Each foreign air carrier shall conform to the practices, procedures, and other requirements prescribed by ANAC for national air carriers for the areas to be operated in.

(d) All aircraft coming from abroad to Brazil or in transit must make the first landing and the last takeoff at an international airport.

(e) In the case of non-scheduled foreign air carrier, when the aircraft captain lands at the first international airport in Brazil, he shall act as authorized officer of the foreign air carrier for the taxes for the use of airport, facilities and support to air navigation, approach and landing, and also must carry on board the air carrier thirdparty liability coverage insurance policy.

129.20 Digital flight data recorders

No person may operate an aircraft under this Regulation unless the aircraft is equipped with at least one of the flight data recorder that uses an approved method of digital recording and data storage and an efficient method of recovering such data. The flight data recorder shall comply with the prescribed in the section 6.3 of Annex 6 of International Civil Aviation Convention.

129.21 Air traffic control language

The communications with the air traffic control (ATC) shall be conducted in English. The flight crew of the foreign air carrier shall meet the language proficiency requirements of section 1.2.9, language proficiency, Annex 1 of the Convention on International Civil Aviation.

129.23 Requirements for aircraft

No foreign air carrier may conduct operations between Brazil and foreign countries unless such operations are performed using aircraft that meet the following requirements for airworthiness and operational requirements:

(a) Appendix 8 and Part I of Annex 6 of the Convention on International Civil Aviation; or

(b) applicable RBAC to the aircraft or similar regulations issued by the country of aircraft registration or the country of operator, as applicable.

129.24 Cockpit voice recorders

No person may operate an aircraft under this Regulation unless it is equipped with an approved cockpit voice recorder that meets the prescribed in the section 6.3 of Annex 6 of International Civil Aviation Convention.

129.25 Airplane security

(a) For the purposes of this section applies the provisions of the National Aviation Security Program against Acts of Unlawful Interference (PNAVSEC) and specific regulation on the subject issued by ANAC.

(b) In the case of a landing not planned at an aerodrome not listed at the foreign air carrier Operations Specifications, the foreign air carrier is responsible before the Brazilian Government for enforcing the comply of the security requirements set in the approved security program, unless government authorities are available at the airport for that purpose.

129.27 Prohibition against carriage of weapons

For the purposes of this section applies the provisions of the PNAVSEC and specific regulation on the subject issued by ANAC.

129.29 Smoking prohibitions

(a) No foreign air carrier may operate an aircraft in Brazil, unless it is equipped with the warnings about prohibition of smoking on board.

(b) Smoking in all segments of flight operations carrying passengers is forbidden, whatever the duration of the flight.

(c) No person may operate an aircraft unless it is installed in each lavatory a sign or notice with the following text (or equivalent in English or Portuguese): "It is prohibited to prevent, or attempt to stop the operation of this lavatory smoke detector." Such notices or signs need not meet the requirements of paragraph (a) of this section.

(d) No person may smoke on board of an aircraft while any warning "no smoking" is on.

(e) Smoking is prohibited in any lavatory of an aircraft.

(f) No person may block, disarm or destroy any smoke detector installed in any aircraft lavatory.

(g) On any flight segment of scheduled operations warnings "do not smoke", or equivalent, must remain on from the boarding until the disembarking of passengers.

(h) Each passenger shall comply with instructions given him or her by a crewmember regarding to the compliance with paragraphs (b), (d), (e), and (f) of this section.

129.31 Exchange data programs

Every foreign air carrier that operates commercial aircrafts in Brazil are subjected to the ramp inspection by ANAC according to all exchange data program that Brazil takes part.

* THE APPENDIXES TO THIS RBAC ARE NOT TRANSCRIBED IN THIS VERSION.

NATIONAL CIVIL AVIATION AGENCY – RESOLUTION No. 576 OF AUGUST 4, 2020

Provides for the reach of the requirements applicable to airlines that conduct scheduled operations under the scope of RBAC No. 135.

THE COLLEGIATE DIRECTORATE OF THE NATIONAL CIVIL AVIATION AGEN-CY – ANAC, exercising the competence granted to it by art. 11, item V, of Law No. 11.182, of September 27, 2005, in view of the provisions of art. 8, items X, XIII, XXX and XLVI, of the mentioned Law,

Considering the need to evaluate the requirements related to the characteristics of scheduled and unscheduled operations, including those within the scope of the Brazilian Civil Aviation Regulation – RBAC No. 135, determined by the Collegiate Directorate Board at the 12th Deliberative Meeting, held on July 17, 2019;

Considering the studies presented within the scope of the Priority Air Services Remodeling Project;

Considering the criteria for registration of air services presented within the scope of the preparation of Resolution No. 440, of August 9, 2017; and

Considering what is contained in process No. 00058.013289/2020-13, deliberated and approved at the 15th Deliberative Meeting, held on August 4, 2020,

RESOLVES:

<u>Art. 1</u>

Establish the scope of the requirements applicable to airlines that conduct scheduled operations within the scope of the Brazilian Civil Aviation Regulation – RBAC n° 135.

CHAPTER I

RANGE OF OPERATIONAL REQUIREMENTS

<u>Art 2</u>

The requirements related to the following items are applicable to airlines that carry out operations within the scope of RBAC n^o 135 within the maximum limit of fifteen (15) flights per week: I – non-regular operations included in RBAC nº 135;

II – non-regular operations included in RBAC nº 119; and

III – non-regular public air transport services in the form of air taxi set out in Law No. 13.475, of August 28, 2017.

Sole paragraph. The airlines that carry out the operations described in the caption can carry out these operations under the granting of authorization, pursuant to Resolution No. 377, of March 15, 2016.

<u>Art. 3</u>

The requirements for regular public air transport services for passengers listed in RBAC No. 135 and RBAC No. 119 are only applicable when the company operates more than fifteen (15) scheduled flights per week.

CHAPTER II

REACH OF REQUIREMENTS FOR REGISTRATION OF TRANSPORT SERVICES

AIR AND GENERAL TRANSPORT CONDITIONS

<u>Art. 4</u>

Airlines that conduct scheduled operations under RBAC No. 135 will be able to sell individual seats to the public, regardless of the volume of operations or a systematic series of flights.

Sole paragraph. The airlines described in the caption shall comply, as appropriate, with the provisions established in the General Transport Conditions (Resolution No. 400, of December 13, 2016) and other regulatory provisions regarding the provision of services.

<u>Art. 5</u>

The requirement for the registration of air transport services contained in Resolution No. 440, of 2017, for operations scheduled under the scope of RBAC No. 135, will only be applicable if they constitute a systematic series of flights. Sole paragraph. For the purposes of the caption, a systematic flight series is that defined in a specific Ordinance of the Superintendency for Monitoring Air Services – SAS.

CHAPTER III

FINAL PROVISIONS

<u>Art. 6</u>

Airlines that operate as provided for in art. 2 of this Resolution must forward to ANAC, on a monthly basis, up to the ten-business day of the month subsequent to the flight, the information regarding scheduled flights performed, as defined in Ordinance of the Operational Standards Superintendence – SPO.

<u>Art. 7</u>

For the purposes of this Resolution, a period of seven (7) consecutive days starting on Monday is considered a week.

<u>Art. 8</u>

The provisions established in this Resolution will be valid until August 7, 2022.

<u>Art. 9</u>

This Resolution enters into force on the date of its publication.

JULIANO ALCÂNTARA NOMAN

Deputy Chief Executive Officer

NATIONAL CIVIL AVIATION AGENCY – ADMINISTRATIVE PRECEDENT No. 003/2020

Constitutes a triggering event for collection of the Civil Aviation Inspection Fee (TFAC) "SURVEY ON REGULAR AIR TRANSPORT COMPANIES – CIVIL AVIA-TION SECURITY" the performance of a Civil Aviation Security Audit against Unlawful interference acts (AVSEC) in regular air transport companies. In the case of audits carried out in the five years prior to the Decision of the Airport Infrastructure Superintendence (SEI 3517885), of September 20, 2019, retroactive collection of this TFAC will be made, without any encumbrances or penalties.

AIRPORTS

DECREE No. 7,871 OF DECEMBER 21, 2012

Provides for the conditions for delegating the operation of public civil airdromes through authorization.

THE PRESIDENT OF THE REPUBLIC, in the use of the attributions conferred on her by art. 84, caption, item IV, of the Constitution, and in view of the provisions of art. 21, caption, item XII, item "c", of the Constitution and in art. 36, caption, item IV, of Law No. 7.565, of December 19, 1986,

DECREES:

CHAPTER I

GENERAL PROVISIONS

<u>Art. 1</u>

This Decree provides for the conditions for delegating the operation of public civil airdromes through authorization.

<u>Art 2</u>

The operation of public civil airdromes destined exclusively for the processing of private air services, specialized air services and air taxi operations may be delegated by authorization, as defined in Law No. 7.565, of December 19, 1986.

CHAPTER II

AUTHORIZATION PROCEDURE

<u>Art. 3</u>

Interested parties will require authorization to operate a public civil airdrome from the Civil Aviation Secretariat of the Presidency of the Republic.

§ 1 When submitting the application, the applicant must prove that he/she is the owner of the property, of the surface rights, the rent of lands, usufruct, the real right to use, or of another real right compatible with the object of the authorization and that ensures the ability to use it or enjoy the properties that will make up the airport site, including domain areas, buildings and land related to the operation of the airdrome.

§ 2 After receiving the request, the Civil Aviation Secretariat of the Presidency of the Republic will consult the Airspace Control Department of the Aeronautical Command on the feasibility of authorizing the respective public civil airdrome.

§ 3 The application may be rejected for reasons of relevant public interest, always duly substantiated.

§ 4 The Civil Aviation Secretariat of the Presidency of the Republic will give ample publicity, including via the Internet, to all requests received and to the respective opinions and authorizations.

<u>Art. 4</u>

The request for authorization to operate the airdrome will be granted through an act of the Minister of State Head of the Civil Aviation Secretariat of the Presidency of the Republic.

§ 1 After publication of the act referred to in the caption in the Federal Official Gazette, the National Civil Aviation Agency – ANAC will formalize the delegation by means of an instrument of authorization, pursuant to item XXIV of the caption of art. 8 of Law No. 11.182, of September 27, 2005.

§ 2 The instrument of authorization will be issued by ANAC after the cancellation of any authorizations for the operation of services other than those provided for in art. 2 that have as their origin or destination the airdrome to be authorized.

CHAPTER III

CONDITIONS FOR THE OPERATION OF PUBLIC CIVIL AERODOMES UNDER AUTHORIZATION

<u>Art. 5</u>

The approval for the opening to traffic, referred to in art. 30, § 1, of Law No. 7.565, of 1986, must be obtained by the applicant for authorization from ANAC within thirty-six months, counting from the date of publication of the instrument of authorization referred to in § 1 of art. 4 in the Federal Official Gazette. § 1 ANAC may grant the extension of the term specified in the caption, for a maximum equal period, upon specific and well-supported request from the applicant for authorization.

§ 2 Failure to comply with the provisions of the caption will result in the loss of effects of the act referred to in the caption of art. 4, and the extinction of the instrument of authorization, if it has been issued, in due compliance with that provided for in arts. 17, 18 and 19.

<u>Art. 6</u>

ANAC will not issue authorization to operate services other than those provided for in art. 2 that have as their origin or destination a public civil airdrome operated under authorization.

<u>Art. 7</u>

The authorization holder must previously inform ANAC of the change in his/her shareholding control or ownership of the real right he/she has over the properties that will constitute the airport site, including domain areas, buildings and land related to the operation of the airdrome.

Sole paragraph. In order to comply with that provided for in the caption, corporate transformations resulting from spin-off, merger, incorporation and formation of consortium will be considered as transfer of shareholding control of authorizing companies.

<u>Art. 8</u>

The authorization holder must observe the legislation and technical and safety regulations applicable to the airdromes and air traffic operations of ANAC and the Aeronautical Command – COMAER, and the provisions contained in the instrument of authorization.

Sole paragraph. Failure to comply with these rules will give rise to the application of legal, regulatory or other sanctions provided for in the instrument of authorization, without prejudice to the provisions of arts. 17, 18 and 19.

<u>Art. 9</u>

Public civil airdromes operated under authorization may be used by any aircraft, without distinction of ownership or nationality, provided that they assume the burden of using and subject to the provisions of art. 2, except if there is a restriction of use by certain types of aircraft or air services, for operational or safety reasons, discrimination against users is prohibited.

§ 1 The provision in the caption does not apply when there is a restriction of use by certain types of aircraft or air services due to operational or safety reasons, and discrimination against users is prohibited.

 \S 2 For the purposes of this Decree, the restriction imposed by art. 2 will be considered operational restriction.

<u>Art. 10.</u>

The authorization does not give any guarantees to the authorization holder, who will execute it at his/her own risk.

Paragraph 1. The authorization holder will not have the acquired right of permanence of the conditions in force at the time of authorization or the beginning of activities, and must observe new conditions defined by law or regulation, with no guarantees of financial-economic balance on the part of the Public Power.

§ 2 The authorization does not constitute any obligation on the part of the Public Power to provide air traffic capacity and investments in infrastructure for access to the airdrome.

<u>Art. 11.</u>

In the event of air traffic capacity restriction, airdromes operated directly by the Federal Government, States, Federal District and Municipalities, by indirect administration companies or their subsidiaries, or by concessionaires will have traffic priority over airdromes operated under authorization.

<u>Art. 12</u>

The airdrome operation authorization does not replace or exempt the requirement for the authorization holder to obtain permits, licenses and authorizations necessary for its implementation, construction and operation, in addition to those required by the aeronautical and civil aviation authorities or those related to special restricted areas, provided for in art. 43 of Law No. 7.565, of December 19, 1986, as well as the resulting charges and expenses.

<u>Art. 13.</u>

The authorization holder will be directly responsible for his/her obligations and for damage and losses that he/she causes or for which he/she may contribute, there being, under any circumstances, no responsibility on the part of the Union.

<u>Art. 14.</u>

The airport fee structure will be applied to authorized services, in accordance with the provisions of the federal legislation and regulations in force, and especially Law No. 6.009, of December 26, 1973.

<u>Art. 15.</u>

ANAC, in exercising the competence provided for in item XXV of the caption of art. 8, of Law No. 11.182, of 2005, may provide that the fees will be freely established by the authorization holder, in due compliance with the provisions of arts. 1 and 2 of Law No. 7.920, of December 12, 1989.

<u>Art. 16.</u>

Any harmful practices to competition and the abuse of economic power will be repressed, under the terms of the specific legislation, in due compliance with the attributions of the competition defense bodies.

CHAPTER IV

TERMINATION OF THE AUTHORIZATION INSTRUMENT

<u>Art. 17.</u>

The airdrome operation authorization will not have its validity subject to a final instrument, being terminated only by:

I – waiver, unilateral, irrevocable and irreversible formal act, in which the authorization holder expresses his/her lack of interest in the authorization;

II – revocation, for reasons of public interest;

III – annulment, in case of loss of the conditions essential to the authorization;

IV – forfeiture, in the event of repeated non-compliance with assumed commitments or non-compliance with legal or regulatory obligations by the authorization holder; or

V – cancellation of the authorization, judicially or administratively, in the event of an insoluble irregularity of the authorization.

<u>Art. 18.</u>

The termination of the authorization will not give rise to the payment of indemnity to the authorization holder or assumption by the Union of responsibility in relation to charges, encumbrances, obligations or commitments with third parties or with employees of the authorization holder.

<u>Art. 19.</u>

The termination of the authorization by revocation, annulment, forfeiture or cancellation will depend on a previous procedure, ensuring the adversary proceeding and broad defense.

§ 1 In the event of an impeachment and forfeiture claim, ANAC shall, prior to the initiation of the procedure, inform the authorization holder about the alleged defaults or non-compliances, and may set forth a deadline to remedy them.

§ 2 The procedure being established and non-compliances or defaults being confirmed, forfeiture or annulment will be declared by ANAC, subject to the provisions of art. 18.

<u>Art. 20.</u>

The waiver of authorization must be communicated to ANAC at least ninety days in advance, during which period the airdrome's assets will remain affected, pursuant to arts. 36, § 5, and 38 of Law No. 7.565, of 1986, and observing the provisions of art. 21.

Sole paragraph. The waiver will not entail punishment for the authorization holder and will not exempt him/her from complying with his/her obligations with third parties.

<u>Art. 21.</u>

The annulment of the authorization instrument issued by ANAC will result in the revocation of the airdrome homologation, referred to in art. 30, caption, § 1, of Law No. 7.565, of 1986.

<u>Art. 22.</u>

This Decree takes effect on the date of its publication.

Brasília, December 21, 2012; 191st year of Independence and 124th year of the Republic.

DILMA ROUSSEFF GUIDO MANTEGA MIRIAM BELCHIOR WAGNER BITTENCOURT DE OLIVEIRA
NATIONAL CIVIL AVIATION AGENCY – RESOLUTION No. 330 OF JULY 1, 2014

Provides for the authorization to operate public civil airdromes in accordance with Decree No. 7871, of December 21, 2012.

THE DIRECTORATE OF THE NATIONAL CIVIL AVIATION AGENCY – ANAC, in the exercise of the powers conferred by arts. 8, items XXI and XXIV, of Law No. 11.182, of September 27, 2005, and 4th, §§ 1 and 2, of Decree No. 7.871, of December 21, 2012, and considering what is contained in process No. 00058.016126/2014-44,

RESOLVES:

<u>Art. 1</u>

Regulate the granting, by means of authorization, for the operation of public civil airdromes, pursuant to Decree No. 7.871, of December 21, 2012.

<u>Art 2</u>

It is possible to delegate, by means of authorization, the operation of public civil airdromes destined exclusively to the processing of operations of private air services, specialized air services and air taxi, as defined in Law No. 7.565, of December 19, 1986.

Sole paragraph. The private airdrome, in order to be transformed into a public airdrome, must obtain the granting, by means of authorization, to operate a public civil airdrome, pursuant to Decree No. 7.871/2012, and this Resolution.

CHAPTER I

APPLICATION FOR GRANT TO OPERATE A PUBLIC CIVIL AIRDROME UNDER AUTHORIZATION

<u>Art. 3</u>

Authorization to operate public civil airdromes will be granted, upon issuance of the Instrument of Authorization, set forth in Exhibit I of this Resolution, to a company organized under Brazilian law, with headquarters and administration in the country, as well as to a state-owned company that:

I – has a request for authorization previously approved by the Minister of State Head of the Civil Aviation Secretariat of the Presidency of the Republic, under the terms of art. 4 of Decree No. 7.871/2012; and

II – comply with the requirements established in this Resolution and related standards.

<u>Art. 4</u>

The request for authorization to operate the airdrome must be formalized in an application addressed to ANAC, signed by the managing partner or by a legal representative empowered to do so, accompanied by the following documents:

I – copy of the act of the Minister of State Head of the Civil Aviation Secretariat of the Presidency of the Republic that has granted the airdrome delegation request under authorization; and

II - corporate documents:

a) Copy of the consolidated articles of association or incorporation document and subsequent amendments, if any, filed at the Registry of Commerce, listing, under the corporate object, the activity regulated by this Resolution.

b) Proof of registration in the National Register of Corporate Taxpayers (CNPJ).

c) Debt clearance certificate or certificate of suspended tax liability related to federal taxes and Federal tax debts.

d) Debt clearance certificate or certificate of suspended tax liability related to social security contributions and those of third parties.

e) Certificate of good standing with the Guarantee Fund for Length of Service – FGTS.

f) Documents that evidence ownership of the property, surface rights, rent of lands, usufruct, real rights of use, or any other real right compatible with the object of the authorization and which ensures the ability to use or enjoy the properties that will constitute the airport site, including domain areas, buildings and land related to the operation of the airdrome.

§ 1 The presentation of the documents listed in art. 4, item II, of this Resolution, which are forwarded to ANAC by the Civil Aviation Secretariat of the Presidency of the Republic – SAC/PR resulting from a request for approval of the authorization by the Minister of State Head of the Civil Aviation Secretariat of the Presidency of the Republic, under the terms of Decree No. 7.871/2012, will be considered valid for issuing the Instrument of Authorization.

§ 2 If necessary, documents may be requested that complement the information provided by the interested party.

<u>Art. 5</u>

The opening of the airdrome to air traffic as an authorized airdrome can only occur after its registration in the register of public airdromes, through the approval process, according to specific regulations, which is subject to the previous issue of the Authorization Term.

§ 1 The opening to air traffic must be obtained from ANAC by the authorization holder within a period of up to thirty-six (36) months after publication of the Instrument of Authorization in the Official Gazette.

 \S 2 The term established in \S 1 of this article may be extended by decision of ANAC for up to the same period, upon reasoned request by the authorization holder.

 \S 3 Failure to comply with the provisions of $\S\S$ 1 and 2 of this article will give rise to the termination of the Instrument of Authorization.

§ 4 In the event that the airdrome functions as a private airdrome, duly registered, it will only be opened to public air traffic after issuance the Instrument of Authorization and homologation by the Airport Infrastructure Superintendence – SIA, and will remain open to private air traffic until termination of the homologation.

CHAPTER II

REQUIREMENTS FOR ISSUANCE AND MAINTENANCE OF THE INSTRUMENT OF AUTHORIZATION

<u>Art. 6</u>

Only air services specified in art. 2 of this Resolution may be processed at the public civil airdrome subject to authorization under the terms of this Resolution.

<u>Art. 7</u>

The remuneration for airport services provided by the authorized public civil airdrome must respect the types of fees established in Law No. 6.009, of December 26, 1973, and regulated by Decree No. 89.121, of December 6, 1983.

 \S 1 The airport fees must be freely established by the authorization holder agent, who must also observe the provisions of arts. 1 and 2 of Law No. 7.920, of December 12, 1989.

Paragraph 2. The other rules in force, which are the responsibility of this Agency, which deal with airport fees applicable to public airdromes, do not apply to authorization holders, except when ANAC expressly determines.

<u>Art. 8</u>

It is the duty of the authorization holder to provide information and clarifications, as well as to provide data, requested by ANAC, guaranteeing him/her access, at any time, to all the facilities of the airdrome.

<u>Art. 9</u>

The authorization holder must previously inform ANAC about any change in the shareholding control of the company that holds the authorization or, even, incorporation, merger or spin-off of the company holding the authorization, under penalty of forfeiture, and the consequent annulment of the authorization.

<u>Art. 10.</u>

The authorization holder must previously inform ANAC about any change in ownership of the real right he/she has over the properties that make up the airport site, including domain areas, buildings and land related to the operation of the airdrome.

Sole paragraph. Any change that implies the loss of use and enjoyment of the properties referred to in the caption will result in the annulment of the authorization granted.

CHAPTER III

TERMINATION OF AUTHORIZATION

<u>Art. 11.</u>

The authorization for the operation of public airdromes will not be subject to a final instrument and will terminate only by:

I – waiver, unilateral, irrevocable and irreversible formal act, in which the authorization holder expresses his/ her lack of interest in the authorization;

II – revocation, for reasons of public interest;

III – revocation, in case of loss of the conditions essential to the authorization;

IV – forfeiture, in the event of repeated non-compliance with assumed commitments or non-compliance with legal or regulatory obligations by the authorization holder; or

V – cancellation of the authorization, judicially or administratively, in the event of an insurmountable irregularity of the authorization.

<u>Art. 12.</u>

The termination of the authorization will not give rise to the payment of indemnity to the authorization holder or assumption of responsibility by the Union in relation to the charges, encumbrances, obligations or commitments with third parties or with employees of the authorization holder.

<u>Art. 13.</u>

The termination of the authorization by revocation, annulment, forfeiture or cancellation will depend on a previous procedure, ensuring the adversary proceeding and broad defense

§ 1 In the event of an impeachment and forfeiture claim, ANAC shall, prior to the initiation of the procedure, inform the authorization holder about the alleged defaults or non-compliances, and may set forth a deadline to remedy them not less than thirty (30) days.

§ 2 The procedure being established and non-compliances or defaults being confirmed, forfeiture or annulment will be declared by ANAC, subject to the provisions of art. 12 of this Resolution.

<u>Art. 14.</u>

The waiver of authorization must be informed to ANAC at least ninety (90) days in advance, during which period the airdrome's assets will remain affected, pursuant to arts. 36, § 5, and 38 of Law No. 7.565/1986.

Sole paragraph. The waiver will not be a cause for punishment of the authorization holder and will not exempt him/her from his/her obligations to third parties.

<u>Art. 15.</u>

This Resolution takes effect on the date of its publication.

MARCELO PACHECO DOS GUARANYS Director-President

LAW No. 6,009 OF DECEMBER 26, 1973

Provides for the use and operation of airports, facilities for air navigation and gives other measures.

THE PRESIDENT OF THE REPUBLIC, makes it known that the NATIONAL CON-GRESS decrees and I sanction the following Law:

<u>Art. 1</u>

Airports and their facilities will be designed, built, maintained, and operated directly by the Union or by entities of the Indirect Federal Administration, specially constituted for those purposes, or even by means of concession or authorization in compliance with the conditions established therein.

<u>Art. 2</u>

The effective use of areas, buildings, installations, equipment, facilities and services of an airport is subject to payment related to the prices that apply to the part used.

Sole paragraph. The prices mentioned in this article will be due to the entity responsible for the administration of the airport and will be represented: (Wording given by Law n° 14.034, of 2020)

a) by airport fees, approved by the National Civil Aviation Agency, for application throughout the national territory; (Wording given by Law No. 11.182, of 2005)

b) by specific prices established, for the civil areas of each airport, by the body or entity responsible for the administration of the airport.

<u>Art. 3</u>

The airport fees referred to in the previous article are denominated and characterized as follows:

I – Boarding fee – due for the use of the facilities and services for dispatching and boarding of Passenger Station; charged to air transport passenger;

II - Landing fee - due for the use of areas and services related to the aircraft's landing, rolling and parking operations up to three hours after landing; charged to the aircraft owner or operator;

III – Stay fee – due for the aircraft parking, in addition to the first three hours after landing; charged to the aircraft owner or operator;

IV – Storage Fee – due for the storage, safekeeping and control of the goods in the Air Cargo Warehouses of the Airports; charged to consignee or carrier in the case of air cargo in transit. (Wording given by Decree Law No. 2.060, of 1983).

V – Foreman Fee – due for handling the goods referred to in the previous item; charged to the consignee, or the carrier in the case of air cargo in transit. (Included by Decree Law No. 2.060, of 1983)

VI – Connection Fee – due for the allocation of passengers connected to the Passenger Station according to the transport contract; charged on the owner or operator of the aircraft. (Included by Law No. 12.648, of 2012)

<u>Art. 4</u>

The specific prices referred to in letter b, of the sole paragraph, of article 2, are due for the use of areas, buildings, installations, equipment, facilities and services, not covered by airport fees; they are charged on the users or their concessionaires.

<u>Art. 5</u>

The proceeds from the payments referred to in article 2 of this Law, including contractual fines, monetary restatement and interest on late payment, will constitute own revenue:

I – of the Aeronautical Fund, in the case of airports directly managed by the Aeronautical Command; or (Word-ing given by Law No. 11.182, of 2005)

II - of the entities that manage airports. (Wording given by Law No. 14.034, of 2020)

Sole paragraph. The entities responsible for the administration of the airports may establish their own system for processing, charging and collecting airport fees, with the consent of the civil aviation authority, allowing the collection of the boarding fare together with the collection of the ticket, and the owner or operator of the aircraft must deliver the respective fee values to the entities responsible for the administration of the airports. (Included by Law No. 14.034, 2020).

<u>Art. 6</u>

The delay in payment of airport fees, after the collection has been made, will result in the cumulative application, by those entitled, of the following sanctions:

 I – after thirty days, collection of monetary restatement and interest on arrears of one percent per month;

II – after one hundred and twenty days, suspension ex officio of concessions or authorizations;

III – after one hundred and eighty days, summary cancellation of concessions or authorizations.

<u>Art. 7</u>

The following are exempt from payment:

I – Boarding Fee

a) passengers of military aircraft and Brazilian public aircraft of the Federal Direct Administration;

b) passengers of aircraft on a return flight, for technical or meteorological reasons or, in the event of an accident, when re-boarding;

c) passengers in transit;

d) passengers under the age of two;

e) Civil Aviation inspectors, when exercising their functions;

f) passengers of foreign military or public aircraft, when complying with the reciprocity of treatment;

g) passengers, when invited by the Brazilian Government.

II - Landing Fee

a) military aircraft and Brazilian public aircraft of the Federal Direct Administration;

b) aircraft on an experimental or instruction flight;

c) aircraft in return flight for technical or meteorological reasons;

d) foreign military or public aircraft, when complying with reciprocity of treatment.

III – Stay Fee

a) military aircraft and Brazilian public aircraft of the Federal Direct Administration;

b) foreign military and public aircraft, when complying with treatment reciprocity;

c) other aircraft:

1 - for meteorological reasons, for the term of the impediment;

2 – in the event of an accident, for the duration of the accident investigation;

3 – in case of parking in areas leased by the aircraft owner or operator.

IV – Storage Fee: (Wording given by Decree Law No. 2.060, of 1983)

a) – goods and materials destined to private or public entities of the Direct or Indirect Administration, when special circumstances created by the Federal Government occur, for reasons independent of the recipients' will; for a period of less than thirty days and by means of a concessive order of the exemption of the Minister of Air Force; (Wording given by Decree Law No. 2.060, of 1983)

b) – goods and materials destined to services necessary for national security or due to a proven requirement for the common good; for a period of less than thirty days and upon a concessive order of exemption from the Minister of Air Force. (Wording given by Decree Law No. 2.060, of 1983)

V – of the Connection Fee, the owner or operator of the aircraft that transports: (Included by Law No. 12.648, of 2012)

a) passengers of military aircraft and Brazilian public aircraft of the direct federal administration; (Included by Law No. 12.648, of 2012)

b) passengers of aircraft on a return flight, for technical or meteorological reasons or, in the event of an accident, when re-boarding; (Included by Law No. 12.648, of 2012)

c) passengers under 2 (two) years of age; (Included by Law No. 12.648, of 2012)

d) civil aviation inspectors, when exercising their functions; (Included by Law No. 12.648, of 2012)

e) passengers of foreign military or public aircraft, when complying with treatment reciprocity; (Included by Law No. 12.648, of 2012)

f) passengers, when invited by the Brazilian Government. (Included by Law No. 12.648, of 2012)

§ 1 – The goods and materials for services necessary for national security or due to a proven requirement for the common good may be exempt from paying the Foreman Fee; for a period of less than thirty days and upon an exemption-granting order by the Minister of Air Force. (Included by Decree Law No. 2.060, of 1983)

§ 2 – The order of the Minister of Air Force, an exemption-granting order, may refer to all or part of the amount corresponding to the fee amount. (Included by Decree Law No. 2.060, of 1983)

<u>Art. 8</u>

The use of facilities and services designed to support and make air navigation safe, provided by the Aeronautical Command, is subject to the payment of the following air navigation fees: (Wording given by Law No. 12.648, of 2012)

I – Fee for the Use of Communications and Aid to Air Navigation on the Route – due for the use of the set of facilities and services related to the control of the flights on the route, in accordance with the specific rules of the Aeronautical Command; (Included by Law No. 12.648, of 2012)

II – Fee for the Use of Communications and Radio-Aids to Air Navigation in the Approach Control Area – due for the use of the set of facilities and services related to the approach control, in accordance with the specific rules of the Aeronautical Command; (Included by Law No. 12.648, of 2012)

III – Fee for the Use of Communications and Radio-Aids to Air Navigation in an Airdrome Control Area – due for the use of the set of facilities and services related to airdrome control or airdrome flight information services, in accordance with specific rules of the Aeronautical Command. (Included by Law No. 12.648, of 2012) § 1 Services referred to in the caption may, at the discretion of the Aeronautical Command, be provided by other agencies and public and private entities. (Included by Law No. 12.648, of 2012)

 \S 2 The fees set forth in this article will be charged on the owner or operator of the aircraft. (Included by Law No. 12.648, of 2012)

§ 3 The fees set forth in this Article shall be adopted by the Aeronautical Commander, after approval by the Minister of State for Defense and the National Civil Aviation Agency, for general application throughout the country. (Included by Law No. 12.648, of 2012)

§ 4 It is incumbent upon the Aeronautical Commander, under the terms of § 3 of this article, to readjust the fees referred to in this article annually up to the limit set forth by the Broad National Consumer Price Index (IPCA), or by another index that may replace it, and proceed, when appropriate, to its review. (Wording given by Law No. 13.903, 2019)

<u>Art. 9</u>

The delay in paying the fees provided for in art. 8 will give rise to the application of the sanctions provided for in art. 6. (Wording given by Law No. 12.648, of 2012)

<u>Art. 10.</u>

The following are exempt from paying the fees provided for in art. 8: (Wording given by Law No. 12.648, of 2012)

I – military aircraft and Brazilian public aircraft of the direct federal administration; (Wording given by Law No. 12.648, of 2012)

II – aircraft on an experimental or instruction flight; (Wording given by Law No. 12.648, of 2012)

III – return flight aircraft for technical or meteorological reasons; and (Wording given by Law No. 12.648, of 2012)

IV – foreign military and public aircraft, when complying with reciprocity of treatment. (Wording given by Law No. 12.648, of 2012)

<u>Art. 11.</u>

The proceeds from the collection of air navigation fees related to the use of the facilities and services provided by the Aeronautical Command will constitute revenue of the Aeronautical Fund. (Wording given by Law No. 13.903, 2019)

<u>Art. 12.</u>

The Executive Branch, within sixty days, will regulate this Law.

<u>Art. 13.</u>

This Law will come into force on the date of its publication; articles 6, 7, 8, the sole paragraph, of article 11, and paragraphs 1 and 2, of article 12, of Decree-Law No. 270, of February 28 1967, and Decree-Law No. 683, of July 15, 1969, and the other provisions to the contrary are revoked.

Brasília, December 26, 1973; 152nd year of Independence and 85th year of the Republic.

EMÍLIO G. MÉDICI

J. ARARIPE MACEDO

NATIONAL CIVIL AVIATION AGENCY – RESOLUTION No. 325 OF JUNE 10, 2014

Provides for updating the list of countries that have reciprocity of treatment in relation to the exemption from airport fees.

THE BOARD OF OFFICERS OF THE NA-TIONAL CIVIL AVIATION AGENCY – ANAC, in the exercise of the powers conferred by arts. 8, item XXV, and 34 of Law No. 11.182, of September 27, 2005, and arts. 4, item XXVI, and 11, item III, of Annex I to Decree No. 5.731, of March 20, 2006, and in compliance with the provisions of art. 7, items I, II, III and V, of Law 6.009, of December 28, 1973,

Considering that Law No. 6.009, of December 28, 1973, establishes the hypothesis of exemption of payment of airport fees in reciprocity to the treatment granted to Brazilian military and public civil aircraft;

Considering the need to publicize and keep updated the list of countries to which reciprocity of treatment is granted in relation to the exemption of airport fees; and

Considering the regulatory duties of the Superintendence of Economic Regulation and Market Monitoring related to the fee regulation of airport infrastructure,

RESOLVES:

<u>Art. 1</u>

The following are exempt from payment:

 I – of the Boarding Fee, passengers of foreign military or public aircraft, when complying with treatment reciprocity;

II – of the Landing and Stay Fee, foreign military or public aircraft, when complying with the reciprocity of treatment; and

III – of the Connection Fee, the owner or operator of the aircraft that transports passengers of foreign military or public aircraft, in compliance with the reciprocity of treatment.

<u>Art. 2</u>

To delegate to the Superintendency of Economic Regulation and Market Monitoring the competence to maintain and disclose the list of countries that grant exemption of airport fees due by Brazilian military and public civil aircraft in reciprocity of treatment with Brazil.

<u>Art. 3</u>

This Resolution enters into in force on the date of its publication.

MARCELO PACHECO DOS GUARANYS

Director-President

NATIONAL CIVIL AVIATION AGENCY – RESOLUTION No. 158 OF JULY 13, 2010

Provides for prior authorization for the construction of airdromes and their registration with ANAC.

THE CHAIRMAN OF THE NATIONAL CIVIL AVIATION AGENCY – ANAC, exercising the prerogative referred to in art. 6 of the Internal Regulation approved by Resolution No. 110, of September 15, 2009, as amended, and in view of the provisions of art. 8, items XXI and XXX, of Law No. 11.182, of September 27, 2005,

RESOLVES, AD REFERENDUM OF THE BOARD OF OFFICERS: (*)

<u>Art. 1</u>

Regulate the prior authorization for the construction of airdromes and the procedures for their registration with ANAC.

Sole paragraph. For the purposes of this Resolution, and in accordance with the provisions of arts. 27 and 30 of Law No. 7.565, of December 19, 1986, are considered as airdromes only areas registered with ANAC as intended for landing and take-off and movement of aircraft.

CHAPTER I

PRIOR AUTHORIZATION TO BUILD AIRDROME OR MODIFY ITS CHARACTERISTICS

<u>Art 2</u>

The construction of areas destined for landing and take-off and movement of aircraft and the modification of their characteristics depends on prior authorization from ANAC, required as a preparatory step for its registration as an airdrome and the respective update.

§1 The prior authorization for construction will be issued after delivery of a liability commitment signed by the interested party, by means of which he/she undertakes to meet the requirements and standards of operational safety and, when applicable, of civil aviation safety against unlawful interference acts.

§ 2 The authorization referred to in the caption of this article includes the initial construction, as well as any and all changes to the physical characteristics of the existing airdrome.

§ 3° Physical characteristics are those related to:

I – orientation, resistance, dimensions and types of floor, pitch, elevation and geographical coordinates of the airstrip;

II – location, configuration, dimensions, strength and floor types of taxiways and aircraft yards;

III – construction or expansion of buildings in the operational area of the airdromes. (Wording given by Resolution No. 484, of July 26, 2018)

IV – (Revoked by Resolution No. 484, of 7/26/2018)

§ 4 The preventive, corrective or predictive maintenance works of physical characteristics do not fall within the scope of said prior authorization.

§ 5 The model of the liability commitment mentioned in § 1 of this article and the deadline for analyzing the request will be specified in an act of the competent agency of ANAC and made available on the ANAC website on the world wide web.

§ 6 ANAC prior authorization is waived for changes to the physical characteristics of an existing airdrome provided for in the Airport Master Plan – PDIR approved or validated, and those resulting from the concession contract and those carried out in certified airdromes (Included by Resolution No. 484, of 7/26/2018)

§ 7 Changes to physical characteristics not subject to prior authorization from ANAC are not exempt from verifications, inspections and similar procedures carried out to check compliance with this or other standards, nor do they grant any airdrome the exemption from compliance with the rules of environmental licensing, land use and urban zoning, or issued by the Aeronautical Authority, such as those that require analysis of object projected in space (OPEA). (Wording given by Resolution No. 484, of July 26, 2018)

<u>Art. 3</u>

The prior authorization issued by ANAC does not meet the deliberation of other

public administration entities regarding compliance with the requirements for environmental licensing, land use and urban zoning, or compliance with the conditions imposed by the body responsible for the control of airspace.

<u>Art. 4</u>

The finding of irregularity or controversy about the construction that may affect the operational safety and security of civil aviation against unlawful interference acts will give rise to the request for prior authorization until the request is clarified or remedied.

 \S 1 In order to preserve the public interest or if it is found that the future airdrome or the new characteristics of the airdrome may affect the operation of other nearby airdromes, ANAC may request the opinion of the latter, or submit the prior authorization process to public hearing or consultation.

§ 2 Failure to comply, within thirty (30) days, with the presentation of the data, performance or documents requested from the interested party will imply the filing of the process.

<u>Art. 5</u>

At any time, ANAC may carry out inspections at the construction site or at the airdrome.

<u>Art. 6</u>

ANAC may communicate, to other bodies or entities of the federal, state, district or municipal areas, the existence of the work so that they exercise due supervision according to their competencies.

<u>Art. 7</u>

Ex officio, or due to information by other bodies or entities regarding irregularities in the work, prior authorization may be suspended, after information by the interested party within the period stipulated by ANAC.

<u>Art. 8</u>

The interested party must notify ANAC of the completion of the authorized work as a condition for registration or its update. Sole paragraph. The notice of completion of the work will be attached to the records of the process in which the request for prior authorization was decided.

CHAPTER II

AIRDROME REGISTRATION

SECTION I

THE NATURE AND PURPOSE OF THE REGISTER SERVICE

<u>Art. 9</u>

The airdrome register is maintained by the National Civil Aviation Agency – ANAC for registration of airdromes, facilities and equipment to assist air navigation to serve civil aviation.

§ 1 The airdrome registration in the register covers the processes of:

I – homologation, in the case of a public airdrome;

II – registration, in the case of a private airdrome.

§ 2 The register of airdromes maintained by ANAC is public and will be the only recognized source of information on airdromes subject to regulation and inspection by ANAC, without prejudice to the relevant technical publications in charge of the competent body of the Aeronautical Authority.

 \S 3 The registration of an airdrome does not meet the need for a grant for the operation of airport infrastructure, which will be the subject of a specific procedure.

<u>Art. 10.</u>

Every airdrome for civil aviation must be registered with ANAC. Art. 11. The purpose of registration is to:

I – the disclosure of data and characteristics in the publication of aeronautical information; and

II – the registration of characteristics for the collection of airport fees, specific prices and fees for the use of communications and aid to air navigation, without prejudice to the issuance of authorization by ANAC to initiate such collection.

§ 1 The opening to traffic is subject to verification, by ANAC, of the operational conditions of the airdrome and does not cover any verification by the airspace

control body, in matters within its competence.

§ 2 The opening of the airdrome to traffic, which is the object of an act of the competent agency of ANAC, will be valid and applicable to the operations of civil aircraft after the disclosure of the respective information in the aeronautical information service available on the internet – AIS WEB, or other information service that may replace or complement it. (Wording given by Resolution No. 484, of July 26, 2018)

SECTION II

REGISTRATION PROCEDURE

<u>Art. 12.</u>

The registration, or its update, will take place upon request by the interested party.

§ 1 The registration updating:

 I – change of data or information on physical or operational characteristics previously registered;

II – exclusion, with cancellation of the effects of the administrative act that authorized the registration.

§ 2 The registration request will be accompanied by the following documents:

 I – application for registration or updating of the registration;

II - registration form; and

III – proof of payment of the corresponding inspection fee.

§ 3 In the case of alteration of the airdrome registration that receives or has received a flight from aircraft governed by the Brazilian Civil Aviation Regulation 121 (RBAC 121) or a flight performed by holders of certificates for complementary operations of aircraft governed by the Brazilian Aeronautical Approval Regulation No 135 (RBHA No 135) in the one hundred and eighty (180) days prior to the request, the request must be accompanied by technical drawings that represent the previous configuration and the alteration to be registered.

§ 4 The registration or exclusion will be formalized through an administrative act published in summary in the Federal Official Gazette, with the necessary elements for its identification and with the data associated with the register published and made available on the ANAC website on the world wide web. \S 5 The changes in the register will be published and made available at the ANAC website on the world wide web.

§ 6 ANAC may remove de officio the airdrome from the register, in its own process.

Paragraph 7 The certified airdrome operators will request changes to the physical or operational characteristics through the procedure provided for in RBAC 139, being exempted from carrying out the procedure provided for in Paragraph 1, item I, of this article. (Included by Resolution No. 484, of 7/26/2018)

<u>Art. 13.</u>

Having verified the absence of documents or information necessary to file the supporting documents related to the register process or discrepancies between the reported physical and operational characteristics and the operational safety or civil aviation safety regulations against unlawful interference acts, ANAC may:

I – suspend the development of the process, until clarification;

II – continue the registration process, allowing the opening to traffic with operational restrictions; or

III – file the process.

Sole paragraph. In the event of item I, the interested party will be required to present the pending documentation or remedy the identified discrepancy, within a period to be established by ANAC.

<u>Art. 14.</u>

Registration and updating may be subject to inspection to validate the information submitted by the interested party.

§ 1 If, during the inspection, discrepancies are found between the physical and operational characteristics and the regulations for operational safety or civil aviation safety against unlawful interference acts, ANAC may:

I - file the registration request; or

II – make the registration and allow the opening to traffic with operational restrictions.

§ 2 The interested party will be notified to remedy the discrepancies within a period to be established by ANAC, under penalty of filing the process.

SECTION III

REGISTRATION MAINTENANCE

<u>Art. 15.</u>

The airdrome registration in the register is valid for ten (10) years after the administrative act of registration, and can be renewed for an equal period, and does not relieve the operator from the obligation to request updates in the event of changes in the airdrome characteristics.

 \S 1 The renewal of registration will be carried out at the request of the interested party to ANAC, in accordance with the provisions of art. 12, \S 2°.

§ 2 The administrative act that grants the request for renewal of registration will be published and made available on the ANAC website on the world wide web.

<u>Art. 16.</u>

In case ANAC does not receive the request for renewal of the registration at least sixty (60) days before its expiration, an aeronautical publication of warning to airmen (NOTAM) of suspension of airdrome activities as from that date will be provided.

<u>Art. 17.</u>

ANAC will, ex officio, delete the data from the register when:

I - the airdrome is closed for a period equal to or greater than six (6) months;

II – after one hundred and eighty (80) days from expiration of the register validity;

III – (Revoked by Resolution No. 484, of July 26, 2018)

 IV – risks to the operational safety or security of civil aviation against unlawful interference acts are identified; or

V – in the case of a private airdrome, conflicts with municipal, district, state and federal rules are reported, as well as those related to environmental agencies.

Sole paragraph. The term referred to in item I of the caption may be extended by decision under a specific administrative process promoted by the interested party at least sixty (60) days before the end of the term.

<u>Art. 17-A.</u>

The airdrome operator that performs construction, work or physical change without prior authorization from the civil aviation authority in cases where this Resolution imposes this requirement will incur the infractions provided for in the Exhibit – Table of Infractions. (Included by Resolution No. 484, of 7/26/2018)

CHAPTER III

TRANSITIONAL AND FINAL PROVISIONS

<u>Art. 18.</u>

Civil airdromes registered or homologated prior to the date of publication of this Resolution are exempted from requiring registration, without prejudice to administrative measures to verify and update the register information.

<u>Art. 19.</u>

This Resolution enters into force on the date of its publication.

<u>Art. 20.</u>

The following are revoked:

I – DAC Ordinance No. 247/DGAC, of June 29, 1990, published in the Official Gazette of August 13, 1990, Section 1, page 15331, which approved IAC 2328 – Instruction for construction concession and authorization, homologation, registration, operation, maintenance and operation of civil airdromes and Brazilian airports;

II – DAC Ordinance No. 766/DGAC, of September 24, 1997, published in the Official Gazette of October 17, 1997, Section 1, page 23518, which amended IAC 2328;

III – DAC Ordinance No. 277/DGAC, of April 1, 2004, published in the Federal Official Gazette of April 6, 2004, Section 1, which approved Amendment 2 of IAC 2328;

IV – DAC Ordinance No. 242/DGAC, of March 22, 2005, published in the Federal Official Gazette of May 30, 2005, Section 1, page 19, which approved Amendment 3 of IAC 2328; and

V – DAC Ordinance No. 1593/DGAC, of November 19, 2001, published in the Federal Official Gazette of December 21, 2001, Section 1, page 23, which approved IAC 4301 – Instruction for building authorization and registration of private airdromes.

SOLANGE PAIVA VIEIRA

Chief Executive Officer

(*) Resolution confirmed at Deliberative Meeting of the Board of Officers held on August 17, 2010.

[THE EXHIBIT TO THE RESOLUTION WAS DELETED FROM THIS VERSION]

NATIONAL CIVIL AVIATION AGENCY – RESOLUTION No. 181 OF JANUARY 25, 2011

Sets forth rules for designation of Brazilian international airports.

THE BOARD OF OFFICERS OF THE NA-TIONAL CIVIL AVIATION AGENCY – ANAC, in the exercise of the powers granted to it by arts. 8, item XXI, and 11, item V, of Law No. 11.182, of September 27, 2005, in view of the provisions of arts. 22 of Law 7.565, of December 19, 1986, and 10 of the International Civil Aviation Convention, published by Decree No. 21.713, of August 27, 1946, and by Decree No. 97.464, of January 20, 1989, and considering what was decided at the Board od Officers Deliberative Meeting held on January 25, 2011,

RESOLVES:

<u>Art. 1</u>

An international airport is considered to be one designated by ANAC as capable of handling international air traffic operations, thus understood as those in which customs, border police, public health, agricultural surveillance formalities and other requirements established in specific regulations complied with.

§ 1 For the purposes of this Resolution, an operation of international air traffic is considered to be the first landing made by an aircraft coming from abroad or the last take-off of an aircraft destined abroad.

§ 2 According to the satisfaction of the formalities referred to in the caption, the airport designated as international will be able to meet international air traffic operations during its entire period of operation or in restricted periods.

 \S 3 The period and conditions for meeting international air traffic operations mentioned in \S 2 must be specified in the airport designation act.

<u>Art. 2</u>

The airport designation as international is carried out by ANAC, upon request from the airport operator.

<u>Art. 3</u>

The application for designating an airport as international must contain:

I – information available on the type of service, origin, destination, time and frequency of the intended operations, and the type and configuration of the aircraft to be used;

 II – provision for service restrictions on international air traffic operations, if applicable, as provided in art. 1st, § 2nd;

III – administrative decision attesting the capacity to attend international air traffic operations at the airport and, if applicable, establishing conditions or restrictions for service, issued:

a) by the Federal Revenue Service of Brazil – RFB;

b) by the Federal Police DepartmentDPF;

c) by the National Health Surveillance Agency – ANVISA;

d) by the Agricultural Defense Secretariat of the Ministry of Agriculture, Livestock and Supply; and

e) by other authorities established in specific regulations;

IV – declaration by the airport operator attesting:

a) compliance with the conditions required by the border control authorities; and

b) compliance with ANAC regulations regarding civil aviation security against unlawful interference acts.

<u>Art. 4</u>

The cancellation of the airport designation as international will be carried out by ANAC:

I – upon request from the airport operator:

a) when of its interest; or

b) when the conditions specified in the documents referred to in items III and IV of art. 3 cannot be maintained;

II – ex officio:

a) when non-maintenance of the conditions specified in the documents of items III and IV of art. 3 are verified, which may be originated by correspondence from the aforementioned bodies and entities; or

b) when there is a public interest.

<u>Art. 5</u>

Within sixty (60) days from receipt of all documents necessary for the corresponding assessment, ANAC will issue a decision on the requirements filed by the airport operator and, when applicable, will request changes on the Integrated Aeronautical Information Documentation to the authority responsible for the airspace control.

Sole paragraph. Publication in the Integrated Aeronautical Information Documentation is a necessary condition for carrying out international air traffic operations at the airport.

<u>Art. 6</u>

ANAC will publish the list of Brazilian international airports and make it available on its website on the world wide web.

<u>Art. 7</u>

ANAC will inform the International Civil Aviation Organization of the relevant data on Brazilian international airports.

Sole paragraph. The provisions in the caption do not apply to airports designated as international for a specified period.

<u>Art. 8</u>

Airport operators that currently serve international air traffic will have a period of one hundred and eighty (180) days from the publication of this Resolution to submit requirements for the maintenance of its condition as an international airport, in accordance with the rules established in this Resolution.

Sole paragraph. Once the term mentioned in the caption has expired, the airport will be closed to international air traffic.

<u>Art. 9</u>

ANAC will make available, on its website on the world wide web, a standardized form to be used to present the requirements dealt with in this Resolution.

<u>Art. 10.</u>

The designation by ANAC of an airport as an international airport does not imply changes in its name.

Sole paragraph. The presence of the term "International" in the name of an airport without its being designated as such by ANAC does not give it the status of international.

<u>Art. 11.</u>

This Resolution enters into force on the date of its publication.

SOLANGE PAIVA VIEIRA

Chief Executive Officer

NATIONAL CIVIL AVIATION AGENCY – RESOLUTION No. 338 OF JULY 22, 2014

Regulates the procedure for allocating arrival and departure times at coordinated airports (slots) and provides for airports of interest.

THE BOARD OF DIRECTORS OF THE NA-TIONAL CIVIL AVIATION AGENCY – ANAC, in the exercise of the competence granted to it by art. 8, items XIX and XX, of Law n° 11182, dated September 27, 2005, and considering what is contained in process n° 60800.188236 / 2011-36, voted on and approved at the Deliberative Meeting of the Board of Directors held on July 22, 2014,

RESOLVES:

<u>Art. 1</u>

Regulate the allocation of arrival and departure times at coordinated airports and provide for airports of interest.

 $\S\ 1$ – The airports will be declared coordinated by ANAC, as provided in Chapter III of Title I of this Resolution.

§ 2 – The airports of interest are defined in Title II of this Resolution.

TITLE I

COORDINATED AIRPORTS

CHAPTER I

DEFINITIONS

<u>Art. 2</u>

For the purposes of this Resolution, it is considered:

I. coordinated airport: an airport whose saturation level compromises any of the critical airport components (runway, apron or terminal), whether in certain hours of the day, or days of the week, or periods of the year, as well as in other cases provided for in this Resolution, and which has been declared as such by ANAC;

II. initial allocation (SAL): allocation of series of slots for each air transport company for the season, after the processing of the initial submission, being disclosed until the limit date defined by the activities calendar; III. bank of slots: set of slots available for allocation to air transport companies and air operators in the season, after the allocation of the series of slots originating the history of slots and their changes (wording given by Resolution n° 487, dated August 22, 2018);

IV. reference base (BDR): database selected on defined dates by the calendar of activities and used as a reference to monitor the series of slots of each air transport company, aiming at determining the slot history;

V. base of slots in effect: set of slots in effect on a given day of operation of the season;

VI. activities calendar: calendar with all activities and deadlines related to the procedures of coordination and allocation of slots for the summer and winter seasons at the coordinated airports;

VII. International Slots Conference (SC): international forum organized by air transport companies in order to promote the meeting between these companies, airport coordinators and facilitators, aiming at optimizing the use of airport infrastructure, which take place twice a year, for the summer and winter seasons, on the dates and places provided for in the activities calendar (wording given by Resolution nº 487, dated August 22, 2018);

VIII. airport capacity: measure of the processing capacity of critical airport components (runway, apron or terminal), which may involve: people, aircrafts, luggage or cargo;

IX. National Slots Conference (SCB): complementary forum to the International Slots Conference held in Brazil and organized by ANAC with the objective of promoting the meeting with air transport companies, aiming at optimizing the use of the airport infrastructure of the coordinated airports and the airports of interest, which take place twice a year, for the summer and winter seasons, on the dates and places provided for in the activities calendar (wording given by Resolution nº 487, dated August 22, 2018);

X. time limit for returning slots (SRD): procedure provided for in the activities calendar according to which airlines have the possibility to return the slots they no longer intend to operate in the season, excluding the slots from the formation of the reference baseline;

XI. declaration of capacity: document issued by the airport operator and, where applicable, in agreement with the person responsible for airspace control, informing ANAC of the airport capacity for each season (wording given by Resolution n^o 487, dated August 22, 2018);

XII. active airline: air transport company whose number of slots allocated per day, after processing a requested series of slots at a coordinated airport, added to the number of slots of the companies of the same economic group, is greater than five slots;

XIII. incoming airline: air transport company whose number of slots allocated per day, after processing a requested series of slots at a coordinated airport, added to the number of slots of companies in the same economic group, is equal to or less than 5 (five) slots (wording given by Resolution n^o 487, dated August 22, 2018);

XIV. economic group: the economic group comprises the air transport company, its parent companies, subsidiaries and affiliates, as well as the subsidiaries and affiliates of the parent companies and subsidiaries of the air transport companies (wording given by Resolution n^o 487, dated August 22, 2018);

XV. history of slots: series of slots of an air transport company allocated on the basis of reference of the previous equivalent season that will have priority in the initial allocation (SAL) of the next equivalent season (wording given by Resolution n° 487, dated August 22, 2018);

XVI. slot history list (SHL): list of slot histories to which the air transport

company has priority in the initial allocation for the season, being released by the limit date defined by the activities calendar;

XVI. A – misuse of the slot: inadequate use of the airport infrastructure of a coordinated airport by an air operation carried out without the previous allocation of the slot, by an air operation carried out in disagreement with the characteristics of the allocated slot, or for maintaining an allocated slot, or for maintaining an allocated slot with no intention to operate (included by Resolution n° 487, dated August 22, 2018);

XVII. coordination parameters (parameters): expression, in operational terms, of all the declared capacity of allocation of slots at an airport during each coordination period, taking into account all technical, operational and environmental factors which affect the performance of the airport infrastructure and its various subsystems;

XVIII. (Revoked by Resolution n° 487, dated August 22, 2018)

XVIII. A – publication of data on air operations (PDO): information on all air operations carried out and canceled at a coordinated airport made available by the airport operator, and for the purpose of monitoring the use of allocated slots, it is taken into consideration the time when the aircraft arrives at or leaves the terminal, characterized by chocks on and chocks off, respectively (included by Resolution n° 487, dated August 22, 2018);

XIX. - series of slots: set of at least 5 (five) slots allocated to the same air transport company in consecutive weeks, on the same day of the week, at the same time (wording given by Resolution n° 487, dated August 22, 2018);

XX. slot: is the arrival or departure time allocated for the movement of an aircraft on a specific date at a coordinated airport, and for planning purposes, it is taken into consideration the time at which the aircraft arrives or leaves the terminal, characterized by chocks on and chocks off, respectively;

XXI. initial submission (ISD): request for series of slots carried out by air transport companies for one season until the limit date defined by the activities calendar; XXII. seasons: periods of coordination, allocation and operation of the slots, defined in two seasons per year, summer and winter (referring to seasons in the northern hemisphere). These season periods respect the schedule defined by the activities calendar. Equivalent seasons refer to 2 (two) consecutive summer seasons or 2 (two) consecutive winter seasons. Subsequent seasons refer to the continuation of different seasons, whether summer and winter of the same year, or winter of one year and summer of the next; and

XXIII. validation of the slot history list (AHD): phase of validation of the slot history list after the evaluation of any reconsideration requests made by air transport companies (wording given by Resolution n° 487, dated August 22, 2018).

CHAPTER II

THE PRINCIPLES OF SLOT COORDINATION

<u>Art. 3</u>

The activity of slot allocation and coordination at coordinated airports should be performed independently and with the objective of minimizing the effects of saturation of airport and aeronautical infrastructure, observing the principles of transparency, non-discrimination, impartiality and efficient use of the declared airport capacity, and should also (wording given by Resolution n° 487, dated August 22, 2018):

 I – ensure compliance with the deadlines established in the activities calendar and those provided for in this Resolution;

II – respond reasonably, and in a timely manner, to all requests for slots;

III – respect the parameters of declaration of capacity of the airport;

 IV – monitor the use of allocated slots at coordinated airports; and (wording given by Resolution n° 487, dated August 22, 2018)

V -publicize the activities of slots coordination and allocation. (included by Resolution n° 487, dated August 22, 2018)

 \S 1 – The competent Superintendency will designate the team responsible for activities of slot coordination and allocation.

§ 2 – The competent Superintendency will publish a specific Ordinance containing ancillary procedures to the coordination process of airports.

 \S 3 – The activity provided for in the caput must be based on technical decisions inherent to the process of slot coordination and allocation.

<u>Art. 4</u>

In the activity of slot coordination and allocation, the best practices adopted internationally must be observed.

CHAPTER III

DECLARATION OF COORDINATED AIRPORT

<u>Art. 5</u>

In such cases where the saturation level of a given airport compromises the use of one of the critical airport components (runway, apron or terminal), either at certain times of the day, days of the week, or periods of the year, ANAC may declare it coordinated, pursuant to the terms of this Resolution.

<u>Art. 6</u>

The declaration of coordinated airport will be issued by an act of the ANAC Board of Directors in any of the following circumstances:

I – the airport capacity limitations are severe to the point of restricting access or causing significant delays at the airport due to the high level of saturation, without the possibility of solving the problem in the short term (wording given by Resolution n° 487, dated August 22, 2018);

II – if a behavior is identified on the part of air transport companies, air operators or airport operator, or a measure is applied by the person responsible for airspace control, which is restricting access to the airport or compromising the optimization of the use of the airport infrastructure (wording given by Resolution n° 487, dated August 22, 2018);

III - emergency situation;

IV- fortuitous event or force majeure; or

V - public interest.

§ 1 – The declaration of coordinated airport will last as long as the situation which originated it remains in force, and its cancellation will depend on the express manifestation of ANAC. \S 2 – The declaration of coordinated airport must be published in accordance with the activities calendar, except for the reasons mentioned in items III, IV and V of this article.

<u>Art. 7</u>

The declaration of coordinated airport may be motivated by ANAC or upon reasoned request from:

I – the air transport companies, or air operators operating at the airport or having the intention to do so (wording given by Resolution n° 487, dated August 22, 2018);

II - the airport operator; or

III - the person responsible for air-space control.

Sole paragraph. It is up to ANAC to judge the pertinence of declaring an airport as coordinated.

<u>Art. 8</u>

The declaration of a coordinated airport must contain the following information and coordination parameters:

I – name of the airport;

II - reason of coordination;

III – period, days of the week and times to be coordinated;

IV – types of air services which should request slots;

V - types of air services that are eligible for constitution of series of slots;

VI – operating limitations , related to technical aspects;

VII – regularity goal for assessing the efficiency in the use of series of slots at the airport (wording given by Resolution n° 487, dated August 22, 2018);

VII-A – tolerated deviation in relation to the slot time allocated to assess the punctuality of arrivals and departures at the airport (included by Resolution n° 487, dated August 22, 2018); and

VII – percentage of the bank of slots that will initially be distributed to airlines companies entering the airport;

§ 1 – The definition of coordination parameters will be individually established for each coordinated airport. § 2 – The parameter mentioned in item VIII of the caput must be set at a minimum of 50% (fifty percent).

§ 3 – The parameters for regularity goal and tolerated deviation, mentioned in items VII and VII-A of the caput, must be set at values not inferior to 80% (eighty percent) and 15 (fifteen) minutes, respectively (wording given by Resolution n° 487, dated August 22, 2018).

§ 4 – If the benefit for the use of the airport infrastructure is technically proven, ANAC may define in the declaration of coordinated airport values higher than those provided for in this Resolution, regarding the criteria:

I – number of slots allocated per day, per air transport company, to be considered an incoming airline at the airport;

II – minimum number of slots to be considered a series of slots at the airport; and

III – (Revoked by Resolution n° 487, dated August 22, 2018)

CHAPTER IV

DECLARATION OF CAPACITY OF COORDINATED AIRPORT

<u>Art. 9</u>

The airport operator is responsible for declaring the airport capacity of the coordinated airport in relation to components of runaway, apron and terminal, pursuant to specific regulations, and must comply with the deadlines established in the activities calendar (wording given by Resolution n° 487, dated August 22, 2018).

§ 1 – The operational capacity of the runaway and respective allocation rules must be established in agreement with the person responsible for the control of airspace (wording given by Resolution n° 487, dated August 22, 2018).

 \S 2 – In the preparation of the declaration of capacity of the coordinated airport, the airport operator may take into account the suggestions and agreements made with all sectors involved in the airport>s dynamics, seeking to improve its operational efficiency (wording given by Resolution n° 487, dated August 22, 2018).

<u>Art. 10</u>

The declaration of capacity of coordinated airport for summer and winter seasons will be published by ANAC pursuant to deadlines defined in the activities calendar.

CHAPTER V

COORDINATION PROCESS AND SLOT ALLOCATION

<u>Art. 11</u>

The coordination process for slot allocation should follow the stages provided for in the Sections of this Chapter:

I - publication of the activities calendar;

II- first coordination stage, which comprises the following phases:

a) disclosure of the slot history list (SHL);

b) validation of the slot history list (AHD); (wording given by Resolution n^{o} 487, dated August 22, 2018)

c) initial submission (ISD);

d) initial allocation (SAL);

e) International slot conference (SC);

f) deadline for the return of slots (SRD);

g) National Slots Conference (SCB); and

h) definition of the reference base (BDR).

III - second stage of coordination; and

IV - third stage of coordination.

Sole paragraph. For any slot allocation, the declaration of capacity of the airport must be respected in all stages of the coordination process.

SECTION I

PUBLICATION OF THE ACTIVITIES CALENDAR

<u>Art. 12</u>

The coordination process begins with the publication of the activities calendar containing the deadlines related to the procedures of slot allocation for the season.

SECTION II

FIRST STAGE OF COORDINATION

<u>Art. 13</u>

The first stage of coordination aims at defining the reference base (BDR) that will be used to monitor the use of the slots allocated at the coordinated airport, in order to identify the slot histories that will be used in the next equivalent season (wording given by Resolution n^o 487, dated August 22, 2018).

<u>Art. 14</u>

In the first stage of coordination, only requests that constitute series of slots will be processed.

Sole paragraph. Requests which do not constitute a series of slots will only be allocated after determining the reference base (BDR).

<u>Art. 15</u>

Only companies operating the service modalities specified in item V of art.8 of this Resolution may request slot series (wording given by Resolution n° 487, dated August 22, 2018).

SUBSECTION I

DISCLOSURE OF THE SLOT HISTORY LIST (SHL)

<u>Art. 16</u>

Within the period indicated in the activities calendar, the slot history list (SHL) will be released, which is the list of series of slots to which the air transport company has priority in the initial allocation (SAL).

SUBSECTION II

VALIDATION OF THE SLOT HISTORY LIST (AHD)

(wording given by Resolution nº 487, dated August 22, 2018)

<u>Art. 17</u>

In case of disagreement as to the result contained in the slot history list (SHL), air transport companies may request reconsideration of the term established in the activities calendar.

<u>Art. 18</u>

After the term mentioned in art. 17 of this Resolution, the slot history list (AHD) will be validated, disclosure of which will take place until the date established in the activities calendar (wording given by Resolution n° 487, dated August 22, 2018).

SUBSECTION III

INITIAL SUBMISSION (ISD)

<u>Art. 19</u>

After the validation step of the slot history list (AHD), the initial submission (ISD) will take place, in which air transport companies must proceed with the request of all series of slots that they intend to operate in the season (wording given by Resolution nº 487, dated August 22, 2018).

Sole paragraph. If the airline that has a slot history fails to submit its schedule until the initial submission deadline (ISD), it can compete for the season only through the slot bank after the respective International Slot Conference (SC), according to analysis available airport capacity (wording given by Resolution n° 487, dated August 22, 2018).

SUBSECTION IV

INITIAL ALLOCATION (SAL)

<u>Art. 20</u>

After the initial submission period (ISD) has elapsed, the series of slots requested by the air transport companies will be processed and the initial allocation (SAL) will proceed.

<u>Art. 21</u>

The initial slot allocation (SAL) for each season will observe the following order of priority:

I - slot history;

II – change in the slot history; and

III – new requests for slots (slots bank).

<u>Art. 22</u>

New requests for slots will be allocated in the following order:

I – continuation of the previous subsequent season; and

II - new operation;

§ 1 – Initially, slots will be allocated to incoming airlines, up to the limit defined by the declaration of coordinated airport.

 \S 2 – The remaining slots will be allocated to incoming and active airlines, pursuant to the order of priority defined in the caput.

§ 3 – During the allocation of new requests for slots (slot bank), if the number of requests of series of slots exceeds the total number of slots available in the slot bank, slot allocation will be equal among all requesting air transport companies (wording given by Resolution n° 487, dated August 22, 2018).

<u>Art. 23</u>

They following criteria apply secondarily to the provisions of arts. 21 and 22 of this Resolution in the event of a tie or conflict in slot allocation, in the following order of priority:

I - regular air passenger service:

a) greater series of slots (period of operation);

b) largest aircraft (number of seats);

c) higher rate of total operational efficiency (EOsT) in the previous equivalent season.

II - regular air cargo service:

a) greater series of slots (period of operation);

b) larger aircraft (cargo carried);

c) higher rate of total operational efficiency (EOsT) in the previous equivalent season.

III- other operations.

SUBSECTION V

INTERNATIONAL SLOTS CONFERENCE (SC)

<u>Art. 24</u>

After the initial allocation (SAL) has been made, interested air transport companies are allowed to participate in the International Slots Conference (SC), in which it is possible to make adjustments to the slots allocated at coordinated airports and flight schedules at airports of interest (wording given by Resolution n° 487, dated August 22, 2018).

SUBSECTION VI

DEADLINE FOR RETURNING SLOTS (SRD)

<u>Art. 25</u>

After processing all messages in the initial allocation (SAL), air transport companies will be able to return, until the limit date defined in the activities calendar, the return of slots that will not be operated during the season, so that they are not considered in the base of reference.

Sole paragraph. If the return of slots de-characterizes the series of slots, the loss of all slots of the series may be de-termined.

SUBSECTION VII

NATIONAL SLOTS CONFERENCE (SCB)

<u>Art. 26</u>

After the deadline for returning slots (SRD), ANAC will hold the National Slots Conference (SCB), when it will be possible to make adjustments to the slots at local level.

SUBSECTION VIII

DEFINITION OF THE REFERENCE BASE (BDR)

<u>Art. 27</u>

The reference base (BDR) for each season will be defined according to dates set in the activities calendar.

Sole paragraph. The reference base (BDR) will be used to monitor the series of slots of each airline, with the purpose of establishing the slot history for the next equivalent season.

SECTION III

SECOND STAGE OF COORDINATION

<u>Art. 28</u>

The second stage of coordination aims at processing requests that do not constitute a series of slots, starting after the definition of the reference base (BDR) and ending with the beginning of operations of the season.

 \S 1 – In this stage, new orders or changes to slots, including series of slots, will be admitted (wording given by Resolution n° 487, dated August 22, 2018).

§ 2 – It is possible, upon request of the air transport company, to change the reference base (BDR) established in the first stage of coordination, as long as the airport capacity is respected (included by Resolution n^{o} 487, dated August 22, 2018).

SECTION IV

THIRD STAGE OF COORDINATION

<u>Art. 29</u>

The third stage of coordination involves monitoring the use of allocated slots and corresponds to the period between the first and the last day of operations of the season (wording given by Resolution n° 487, dated August 22, 2018).

Sole paragraph. New requests or changes to slots (including series of slots) will be allowed, without changing the reference base (BDR) established in the first coordination stage.

SECTION V

GENERAL PROVISIONS

<u>Art. 30</u>

Air transport companies and air operators may request slots at coordinated airports, subject to the terms of the declaration of coordinated airport (wording given by Resolution nº 487, dated August 22, 2018).

<u>Art. 31</u>

The slot is not part of the estate of the air transport company or the air operator and it represents the temporary use of the airport infrastructure, and its commercialization or assignment, free or at a cost, is prohibited (wording given by Resolution n° 487, dated August 22, 2018).

§ 1 – The free assignment of slots between air transport companies belonging to the same economic group is allowed, as long as the airport capacity is respected (wording given by Resolution n° 487, dated August 22, 2018).

 \S 2 – The assignment of slots between air transport companies that are not from the same economic group will be invalidated and all slots involved in the assignment will be returned to the slot bank (wording given by Resolution n^o 487, dated August 22, 2018).

§ 3 – The air transport companies must inform ANAC when they form an economic group until the deadline for initial submission (ISD) to guarantee its effects in the season (wording given by Resolution n° 487, dated August 22, 2018).

<u>Art. 32</u>

The exchange of slots between air transport companies is permitted, provided that they are carried out in an equivalent number, upon validation by ANAC, which will evaluate the characteristics of each operation and the airport capacity declared for the airport (wording given by Resolution n^o 487, dated August 22, 2018);

§ 1 – The exchange of slots between different air transport companies may be canceled if one of them ceases to operate the slot after the exchange has been made, except when the exchange occurs between air transport companies belonging to the same economic group (wording given by Resolution n° 487, dated August 22, 2018).

 \S 2 – The exchange of slots that have been allocated to an incoming airline is prohibited, except:

 I – if the operation of series of slots has obtained a slot history for 2 (two) equivalent seasons (wording given by Resolution nº 487, dated August 22, 2018); II – if both air transport companies are considered as incoming airlines in the allocation of the series of slots (wording given by Resolution n° 487, dated August 22, 2018);

III – if the alteration benefits the airport infrastructure, at the discretion, duly substantiated, of the team designated as responsible for the activities of slot coordination and allocation.

<u>Art. 33</u>

The following operations are independent from slot allocation:

I - emergency, salvage or rescue (SAR);

II – air medical transport or transport of vital organs for human transplantation;

III – military;

IV – transportation of the Head of State or Government; and

V – unpaid operations, for the sole benefit of the air transport company, when previously agreed with the responsible for the airspace control and the airport operator (included by Resolution n° 487, dated August 22, 2018).

Sole paragraph. For the purpose provided for in item V of the caput, air operations that, in a flight stage immediately before or after, carry out a regular service of air transport service are not included (included by Resolution nº 487, dated August 22, 2018).

<u>Art. 34</u>

The slots will be allocated in minutes multiple of 5 (five).

<u>Art. 35</u>

In the event of an airport capacity reduction at a coordinated airport rendering it impossible to allocate all requested slot histories, the rules of priority will be applied according to this Resolution and its procedure will be established by a specific Ordinance of the competent Superintendency, according to objective and well-founded criteria (wording given by Resolution n° 487, dated August 22, 2018).

§ 1 – The Ordinance mentioned in the caput must be published until the limit date for the disclosure of the declaration of the airport capacity for the season (wording given by Resolution n° 487, dated August 22, 2018).

§ 2 – Upon occurrence of the events mentioned in art. 6, items III and IV, of this Resolution, the procedures of reduction of airport capacity at the airport may be applied at any time, according to the rules established in the Ordinance mentioned in the caput (wording given by Resolution n° 487, dated August 22, 2018).

<u>Art. 36</u>

(Revoked by Resolution n° 487, dated August 22, 2018)

<u>Art. 37</u>

For the first slot allocation after the declaration of an airport as coordinated, under the rules of this Resolution, the slot history will be obtained from the current database of the regular flights registered with ANAC for the respective airport.

CHAPTER VI

MONITORING THE USE OF ALLOCATED SLOTS

(wording given by Resolution nº 487, dated August 22, 2018)

<u>Art. 38</u>

The monitoring of the use of the slots allocated in each season will be carried out for the purposes of determining the history of slots and determining the misuse of the slot, using (wording given by Resolution n° 487, dated August 22, 2018):

I -the reference base (BDR) (wording given by Resolution nº 487, dated 22, 2018);

II – the current slots base (wording given by Resolution n° 487, dated 22, 2018);

III – the publication of data on a.ir operations (PDO (included by Resolution n° 487, dated August 22, 2018)); and

IV – the parameters of coordination of the declaration of the coordinated airport (included by Resolution n° 487, dated 22, 2018).

§ 1 – (Revoked by Resolution nº 487, dated August 22, 2018)

§ 2 – The series of slots allocated in the reference base (BDR) will be considered for the purposes of determining the slot history.

§ 3 – The monitoring of the use of allocated slots will be made for each coordinated airport (wording given by Resolution n° 487, dated 22, 2018). § 4 – The slots allocated on the basis of current slots will be considered for the purposes of determining the misuse of the slot (included by Resolution n° 487, dated 22, 2018).

<u>Art. 38-A</u>

The monitoring of the use of the slots allocated in each season will assess occurrences involving (included by Resolution n^{o} 487, dated 22, 2018):

I-air operations carried out without previous slot allocation (included by Resolution $n^{\rm o}$ 487, dated 22, 2018);

II – air operations carried out in disagreement with the characteristics of the slot allocated on the basis of current slots (included by Resolution n° 487, dated 22, 2018);

III – canceled air operations and slots (included by Resolution n° 487, dated 22, 2018).

§ 1 – Air operations carried out with different equipment category or with deviation in relation to the allocated slot time will be considered for the purposes provided for in item II of the caput (included by Resolution n° 487, dated 22, 2018).

§ 2 – If necessary, to collaborate with the clarification of facts related to these occurrences, information available in other databases of ANAC, from another airport operator, from the person responsible for the control of air space, from other bodies or public entities or from other databases may be used secondarily (included by Resolution n° 487, dated 22, 2018).

<u>Art. 38-B</u>

The occurrences caused by situations outside the management capacity of the air transport company will not be penalized in the calculation of the rate of regularity, provided they are informed according to procedures of the specific ordinance established by § 2 of art. 3 of this Resolution (included by Resolution n° 487, dated 22, 2018).

§ 1 – The occurrences caused by adverse weather conditions, due to the action or omission of the airport operator, by a measure established by the person responsible for the airspace control, or by abnormality in the activity of other public bodies or entities, as long as they are directly related to the provision of the air transport service, will be considered outside of the management capacity of the air transport company (included by Resolution n° 487, dated 22, 2018). § 2 – The occurrences caused by the action or omission of the employees or service providers of the air transport companies, due to unavailability of crew, aircraft, equipment, systems, or other elements intrinsic to the provision of air transport services are not considered outside the management capacity of the air transport company (included by Resolution n° 487, dated 22, 2018).

Art. 38-C

The verification of the misuse of the slot will be carried out in any type of occurrence, including those resulting from situations outside the management capacity of the air transport company, in order to assist in the determination of what may be considered as intentionality. (included by Resolution n^o 487, dated 22, 2018)

<u>Art. 39</u>

The rate of regularity of series of slots (IRs) is calculated by dividing the number of slots used by the number of slots allocated in the reference base (BDR) of that series of slots, deducting the slots returned until the limit date for returning slots (SRD) (wording given by Resolution n° 487, dated 22, 2018).

IRs =Number of Slots Used / Number of Slots Allocated in the BDR (%)

 \S 1 – The rate of regularity will be calculated for each series of slots for the purpose of determining the slot history (included by Resolution n^o 487, dated 22, 2018).

§ 2 – Air operations carried out with a deviation greater than 24 (twenty-four) hours from the time allocated on the basis of current slots may be penalized in the calculation of the rate of regularity, subject to the provisions of art. 38-B of this Resolution (included by Resolution n° 487, dated 22, 2018).

<u>Art. 40</u>

(Revoked by Resolution nº 487, dated 22, 2018)

<u>Art. 41</u>

The total operational efficiency rate (EOsT) is the average of the regularity rates of the series of slots (IRs), calculated by dividing the sum of the IRs by the amount of series of slots allocated in the reference base (BDR). (wording given by Resolution n° 487, dated 22, 2018)

 $EOsT = -\sum IRs / Slots Serial Number (%)$

Sole paragraph. The ranking of air transport companies will be obtained by decreasing order of EOsT for each season and will be used as a tiebreaker in the allocation of slots for the next equivalent season, according to art. 23 of this Resolution (included by Resolution n° 487, dated 22, 2018).

<u>Art. 42</u>

(Revoked by Resolution nº 487, dated 22, 2018)

<u>Art. 43</u>

The air transport company will not obtain the slot history for the next equivalent season upon the occurrence of any of the following cases:

I – operation below the minimum of the regularity goal;

II – if there is intentional misuse of the allocated slots (wording given by Resolution n° 487, dated 22, 2018);

III – loss of the concession to operate air services (wording given by Resolution n° 487, dated 22, 2018); or

IV – in case it is verified, later, that the air transport company did not have a slots history or was not eligible for slots history.

 \S 1 – The series of slots that do not generate history of slots in the season will be transferred to the slots bank of the next equivalent season.

§ 2 – For the purpose provided for in item II of the caput, the intentional misuse of the slot is characterized when the air transport company fails to take the necessary measures to correct non-conformity (s) previously notified by ANAC (wording given by Resolution n° 487, dated 22, 2018).

§ 3 – In the case of foreign non-regular air transport companies, the operating licenses issued in the respective countries of origin will be considered for the purpose provided for in item III of the caput (included by Resolution n^o 487, dated 22, 2018).

<u>Art. 44</u>

The air transport company or the air operator may lose the slots or series of slots during the third stage of coordination in the event of any of the following cases: (wording given by Resolution n° 487, of 22.08.2018)

 I – operation below the minimum of the regularity goal;

II – loss or suspension of the concession to operate air services (wording given by Resolution nº 487, dated 22, 2018);

III- if it is subsequently found that the air transport company did not have a slot history or was not eligible for slot history;

IV – in case the pending matters reported during the slot allocation process are not resolved until the slot operation date or the beginning of the slot series (wording given by Resolution n° 487, dated 22, 2018); or

V – if the air transport company returns the slots in order to de-characterize a series of slots.

§ 1 – All slots resulting from the application of the rules of this article will be transferred to the slot bank of the season, besides not generating a slot history for the next equivalent season.

§ 2 – For the purposes provided for in item I of the caput, the loss of the series of slots will occur as soon as it is verified that the air transport company is unable to comply with the regularity goal until the end of the season, only for cases in which the air service related to the allocated slot series has not started.

§ 3 – In the case of foreign non-regular air transport companies, operating licenses issued in the respective countries of origin will be considered for the purposes provided for in item II of the caput.

CHAPTER VI-A

PUBLISHING DATA ON AIR OPERATIONS IN COORDINATED AIRPORTS

(included by Resolution n° 487, dated 22, 2018)

<u>Art. 44-A</u>

The airport operator is responsible for publishing data on air operations (PDO) and must comply with the procedures and deadlines established in the specific ordinance determined by § 2 of art. 3 of this Resolution (included by Resolution n° 487, dated 22, 2018).

Sole paragraph. When consolidating data on air operations carried out and canceled, the airport operator will use information provided by the air transport companies and air operators, in a timely manner, seeking to reconcile data and

improve information quality (included by Resolution nº 487, dated 22, 2018).

CHAPTER VII

VIOLATIONS AND ADMINISTRATIVE PROVISIONS

(wording given by Resolution nº 487, dated 22, 2018)

<u>Art. 45</u>

The air transport company or air operator that intentionally maintains a slot allocated on the basis of existing slots with no intention of operation is considered a violation of this rule (wording given by Resolution n° 487, dated 22, 2018).

6 l – (Revoked by Resolution n° 487, 8/22/2018)

§ 2 – In the establishment of this violation, each slot will be considered individually.

<u>Art. 46</u>

The air transport company or air operator that intentionally carries out air operations in disagreement with the characteristics of the slot allocated on the basis of current slots is considered a violation of this rule (wording given by Resolution n° 487, dated 22, 2018).

§ 1 – For the purposes provided for in the caput, it will be considered the air operation performed with a different category of equipment or with a deviation from the allocated slot time (wording given by Resolution n^o 487, dated 22, 2018).

§ 2 – In the establishment of this violation, each air operation shall be considered individually.

<u>Art. 47</u>

The air transport company or air operator that intentionally carries out air operation without prior allocation of slot on the basis of current slots is considered a violation of this rule (wording given by Resolution n^o 487, dated 22, 2018).

Sole paragraph. In the establishment of this violation, each air operation will be considered individually.

<u>Art. 47-A</u>

The non-compliance with the obligations listed in this Title by the operator of the coordinated airport represents a violation of the rule (included by Resolution n° 487, dated 22, 2018).

<u>Art. 48</u>

The administrative measures against the violations described in this Chapter will be applied pursuant to the rules established by ANAC for the performance of its inspection activities (wording given by Resolution n° 487, dated 22, 2018).

§ 1 – For the purpose of the provision in the caput, a fine is imposed as a sanctioning administrative measure, in Brazilian reais (R\$), with respective mitigating and aggravating factors, pursuant to the Annex to this Resolution (included by Resolution n° 487, dated 22, 2018).

§ 2 – In the case of violations committed by an air transport company, the administrative measures provided for in the current regulation apply, regardless of the failure to obtain the slot history resulting from the monitoring (included by Resolution n^o 487, dated 22, 2018).

<u>Art. 49</u>

While determining the value of the fines applied as a result of the determination of violations of the provisions of this Resolution, the following criteria will be taken into account:

I – risk to the safety of operations or civil aviation;

II - number of passengers affected;

III – degree of impact on the planning and operation of airport infrastructure; and

IV -size of the economic agent.

CHAPTER VIII

TRANSITIONAL PROVISIONS

<u>Art. 50</u>

The calculations of the stipulated rates and the application of all established mechanisms will start as of the season following the publication of this Resolution.

TITLE II

AIRPORTS OF INTEREST

<u>Art. 51</u>

For the purposes provided for in this Title, airports of interest are those considered relevant for civil aviation, as defined in the Decree of the competent Superintendency.

<u>Art. 52</u>

The declaration of airports of interest will take into account the following criteria, among others:

 I – high levels of use of airport components (runway, apron or terminal), which still do not justify their declaration as a coordinated airport;

II – planning failures in the allocation of the available infrastructure;

III - connectivity with other airports in the network; or

IV - public interest.

<u>Art. 53</u>

The inclusion of an airport in the list of airports of interest may be made by an official communication of ANAC or upon reasoned request:

 ${\sf I}$ – the air transport companies or air operators operating at the airport or which have the intention to do so (wording given by Resolution n° 487, dated 22, 2018);

II - the airport operator; or

III - the person responsible for the airspace control.

Sole paragraph. It is up to ANAC to judge the pertinence of declaring an airport as an airport of interest (wording given by Resolution n° 487, dated 22, 2018).

<u>Art. 54</u>

The operator of the airport of interest must plan and execute the allocation of flight schedule, being responsible for:

 I – respecting the schedule of activities defined by ANAC for coordinated airports;

II – proceed with the allocation, respecting the steps provided for in art. 11, item II, of this Resolution, allowing participation in the stages provided for in points "a", "b", "e", "g" and "h" (wording given by Resolution n° 487, dated 22, 2018);

III – receiving the schedule of air transport companies or air operators that operate or intend to operate there (wording given by Resolution n^{0} 487, dated 22, 2018);

IV – ensuring access to infrastructure, in an isonomic and non-discriminatory manner;

V – provide data related to allocated infrastructure for wide consultation;

VI – providing ANAC with the flight schedules allocated for a given season, respecting the declared airport capacity (wording given by Resolution n° 487, dated 22, 2018); and

VI – complying with the procedures listed in the Decree of the competent Superintendency.

§ 1 – During the initial allocation stage, the operators of the airports of interest must allocate airport infrastructure for flights requested by the air transport companies that were included in the base of flight schedules allocated in the previous equivalent season, observing the provisions of § 4 of this article (wording given by Resolution n° 487, dated 22, 2018).

§ 2 – In the case of first allocation, regular flights registered with ANAC to the respective airport should be considered as reference (wording given by Resolution n° 487, dated 22, 2018).

§ 3 – In the case of the need to prioritize requests for airport infrastructure that are different from the base of flight schedules allocated from the previous equivalent season, the operator of airport of interest is entitled to establish criteria for this purpose, provided that they are: (wording given by Resolution n° 487, dated 22, 2018).

- I non- discriminatory;
- II isonomic
- III objective;
- IV proportional; and
- V be published before the limit date for initial submission.

§ 4 – The air transport companies that intentionally operate in disagreement with the flight schedules allocated at the airport of interest may receive a lower priority in the initial allocation stage of the subsequent season, as long as previously informed (included by Resolution n° 487, dated 22, 2018).

<u>Art. 55</u>

The competent Superintendency will publish a specific Ordinance detailing the procedures related to the allocation process at airports of interest.

<u>Art. 56</u>

In the event of unavailability of the airport infrastructure allocated by the operator of the airport of interest, the age of use of the infrastructure must be re-

spected, when applicable (wording given by Resolution n° 487, dated 22, 2018).

<u>Art. 57</u>

The air transport companies or air operators that operate or intend to operate at an airport of interest must submit their schedules as provided for in the ordinance referred to in art. 55 of this Resolution (wording given by Resolution n° 487, dated 22, 2018).

<u>Art. 58</u>

Failure to comply with the provisions of this Title, whether by the airport operator or by air transport companies or air operators, may result in the declaration of the airport as coordinated by ANAC, under the terms of Chapter III of Title I of this Resolution (wording given by Resolution n° 487, dated 22, 2018).

<u>Art. 59</u>

The non-compliance with the obligations listed in this Title, attributable to the operator of the airport of interest, is a violation to the norm (wording given by Resolution n° 487, dated 22, 2018).

Article 59-A

The administrative measures for the violations described in this Chapter will be applied in accordance with the rules established by ANAC for the exercise of its inspection activities (included by Resolution n° 487, dated 22, 2018).

Sole paragraph. For the purpose of the provision in the caput, a fine is imposed as a sanctioning administrative measure, in Brazilian reais (R), with respective mitigating and aggravating factors, under the terms of the Annex to this Resolution. (included by Resolution n° 487, dated 22, 2018)

TITLE III

FINAL PROVISIONS

<u>Art. 60</u>

The allocated slots do not constitute full flight authorization and the air transport companies and air operators must comply with other regulations of ANAC or other bodies, including those referring to the provision of air services. Wording given by Resolution n° 487, dated 22, 2018)

Article 61

This Resolution takes effect on the date of its publication.

<u>Art. 62</u>

Resolution n° 2, dated July 3, 2006, published in the Official Gazette dated July 6, 2006, Section 1, page 40, is hereby revoked.

MARCELO PACHECO DOS GUARANYS Director-President

Director-President

[THE ANNEX TO THE RESOLUTION WAS DELETED FROM THIS VERSION]

NATIONAL CIVIL AVIATION AGENCY – RESOLUTION No. 515 OF MAY 8, 2019

Provides for civil aviation security inspection procedures against unlawful interference acts at airports and provides other measures.

THE BOARD OF DIRECTORS OF THE NATIONAL CIVIL AVIATION AGENCY – ANAC, in the exercise of the competence granted to it by art. 11, item V, of Law No. 11,182, of September 27, 2005, in view of the provisions set forth in art. 8, items X, XI and XLVI, of the aforementioned Law, and considering the contents of Proceeding No. 00058.005807/2019-91, deliberated and approved at the 8th Deliberative Meeting of the Executive Board, held on May 7, 2019,

RESOLVES:

CHAPTER I

GENERAL PROVISIONS

<u>Art. 1</u>

Provide for civil aviation security inspection procedures against unlawful interference acts at airports.

§ 1 The purpose of inspecting passengers and their carry-on luggage is to prevent weapons, explosives, artifacts or chemical, biological, radioactive, nuclear or prohibited substances and materials, thus considered those listed in Annex I of this Resolution, from being introduced without authorization in restricted security areas – ARS, or on board an aircraft.

§ 2 The cases subject to authorization will be regulated by a specific rule.

CHAPTER II

CIVIL AVIATION SAFETY INSPECTION AGAINST UNLAWFUL INTERFERENCE ACTS

SECTION I

SAFETY INSPECTION PROCEDURES

<u>Art. 2</u>

The civil aviation security inspection against unlawful interference acts will be conducted by the Civil Aviation Protection Agent – APAC, hired by the airport operator, under the supervision of the Federal Police or, in his/her absence, the public security agency responsible for police activities at the airport.

<u>Art. 3</u>

The procedures to be observed in the civil aviation security inspection area against unlawful interference acts shall comply with the following provisions:

I – the passenger queue will be organized by means of a flow control, and passengers shall wait for their turn in the marked position and then proceed to the metal detector gantry, or other equipment, only when authorized by the APAC, as the conditions for performing the inspection become available;

II – the passengers must place all their belongings in the inspection tray, including cell phones, keys, cameras and coin purses, according to the APAC guidelines;

III – the passenger, when going through the metal detection procedure, must keep their hands free;

IV – if the audible alarm of the metal detector gantry is triggered, the passenger must observe the APAC guidelines for the necessary procedures regarding the alarm, which may include a new passage through the gantry, inspection by means of a manual metal detector, inspection by means of body scan and personal search;

V – at random and whenever deemed necessary, passengers will be required to undergo additional security measures, which may include personal search, manual inspection of carry-on luggage and the use of explosive trace detectors – ETD and other safety equipment;

VI – in case of doubt during the civil aviation security inspection process against unlawful interference acts, APAC must request that the passenger removes, for specific inspection:

a) some type of clothing that may hide a prohibited item, including clothing that covers the head or jackets, and, if the passenger requests it, the inspection must be carried out in a reserved place; and

b) any footwear with a characteristic that may allow some prohibited item to be hidden;

VII – after the inspection process, if it is impossible to ensure that the passenger does not carry a prohibited item, his/her access to the restricted security areas will be denied;

VIII – a lap child will be removed from the stroller and subjected to inspection by means of a metal detector gantry, or other equipment available, away from the body of the guardian, observing the following procedures:

a) the baby carriage must be folded and inspected with the equipment available at the airport, preferably by means of an X-ray equipment; and

b) if it is impossible to inspect using an X-ray equipment or in case of doubt during the safety inspection process, the APAC must carry out the inspection of the carriage manually;

IX – a passenger in need of special assistance, as defined by ANAC in its own regulations, shall have priority to be inspected, including in relation to the crew, and will undergo the inspection procedures to the extent that their condition allows, the following being observed:

a) the technical aid used to assist passengers with special assistance is required to be inspected with the equipment available at the airport, preferably by an X-ray equipment;

b) during the safety inspection of the technical aid used, seats should be made available for use by people with special assistance needs; and

c) if there is a companion present, he/she/she must be inspected first and, after the inspection procedure is completed, the APAC may request his/her/her assistance to carry out the inspection on the passenger with special assistance needs; X – the passenger who, for a justified reason, cannot be inspected using a metal detector equipment, such as a passenger with some implanted item, must undergo a personal search, and must be informed of the need to reach the inspection channel with due notice in advance;

XI – pregnant women, if they so request, may be inspected by means of a manual metal detector or by means of a personal search;

XII – all persons, including the crew, airport employees and public agents, must pass security inspection procedures before entering security restricted areas;

XIII – crew members, using passenger inspection channels, have priority to be inspected, except for passengers with special assistance needs;

XIV – during the security inspection, when a prohibited item is detected, the following procedures must be adopted:

a) in the case of a lawful object, thus considered those whose bearing or possession is permitted by law, the passenger must be denied access to the departure lounge until he/she no longer carries the prohibited item;

b) on suspicion that the object is illegal, thus considering those whose bearing or possession is prohibited by law, access to the departure lounge shall be denied and the public security agency responsible for police activities at the airport should be called; and

c) if it is found out that the passenger tried to hide a prohibited item, his/ her access to the departure lounge should be denied and the APAC will call the public security agency responsible for police activities at the airport to assess the situation;

XV – the personal search must be carried out by an APAC of the same sex, and must be carried out in a public place or, at the request of the inspected, in a reserved room, with discretion and in the presence of a witness.

§ 1 A personal search is defined as being the search of a person's body, clothes and other accessories, carried out by a police authority or by an APAC, in this case, with the inspected person's consent. § 2 If the passenger refuses to submit to any of the procedures described above, his/her access to the departure lounge should be denied and the APAC must activate the public security agency responsible for police activities at the airport to assess the situation.

§ 3 The public agents on duty at the airport shall be subject to the security measures established in Chapter III.

SECTION II

INSPECTION PROCEDURES IN INTERNATIONAL BOARDING AREAS

<u>Art. 4</u>

In addition to the provisions of art. 3 of this Resolution, passengers on international flights, including those allocated exclusively at their domestic stages, or those who need to use the departure lounge for international flights, will be subject to the following restrictions regarding the transport of liquid substances, including gels, pastes, creams, aerosols and the like, in their carry-on luggage: (Wording provided by Resolution No. 551 of 15.04.2020)

I – all liquids must be carried in bottles with a capacity of up to 100 ml;

II – liquids carried in flasks with a volume in excess of 100 ml cannot be carried, even if the flask is partially filled;

III – all vials must be placed in a transparent plastic package, which can be closed, with a maximum capacity of 1 liter, and must be placed loosely inside the closed package; and

IV – the plastic package must be presented for visual inspection at the passenger boarding inspection point, with only one plastic package per passenger being allowed.

§ 1 There is no restriction for carrying empty bottles.

§ 2 Except for the limits referred to, medicated articles with a due medical prescription, baby food and liquids from special diets, in the amount needed to be used in the total flight period, including any stopovers, must be presented at the time of inspection.

<u>Art. 5</u>

Liquids purchased at duty-free stores in the departure lounge for international flights may exceed the limit stipulated in art. 4 of this Resolution, provided that they are disposed in standardized sealed plastic packaging and with the purchase receipt on display. (Wording provided by Resolution No. 551 of April 15, 2020)

Paragraph 1. Not included in the heading of this article are the liquids carried by passengers leaving the departure lounge for international flights. (Included by Resolution No. 551 of April 15, 2020)

§ 2 This measure does not guarantee the acceptance of the packaging sealed by other States in the case of a connection at their airports, and the airline must inform the passenger in this situation about the possibility of that product being or not being retained by foreign authorities. (Included by Resolution No. 551 of April 15, 2020)

<u>Art. 5-A</u>

Liquids purchased at duty-free stores in other countries or on board the aircraft by passengers on an international connection may exceed the limit stipulated in art. 4th of this Resolution, as long as they are: (Included by Resolution No. 551 of April 15, 2020)

I – arranged in standardized sealed plastic packages, with the purchase receipt showing less than 48 hours before the connection flight time; and (Included by Resolution No. 551, of April 15, 2020)

II – inspected by the international connection channel by means of an explosive liquid detection system. (Included by Resolution No. 551 of April 15, 2020)

§ 1 After inspection, the liquids in question must be placed in a new standardized sealed plastic package before the passenger's access to the departure lounge for international flights. (Included by Resolution No. 551, of April 15, 2020)

§ 2 The air operator is responsible for informing its passengers about the liquid restrictions that may exist in the case of an international connection. (Included by Resolution No. 551 of April 15, 2020)

§ 3 If the system provided for in item II of the article heading is not available, the liquids referred to cannot be carried in the aircraft cabin. (Included by Resolution No. 551 of April 15, 2020)

<u>Art. 6</u>

In order to facilitate safety inspections, the plastic packaging containing the flasks with liquids referred to in art. 4 of this Resolution must be presented separately from the passenger's carry-on luggage, as well as coats, jackets, laptops and the like, for inspection on an X-ray equipment.

CHAPTER III

SAFETY MEASURES APPLICABLE TO PUBLIC AGENTS IN SERVICE AT THE AIRPORT

<u>Art. 7</u>

All public agents on duty at the airport must be inspected prior to entering the ARS, with priority being given to them during the security inspection.

Sole paragraph. Inspection of public agents in service at the airport may be carried out randomly or be waived, subject to the provisions of Sections I and II of this Chapter, respectively. (Wording provided by Resolution No. 594 of 27.10.2020)

<u>Art. 8</u>

The airport operator must prepare and keep an updated list of public agents who are exempt from inspection or authorized to be inspected randomly, containing data such as the agent's name, his/her credential number and any prohibited objects that he/she may carry in the ARS. (Wording provided by Resolution No. 594 of 27.10.2020)

§ 1 The prohibited objects that may be carried in the ARS shall be defined jointly by the agency of the public agent and by the Federal Police or, in their absences, by the public security agency responsible for the airport>s police activities, so that the authorized objects are compatible with the activities performed by the agent in the ARS.

§ 2 The airport operator must make the updated list available to the Federal Police or, in its absence, to the public security agency responsible for the airport's police activities, as well as to the APAC when the random inspection is carried out.

<u>Art. 9</u>

A public agent who refuses to comply with any regulatory obligation provided for in this Resolution, including being subject to a security inspection when randomly selected, may, based on an assessment by the Federal Police or, in its absence, the public security agency responsible for police activities at the airport, lose his/her/her prerogative of being randomly inspected, and then become subject to the standard security inspection procedure applicable to other persons and passengers.

Sole paragraph. Should the public agent refuse to comply with the requirements set out in this Resolution, the airport operator shall be responsible for an immediate notification to the Federal Police or, in its absence, to the security agency responsible for the airport's police activities, in addition to the fact of being registered in the Civil Aviation Security Document – DSAC, without prejudice to a denunciation or representation for the investigation of conduct by the competent agencies.

SECTION I

SECURITY MEASURES APPLICABLE TO PUBLIC AGENTS

<u>Art. 10</u>

The federal public servants and military personnel of the armed forces, ostensibly bearing their permanent airport service badges and who need to circulate in the ARS to act in the inspection or control of airspace activities, may be randomly inspected, at the request and responsibility of the public agency to which they belong, provided that the following criteria are observed:

 I – the process of accreditation of the public agent must include the assessment of criminal and social backgrounds, as required for the airport community in general;

II – the credentials of public agents who are inspected at random should contain a visual element that differentiates them from the credentials of other public agents and people in general;

III – the random inspection of public agents and their belongings by hand, conducted by an APAC, must be carried out with a frequency and intensity established by a DAVSEC issued by ANAC, based on a specific threat assessment established by the Federal Police;

IV – the goods retained in inspection and control activities that are duly accompanied by a registration are exempt from inspection;

V – the points of access to the public agent's ARS shall be monitored by surveillance cameras with a recording time of at least thirty (30) days, individual access control solution and electronic biometric identification;

VI – at the vehicle access control point, all occupants of the vehicle of federal public agencies and military personnel of the armed forces must be identified and the cabin and its cargo compartments must be checked, in order to ensure that the access of an unidentified person shall not occur; and

VII – the random inspection of vehicles of the federal public agencies and military personnel of the armed forces, conducted by an APAC or by a security guard, must be conducted with a frequency and intensity established by a DAVSEC issued by ANAC, based on a specific threat assessment established by the Federal Police.

SECTION II

SECURITY MEASURES APPLICABLE TO PUBLIC AGENTS WHO HAVE THE PREROGATIVE TO CARRY A FIREARM FOR REASONS OF OFFICE (WORDING PROVIDED BY RESOLUTION NO. 594 OF 27.10.2020)

<u>Art. 11</u>

The public agents who have the legal prerogative to bear a firearm because of their official duties shall ostensibly carry an airport credential badge, will need to circulate in the ARS in the exercise of their duties and are waived to undergo a security inspection provided that the following criteria are observed: (Wording provided by Resolution No. 594 of 27.10.2020).

I – the process of accreditation of these public agents should include the assessment of criminal and social backgrounds, as required for the airport community in general; (Wording provided by Resolution No. 594 of 27.10.2020)

II – the credentials of public agents who are exempt from security inspection must contain a visual element that differentiates them from the credentials of other public agents, the credentials of public agents that can be inspected randomly and of people in general; (Wording provided by Resolution No. 594 of 27.10.2020)

III – assets retained in police activities that are duly accompanied by a registration are exempt from inspection; (Wording provided by Resolution No. 594 of 27.10.2020) IV – the public agents' points of access to the ARS must be monitored by surveillance cameras with a recording time of at least thirty (30) days, individual access control solution and an electronic biometric identification; (Wording provided by Resolution No. 594 of 27.10.2020)

V – (Revoked by Resolution No. 594 of 10.27.2020)

VI – (Revoked by Resolution No. 594 of 27.10.2020)

VII – (Revoked by Resolution No. 594 of 10.27.2020)

<u>Art. 11-A</u>

Official vehicles of a public agency are waived from inspection when they are in possession of an Internal Vehicle Traffic Authorization – ATIV valid for access to the ARS and all of its occupants are composed of public agents exempted from security inspection, in compliance with the provisions of art. 11 of this Resolution. (Included by Resolution No. 594 of 10/27/2020)

Sole paragraph. At the vehicle access control point, all occupants of the official public agency vehicle must be identified and the cabin and its cargo compartments visually checked to ensure that access by an unidentified person should not occur. (Included by Resolution No. 594 of 10/27/2020)

CHAPTER IV

ADDITIONAL SAFETY MEASURES

<u>Art. 12</u>

In the event of an increase in the threat level, additional security measures may be adopted in accordance with the provisions of the Airport Security Programs – PSA, when applicable, and ANAC's complementary rules.

Sole paragraph. Levels of threat to AV-SEC should be established by the Federal Police in an interface with ANAC, airport operators and agencies that are part of the Brazilian Intelligence System.

<u>Art. 13</u>

As a result of the risk assessment, ANAC may determine changes in the procedures established in this Resolution to keep the civil aviation security standards at a tolerable level against unlawful interference acts.

CHAPTER V

TRANSITIONAL AND FINAL PROVISIONS

<u>Art. 14</u>

Image recordings on photos and film footage of the civil aviation security inspection channels and procedures against unlawful interference acts are prohibited, except when authorized by the airport operator, after a consultation with the Federal Police.

Sole paragraph. The prohibition set forth in the heading of this article does not apply to ANAC inspectors in the exercise of their functions.

<u>Art. 15</u>

Differentiated security inspection procedures to be applied to specific items may be approved by an ordinance issued by the Airport Infrastructure Superintendent.

<u>Art. 16</u>

The airport operator, together with or under the coordination of the Federal Police or, in its absence, the public security agency responsible for police activities at the airport, shall define the access of security agencies by differentiated control points, considering the assessment of threats to civil aviation security against unlawful interference acts and risk management involving police operations, passenger custody and protection of dignitaries.

<u>Art. 17</u>

Airlines, travel agencies and airport operators are responsible for disclosing to passengers the guidelines contained in this Resolution when a ticket is purchased and during the passenger clearance procedures.

<u>Art. 18</u>

Violations of the provisions of this Resolution will render the violator subject to the penalties set forth in art. 289 of Law No. 7565 of December 19, 1986 to be determined in accordance with the procedure described in Resolution No. 472 of June 6, 2018, or in other regulations that supersede them, adopting for the violations committed after this Resolution becomes effective the fine amounts established in Appendix II and Resolution No. 472 of 2018.

<u>Art. 19</u>

Until December 1, 2020, the airport operator will implement the inspection procedure and inspection exemption for public agents in a random manner, and take the necessary safety measures for the application of these procedures. (Wording provided by Resolution No. 594 of 27.10.2020)

Sole paragraph. Until the implementation of the security procedures and measures mentioned in the heading of this article or until December 1, 2020, whichever comes first, the public servants of the Special Secretariat of the Internal Revenue Service of Brazil, in the exercise of their activities in the restricted security areas after being duly accredited by the airport operator, shall be subject to the same security inspection procedure applicable to Federal Police officers. (Wording provided by Resolution No. 594 of 27.10.2020)

<u>Art. 20</u>

Resolution No. 207 of November 22, 2011, published in the Daily Official Gazette of November 28, 2011, Section 1, pages 2 to 4, is hereby revoked.

<u>Art. 21</u>

This Resolution shall become effective on the date of its publication.

JOSÉ RICARDO PATARO BOTELHO DE QUEIROZ

Chief Executive Officer

ANNEX I TO RESOLUTION No. 515 OF MAY 8, 2019.

LIST OF PROHIBITED ITEMS – DEFINITION

Prohibited items are those items that are not allowed to be carried in the aircraft cabin or be taken to the ARS, except by authorized persons and when necessary to perform essential tasks. Such essential tasks refer to the operations of the airport or aircraft, maintenance, supply of aircraft requirements, on-board supplies and services or operations by security agencies.

AUTHORIZATION FOR CREW MEMBERS

Crew members may be included as authorized persons when requesting prohibited items to be shipped, provided that they are required for the normal in-flight operation of mandatory emergency/survival equipment or medical equipment.

PROHIBITED ITEMS

The list of prohibited items is not exhaustive, and may be updated by ANAC as deemed necessary.

To ensure the safety of civil aviation, the APAC may determine that an item that is not expressly shown on the list is prohibited, as long as it falls under the definitions of one of the described categories, representing a risk to health, safety or property when carried on an aircraft.

Without prejudice to the applicable safety rules, passengers will not be allowed to carry the following items to restricted security areas or to the cabin of an aircraft:

 a) pistols, firearms and other devices that fire projectiles – devices that can or appear to be used to cause serious injury by firing a projectile, including:

1) firearms of any kind, such as pistols, revolvers, carbines, shotguns;

2) toy weapons, replicas or imitations of firearms that can be mistaken for real weapons;

3) components of firearms, excluding telescopic sights;

 air guns and compressed gas or spring guns, such as paintball guns, airsoft guns, pistols and shotguns or other shotguns;

5) signal pistols and sport starting pistols;

6) crossbows, bows and arrows;

7) spearfishing weapons, such as harpoons and spears; and

8) slings and slingshots;

 b) neutralizing devices – devices specifically designed to stun or immobilize, including:

1) electric shock devices, such as electric shock guns and electric shock sticks;

2) devices for stunning and slaughtering animals; and

3) neutralizing or disabling chemicals, gases and aerosols, such as pepper spray, tear gas, acid sprays and animal repellent aerosols;

c) sharp or sharp objects – objects that, due to their sharp point or sharp edges, can be used to cause serious injuries, including: 1) objects designed to cut, such as axes, hatchets and cleavers;

2) ice axes and ice picks;

3) stilettoes, razors, shaving blades, excluding cartridge shavers;

4) knives and pocket knives with blades longer than 6 cm;

5) scissors with blades longer than 6 cm measured from the axis;

6) sharp or cutting martial arts equipment;

7) swords and sabers; and

8) multifunctional instruments with blades longer than 6 cm;

d) working tools – tools that can be used to cause serious injuries or to threaten aircraft safety, including:

1) crowbar and similar levers;

2) power drills and bits, including portable cordless power drills;

3) tools with a blade or rod longer than 6 cm that can be used as a weapon, such as screwdrivers and chisels;

 saws, including portable cordless electric saws;

5) blowtorches;

6) dowel guns, nail guns, and industrial guns; and

7) hammers and mallets;

e) blunt instruments – objects that can cause serious injuries if used to physically attack someone, including:

1) baseball bats, polo sticks, golf clubs, hockey sticks, snooker and billiards cues;

2) nightsticks, clubs and retractable sticks;

3) blunt martial arts equipment; and

4) English punch;

f) explosive or incendiary substances and devices – explosive or incendiary materials and devices that can or appear to be used to cause serious injuries or to threaten the aircraft safety, including:

1) ammunition;

2) fuzees;

3) detonators and fuses;

4) replicas or imitations of explosive devices;

5) mines, grenades and other military explosives;

6) fireworks and other pyrotechnic articles;

7) smoke-generating cylinders or cartridges;

8) dynamite, gunpowder and plastic explosives;

9) substances subject to spontaneous combustion;

10) flammable solids, considered those that are easily combustible and those that, by friction, can cause or contribute to fire, such as metallic powders and alloy powders;

11) flammable liquids, such as gasoline, ethanol, methanol, diesel oil and lighter fluid;

12) aerosols and atomizers, except those for medical or personal use, without exceeding the amount of four bottles per person and the content in each bottle is less than 300 ml or 300 g;

13) flammable gases, such as methane, butane, propane and LPG;

14) substances that, in contact with water, emit flammable gases;

15) compressed gas cylinders, flammable or not, such as oxygen cylinders and fire extinguishers; and

16) torch-type lighters, regardless of size;

g) chemicals, toxic substances and other dangerous items – substances capable of threatening the health of people on board the aircraft or the safety of the aircraft itself, including:

1) chlorine for swimming pools and bathtubs;

2) liquid bleaches;

3) batteries with corrosive spills;

4) mercury, except in a small amount present inside thermal measuring instruments (thermometer);

5) oxidizing substances, such as lime powder, chemical bleach and peroxides;

6) corrosive substances, such as acids and alkaloids;

7) poisonous (toxic) and infectious substances, such as arsenic, cyanides, insecticides and defoliants; 8) infectious or biologically hazardous materials, such as samples of infected blood, bacteria or viruses; and

9) radioactive materials (medicinal and commercial isotopes);

h) others – prohibited items that do not fall under the previous categories:

1) alarm devices (excluding wristwatch and electronic equipment allowed on board); and

2) materials that may interfere with aircraft equipment and that are not related to the permitted electronic devices, such as cell phone, laptop, palmtop, electronic games, pager, which are of controlled use on board the aircraft;

i) tolerated items – items that are tolerated if complying with the following specifications:

1) corkscrew;

2) pens, pencils and mechanical pencils, less than 15 cm long;

3) lighters with gas or fluid less than 8 cm in length, in the maximum quantity of one per person;

4) matches in a package with a capacity not exceeding 40 sticks, in the maximum quantity of one box per person;

5) walking sticks;

6) tennis rackets;

7) umbrellas; and

8) small hammer for use in medical examinations;

j) items prohibited on flights under a high threat level – allowed or tolerated items that are prohibited in the event of an increase in the level of threat to civil aviation security:

1) any cutting instrument;

2) corkscrew;

3) walking sticks;

4) tennis rackets;

5) any lighter;

6) matches, in any quantity or presentation; and

7) aerosols.

[APPENDIX II TO THE RESOLUTION WAS DELETED FROM THIS VERSION]

BRAZILIAN CIVIL AVIATION REGULATION -RBAC No. 107

AMENDMENT No. 04

CIVIL AVIATION SECURITY AGAINST ACTS OF ILLEGAL INTERFERENCE – AIRPORT OPERATOR

GENERAL

107.1 Applicability

(a) This regulation applies to the public civil airport operator, shared or not, whose responsibilities related to civil aviation security against acts of unlawful interference (AVSEC) are provided for in article 8 of the National Civil Aviation Security Program Against Acts of Illegal Interference (PNAVSEC), approved by Decree No. 7168, of May 5, 2010, with a view to guaranteeing the integrity of passengers, crew, ground personnel, the general public, aircraft and airport facilities in order to protect the operations of civil aviation against acts of unlawful interference.

(1) The applicability of each requirement of this regulation is presented in Appendix A, for each class of airport established in accordance with the provisions of section 107.9.

(b) This regulation does not apply to:

civilian airports intended exclusively for helicopters (helipads or heliports);

(2) the military areas of the shared civil airports; and

(3) airspace control and flight protection facilities and services, under the responsibility of Armed Forces organizations.

(c) Devices intended to clarify, detail and guide the application of existing requirements in this RBAC shall be established in a specific Supplementary Instruction.

(1) The airport operator who intends, for any purpose, to demonstrate compliance with the requirement set out in this RBAC, may:

(i) adopt the means and procedures previously specified in a specific IS; or

(ii) submit duly justified alternative means or procedure, in which case

ANAC is required to make an analysis and express its agreement.

107.3 Terms and Definitions

(a) For the purpose of this regulation, the terms and definitions established in RBAC 01, under the heading "Definitions, Writing Rules and Units of Measure for Use in RBACs", in the Annex to Decree No. 7168 of May 5, 2010, shall apply. This decree deals with the National Civil Aviation Security Program against Acts of Unlawful Interference, Law No. 7565 of December 19, 1986, which provides for the Brazilian Aeronautical Code (CBA), and the following:

(1) Personal records mean a person's identity, social experience and criminal history information, as a means used for assessing his/her suitability for the purpose of mitigating risks related to the access to airport areas or information considered sensitive to civil aviation security;

(2) Controlled area means the area of the airport whose access is restricted to persons authorized by the airport operator. It may cover internal areas of the operational perimeter (airside), identified as having a non-priority risk level, sensitive points, or other areas, inside or outside the operational perimeter;

(3) Area for accepting or receiving cargo or mailbag means the area designated by the airport operator for the process of accepting cargo volumes destined for air transportation;

(4) Cargo or mailbag storage area means the area delimited and designated by the airport operator for the temporary storage of cargo volumes that are being processed at the airport cargo terminal;

(5) Cargo or mailbag checking or inspection area means the area designated by the airport operator for the inspection and control processes conducted by public organizations, relating to public security, customs, sanitary or phyto- and zoosanitary control; (6) Cargo or mailbag security inspection area means the area delimited and designated by the airport operator to perform the cargo security inspection procedure

(7) Area for palletizing or dispatching the cargo or mailbag means the area designated by the airport operator for the process of unitizing or palletizing the cargo volumes for then loading onto the aircraft;

(8) Cargo or mailbag transfer area or point means the area or point designated by the airport operator for the transfer of responsibility for the safekeeping and protection of cargo volumes being processed at the airport cargo terminal;

(9)Airport property area (property perimeter) means the area indicated in the airport exploitation award instrument. It coincides with the area covered by the airport complex, which is characterized by the airport site, described in the concession instrument for each airport, normally including rights-of-ways, buildings and lands, as well as areas occupied by operational, administrative and commercial facilities related to the airport;

(10)Public area means the area inside the property perimeter where, in a normal situation, the application of access control measures and the use of airport credentials are not required;

(11) Risk assessment means the process applied to the management of Civil Aviation Security against Acts of Unlawful Interference by an organization, covering at least the stages of identification of threats, vulnerabilities and the level of exposure of the operations to the risk of acts of unlawful interference;

(12) Commercial aviation means civil aviation operations that constitute the public air transport of passengers or cargo;

(13) General aviation means civil aviation operations that do not constitute the public air transport of passengers or cargo; (14) Suspicious luggage is the name given to a volume of luggage that has any of the following characteristics: unidentifiable, abandoned, violated, that has a noise, exhales an odor that indicates a suspicion or shows signs of leakage of any liquid, solid or gas not identifiable as a substance allowed for transport;

(15) Inspection channel means the control point of access to the Security Restricted Area, consisting of one or more security inspection modules;

(16) Known cargo means a cargo that is subjected to security controls since its security inspection or from its origin, in the latter case, cargo handled by (or under the responsibility of) a known consignor or an accredited air cargo agent;

(17) High Risk Cargo means the volume of cargo or mailbag that:

(i) contains intelligence information that indicates that it may pose a threat; or

(ii) shows signs of tampering with an anomaly that increases the suspicion; or

(iii) is delivered by an unknown entity and is of a nature that only the usual security measures are not sufficient to detect prohibited items that could put civil aviation at risk.

(18) Suspected cargo or mailbag means the name given to a cargo or mailbag that has any of the following characteristics: unidentifiable, abandoned, violated, noise, exhales odor that indicates a suspicion or shows signs of leakage of any liquid, solid or gaseous substance not identifiable as substance permitted for transport;

(19) Airport Security Commission (CSA) means a commission that brings together, regularly or extraordinarily, representatives of public organizations and private companies with operational activities at Brazilian public airports, involved in civil aviation security, to deal with aspects related to the Program Airport Security (PSA);

(20)Airport Area Operator means the natural or legal person who, under a contract with the airport operator, exploits airport facilities or areas (corresponding to a concessionaire, described in Article 4, item LV, of Decree No. 7168 of 2010); (21)Facilitation means the efficient management of the necessary control processes in order to speed up the dispatch of people, goods and aircraft and avoid unnecessary delays in operation;

(22) Awareness with AVSEC means an activity that is part of the credential granting process, provided by the airport operator, which seeks to make people working in the airport operational areas aware of the importance of AVSEC and the main security rules applied at that airport, which can be done through face-to-face lectures, video presentations, distance modules, among other means.

(23)Unpredictability of a Security Measure means the implementation of a security measure with irregular frequencies, in different locations or using different means, according to a defined legal system, with the objective of increasing its effectiveness and its deterrent effect;

(24) Civil aviation security inspection means the activity of applying technical or other means, for the purpose of identifying and detecting weapons, explosives or other dangerous articles that can be used to commit an act of unlawful interference. In this regulation, the terms "security inspection" or "inspection" are used with the same meaning;

(25) Airside means the movement area of the airport, its adjacent land and buildings, whose access is controlled.

(26) Additional Security Measures means the set of changes in procedures, processes, equipment or installations to be made available by the airport operator or air operator, due to the elevation of the threat level, activation of contingency plan actions or due to a specific determination of ANAC, through the Civil Aviation Security Guideline against Acts of Unlawful Interference (DAVSEC);

(27) Inspection Module means the minimum set of qualified human and material resources to be employed in an airport inspection channel to carry out inspection procedures for people, vehicles, equipment and supplies;

(28) Suspicious Object means any substance, object or volume, including carry-on luggage, checked baggage, cargo and mail, suspected of containing explosive devices, CBRN devices or other hazardous articles with the potential of causing imminent damage;

(29) Charter Operation means a supplemental air transport service, performed by a public, national or foreign, regular or non-regular air transport company, with the sale of individual spaces to the general public being permitted. This is a type of air service that is part of commercial aviation;

(30) Charter Operation means a supplemental air transport service, performed by a public air transport company, national or foreign, regular or non-regular, with the purpose of fulfilling a transport contract signed between the air operator and an individual or legal entity, and comprising the total capacity of the aircraft, without, therefore, transporting passengers and/or cargo that are strange to the charterer, the sale of individual spaces to the general public being prohibited. It is an air service modality that is part of commercial aviation, but different from the air taxi modality;

(31) Passengers Processed means the sum of passengers embarked and disembarked at the airport;

(32) Emergency Access Point means the location(s) of the airport, equipped with adequate infrastructure and human resources, to which the entry and/or exit of people, vehicles and equipment in the Controlled Areas or Restricted Security Areas can be directed. They are used exceptionally to meet emergency situations, provided for in the airport emergency and contingency plans, or to meet some special operation of the airport;

(33) Access Control Point means the location(s) of the airport, equipped with adequate infrastructure and human resources, to where the entry and/or exit of people, vehicles and/or equipment is directed at Controlled Areas or Restricted Security Areas. They are used regularly in normal operating situations;

(34) Sensitive Point means the area, installation or other airport facility that, if damaged or destroyed, will impair the normal operation of the airport;

(35) Valuables Air Transport Security Program (PSTAV) is the name given to the confidential formal document, prepared by the airport operator, with the participation of the competent public security agency(ies), air operators and private security companies for the transportation of valuables, where preventive and repressive measures will be established against any criminal attempt to impede the loading and unloading of valuables at the airport;

(36) Accreditation sector means an organizational unit of the airport operator, subordinated to the airport security sector, responsible for managing the system of accreditation and authorization for access to the internal areas of the airport;

(37) Airport Security Sector is the organizational unit of the airport operator responsible for managing resources and conducting processes related to property security and protection of airport operations against acts of unlawful interference;

(38) AVSEC Contingency System is a component of the Airport Emergency Response System that contemplates the resources and actions planned for responding to threats and acts of unlawful interference at the airport;

(39) Supervision means monitoring actions to verify and ensure compliance with security procedures by persons or organizations in the airport environment;

(40) Scanning means the thorough search implemented in an airport area in order to identify or discard the presence of prohibited objects;

(41) Surveillance means the preventive security measure implemented through actions, physical and human resources, sufficient to serve as: (i) a deterrent instrument to reduce the probability of the occurrence of acts of unlawful interference and (ii) means of detection and prompt response to any threat to civil aviation operations, with the aim of intercepting a threat or mitigating its negative effects. Examples of resources that can constitute surveillance are: actions by watchmen or APAC to protect perimeters, areas or access points; perimeter and area patrols; application of automatic intrusion detection equipment; installation of closed circuit television (CCTV) and application of security lighting in perimeters, access areas or points; and

(42) Security Zoning means the demarcation of airport areas or facilities through identification and delimitation, so that they are properly classified as a public area, a controlled area or a restricted security area.

(Wording provided by Resolution No. 500 of 12.12.2018)

107.5 Acronyms and Abbreviations

(a) For the purposes of this regulation, the acronyms and abbreviations available in RBAC 01, in article 3 of the Annex to Decree No. 7168 of 2010, and the following shall apply:

(1) AC: Controlled Area;

(2) AVSEC: Civil Aviation Security Against Acts of Unlawful Interference;

(3) CCTV: Closed Circuit Television;

(4) CHT: Technical Qualification Certificate;

(5) DAVSEC: Civil Aviation Security Guideline against Acts of Unlawful Interference Acts;

(6) PCA: Airport AVSEC Contingency Plan; and

(7) PSTAV: Security Program for Valuables Air Transportation.

<u>107.7 Regulation Application</u> <u>Methodology</u>

(a) The proper application of the requirements contained in this RBAC is achieved using the Table of Requirements provided in Appendix A of this regulation.

(1) The Requirements Table presents, in its first line, the airport classes considered in this regulation and, in its first column, each of the sections contained in this regulation.

(2) At the intersection of each airport class with each section or paragraph provided in the table, the degree of application of the established requirements is indicated, being able to assume the following general designations: mandatory, recommended or waived.

(3) The general designation of recommendation is understood as a specification of physical characteristic, configuration, material, performance, personnel or procedure whose application is desirable for security, and which airports could seek to meet even if not subject to inspection sanctions for its non-compliance.

(4) The designation of the degree of application may contain constraints

by describing specific situations that may complement the general designation of applicability for a given combination of requirement and operator class.

107.9 Airport Classifications

(a) For the application of this regulation, the universe of airports covered by paragraph 107.1 (a) is classified according to:

(1) the type of air service operated at the airport; and

(2) the number of passengers processed. (Wording provided by Resolution No. 500, of 12.12.2018)

(b) [Reserved] (Wording provided by Resolution No. 500 of 12.12.2018)

(c) According to the type of air service in operation and the number of passengers processed, the classes defined for airports are:

(1) Class AP-0: Airport with exclusive operation of general aviation, air taxi service and/or commercial aviation in the charter operation mode;

(2)Class AP-1: Airport with regular commercial aviation operation or in the charter operation mode and with an annual arithmetic average of passengers processed in these operations in the last 3 (three) years of less than six hundred thousand (600,000);

(3) Class AP-2: Airport with regular commercial aviation operation or in the charter operation mode and with an annual arithmetic average of passengers processed in these operations in the last 3 (three) years greater than or equal to six hundred thousand 600,000 (600,000) and less than five million (5,000,000);

(4) Class AP-3: Airport with regular commercial aviation operation or in the charter operation mode and with an annual arithmetic average of passengers processed in these operations in the last 3 (three) years greater than or equal to five million (5,000,000).

(Wording provided by Resolution No. 500 of 12.12.2018).

(d) For the application of this regulation, ANAC will announce the classification of airports considering the statistical data sent to the Agency, under the terms of ANAC Resolution No. 191, of June 16, 2011, or any other normative instrument that may replace it. (1) In the case of an airport that has been in operation for less than 3 (three) years, the airport operator should declare to ANAC the class in which it intends to operate.

(i) The class assigned to the new airport must be assessed during the first 2 (two) years of its operation for class adequacy.

(e) [Reserved] (Wording provided by Resolution No. 500 of 12.12.2018)

(f) The AP-0 class airport operator who wishes to operate under the AP-1, AP-2 or AP-3 class conditions must first demonstrate its compliance with the requirements of this regulation.(Wording provided by Resolution No. 500, of 12.12.2018)

(g) The AP-1 or AP-2 class airport operator who, because of its operational movement, starts to fall into a higher class, has a time until the last business day of May following the reference period to adapt itself to the requirements of the new class.

(h) The airport operator that fails to comply with the operations that has classified it as AP-1, AP-2 or AP-3, may ask ANAC for a reclassification.

(i) ANAC may classify any airport operator in a class other than that applicable to it under paragraph 107.9 (a), as long as this is previously justified, based on a risk assessment made by ANAC.

(1) In the event that the new classification requires a change in the specifications of the physical characteristics, configuration, material, performance, personnel or procedures, the airport operator will have to demonstrate its compliance with the requirements of this regulation in a period not in excess of one hundred and twenty (120) days from the receipt of ANAC's notification.

(j) Regardless of the class assigned, ANAC may establish the mandatory compliance with specific requirement(s) for any airport operator, as long as this has been previously justified, based on a risk assessment made by ANAC.

 In this case, the time required for adaptation of the airport operator will be determined by an the administrative act that establishes the obligation to meet the specific requirement (s).

107.11 to 107.15 [RESERVED]

SUBPART B

ORGANIZATIONAL, TECHNOLOGICAL AND HUMAN RESOURCES

107.17 Risk Assessment and Airport Planning

(a)The airport operator must design and implement a continuous risk assessment process to be used as a guide for the airport security planning.

(b) In the studies and projects for the renovation, modernization or expansion of the airport infrastructure and facilities, the airport operator must ensure that the aspects of AVSEC are observed and covered, especially with regard to the requirements of this regulation.

(c) The airport operator shall establish and implement the infrastructure and procedures to ensure the application of security controls, adopting the concept of unpredictable security measures, as provided for in the following subparts of this regulation, and preventing the introduction of weapons, explosives, chemical, biological, radiological and nuclear (CBRN) artifacts or substances and prohibited materials in ARS.

(d) The airport operator must ensure that works and services are planned and performed in a manner that preserves airport security.

107.19 Acquisition of Security Equipment

(a) The airport operator must purchase security equipment to meet the requirements of this regulation.

(1) The security equipment to be purchased by the airport operator should meet the minimum technical specifications for the detection, calibration and operation parameters required to ensure the effectiveness and continuity of the security levels.

(2) The airport operator must consider the use of modern technologies that allow for the measures to be adopted efficiently and effectively, respecting the user's privacy and promoting the facilitation of air transport.

(b) The use of security inspection equipment that adopts technologies or operational concepts not yet provided for in the regulation may be implemented with the prior approval of ANAC. (1) The request for use of inspection equipment that adopts technologies or operational concepts not yet provided for must be forwarded to ANAC by the interested airport operator.

(2) In order to verify the effectiveness of certain security equipment, ANAC may determine, for a specific period of time, that the equipment be used by the airport operator only in an assisted operation.

(c) The airport operator should keep an updated inventory of the security equipment.

107.21 Security Equipment Calibration

(a) The airport operator must keep the equipment duly calibrated to meet the requirements of this regulation according to the level of threat.

(1)In order to ensure the calibration and adequate effectiveness of security equipment and support systems, the airport operator shall design and implement a program of tests and gauging tests, describing:

(i) the schedule for performing tests and gauging tests;

(ii) the methodology (ies) used in the tests and trials of each equipment;

(iii) the expected result(s) for the equipment acceptable operating condition; and

(iv) corrective actions to be taken to identify deficiencies or deviations with regard to the expected characteristics.

107.23 Operation and Maintenance of the Security Equipment

(a) The airport operator shall keep the equipment in normal operating conditions, complying with the requirements of this regulation and the recommendations of the equipment manufacturers.

(1) In the operation of the equipment, general aspects of human factors must be taken into account so that the limitations of the professionals' performance do not contribute to the making of errors that affect the security system.

(2) In the event of unavailability of inspection equipment, the airport operator must prevent access of persons and objects to restricted security areas until alternative means are adopted to ensure the continuity of the inspection process.

(3) The guarantee of normal operating conditions must be sought, through a preventive maintenance program that includes alternative procedures in case of failure.

(4) In an emergency situation, the airport operator should keep the human and material resources in a condition of permanent operational readiness to act under the coordination of the Emergency Operations Center (COE), as necessary to ensure the corrective maintenance of the equipment.

107.25 Human Resources

(a) The airport operator must designate (a) qualified professional(s), who meet(s) the selection criteria in accordance with the requirements established in a specific regulation, when applicable, legally bound to it, responsible for performing at the airport the security control procedures covered by this regulation.

(b)The airport operator must designate qualified professionals, incumbent and substitute(s), who meet the selection criteria, in accordance with requirements established in specific regulations, when applicable, legally bound to it, responsible exclusively for the coordination and management of the airport security sector and the resources required for the application of the security controls provided for in this regulation, including contingency actions.(Wording provided by Resolution No. 500 of 12.12.2018)

(1) The professionals must be appointed by means of an airport operator's own act and the personnel responsible for the operator AVSEC will be considered for exercising these functions. (Wording provided by Resolution No. 500 of 12.12.2018)

(c) The airport operator must designate a professional responsible for managing the processes related to the AVSEC Quality Control.(Wording provided by Resolution No. 500 of 12.12.2018)

(1) The professional must be appointed by means of the airport operator's own act and the person responsible for the airport operator's PCQ/AVSEC will be considered for exercising this function.

(i) A professional may be responsible for the PCQ/AVSEC of more than one airport of the same operator. (Included by Resolution No. 500 of 12.12.2018)

(2) The designated professional may not perform AVSEC operational activities at the airport so as to guarantee his/her independence. (Included by Resolution No. 500 of 12.12.2018)

(d) The airport operator must use AVSEC Auditors for the performance of AVSEC internal audit activities, the professional observing the following selection criteria:

(1) he/she should not have any criminal and social records that would compromise the credibility of his/her professional activities, the verification being carried out in accordance with the requirements for granting airport credentials;

(2) he/she should meet the requirements for performance of AVSEC quality control activities provided for in PNIAVSEC;

(3) proven experience in the field of civil aviation security against acts of unlawful interference for at least three (3) years; and

(4) sign the Employer's Code of Conduct assuming responsibility for the confidentiality of the information arising from the performance of his/ her duties and other required conduct, with the provision of the following conduct:

(i) respect people with whom one has a contact;

(ii) keep discretion about their performance;

(iii) not to interfere in the exercise of the company's functions;

(iv) not accept or request special treatment;

(v) respect the confidentiality of the information received;

(vi) be honest with the auditee; and

(vii) make no threats of any kind to the auditee. (Included by Resolution No. 500 of 12.12.2018)

(e) The airport operator must ensure that professionals who perform the procedures of the security controls provided for in this regulation under the responsibility of the airport operator will act within their duties and capabilities.(Included by Resolution No. 500 of 12.12.2018)

107.27 to 107.35 [RESERVED]

SUBPART C

COORDINATION AND COMMUNICATION SYSTEM

107.37 Activation of the Airport Security Commission

(a) The airport operator must ensure the activation and operation of a CSA in order to seek the coordinated implementation of security measures to protect the civil aviation against acts of unlawful interference, observing the requirements of this regulation and other guidelines and provisions established by AVSEC regulations.

(1) The CSA must be instituted by the airport operator's own act, with the publication of its purpose, responsibilities and form of operation through internal regulations.

(2) The CSA meetings must be held, ordinarily, at every three (3) months or, extraordinarily, through meetings summoned in full or by sector by the chairman of the CSA or by a justified initiative of one of its permanent members.

(3) The schedule of ordinary meetings must be prepared and communicated to ANAC at least sixty (60) days in advance.

(4)The schedule of extraordinary meetings must be communicated to ANAC at least fifteen (15) days in advance, except in urgent situations, in which case ANAC must be notified as early as possible.

(5) ANAC may attend the ordinary and extraordinary meetings, as an advisory member through prior coordination with the airport security sector.

<u>107.39 Assignment of</u> Responsibilities to CSA

(a) CSA's responsibilities include:

(1) promote the coordination of the various public organizations and private entities with operational activities at the airport in order to achieve the proper implementation of the guidelines, requirements and orientations related to the protection of civil aviation against acts of unlawful interference, published by the National Security Commission Civil Aviation (CONSAC), ANAC, Federal Police (PF), Aeronautical Command (COMAER) and other public agencies in charge of regulating AVSEC; (Wording provided by Resolution No. 500 of 12.12.2018)

(2) propose the necessary actions to seek the standardized and effective application of the Airport Security Program (PSA);

(3) identify threats, vulnerabilities or operational problems and propose to the airport operator to implement changes or improvements to preventive security and emergency response measures (AVSEC contingency plan), previously established by the airport operator, observing guidelines and requirements established by ANAC;

(4) evaluate and approve the security limits and barriers of the ARS, previously proposed by the airport operator;

(5) evaluate and approve at an extraordinary meeting, restricted to the entities involved in the application of security measures, the Security Plan for the Air Transport of Valuables (PSTAV) and its subsequent amendments, previously prepared and proposed by the airport operator;

(6) propose the necessary actions to seek the standardized and effective application of PSTAV;

(7) evaluate the airport reform and/or expansion projects in order to ensure that aspects of AVSEC are included in the design and execution of projects and also seek the incorporation of new means and technologies that contribute both for security and facilitating air transport;

(8) promote the necessary actions to ensure that all employees working at the airport have the specific AVSEC qualification required for the development of their operational activities; and

(9) foster a security culture within the airport community through communications or events to raise awareness of AVSEC issues, especially when applying new security measures and when requested by ANAC or by a police authority operating at the airport.

107.41 CSA Internal Regulations

(a) The airport operator shall develop, implement and keep an internal charter

to regulate the operation of the CSA in order to ensure that its responsibilities are properly fulfilled.

(1) The internal regulations must provide, at least, the following content: form of convening members, attendance control, development of debates and deliberations, preparation of minutes and other documents necessary for the operation of the commission.

(2) Professionals designated by the airport operator and working in the security sector of the airport being responsible for the proper conduction of the commission's activities shall occupy the chairman and secretary positions of the CSA.

(3) The CSA must be restricted and made up of the airport operator and representatives of the following permanent members, when operating at the airport:

(i) public security agency responsible for police activities at the airport (Federal Police, Civil and/or Military Police);

(ii) military organization, in the case of a shared airport;

(iii) agency responsible for the firefighting service and emergency response;

(iv) agency responsible for the air navigation service;

(v) agency responsible for the migration service;

(vi) agency responsible for the customs service;

(vii) agency responsible for the agricultural surveillance service;

(viii) agency responsible for the health surveillance service;

(ix) air operators (air transport companies, air taxi companies or specialized air service companies, aerosports entities, civil aviation schools or other air operators based at the airport);

(x) companies contracted by the airport operator or air operators that provide civil aviation protection services against acts of unlawful interference; and

(xi) airport operator or other organizations that have responsibilities in the implementation of protection measures and control of access to the Controlled or Restricted Security Area. (4) Permanent members must formalize with the airport operator the appointment of both incumbent and substitute representatives to attend the meetings.

(5) The airport operator must assess the need of other public or private organizations that have responsibilities related to AVSEC, whether or not active at the airport, to be invited to attend the meetings, upon a deliberation by the CSA and record in the minutes.

(6) The airport operator should arrange with the organizations treated as permanent members of the CSA to attend and contribute at all commission meetings, except for duly justified absences.

107.43 Communication on AVSEC Matters

(a) In the event of acts or attempts of unlawful interference or situations that indicate threats or vulnerabilities in the security system, the airport operator must forward the Civil Aviation Security Document (DSAC) to ANAC.

(1) The DSAC should contain a detailed description of the occurrence or situation, including relevant information available, such as location, day, time and identification of the persons and entities involved.

(2) The DSAC should be forwarded to ANAC within a maximum thirty (30) days from the date of the occurrence or from the identification of the threat or vulnerability situation.

(3)The subject of the DSAC and any corrective actions or measures already implemented must be submitted to the airport's CSA for its assessment and deliberation on the need to adopt additional actions or measures.

(4) The corrective actions or measures implemented that have not been listed in the DSAC must be reported to ANAC within a maximum of fifteen (15) days after the CSA meeting that addressed the issue.

(Wording provided by Resolution No. 500 of 12.12.2018)

(b) The airport operator must:

(1) ensure that the communication whose content deals with acts of unlawful interference, threats, vulnerabilities, or other information that could compromise the security of civil aviation is made using standardized and appropriate means that prevent its improper disclosure;

(2) keep communication records and preserve evidences for a period of not less than twelve (12) months with a view to advising investigations;

(3) notify the destination and stopover airports when a failure is detected in the airport operator's security control, which may have affected an aircraft flight that has already taken off; and

(4) keep ANAC updated on the availability of a public security agency at the airport.

107.45 to 107.53 [RESERVED]

SUBPART D

PROTECTION SYSTEM APPLIED TO AIRPORT AREAS AND FACILITIES

ZONING AND SECURITY BARRIER

<u>107.55 Property and Operational</u> <u>Perimeters</u>

(a) The airport operator must establish and implement the security zoning of the property and operational area, demarcating it in site plans of the airport, in a way that allows the clear interpretation of the areas. The site plan must show at least:

(1) the boundaries of the property and the operational perimeter;

(2) the limits established in external and internal areas of the buildings or facilities such as passenger terminal, cargo terminal, sensitive points and building or installation under the responsibility of an airport operator, among others; and

(3) in the case of shared civil airports, a clear differentiation between civil and military areas.

<u>107.57 Controlled Areas and</u> <u>Security Restricted Areas</u>

(a) The areas bounded by the operational perimeter (airside) must be classified into Controlled Areas (AC) or Restricted Security Areas (ARS), according to the risk assessment made by the airport operator.

(1) The airside areas of an airport, assessed with a degree of priority risk, must be classified as ARS, and must include at least the aircraft yards used by regular commercial aviation or charter operation, passenger boarding areas between the inspection point and the aircraft, baggage handling and storage areas, known cargo and mail handling and storage areas, provisions, cleaning materials or other supplies to be directed to regular commercial aviation or charter operation.

(2) The other airside areas, assessed with a non-priority risk level, should be classified as AC.

(b) The airport operator must mark the boundaries (perimeters) of the AC and ARS in airport site plans, in a way that allows a clear interpretation of the areas, including the limits established in internal areas of buildings or facilities, such as passenger terminal, cargo terminal and building or installation of the airport area exploiter, among others.

(1) At airports where the CSA is mandatory, the limits of the ARS demarcated by the airport operator must undergo a prior approval by public agencies and companies operating at the airport, within the scope of the CSA, before becoming effective.

107.59 Passenger Terminal Areas

(a) The airport operator must establish and implement the security zoning of the passenger terminal, demarcating it in the terminal building plans, in a way that allows a clear interpretation of the areas. The terminal building plans must show at least:

(1) the delimitations of public areas, controlled areas and security restricted areas; and

(2) the flow of entry, exit and movement of passengers and employees in security restricted areas.

107.61 Cargo Terminal Areas

(a) The airport operator must establish and implement the security zoning of the cargo terminal, demarcating it in the terminal building plans, in a way that allows a clear interpretation of the areas. The terminal building plans must show at least:

(1) the delimitations of public areas, controlled areas and security restricted areas, demarcating them in plans of the cargo terminals; (2) the flow of incoming, outgoing and circulating vehicles, people and cargo and mailbags; and

(3) the indication of the areas and points destined for the adequate processing of the cargo, such as the acceptance (or receiving) areas, storage areas, transfer areas or points, checking (or inspection) areas and inspection of cargo volumes.

(b) In cases where the operation of the cargo terminal is under the responsibility of an airport operator, the airport operator must ensure that the responsible organization meets the requirements of paragraphs 107.61 (a) and 107.81 (l), also complying with the other security controls related to cargo, mail and other items, described in subpart E of this regulation.

107.63 Areas of Use for Air Taxi and General Aviation Operators

(a) The airport operator must establish and implement the security zoning of the areas of use for air taxi operators and general aviation, demarcating it in plans of the airport site. Also, it must ensure that:

(1) the aircraft parking areas of air taxi operators and general aviation are separated, in space or time, from the areas used by aircraft from other commercial aviation operators; and

(2) taxiways to the parking areas of air taxi operators and general aviation are clearly identified.

(b) At the airport where the separation required in paragraph 107.63 (a) (1) is not feasible, the airport operator must establish, in coordination with the air traffic control unit, control points in the yards, on which the aircraft of the air taxi operators and general aviation may be subjected to the aircraft security check or inspection at the time of disembarking the crew and passengers.

(c) The airport operator shall establish, in coordination with the air traffic control unit, security procedures for the air taxi operators and general aviation, with a view to preventing acts of unlawful interference, including:

(1) rules on the use of taxiways intended for the ground traffic of their aircraft in order to keep them separate from the services related to other commercial aviation operators; and (2) surveillance of the airport's movement area in a way that allows the identification and approach of traffic or unauthorized aircraft access.

107.65 Sensitive Points

(a) The airport operator must identify the sensitive points, located inside and outside the airport's property perimeter and their adjacent areas, demarcating them in plans of the airport site and surroundings, in a way that allows a clear interpretation of the points.

(1) The identification of the sensitive points must include at least the air navigation assistance facilities, water, electricity and fuel supply facilities for civil aviation, as well as landing and takeoff runways or taxiways that pass over public roads.

(b) When the sensitive point is located within the airport's perimeter, the airport operator must:

(1) implement security barriers that are capable of deterring and hindering the improper (unauthorized) access of people to sensitive areas; and

(2) keep permanent surveillance of the sensitive points in order to ensure adequate protection of areas and measures for prompt response in the necessary situations, such as identification of improper access and other threats to the normal operation of the sensitive points.

(c) When applying the measures set out in paragraph 107.65 (b) (1), the airport operator shall comply with the following requirements:

(1) The security barriers used must meet the general characteristics established in paragraph 107.67 (a).

(2) When, due to operational limitations, the facilities at the sensitive points cannot be adequately protected by security barriers, the airport operator must employ an appropriate alternative security control.

(d) When the sensitive point is located outside the airport's perimeter, it must be protected by the organization in charge of its operation.

(1) In the case of a sensitive point operated by the airport operator, it must comply with paragraph 107.65 (b).

(2) In the case of a sensitive point operated by an organization other than the airport operator, the latter should arrange with the responsible organization and take the necessary actions to comply with paragraph 107.65 (b).

(i)The airport operator will supervise the effectiveness of the security barriers and the surveillance activity performed by the responsible organization.

107.67 Security Barrier

(a) The airport operator shall implement security barriers that are capable of deterring and hindering unauthorized access by people to the areas bounded by the operational perimeter (airside) and its subareas, controlled areas and restricted security areas.

(1) The security barriers should have the following general characteristics:

(i) have constructive elements for:

(A) hindering the passage over them;

(B) resisting pressure to bend or cut them; and

(C) preventing the passage under them;

(ii) have warning notices regarding the restriction of access to airport areas, the risk to physical integrity and the possibility of applying legal sanctions, in the case of unauthorized access;

(iii) be deployed in such a way as to make it difficult to throw explosive substances and articles on an aircraft, close to it or at other sensitive points;

(iv) be kept in adequate operating conditions, ensuring its integrity and effectiveness; and

(v) be installed and kept within an area free of obstacles to make it possible to perform an inspection to check its integrity and that make it difficult for intruders to climb.

(2) The airport operator should make use of natural obstacles to constitute security barriers, provided that:

(i) the level of security offered by the obstacle is equivalent to that of artificial obstacles; or

(ii) complementary security measures are applied to achieve this equivalence; and

(iii) the existence of the previous conditions is demonstrated through the preparation of a previous study by the airport operator.

(3) At airports where the constitution of a CSA is mandatory, the security barriers established by the airport operator for the protection of ARS must undergo a prior approval, within the scope of the CSA, before they become effective.

(4) In the event that it is not possible to implement security barriers in sections of the limits (perimeters) of an AC or ARS, the airport operator must keep a permanent surveillance system to guarantee the adequate and focused protection of these perimeters, preventing, in particular, unauthorized access to ARS.

(b) Installations or buildings in the perimeter area of the AC and ARS or adjacent to these areas must be adequately protected to prevent unauthorized access to the operational area through possible access points, such as windows, ducts, pipes, roofs or any another passage that can be misused.

(c) Access to infrastructure that crosses an area or perimeter and allows entry into the ARS, such as underground ditches, ducts and service tunnels, must be blocked and periodically inspected or protected by intrusion detection devices.

(d) The airport operator must guarantee the use of resources that hinder the invasion of vehicles at the passenger terminal.

107.69 to 107.79 [RESERVED]

SURVEILLANCE AND SUPERVISION

107.81 Surveillance and Supervision

(a) The airport operator shall keep under permanent surveillance the perimeter and the operational area in order to guarantee its adequate protection.

(1) The airport operator shall keep operational service routes to allow the systematic patrolling of the operational perimeter, especially at access control points kept out of operation.

(2) The airport operator must ensure that the aircraft parking and overnight positions have adequate lighting for surveillance activity.

(3)When identifying access or attempt of undue access to the operational area or the aircraft, the airport operator must apply prompt response measures that are sufficient to prevent continuity of the access and mitigate possible negative effects, including, when necessary, communication to the airport security sector and/or to the public security agency responsible for police activities at the airport, especially for protecting the ARS.

(4) In the event of undue access to the ARS, the airport operator must perform a sweeping of the affected area to ensure its sterilization.

(b) [Reserved] (Wording provided by Resolution No. 500 of 12.12.2018)

(c) The airport operator shall supervise the operational area in order to ensure that:

(1) every professional working in the operational area keeps his/her credential visible with no obstruction;

(2) all vehicles and equipment within the operational area keeps their authorization in a visible and unobstructed location;

(3) when the improper use of a credential or authorization is detected, even with expired validity, action must be taken regarding its collection; and

(4) the companies contracted by the airport and the public and private organizations operating at the airport with AVSEC responsibilities must implement the preventive security measures properly.

(d) The airport operator must inspect suspicious vehicles in and near the operational area, requesting the support from public security agencies when deemed necessary.

(e) The airport operator shall arrange with the public security agencies for the systematic patrolling of the areas adjacent to the airport airside, outside the operational perimeter, which can be used as a deterrent instrument for assessment, detection and response to possible threats to operations at the airport.

(f) The airport operator shall keep a permanent surveillance of the passenger terminal and so ensure adequate protection for the area.

(1) When identifying access or attempted undue access to the controlled and restricted areas of the passenger terminal, the airport operator must apply prompt response measures sufficient to prevent continuity of the access and mitigate possible negative effects, including, when necessary, communication to the airport security sector and/or to the public security agency responsible for police activities at the airport, especially with regard to protecting the ARS.

(g) The airport operator shall periodically perform a sweep of areas and facilities in which suspicious objects, weapons, explosives, CBRN artifacts or hazardous materials may be hidden.

(h)The airport operator must ensure the dissemination of information to the airport community and the general public about the procedures to be adopted in situations of identification of suspicious objects or materials in public areas of the passenger terminal.

(i) The airport operator must ensure that items to be stored in luggage storage areas or baggage depots intended for the general public, located inside the passenger terminal or close to sensitive points, are subjected to security inspection by the business exploiter, under the supervision of the airport operator.

(j) The airport operator must ensure that the observation areas or other area of the passenger terminal that provides a view of the aircraft parked in the yard are subject to surveillance.

(1) Areas that offer a view and are close to the aircraft must be protected to prevent the throwing of objects in the vicinity of the aircraft.

(k) The airport operator must ensure that the public areas of the passenger terminal do not offer a view of areas and facilities intended for the security inspection of people, including a view of the images generated by the x-ray equipment.

(I) The airport operator must keep a permanent surveillance of the cargo terminal to ensure adequate protection of the terminal.

(1) When identifying access or attempted undue access to controlled and restricted areas of the cargo terminal, the airport operator must apply prompt response measures sufficient to prevent continuity of the access and mitigate possible negative effects, including, when necessary, communication to the airport security sector and/or to the public security agency responsible for police activities at the airport, especially with regard to protecting the ARS.

107.83 to 107.89 [RESERVED]

ACCREDITATION AND AUTHORIZATION

107.91 Accreditation and

Authorization System Management

(a) The airport operator must:

(1) implement and keep a system for the accreditation of people and authorization of vehicles and equipment. Such a system will be used as a basic instrument for handling the procedures for controlling the access to the operational areas of the airport and for controlling the professionals working in the airport community;

(2) designate a specific sector of the airport operator's administrative structure, responsible for managing the accreditation and authorization system; and

(3) ensure that the employees involved in activities to control access to the airport's operational areas are aware of the models of credentials and authorizations issued by the airport and, in addition, of the current models of official credentials issued by public agencies operating at the airport.

(b) When applying the measure set out in paragraph 107.91 (a)(2), the airport operator must comply with the following requirements:

(1) The internal areas of the sector responsible for the management of the system, where the documentation is handled and filed, must be characterized as a Controlled Area; and

(2) Before being hired to work for the sector responsible for the system management, the employees shall undergo prior and annual background checks.

(c) The sector responsible for managing the accreditation and authorization system must:

(1) issue rules of conduct and control procedures regarding the proper use of the accreditation and authorization system that must be observed by air operators, area operators and public agencies at the airport;

(2) produce and control a register of public and private entities operating at the airport and their respective representatives (incumbent and up to two substitutes), authorized to request the issuance of credentials and authorizations; (3) define the models for airport credentials and vehicle authorization, observing the minimum characteristics and information required for the identification and surveillance activities and to prevent counterfeiting;

(4) preserve the confidentiality of the information provided to you in connection with the process of requesting airport credentials or vehicle authorization;

(5) control and keep a record of the acts required for the process of granting credentials or authorization; and

(6) produce management reports with information on the control and registration of airport credentials and authorizations, both monthly and annually, which must be filed and kept physically or electronically for at least five (5) years from the date of issue of the report.

107.93 Granting Credentials and Authorizations

(a)The airport operator must implement a process for granting airport credentials to employees, service personnel and visitors and authorizations for vehicles and equipment that require access to Controlled Areas or Restricted Security Areas.

(1) The credential and authorization will only be valid in the environment of the airport that issued them and should be classified into two categories: permanent or temporary, inasmuch as:

(i) the credential or permanent authorization is granted to persons or vehicles that have authorization to enter, without supervision, the operational areas of the airport and are intended for employees, vehicles and equipment of government or private organizations operating at the airport; and

(ii) the credential or temporary authorization is granted to persons or vehicles that have authorization to enter, under supervision, the operational areas of the airport and are intended for service personnel and visitors in general.

(b) In the process of granting permanent credentials or authorizations, the airport operator must ensure that only people, vehicles and equipment in compliance with the requirements of this regulation have credentials or authorizations issued, and must, for that purpose:

(1) require a formal request from the interested party;

(2)evaluate the documentation received in detail;

(3)formalize the results of the evaluation (granting or rejection);

(4) issue the airport credential or authorization, and make the accredited person aware about his/her responsibilities regarding the proper use of the credential and the possible penalties, in cases of misuse; and

(5) archive physically or electronically the documentation required and produced during the process for a minimum of five (5) years from the date of formalization of the decision.

(c) At the formal application stage, the airport operator must require the minimum mandatory documentation capable of:

(1) properly identifying the person, vehicle or equipment to be accredited or authorized;

(2) demonstrating the need to access or remain in the airport's operational area;

(3) providing the person's criminal records, which must prove his/her suitability for the position;

(4) proving registration with the Federal Police's airport credentials security verification system, as made available by the Police;

(5) demonstrating his/her participation in awareness-raising and knowledge-dissemination activities that provide the general information required for that person to remain and circulate in the airport areas; and

(6) supplying further information deemed necessary by the airport operator, including that required by a specific regulation issued by ANAC.

(d)During the assessment stage, the airport operator must proceed with an analysis of the mandatory documentation submitted by the applicant pursuant to paragraph 107.93 (c), and must also:

(1) verify, based on proven information, the misuse of the credential or authorization by the applicant; and

(2) verify the existence of a legal or regulatory impediment applicable to the applicant's accreditation.

(e) If a criminal or social background is found, the airport operator must forward the applicant's documentation to the Federal Police, or to the public security agency responsible for police activities at the airport, with a formal request for a statement about potential security compromising of civil aviation against acts of unlawful interference.

(f) The result of the assessment step must be formalized by the airport operator and any of the following hypotheses will imply the rejection of the request:

(1) minimum mandatory documentation not in accordance with paragraph 107.93 (c);

(2) express manifestation by the Federal Police, or by the public security agency responsible for police activities at the airport, of potential impairment of civil aviation security against acts of unlawful interference;

(3) existence of proven information that indicates the applicant's misuse of the credential or authorization; or

(4) another applicable legal or regulatory impediment.

(g) In the process of granting permanent credentials or authorizations to employees or vehicles of public organizations, the airport operator must comply with security standards established by ANAC in coordination with the public agencies operating at the airport.

(h) In the process of granting temporary credentials or authorizations to service personnel, visitors or vehicles, the airport operator must apply the steps provided for in paragraphs 107.93 (b), (c), (d) and (f), except paragraphs 107.93 (c) (3) and 107.93 (c) (5).

(1) In the case of an emergency maintenance service, performance of a public inspection and control agent or scheduling of visits to the operational area, and provided that the monitoring is conducted by (an) employee(s) of the airport operator, in the possession of a permanent credential, previously authorized by the accreditation area, the airport operator may provide the necessary credentials to service personnel and visitors without applying the steps required by paragraphs 107.93 (b), (c), (d), (e) and (f).

(i)If the Federal Police, through an official document, points out that the holder of a certain credential has a criminal or social history incompatible with the permission of access to the AC and ARS, the airport operator must cancel the credential and collect it.
(j) In the event of a temporary technical unavailability of the Federal Police airport credential security verification system, the airport operator may grant credentials and authorizations on a provisional basis, and shall, therefore, ensure that the obligations provided for in paragraphs 107.93 (b), (c), (d), (e) and (f) for such requests are applied as soon as the system availability is resumed.

(Wording provided by Resolution No. 500 of 12.12.2018)

107.95 Credentials and Authorizations Control

(a) The airport operator must implement administrative or technological controls to guarantee the credibility of the accreditation and authorization system, observing, as a minimum, periodic renewal procedures and instruments to prevent forgeries, deviations and the misuse of credentials or authorizations not returned, lost, stolen or robbed.

(b) The control must inform the total number of valid credentials and authorizations, highlighting the number of those that are in the situation of:

- (1) not returned;
- (2) went astray; and
- (3) stolen or robbed.

(c) The airport credential or authorization model with access to the AC and ARS should be changed every 8 (eight) years.

(1)In the case of an airport that does not use automated technology for access control, changing the model of credentials or authorizations should occur whenever the number of credentials not returned, lost, stolen or robbed exceeds a certain percentage of the total number of valid credentials impairing the system reliability.

(d) The airport credential should have a maximum validity period of two (2) years for those classified as permanent and ninety (90) days for those classified as temporary.

(e) The vehicle authorization must have a maximum validity period of one (1) year for those classified as permanent and thirty (30) days for those classified as temporary.

(f) The accreditation and authorization system must be submitted, at least, to semiannual inspections and audits every two (2) years, in compliance with the airport's AVSEC quality control program. (g) The issuance of additional copies of credentials and authorizations (2nd copy, 3rd copy, etc.) must be subject to specific control by the airport operator, and the process should require relevant justifications and careful evaluation by the area in charge of credential issuance.

107.97 AVSEC awareness

(a) The airport operator must ensure that all persons who will be receiving a permanent credential, with permission to access the airport operational areas, have attended AVSEC awareness activities.

(b) The development and performance of AVSEC awareness activities should be assigned to a professional certified in one of the following courses:

(1) AVSEC Basics;

(2) Civil Aviation Security Inspection;

(3) AVSEC for Airport Operator; or

(4) AVSEC for Air Operators

(c) AVSEC awareness raising activities must be performed in a period between sixty (60) days before the accreditation until the day of the request for accreditation, which can be a simultaneous act.

(d) The validity of the AVSEC awareness raising activities must be the same as for the permanent credential issued by the airport, and must be performed again at the time the credential is renewed.

(e) The airport operator must keep a record of the people who completed the ASEC awareness activities, identifying the professionals, their respective signatures and the date of the activity.

(f) The AVSEC awareness activities should address at least the following topics:

(1) AVSEC general concepts and principles;

(2) airport entities and their security responsibilities;

(3) rules for accreditation and control of access to the airport operational areas; and

(4) rules for triggering the airport contingency plan.

107.99 [RESERVED]

ACCESS CONTROL

107.101 Access Points

(a) The airport operator must establish and operate the controlled area (AC) and

security restricted area (ARS) access control points and emergency access points, observing the necessary material and human resources.

(1) The airport operator must ensure that the access of people, vehicles and equipment to the AC or ARS occurs only through previously established access point (s).

(2) Access points must provide a level of protection at least equivalent to that offered by the security barriers employed by the airport operator to protect the perimeter of the AC and ARS where they are located.

(3) The airport operator may authorize that the implementation and operation of the necessary resources for the control of the access points remain under the responsibility of the organization that operates the respective area, provided that it prepares, implements and keeps a PSESCA, in accordance with section 107.215.

(b) Access control points must provide a means of preventing access of people, vehicles and equipment without credentials or authorizations or with falsified, altered, expired or third party's credentials or authorizations.

(1) In the case of access control points in common use by people and vehicles, the airport operator must guarantee segregated flow channels, so that the security measures applied in the access control of people do not interfere with the measures applied to vehicles.

(c) Emergency access points must have the following general characteristics:

 provide warning notices regarding the destination of the access and the prohibition of using them outside emergency situations;

(2) provided with a CCTV monitoring system;

(3) remain closed and locked in the case of an emergency access point for vehicle use; and (Wording provided by Resolution No. 500 of 12.12.2018)

(4) have an audible alarm system when using (opening) the access point to activate the department responsible for monitoring emergency accesses, when located at the passenger terminal.

107.103 Points of Access to the Controlled Area

(a) Access control points must have the following general characteristics:

(1) implemented automatic or professionally conducted access control. In this case it is supported by adequate resources for identification and surveillance activities, including installation coverage, lighting, credential models and valid authorizations;

(2) provide warning notices regarding permission of access to authorized people and vehicles only;

(3) have a communication and alarm system connected to the department responsible for monitoring access control points;

(4) provided with a CCTV monitoring system; and

(5) remain closed and locked when out of operation.

(b) The airport operator must ensure that only people, vehicles and equipment previously identified and authorized will have access to the controlled area through the access control points.

(1) Unattended access to the controlled area is allowed to:

(i) people who hold a permanent airport credential issued by the airport operator.

(ii) the civil servant designated by ANAC and to the inspector or researcher accredited by COMAER, in the exercise of their functions, who present their identification of civil servant, inspector or researcher issued by their respective organizations; (Wording provided by Resolution No. 500 of 12.12.2018)

(iii) the military crew members, in the exercise of their function, who present their functional badge issued by the Armed Forces unit to which they belong;

(iv) the crew member of air operators when they present their original CHT if the need for access to board an aircraft or render other service is proved;

(v) the student in a flight instruction activity, together with his/her instructor, when such a situation is demonstrated; and

(vi) vehicles with a permanent internal vehicle transit authorization (ATIV), issued by the airport operator. (2) Access to the controlled area, provided that the person is accompanied by any professional working at the airport and holds a permanent credential, is allowed to:

(i) people with temporary airport credentials issued by the airport operator;

(ii) drivers of vehicles or equipment in a convoy with a temporary internal vehicle transit (ATIV) authorization; and

(iii) passengers of an air taxi operator or general aviation, when proven the need of access to board an aircraft;

(A) In the event that the passenger is accompanied by a flight crew member, the accompaniment by a professional working at the airport is waived.

(3) Access to the controlled area, provided that it is accompanied by a professional from the airport operator, pursuant to paragraph 107.93 (f) (1), is allowed to:

(i) the professionals required for performing emergency maintenance services, upon a formal request from the organization installed at the airport and requesting the services;

(ii) public inspection and control agents, in the exercise of their function, who present their identification issued by the respective agencies; and

(iii) unaccredited drivers of vehicles or equipment in in a convoy in need of performing activities or services in the controlled area.

(4) In case of access or attempted undue access, the airport operator must apply prompt response measures that are sufficient to block and/or prevent continuity of access, including, when necessary, communication to the airport security area and/or the public security agency responsible for police activities at the airport, in compliance with the airport contingency plan

107.105 Points of Access to the Security Restricted Area

(a) Access control points must be installed in compliance with facilitation criteria in order to guarantee the adequate processing of people and vehicles.

(1) Access control point for the exclusive use of employees, crew and service personnel should be made available by the airport operator in order to ensure the adequate flow and segregation of employees in general and passengers.

(i) Passengers in general aviation or air taxi services may, at the airport operator's discretion, use the exclusive access control points for employees.

(b) Access control points must have notices showing the list of objects that cannot access the ARS.

(c) The airport operator must ensure that only people, vehicles and equipment previously identified, authorized and inspected have access to the ARS through the access control points.

(1) The unaccompanied access to the ARS is allowed to:

(i) people with permanent airport credentials issued by the airport operator;

(ii) the civil servant designated by ANAC and to the inspector or researcher accredited by COMAER, in the exercise of their functions, who present the badge of civil servant, inspector or researcher issued by their respective agencies; (Wording provided by Resolution No. 500 12.12.2018);

(iii) the military crew members, in the exercise of their function, who present their functional badge issued by the Armed Forces unit;

(iv) the crew members of commercial aviation air operators, except for air taxi, by presenting their original CHT, when the need for access to board an aircraft or other purpose for service is proved;

(v) vehicles with a permanent internal vehicle transit authorization (ATIV), issued by the airport operator; and

(vi) commercial aviation passengers holding a valid boarding pass, in the case of access to boarding rooms. (Included by Resolution No. 500 of 12.12.2018).

(2) The access to the ARS, provided that it is supervised by a CCTV system or by a certified professional from the airport operator, is allowed to:

(i) crew members of air operators of the general aviation and air taxi operators, through the presentation of their original CHT, when the need for access to board an aircraft or other service purpose is proven; and; (ii) student in flight instructions, together with his/her instructor, when such a situation is demonstrated.

(3) The access to the ARS, provided that the person is accompanied by any professional working at the airport and holds a permanent credential, is allowed to:

(i) people with temporary airport credentials issued by the airport operator;

(ii) drivers of vehicles or equipment holding a temporary internal vehicle transit (ATIV) authorization; and

(iii) the passenger of an air taxi operator or general aviation, when the need for access to board an aircraft is proved.

(A) In the event that the passenger is accompanied by his/her flight crew member, the accompaniment by a professional working at the airport is waived.

(4) Access to the ARS, provided it is accompanied by a professional from the airport operator, pursuant to paragraph 107.93 (h) (1), is allowed: (Wording provided by Resolution No. 500 of 12.12.2018)

 the professionals necessary to perform emergency maintenance services, upon a formal request from the organization installed at the airport and requesting the services;

(ii) public inspection and control agents, in the exercise of their function, who present a badge issued by their respective units; and

(iii) unaccredited drivers of vehicles or equipment in a convoy in need of attending activities or services at the ARS. (Wording provided by Resolution No. 500 of 12.12.2018)

(5) In the event of access or attempted undue access, the airport operator should apply prompt response measures that are sufficient to block and/or prevent continuity of access, including, when necessary, communication to the airport security area and/or the public security agency responsible for police activities at the airport, in compliance with the airport contingency plan.

(d) The airport operator must ensure that service materials, goods or supplies in transit to the ARS are subject to appropriate security control and will undergo the appropriate security inspection at the access to the ARS, unless there are other security controls implemented in accordance with the airport security program. (Wording provided by Resolution No. 604, of 01.29.2021).

107.107 to 107.109 [RESERVED]

SUBPART E

PROTECTION SYSTEM APPLIED TO PEOPLE AND OBJECTS

SECURITY CONTROLS RELATING TO PEOPLE, EXCEPT FOR PASSENGERS, VEHICLES AND EQUIPMENT

(Wording provided by Resolution No. 500 of 12.12.2018)

107.111 Inspection of People, their Hand Carried Belongings, Vehicles and Equipment

(a) The airport operator should conduct the civil aviation security inspection of persons and their hand carried belongings, as well as vehicles and equipment, before they are allowed to access the ARS, and should keep the material and human resources necessary for the proper performance of the activity, depending on the threat level and facilitation criteria, and observing the requirements established in specific regulations on the matter. (Wording provided by Resolution No. 500 of 12.12.2018)

107.113 to 107.119 [RESERVED]

SECURITY CONTROLS RELATING TO PASSENGERS

107.121 Inspection of Passengers and Hand-Held Belongings

(a) The airport operator must conduct civil aviation security inspection of passengers and their hand-held belongings, prior to let them have access to the ARS. The material and human resources required for the proper performance of this activity must be ensured considering the level of threat and the facilitation criteria, all in compliance with the requirements established in specific regulations.

(b) The airport operator should make arrangements with the Federal Police or, in its absence, the public security responsible for the airport's police activities, for the adoption of actions to perform the civil aviation security inspection activities under the supervision of the agency responsible the police work.

107.123 Protection of Passengers and their Hand-held Belongings

(a) The airport operator must establish the route to be observed by the air operators when leading the passengers from the boarding area to the aircraft or from the aircraft to the disembarkation area.

(b) The airport operator should provide the necessary physical resources to prevent the improper transit of people between the boarding areas and the aircraft yard, adopting measures in coordination with the air operator.

(c) The airport operator, within the scope of its jurisdiction in the process of checking in passengers and carry-on luggage, must guarantee the physical segregation between the screened and unscreened passengers.

(d) In the event of a segregation failure and a passenger comes into contact with another person not yet screened, the airport operator, in coordination with the air operator(s), must ensure that another inspection is conducted before the boarding of passengers on the aircraft and the sweeping of the contaminated area.

107.125 Passengers in Transit or in Connection

(a) The airport operator must establish the areas and aisles intended for the arrival, circulation and departure of passengers in transit or in connection, indicating the routes and inspection points to be observed by the air operators in the activity of supervising the processing of these passengers and their respective hand-held luggage.

(b) In coordination with the air operator, the airport operator shall ensure that the connecting passenger coming from an airport with inferior security inspection standards is directed to the airport's security inspection point before accessing the boarding area. (Wording given by Resolution No. 625 of 06.07.2021)

(1) Airports that have an equivalent security inspection will be identified by ANAC and the airport operators and air operators will be informed about the occurrence by a reserved document (DAVSEC).

(c) The airport operator shall ensure, in coordination with the air operator, that the transit passenger is subjected to security measures in accordance with the conditions and in the cases provided for by DAVSEC. (Included by Resolution No. 625 of 06.07.2021)

107.127 Armed Passenger

(a) The airport operator must ensure, in coordination with the air operator and the public security agency responsible for police activities at the airport, the application of the security measures necessary for processing and boarding an armed passenger, observing the requirements and procedures established in specific regulations on this subject.

107.129 Passenger in Custody

(a) The airport operator must ensure, in coordination with the air operator and the public security agency responsible for police activities at the airport, that the necessary security measures are in place for the processing and boarding of the armed passenger, observing the requirements and procedures established in specific regulations on this subject.

107.131 Undisciplined Passenger

(a) The airport operator shall establish, in coordination with the air operator and the public security agency responsible for police activities at the airport, the appropriate procedures to be used in the management of response situations involving unruly passengers, in particular with regard to the removal of the passenger from the ARS.

107.133 to 107.139 [RESERVED]

SECURITY CONTROLS RELATING TO CHECKED BAGGAGE

107.141 Protection of Checked Baggage

(a) The airport operator must provide the physical resources necessary to guarantee the protection of checked baggage that remain under the responsibility of the air operator, preventing any checked baggage (from the origin, in transit or in connection, or even misplaced) from being violated or subjected to the introduction of objects, materials or substances that can be used in acts of unlawful interference.

(b) The airport operator shall keep a CCTV system covering the baggage embarkation flow (acceptance, sorting and inspection area) and disembarkation (checked-out area), capable of monitoring and recording a minimum period of 30 (thirty days.

107.143 Checked Baggage Inspection

(a) The airport operator shall provide the necessary physical equipment for air operators to perform checked baggage screening for international flights, including connecting baggage, and if it is to be removed from the aircraft during the stopover at the intermediate airport, transit baggage.

(1) Checked-in baggage for onward departure on an international flight that has been subject to an equivalent security check at the airport of origin does not need to be re-screened at the transit or connecting airport unless there is suspicion about its contents.

(2) airports that have equivalent security controls will be determined by ANAC and communicated to air operators and airport operators through DAVSEC.

(b) The airport operator must provide the necessary physical equipment for air operators to perform inspections of checked baggage to continue on domestic flights, according to conditions and deadlines defined by ANAC through DAVSEC.

(Wording given by Resolution No. 625 of 07.06.2021)

<u>107.145 Baggage Checked in</u> <u>Transit or in Connection</u>

(a) The airport operator shall establish the areas and flows of the arrival, circulation and departure of baggage dispatched, in transit or in connection, indicating the routes and inspection points to be observed by the air operators in the baggage processing.

107.147 Suspected Baggage

(a) The airport operator, in coordination with the air operator and the public security agency responsible for police activities at the airport, shall provide the adequate resources to be used in the management of response situations involving baggage regarded as suspicious.

107.149 to 107.159 [RESERVED]

SECURITY CONTROLS RELATING TO CARGO, MAILBAG AND OTHER ITEMS

107.161 Acceptance of Cargo and Mailbag

(a) At the cargo terminal whose cargo or mailbag acceptance is under the responsibility of the airport operator, it must:

(1) require physically or electronically documented information, sufficient to characterize the volume to be received and processed, such as known cargo or unknown cargo;

(2) verify the conditions of the volume to be received in order to guarantee that the volumes with indications of violation or tampering are identified, notified and denied for shipment; and

(3) process the volumes received through segregated flows, depending on their characterization, in known or unknown cargo, avoiding contamination of cargo volumes.

107.163 Cargo and Mail Bag Protection

(a) At the cargo terminal whose operation of storage and handling of cargo or mail is under the responsibility of the airport operator, it must:

(1) ensure the security of the cargo terminal facilities and areas through a permanent surveillance in accordance with sections 107.61 and 107.81 in order to prevent and stop undue access;

(2) delimit the CA and ARS and guarantee access control to these areas under the terms of sections 107,101, 107,103 and 107,105; and

(3) keep the volumes segregated, in time and space, according to their characterization as known or unknown.

(b) The protection of cargo and mailbags remains the responsibility of the airport operator until they are transferred to the air operator or other intervening entity.

107.165 Cargo and Mail Bag Inspection

(a) The airport operator shall provide the physical resources required to conduct the security inspection of cargo and mail, under the responsibility of the air operator, except in facilities under the operation of the air operator.

(b) The cargo and mail security inspection process may use the concepts of known consignor and accredited air cargo agent, observing specific regulations on this subject.

<u>107.167 Cargo and Mailbag in</u> <u>Transit or in Connection</u>

(a) The airport operator shall establish the areas and flows for the arrival, circulation and departure of cargo or mailbags in transit or in connection, including volumes that do not pass through the cargo terminal under the responsibility of the airport operator, indicating the routes and inspection points to be observed by the air operators when processing the volumes.

107.169 Suspect Cargo and Mailbag

(a) The airport operator, in coordination with the air operator, shall provide adequate resources to be used for handling response situations involving cargo or mailbags characterized as suspect.

<u>107.171 Air Transportation of</u> <u>Valuables</u>

(a) For conducting operations involving the embarkation and disembarkation of valuables, the airport operator shall establish, in coordination with the public security agency, the application of:

(1) preventive security measures to hinder and deter any intentional acts against the security of this type of operation; and

(2) response measures to mitigate adequately any occurrence that puts such operations at risk.

107.173 to 107.179 [RESERVED]

SUBPART F

AVSEC QUALITY CONTROL SYSTEM

(Subpart with wording provided by Resolution No. 500 of 12.12.2018)

107.181 Responsibilities of the Airport Operator

(a) The responsibilities of the Airport operators with regard to the AVSEC quality control are:

(1) abide by the quality control activities performed by ANAC, assisting those responsible for the application of the quality control activities with regard to the requests that are made to fulfill their objectives;

(2) establish, implement and keep an AVSEC quality control system to monitor, review and improve the protection of civil aviation against acts of unlawful interference;

(3) comply with ANAC and the Federal Police requests regarding the application of AVSEC tests;

(4) ensure the availability of human and material resources for the ap-

plication of the PCQ/AVSEC in the sphere of its responsibility, observing the characteristics and dimensions of the operations, such as the number of contracted companies, processes employed, number of passengers served, among others; and

(5) keep a confidential reporting system.

107.183 Guidelines and Structure of the AVSEC Quality Control System

(a) The AVSEC Quality Control System shall comply with the following guidelines:

(1) be a continuous process that incorporates internal procedures, such as audit techniques and inspections, and guarantees the quality of civil aviation security against acts of unlawful interference;

(2) be capable of identifying deficiencies and developing standardized means of correction to address them;

(3) be the primary accountability of the airport operator's top management to evaluate the annual report on quality control activities and establish guidelines and goals for future actions related to the operator's AVSEC quality control;

(4) to foresee actions whose purpose is to implement the AVSEC culture at all levels of the company, especially its managers and professionals who act directly in the application of security procedures;

(5) be structured in such a way as to facilitate the obtainment of reliable information in all administrative and operational spheres of the operator; and

(6) consider both the procedures implemented by the airport operator itself and those developed by companies linked to the operator, such as contractors and airport area operators that perform security measures and procedures directly.

107.185 AVSEC Quality Control Activities

(a) The airport operator must perform the following quality control activities, observing the minimum frequencies established in Appendix A:

(1) internal audits;

(2) internal inspections;

(3) tests; and

(4) exercises.

(b) In addition to meeting the minimum frequency established in Appendix A, the airport operator shall perform AVSEC quality control activities when ANAC requests them.

(c) When conducting internal audits, the airport operator shall comply with the following provisions:

(1) the scope of the internal audit shall encompass all AVSEC requirements applicable to the airport operator under the terms of the current regulations and the PSA approved by ANAC;

(2) the audit must cover both the measures and procedures operated by the airport operator itself and those operated by third parties and linked to the airport, such as contractors and airport area operators;

(3) the audit must be conducted by (an) AVSEC Auditor(s) who does not perform AVSEC operational activities under the responsibility of the airport operator at the audited airport; and

(4) the audit shall include, as a minimum, interviews with the professionals responsible for AVSEC, professionals directly involved in the implementation of security procedures, in addition to the verification of documents and procedures described in the PSA and the current regulations.

(d) When conducting the internal inspections, the airport operator shall comply with the following provisions:

(1) the scope of the inspection must be defined by the person in charge of the airport AVSEC, in a way justified in the inspection report, trying to focus on security measures and procedures related to the most significant vulnerabilities and threats, any previous corrective actions and to those who have undergone recent changes;

(2) the inspection must be conducted by the person responsible for the airport AVSEC or by a qualified professional, under the terms of PNIAVSEC; and

(3) the inspection must use techniques similar to the audit, such as document review, interviews and direct observations.

(e) When performing the AVSEC tests, the airport operator shall comply with the following provisions:

(1) AVSEC tests operated by the airport operator can only be conducted upon a formal authorization from its Responsible for the AVSEC;

(2) The AVSEC tests must be coordinated with the public security agency responsible for police activities at the airport, with a minimum of 10 (ten) days in advance;

(3) the airport operator must prepare an internal procedure manual, work instruction or similar document, describing how AVSEC tests are performed so as to standardize the activity and extract reliable and comparable results in addition to ensuring the security of its performers;

(4) the team responsible for scheduling, coordinating and performing the AVSEC tests must ensure that the date of performance is not known to the teams working on the procedures to be tested; and

(5) the simulations of prohibited items used in the tests should not pose any risk to the security of the people involved in the performance of the activity and the general public;

(i) the simulations must be stored in a locked furniture in a controlled access location.

(ii) the simulations used in the AVSEC tests must have varied characteristics over the time so as to prevent them from becoming obvious to the professionals that will be tested.

(6) observing the frequency established in Appendix A, the airport operator must perform at least the following AVSEC test protocols:

(i) test of the people identification system with one (1) test for each control point of access to the airport AC and ARS;

(ii) test of the people inspection system at the control points of access to the departure lounges, with 2 (two) tests being performed for each set equal to or less than 3 (three) inspection modules;

(iii) test of the inspection system for hand-held belongings at the control points for access to the departure lounges, with two (2) tests being performed for each set equal to or less than three (3) inspection modules;

(iv) test of the people inspection system at the ARS access control points, with one (1) test being performed for each inspection module intended exclusively for the general aviation service personnel, crew members and passengers;

(v) test of the hand-held belongings inspection system at the control point of access to the ARS, with one (1) test for each inspection module intended exclusively for service personnel, crew members and passengers in general aviation;

(vi) test of the people inspection system at the vehicle control points of access to the ARS, with one (1) test for each access control point;

(vii) test of the vehicle inspection system at the vehicle control points of access to the ARS, with one (1) test to be performed for each access control point;

(viii) test of the surveillance and patrolling procedures in the operational area, with one (1) test to verify the capacity of identifying intruders and one (1) test to check the capacity of identifying suspicious objects; and

(ix) door verification test, with two (2) tests to verify the protection of the boarding gates of each boarding room in the airport.

(7) The AVSEC tests must be coordinated and monitored by (a) trained professional(s), in accordance with PNIAVSEC; and

(8) AVSEC tests must include access control points operated directly by the airport operator and those operated by outsourced companies and airport area exploiters.

(f) The security exercises are divided into ESAIA and ESAB and, when performing them, the airport operator shall comply with the following provisions:

(1) security exercises must be coordinated and monitored by (a) trained professional(s), in accordance with PNIAVSEC;

(2) exercises that may cause apprehension or panic, that will make use of prohibited or dangerous objects, including their replicas, or that will affect the routine operations of the airports or air carriers should be previously coordinated with the Federal Police; and

(3) the airport operator must call on representatives of the air operators and public agencies involved in the contingency actions to participate in the security exercises, informing what are the actions expected from each one of them, according to the objective of the exercise and as provided for in the Programs (PSA and PSOA) and other applicable regulations.

(i) the call must be made at least 30 (thirty) days in advance.

(ii) a copy of the attendance list of the participants in the security exercise must be forwarded to the entities that participated in the activity, within 5 (five) business days after the end of the exercise.

(iii) the documents that prove the call for the exercise and the forwarding of the attendance list must be filed by the airport operator for at least 5 (five) years, in physical or digital format.

(g) In the event of a quality control activity performed by ANAC and if so requested by the agency's civil servant, the airport operator will supply the materials available from video recordings.

107.187 Records of Quality Control Activities

(a) The airport operator shall prepare and keep reports on the quality control activities performed, complying with the following provisions:

(1) The reports on internal audits, internal inspections and AVSEC tests should indicate all AVSEC requirements evaluated by the airport operator, the dates of the activities, the professionals who performed the activities and the results achieved; and

(2) The security exercise report should indicate the type of exercise performed (ESAIA or ESAB), the date of the exercise, the name of the professional responsible for performing the activity, the list of the participants in the exercise, the description of how the exercise was developed and the results achieved.

(b) At least annually, the person responsible for the airport's PCQ/AVSEC must prepare and submit to the airport operator's senior management a report containing a summary of all AVSEC quality control activities performed during the previous year.

(c) Reports on quality control activities must be kept on file by the airport operator for at least five (5), in a physical or digital format. (d) Any information derived from AVSEC quality control activities, such as reports and test results, containing real data on civil aviation security against acts of unlawful interference, must be treated by the airport operator so as to prevent undue disclosure.

(e) The airport operator, when requested by ANAC, must forward to the Agency a copy of the reports of the quality control activities performed.

(1) The way this should be done and the deadlines for forwarding the reports will be determined by ANAC when the request is made.

(2) The information received from this source will not be subject to any sanction by ANAC, except when there is another source with the same information.

107.189 Treatment of Nonconformities

(a) The airport operator is responsible for planning and complying with corrective actions regarding the applicable procedures and security measures, including the procedures and measures that are operationalized through contracted companies and airport area operators.

(b) The airport operator shall apply internal procedures to identify, document and address nonconformities related to the current AVSEC regulations.

(1 Both nonconformities detected in AVSEC quality control activities performed by the airport operator and activities performed by ANAC must be addressed.

(2) The procedure failures identified during the conduction of the security exercises must be corrected through an action plan that includes the entities involved in the failure.

(c) The airport operator shall develop and keep a corrective action plan to address nonconformities detected during the quality control activities, including the following minimum content:

(1) detected nonconformities and respective causes;

(2) actions required to correct each noncompliance;

(3) deadline for the definitive resolution of each noncompliance;

(4) mitigating measures until the final solution, when necessary to guarantee security; and

(5) photos and documentation capable of proving that the nonconformities have been solved.

(d) The corrective action plan, in the case of AVSEC quality control activity performed ANAC, must be sent to the Agency within a period not in excess of thirty (30) days.

(1) The term established above also applies to updates to the plan and may be reduced or extended by ANAC, in a justified manner.

(e) The corrective action plans resulting from internal quality control activities must be kept on file by the airport operator for at least five (5) years, in a physical or digital format.

(f) The minimum performance standards for the AVSEC test protocols will be established by ANAC, by means of a reserved act of the Superintendence responsible for the AVSEC.

(g) If an AVSEC test protocol, carried out by ANAC or by the airport operator, obtains a result below the minimum standard established by the Agency, the airport operator, in addition to taking corrective actions, must proceed with the test protocol with twice the frequency stipulated in Appendix A until the results reach the minimum standards.

<u>107.191 Confidential Reporting</u> System

(a) The airport operator shall keep a communication channel for receiving reports and AVSEC information provided by different sources, such as crew members, ground support team and protection agents.

(b) The communication channel implemented by the airport operator shall comply with the following provisions:

(1) be easily accessible, allowing reports and information to be quickly forwarded to the airport operator;

(2) make it possible to receive information without identifying the sender; and

(3) be disclosed to the airport community through posters in the areas of greatest movement of service personnel and crew members.

(c) The airport operator shall analyze the information received and mitigate vulnerabilities or threats that pose a risk to aviation security.

(1) The reports and information received by the airport operator through the confidential reporting system, as well as the resulting actions implemented by the airport operator, must be documented and kept on file for a minimum period of two (2) years, in a physical or digital format.

107.193 to 107.199 [RESERVED]

SUBPART G

AVSEC CONTINGENCY SYSTEM

<u>107.201 Structure of the AVSEC</u> <u>Contingency System</u>

(a) The airport operator shall structure a contingency system, in coordination with air operators, area operators and other public agencies and entities involved in civil aviation security in order to respond effectively to possible threats or acts of unlawful interference that may affect security, with the least possible impact on airport operations.

(b) The airport operator must:

(1) Regarding the organization of the contingency system:

(i) provide appropriate facilities, human and administrative resources for the proper operation of the COE, the Risk Assessment Advisory Committee (AAR) and the crisis management groups;

(ii) provide communication systems that ensure that the procedures for receiving and supplying information, under their responsibility, are effective, so that the competent agencies and persons receive and transmit the information on a timely basis;

(iii) ensure that the facilities and other technological resources employed, including communications systems, are regularly tested to ensure normal operating conditions;

(iv establish response times for triggers, in coordination with the organizations and individuals involved in the contingency actions;

(v) ensure that its own or outsourced employees have the necessary knowledge to conduct contingency actions under their responsibility;

(vi) disseminate procedures and information that are necessary for the proper performance of contingency actions, to the airport community and to the general public present at the airport; and

(vii) perform the simulated security exercises, complying with the provisions provided for in the PNCQ/AVSEC.

(2) Regarding the contingency actions:

(i) act in accordance with the actions established in a specific contingency plan or DVASEC, if any;

(ii) establish and activate the AAR and, if applicable, implement the necessary additional security measures, according to the threat assessment;

(iii) activate, if applicable, the Response Action Command and establish the Decision, Operational and Support Groups for crisis management with aircraft on the ground; and

(iv) gather as much data as possible to subsidize the AAR and other crisis management groups.

<u>107.203 Additional Security</u> <u>Measures</u>

(a) In the event that the national threat level is classified as amber or red or in the event that a particular airport or flight is under threat, the airport operator shall ensure that additional security measures are taken, as established in DAVSEC or, in the absence of such, in its contingency plan.

107.205 Social Communication and Assistance to Family Members

(a) The airport operator involved in managing a response to acts of unlawful interference must:

 provide adequate resources and facilities, outside the COE area, necessary for an employee, spokesperson, previously appointed to communicate to the press;

(2) restrict to as little as possible, the provision of information to the press and the general public regarding the planning and methods used by attackers and other critical details that may compromise the effectiveness of contingency actions; and

(3) prevent the improper supply of contradictory or conflicting information to the press, through a prior coordination with the authorities of the public agencies and air operators involved. (b) The airport operator must provide adequate location and resources, including telecommunications, to be used by the airport operator itself or by an air operator involved in the installation of a support center for the families of victims of an act of unlawful interference.

107.207 to 107.209 [RESERVED]

SUBPART H

SECURITY PROGRAMS AND PLANS

107.211 Airport Security Program (PSA)

(a) The airport operator shall develop, implement and keep an Airport Security Program (PSA).

(1) The PSA must be submitted to ANAC for the purposes of analysis and approval and must be treated as a document with restricted access to legitimate people in need of knowledge of that information.

(2) The relevant parts of the PES should be made available to the government and private entities in the airport community that need to know the program information, for the purpose of coordinated and effective application of preventive security procedures and emergency response procedures.

(b) The PSA must contain general information about the airport and its operator, a detailed description of the infrastructure and security equipment used for AVSEC (type, quantity and location), the security measures and procedures employed at the airport, in a way to ensure that:

(1) the requirements of this regulation are met; and

(2) when reading the procedures, it is possible to clarify, at least, the following questions:

(i) who performs the procedure?

(ii) when is the procedure performed?

(iii) where is the procedure performed?

(iv) how is the procedure performed?

(c) The PSA must have as an integral part the following plans and programs, when applicable:

(1) Security Plan for the Transportation of Valuables (PSTAV); (2) Airport AVSEC Contingency Plan (PCA);

(3) Airport operator's AVSEC Instruction Program, under the terms of the PNIAVSEC; and

(4) Airport AVSEC Quality Control Program (PCQ/AVSEC). (Wording provided by Resolution No. 500 of 12.12.2018)

(d) The PSA shall contain the following Liability Statements:

(1) Statement of Commitment signed by the airport operator's legal representative, affirming its commitment to comply with the PSA; and

(2) Promise to prepare, keep, distribute and control the document, signed by the airport operator's person responsible for the AVSEC, declaring his responsibility for ensuring the reserved character of the document.

(e) In no later than ninety (90) days, the airport operator shall arrange for a review of the program and its submission to ANAC for approval purposes, whenever:

(1) this is determined by ANAC;

(2) this is required as a result of any change in the applicable rules;

(3) there are operational changes at the airport that justify the review of security procedures; or

(4) there is a change in the airport classification.

107.213 Airport AVSEC Contingency Plan (PCA)

(a) The airport operator shall develop, implement and keep a contingency plan, in coordination with air operators, area operators and other public authorities and entities involved in the civil aviation security in order to respond to threats or acts of unlawful interference that may affect security, with the least possible impact on the airport operations.

(b) The contingency plan shall contain:

(1) the airport operator's duties with regard to the performance of contingency actions;

(2) the description of the structure available for the operation of the COE and for providing services of social communication and assistance to family members of victims of acts of unlawful interreference; (3) the description of the communication systems available for conducting contingency actions;

(4) standardized procedures for receiving, disseminating and processing information;

(5) the measures to be taken to mitigate and/or eliminate the consequences of possible threats and acts of unlawful interference, provided for at least the cases of bomb threats in an aircraft, on the ground and in flight, of illicit seizure of an aircraft on the ground and during a flight, the invasion of airport facilities or aircraft, the identification of a suspicious object in airport facilities or aircraft, and the threat of strikes or riots of various kinds; and

(6) the anticipation of the need of specialists from the different agencies, according to their legal attributions, including negotiators, specialists in explosives, interpreters and armed intervention groups, who can be engaged in responding to an act of unlawful interference.

<u>107.215 Security Plan of an</u> <u>Auxiliary Services Company or</u> <u>Airport Area Operators (PSESCA)</u>

(a) The airport operator shall require the design, implementation and maintenance of a PSESCA from:

(1) on board supplies and service companies that provide services to air operators using the concept of secure chain for forwarding inputs to the ARS of the airport;

(i) the secure chain is implemented by measures that ensure that in the activities of production, storage and transport of onboard supplies and onboard services, security controls are applied to prevent the introduction of weapons, explosives, CBRN artifacts or substances and materials prohibited at any of these stages.

(Wording provided by Resolution No. 604 of 01.29.2021)

(2) companies that operate cargo or mailbag terminals, located inside or outside the airport, that ship cargo to air operators at the airport; and

(3) organizations exploiting areas, buildings or facilities that have the following characteristics: (i) cover the boundary between the airside and the landside or are located within the airside (in AC or ARS); and

(ii) the security controls applied are under the responsibility of the organization itself.

(b) The preparation of the PSESCA shall comply with the following aspects:

(1) undergo an analysis and approval process by the airport operator;

(2) the content must cover the description of the human and material resources and the measures employed in the application of security controls in the areas, buildings and facilities operated by the concessionaire, especially regarding the following points:

(i) designation of the duly trained professional responsible for AVSEC processes;

(ii) preventive measures to protect the perimeter, people and objects (zoning, barriers, surveillance, access control and inspection, when applicable); and

(iii) emergency response measures, complying with the requirements of this regulation, RBAC 108, when applicable, and the specific guidelines of the airport operator.

(3) a copy of the PSESCA must be delivered to the airport operator and another copy must be kept at the organization's facilities and its content must be reserved for the employees themselves, employees of the airport operator, its contractors and public authorities involved with AVSEC;

(4) PSESCA must go through a review process when:

(i) this is determined by the airport operator or by ANAC;

(ii) this is required by any change in the applicable rules; or

(iii) there are operational changes that justify the review of security controls.

(c) The airport operator must consider the existence of PSESCA as a condition to authorize the regular exploitation of areas and facilities, and must establish contractual instruments that aim to guarantee the preparation and maintenance of PSESCA by the airport area operator. (d) The airport operator must supervise the compliance with the PSESCA by the airport operator.

<u>107.217 Security Plan for the</u> <u>Air Transportation of Valuables</u> (PSTAV)

(a)The airport operator, in coordination with the public security agencies, the air operators and the cash transportation companies involved, must develop, implement and keep a Security plan for the Air Transportation of Valuables(PSTAV).

(1)The PSTAV must explain the procedures and infrastructures used in the application of preventive and response measures during the loading and unloading operations at the airport, to protect those operations.

(2)The PSTAV must shall comply with the regulatory requirements on for the air transportation of valuables established by RBAC 108.

107.219 Air Operator Security Program (PSOA)

(Wording given by Resolution No. 625, of 07.06.2021)

(a) The airport operator must be aware of the relevant parts of the PSOA of the air operators operating at the airport and conduct the necessary coordination to ensure compatibility with the airport security measures and the proper implementation of the preventive measures and expected responses in the program.

107.221 Airport AVSEC Quality Control Program (PCQ/AVSEC)

(a) The airport operator shall develop, implement and keep an AVSEC Quality Control Program (PCQ/AVSEC) in order to perform AVSEC quality control activities in a standardized, efficient and safe manner.

(b) The PCQ/AVSEC shall cover the following minimum content:

(1) the duties of those responsible for the PCQ/AVSEC, as well as the professionals designated to act in the development of AVSEC quality control activities, including personnel training, screening and conduct criteria;

(2) the definition of the sources used by the airport operator to establish the material resource standards, measures and security procedures applied at the airport, which will be the subject of AVSEC quality control activities; (3) the description of the quality control activities performed by the airport operator;

(4) the description of the processes of the quality control activities, including their planning, performance, reporting, implementation of corrective actions and monitoring;

(5) a description of how the annual report on quality control activities is produced, if applicable;

(6) the description of the confidential reporting system provided by the airport operator; and

(7) the procedures for archiving the documentation related to AVSEC quality control activities.

(Included by Resolution No. 500 of 12.12.2018)

107.223 to 107.229 [RESERVED]

SUBPART I

FINAL AND TRANSITORY PROVISIONS

107.231 Final Provisions

(a) In order to promote the operation of automated checked baggage inspection systems or the implementation of more efficient cargo and mailbag flows, initiatives to enter into operational agreements with the airport operator and the air operator are acceptable, establishing specific responsibilities regarding the supply and maintenance of the required infrastructure and performance of the inspection activities related to the checked baggage or cargo at the airport.

(b) To ensure the effectiveness of the supervisory activities performed by the airport operator, through the creation of instruments to motivate the implementation of actions under the responsibility of third parties that are involved in the fulfillment of the requirements of this regulation, the airport operator should:

(1) enter into operational agreements with air operators and other airport area operators to provide, among other conducts, the need to comply with AVSEC requirements and procedures, especially those provided for in the airport PSA, when existing, and which should define penalties in the cases where irregular situations are identified and (2 make general arrangements with government agencies.

(c) ANAC shall provide models of security programs (PSA, PSESCA and PSTAV), to guide and standardize the development of these programs by airport operators and airport area operators.

(d) The occurrence of non-compliance with the requirements of this regulation authorizes ANAC to adopt the appropriate emergency measures to normalize situations that may be harmful to the security of civil aviation, without prejudice to the application of possible sanctions.

(1) Failure to comply with the requirements of paragraphs 107.121 (a), with regard to the inspection of passengers and their hand-held belongings, or 107.211 (a) (1), with regard to the presentation of the PSA to ANAC, will give rise to immediate interruption of new frequencies for scheduled commercial flights or charters that originate or stop at the airport in such a situation.

(2) Failure to comply with any requirements established by this regulation, associated with the identification of a level of risk to AVSEC not acceptable by ANAC, may give rise to the immediate interruption of new frequencies for regular commercial flights or charters that originate or stop at the airport in question. this situation and also the cancellation of flight authorizations already granted.

e) Violations of the provisions of these Regulations subject the offender to the penalties contained in art. 289 of Law No. 7,565, of December 19, 1986, which provides for the Brazilian Aeronautical Code, to be established in accordance with the procedure described in Resolution No. 472, of June 6, 2018, or other regulations replacing them, adopting the values provided in Resolution No. 472, of 2018, and, once Amendment No. 03 of these Regulations takes effect, violations of the provisions of Section 107.143 shall subject the violator to the fine penalties provided in Appendix B. (Included by Resolution No. 625 of 06.07.2021)

107.233 Transitional Provisions

(a) Until ANAC sets, in coordination with other government agencies, the security standards for the application of paragraph 107.93 (g), the granting of permanent credentials for employees and vehicles of government agencies shall be preceded by the submission of the following documents: (Wording provided by Resolution No. 500 of 12.12.2018)

(1) a formal request from the government agency stating that the officer or official vehicle will operate at the airport and needs to access and remain in the operational area; and

(2) documents that will properly identify the officer or vehicle to be accredited or authorized.

(b) The implementation of security measures involving accredited air cargo agents will only be possible after the publication of a specific regulation on the matter by ANAC.

(c) The airport operator must ensure that the professional Responsible for AVSEC, holder and substitute, will act exclusively in the management and coordination of the airport security area, in accordance with this RBAC starting on:

(1) August 10, 2016, for Class AP-3 airports serving regular international operations;

(2) February 6, 2017, for Class AP-3 airports serving exclusively non-regular international operations or domestic operations.

(d) The airport operators shall submit their PSA to ANAC, for of analysis and approval till: (Wording provided by Resolution n° 385 of 09.08.2016)

(1) January 31, 2017, for the AP-3 airports; (Wording provided by Resolution No. 500 of 12.12.2018)

(2) July 31, 2017, for the AP-2 airports; and (Wording provided Resolution No. 500 of 12.12.2018)

(3) July 31, 2018, for AP-1 airports serving aircraft with more than 60 seats. (Wording provided by Resolution No. 500 of 12.12.2018)

(e) The airport operator shall arrange for the preparation and approval of the PSES-CA and PSTAV, or a review of the programs in force within a period not excess of that established in paragraph 107.233 (d).

(f) The current programs, prepared by airport operators and approved by ANAC based on the regulatory criteria of IAC 107-1001, IAC 107-1008 and IAC 4001, shall continue to be valid for the purpose of regularizing the airport operator with ANAC until the effective approval of the first version of the PSA, provided that the operator meets the delivery deadlines that may be established by ANAC, without prejudice to the fulfillment of the requirements set out in RBAC No. 107. (Wording provided by Resolution No. 385 of 09.08. 2016)

(g) The airport operator shall apply the preventive security procedures provided for in the new versions of the programs, making the transition without interruption from the security programs in force.

(h)The airport operator serving exclusively the air operation in the charter mode has a time till February 6, 2017 to demonstrate its compliance with the requirements 107.19, 107.21, 107.23, 107.25 (b), 107.25 (c), 107.111, 107.121, 107.123, 107.125, 107.201, 107.203, 107.205 and 107.211.

(i) May 17, 2019 is considered to be the starting date for counting the deadlines for the AVSEC quality control activities listed in this Regulation.

107.235 to 107.239 [RESERVED]

[THE APPENDIXES TO RBAC NO. 107 HAVE BEEN REMOVED FROM THIS VERSION]

AERONAUTICAL COMMAND INSTRUCTION No. 100-41

SLOT ALLOCATION RULES FOR GENERAL AVIATION IN COORDINATED AIRPORTS

DEFENSE MINISTRY

AERONAUTICAL COMMAND

AIRSPACE CONTROL DEPARTMENT

DECEA ORDINANCE NO. 132/DGCEA OF AUGUST 1, 2017.

Approves the reissue of the Aeronautical Command Instruction on "Slot Allocation Rules for General Aviation in Coordinated Airports".

THE CHIEF OF THE OPERATIONS SUBDE-PARTMENT OF THE AIRSPACE CONTROL DEPARTMENT, in accordance with item IV of art. 10 of ROCA 20-7 "DECEA Regulation", approved by Ordinance No. 369/ GC3, of June 9, 2010, resolves:

<u>Art. 1</u>

To approve the reissue of the Aeronautical Command Instruction on Slot Allocation Rules for General Aviation in Coordinated Airports Instruction of the Aeronautical Command that deals with "Rules for the allocation of slot for General Aviation in Coordinated Airports".

<u>Art. 2</u>

This Ordinance shall become effective on the date of its publication.

<u>Art. 3</u>

DECEA Ordinance 41/DGCEA of February 12, 2016, published in BCA No. 27 of February 19, 2016, is hereby revoked.

BRAZILIAN AIR FORCE GENERAL CARLOS VUYK DE AQUINO

DECEA General Director

INTRODUCTION

The air transport industry plays an important function in economic activities being the world's fastest growing sector. One of the main elements to keep this growth is a safe, orderly, efficient and environmentally sustainable air navigation system. As the volume of air traffic increases, demands on air navigation service providers are intensified and air traffic management becomes increasingly complex, with expectations of a large increase of those in backward positions.

To tackle this problem, the Aeronautical Command, following the ICAO recommendations DOC. 9750, approved by Ordinance No. 299/GC3 of May 5, 2008, DCA 351-2 – "National ATM Operational Concept" – which modified the traditional ATM division (ATS, ATFM and ASM), for application of a Global ATM system based on 7 components, including the Airport Operations (OA).

This new component then started to analyze the influence of airport infrastructure on the ATM, requiring the maximization of its capacities and conditions for its safe and efficient use, especially at certain times of the day, or days of the week, or periods of the year, when the infrastructure is not sufficient to meet the demand, due to the runway system limitation, parking lots, or passenger terminal, therefore being declared as coordinated airports by the competent authority, with the consequence of the need to obtain slots for aircraft arrivals and departures.

ANAC, in the exercise of its competence, covered by art. 8, items XIX and XX, of Law No. 11.182 of September 27, 2005, published Resolution 338, of July 22, 2014 and started to regulate the procedures for allocating arrival and departure times at coordinated airports (slots) for aircraft performing scheduled and non-scheduled air services, on a national and international basis (except air taxi).

DECEA, having an automated system for slot allocations and experience in conducting this process, since the first coordination of a Brazilian airport, was responsible, through CGNA, for the control and inspection of allocations for general aviation aircraft.

As a consequence, ICA 100-41 – Coordinated Airports – was changed for the sole purpose of dealing with the slot allocation process for general aviation, as well as the duties of the agencies involved.

1 PRELIMINARY PROVISIONS

1.1 PURPOSE

The purpose of this publication is to establish general rules for slot allocation in coordinated airports for general aviation and define operational attributions to those involved.

1.2 SCOPE

The provisions contained in this Instruction apply, as appropriate, to the SISCE-AB Organs and Sectors and to operators or operators of general aviation aircraft that intend to carry out their operations at airports classified as coordinated.

2 DEFINITIONS AND ABBREVIATIONS

ADDITEVIATIONS

2.1 DEFINITIONS

The terms listed below are used in this document with the following meanings:

2.1.1 AIRPORTS

Airports are public facilities to support aircraft operations and the loading and unloading of people and cargo.

2.1.2 AIRPORT

Defined area of land or water (which includes all its buildings, installations and equipment) totally or partially intended for the arrival, departure and movement of aircraft on its surface.

2.1.3 COORDINATED AIRPORT

Airport whose saturation level compromises any of the critical airport components (runway, yard or terminal), whether at certain times of the day or day of the week, or periods of the year.

2.1.4 LEVEL A COORDINATED AIRPORT

A-level coordinated airport is the one whose forecast for air movement demand tends to exceed the declared and/or practiced capacity of the runway. Therefore, it is necessary to obtain a slot for aircraft arrivals and departures. For this level of coordination, rotary-wing aircraft will be released of the obligation to allocate slot for their operations.

2.1.5 LEVEL B COORDINATED AIRPORT

Level B coordinated airport is the one whose forecast for air movement demand tends to exceed the declared and/or practiced capacity of the general aviation aircraft parking yard, thus requiring an arrival slot only. Depending on the infrastructure available at level B coordinated airports, rotary wing aircraft may be exempt from obtaining the slot only in the event that their operations do not impact the parking lot.

2.1.6 LEVEL C COORDINATED AIRPORT

Level C coordinated airport is the one whose forecast of demand for air movements tends to exceed the capacity of the ATS provision due to the congestion of the Airport Control Tower frequency or saturation of the airspace sectors. It is therefore necessary to obtain a slot for aircraft arrivals and departures, including rotary wing aircraft.

2.1.7 GENERAL AVIATION

Aircraft performing private, specialized public and air taxi services.

2.1.8 AIRPORT CAPACITY

Measurement of the processing capacity of critical airport components (runway, yard or terminal), which may involve: people, aircraft, baggage or cargo.

2.1.9 DECLARED CAPACITY

Value attributed to airport capacity determined by the competent authority, taking into account the installed airport infrastructure.

2.1.10 PRACTICED CAPACITY

Value attributed to the capacity of an airport due to the unavailability of elements of its installed infrastructure which may impact the value of the declared capacity.

2.1.11 PUBLIC SECURITY AND/OR CIVIL DEFENSE AIR OPERATIONS

Air operations of public security and/ or civil defense comprise the typical activities of administrative police, legal system, fire department and civil defense, ostensive and investigative police; intelligence actions; support for compliance with court orders; control of riots, disturbances and mutinies; escorts and transportation of dignitaries, prisoners, valuables, cargo; aero medical services, transportation of sick people organs and rescue operations; search, terrestrial and water rescue; road, rail and urban traffic control; fire prevention and fighting; urban, rural, environmental, coastal and border patrols, and other operations authorized by ANAC.

2.1.12 AIRCRAFT OPERATOR OR EX-PLOITER

By aircraft operator or exploiter is meant:

a) the legal entity holding a concession of regular public transport services or the authorization for providing non-regular public transport services, specialized services or air taxi;

b) the owner of the aircraft or who uses it directly or through its agents in the case of private air services;

c) the charterer who reserved the technical operation of the aircraft, the direction and authority over the crew; and

d) the lessee who acquired the technical operation of the leased aircraft and the authority over the crew.

2.1.13 SATURATION

Situation in which the air traffic demand exceeds the declared or practiced capacity.

2.1.14 SPECIALIZED PUBLIC AIR SER-VICES

The specialized public air services cover the following air activities:

a) aerial photography, aerial photogrammetry, aerial cinematography, aerial topography;

b) prospection, exploration or detection of sea soil or subsoil elements, submarine platform, water surface or its depths;

c) aerial advertising of any nature;

d) promotion or protection of agriculture in general;

e) sanitation, technical or scientific investigation or experimentation;

f) instruction;

g) artificial provocation of rain or climate change; and

h) any paid modality, other than public transport.

2.1.15 NON-REGULAR AIR SERVICE

It is the public air transport service of domestic or international nature,

which is not characterized as a regular air service.

2.1.16 PRIVATE AIR SERVICES

Private air services are those performed without remuneration for the benefit of the operator, comprising air activities related to:

a) recreation or sports;

b) transportation reserved for the aircraft owner or operator; and

c) specialized air services, provided they are performed for the exclusive benefit of the aircraft owner or operator.

2.1.17 PUBLIC AIR SERVICES

Public air services include specialized public air services and public air transport services for passengers, cargo or mail, regular or non-regular, domestic or international.

2.1.18 REGULAR AIR SERVICE

It is the public air transport service of a domestic or international nature, offered to the general public and operated according to a previously published schedule or with such a regularity that it constitutes a systematic series of easily identifiable flights.

2.1.19 AIR TAXI SERVICES

It is a non-regular public air transport performed for a remuneration agreed upon by the user and the carrier to provide immediate service, regardless of time, route or stopover, comprising the following operations:

a) passenger transport: operation performed on an aircraft of up to 30 passengers, in which the local departure time, destination and price are specifically negotiated with the service user or its representative;

b) cargo transportation: operation performed on an aircraft with a maximum cargo capacity of 3,400 kg;

c) transportation of the sick: it is the transportation of the patient, in an aircraft approved for transportation of the sick, equipped with fixed or removable medical equipment, necessary medical support by health professionals for the care to be provided during the flight, including travel to the place of the service to be provided, performed by air taxi companies, complying with the requirements set forth in specific regulations of ANAC and the Federal Council of Medicine; d) panoramic flight: it consists of a flight in which passengers are transported and which starts and ends without an intermediate landing, at the airport where the company's headquarters are located;

e) systematic air connections: operations carried out by air taxi companies, with origin and destination in the Brazilian territory, connecting two or more locations not served by regular airlines, with a minimum frequency of one weekly connection;

f) parachutist launch: it is considered to be the transport of passengers with special characteristics. The performance of this type of operation requires specific qualification for pilots and appropriate aircraft; and

g) "on-shore" and "off-shore" transport: consists of the air transport of employees of oil exploration companies located on the continent or on the coast.

2.1.20 AIRPORT SLOT

It is the arrival or departure time allocated for the movement of an aircraft on a specific date at a coordinated airport, and, for planning purposes, the time at which the aircraft arrives or leaves the terminal is considered, characterized by the chocks and chocks off, respectively.

2.2 ABBREVIATIONS

ACC	Area Control Center
AIS	Aeronautical Information Service
ANAC	National Civil Aviation Agency
APP	Approach Control
ATS	Air Traffic Service
AVANAC	Flight Authorization from the National Civil Aviation Agency
AVOEM	Flight Authorization from the Air Force Staff
AVOMD	Flight Authorization from the Ministry of Defense
CA	Airworthiness Certificate
C-AIS	Aeronautical Information Center
CGNA	Air Navigation Management Center
CNL ATS	Cancellation Message

CHG ATS Modification Message

DLA ATS	Delay Message
DECEA	Airspace Control Department
EET	Estimated Time on Route
EOBT	Estimated Shim Time
FMC	Flow Management Cell
FPL	Flight Plan Presented
OPT	Opportunity
PVC	Full Flight Plan
PVS	Simplified Flight Plan
RIAM	Annual Maintenance Inspection Report
SAA	Automated AIS Room
SAR	Search and Rescue Service
SIGMA	Integrated Air Movement Management System
TWR	Airport Control Tower

3 GENERAL RULES

3.1 DECLARATION OF A COORDINATED AIRPORT

3.1.1 In cases where the saturation level of a given public airport compromises the use of one of the critical airport components (Runway, Yard, Terminal or ATS), whether in certain hours of the day, days of the week or periods of the year, the ANAC may declare it coordinated, under the terms of the legislation in force.

3.1.2 The declaration of a coordinated public airport will be made by an act of the Executive Board of ANAC, in any of the following circumstances:

a) capacity limitations are severe to the point of restricting access or causing significant delays at the airport due to the high level of saturation, without solving the problem in the short term;

b) behavior is identified by the air transport companies, the airport operator or the CGNA which is restricting access to the airport or compromising the optimization of the use of the airport infrastructure;

c) emergency situation;

d) act of God or force majeure; or

e) public interest.

3.1.3 The declaration of a coordinated public airport will last for as long as the situation that motivated it remains in force, and its cancellation will depend on the express manifestation of ANAC.

NOTE: As a coordinated public airport, it may not be used as an alternative post-take-off airport, route or destination, except for emergency situations.

3.1.4 The declaration of a coordinated public airport shall be published in accordance with the ANAC activities calendar, except for the reasons referred to in letters "c", "d" and "e" of item 3.1.2.

3.1.5 The declaration of a coordinated public airport may be motivated by ANAC or upon a well-grounded request:

a) air transport companies that operate at the airport or intend to do so;

b) the airport operator; or

c) DECEA.

3.1.6 It will be up to ANAC to judge the pertinence of declaring an airport as coordinated.

3.1.7 In the case of a private airport, its coordination will be the responsibility of DECEA at the request of its operator or when operations compromise the ATC.

3.1.8 The information inherent in the declaration of a coordinated airport for general aviation aircraft will be disclosed through NOTAM, to be issued by DECEA/CGNA, containing the coordination criteria, their periods and terms, time of stay in the yard and contact telephone numbers.

3.2 CAPACITY

3.2.1 The capacities of the airport components are determined by each competent authority, taking into account the installed airport infrastructure. Thus, it is up to DECEA, through CGNA, to declare the capacity of the Runway component, while the airport operator is responsible for declaring the capacity of the Yard and Terminal components. Finally, it will be up to ANAC to publish the capacities of the coordinated airports based on the deadlines defined in its calendar of activities.

3.2.2 Values of the airport component capacities can be changed to reflect possible degradation, inoperability or unavailability of elements of the infrastructure. These values must be

effective till the cause of the degradation is removed.

3.3 SLOT VALIDITY PERIOD

3.3.1 The slot validity period lies between 15 minutes before and up to 30 minutes after the allocated time, except in cases where the landing or take-off operations are delayed for the following reasons: adverse weather conditions; interruption in the supply of ATS; interdiction or impracticality of the airport infrastructure; and application of Air Traffic Flow Management measures.

3.3.2 The aircraft that fails to comply with the above specified period will be committing an infraction and the aircraft registration will be forwarded to the Aeronautical Judgment Board for the appropriate measures.

3.4 AIRCRAFT NOT SUBJECT TO SLOT REQUIREMENTS

3.4.1 An aircraft is not subject to obtaining a slot:

a) in an emergency;

b) in an airspace defense mission;

c) Military personnel of the Armed Forces;

d) Public security and/or civil defense air operations;

e) carrying or destined to carry sick or seriously injured people (ambulance in a medical air operation according to a specific legislation), which requires urgent medical assistance, or transporting vital organs for human transplantation;

f) on a SAR mission;

g) on a flight inspection mission;

h) transporting heads of State or Government; and

i) transporting the Governor of a Brazilian Federative Unit.

NOTE: In the tactical operation phase of ATFM and through a coordination with the airport authority, CGNA may exempt other types of flight from the mandatory slot.

3.4.2 Item 18 of the PVC or PVS should contain the STS/ATFMX information if the aircraft is performing one of the services stated in item 3.4.1. No waiver regarding the declaration of the remaining information requested in item 18 (STS/and RMK) regarding each of the above operations to be performed.

3.4.3 Aircraft based on category B coordinated airports, that is, those having their own hangar and, therefore, no need to remain in the parking lot, can be exempted. The exemption will occur through a coordination work involving aircraft operators and exploiters with the Airport Operations Center of the coordinated airport or, in its absence, another sector responsible for the coordination of the airport yard. After this coordination, the Airport Operations Center will inform CGNA through the centralslotsuporte@cgna.gov.br e-mail.

NOTE: The agreement may be suspended by the CGNA if it is found out that the aforementioned exemption is leading to the yard saturation.

3.5 SLOT ALLOCATION

3.5.1 The slot allocation must be carried out in the SIGMA SLOT module, at the times reserved for general aviation operation, and the service is confirmed by the receipt of an alphanumeric code, which must be included in item 18 (eighteen) of PVC or PVS. Example: RMK/CLR SPPG10965619.

3.5.2 The slot code will be distributed specifically for each runway in operation. Example: SPPR1065619 means that the letter "P", after SP, is a slot for the main runway at Congonhas Airport and that the letter "R", after the letter "P" is a slot previously intended for Regular Aviation, but depending on a flight cancellation, is being offered to General Aviation; SPAG1065620 means that the letter "A", after SP, is a slot for Congonhas auxiliary runway, and the letter "G", after the letter "A", is a slot originally intended for General Aviation.

NOTE: Considering performance factors, aircraft operator with slots for the auxiliary runway may ask for operation on the main runway, which may be authorized as long as traffic conditions permit.

3.5.3 Aircraft operators or exploiters must apply and obtain their registration in the SIGMA SLOT module, made available by the CGNA and submit to the centralslotsuporte@cgna.gov.br e-mail address copies of the CAs of their aircraft Brazilian registrations with the RAB, as well as the list of ANAC codes of their pilots and operational flight dispatchers authorized to allocate slots for these aircraft.

3.5.4 Pilots and operational flight dispatchers who need to allocate slots must supply their registration codes in the SIGMA SLOT module and submit copy of the valid Technical Qualification Certificate (CHT) by an e-mail addressed to centralslotsuporte@ cgna.gov.br.

3.5.5 Pilots and operational flight dispatchers of registered flights must be associated with an operator or exploiter.

NOTE: In cases where the same pilot or operational flight dispatcher operates with more than one operator or exploiter, they will be registered individually, receiving an access "login" for each registered operator or exploiter.

3.5.6 For the allocation of foreign registrations, operators or exploiters of foreign aircraft must likewise arrange for their registration in the System, forwarding their respective ANAC flight authorizations (AVANAC) to CGNA.

3.5.7 For the allocation of aircraft with foreign registrations, agreements between national and foreign operators or exploiters will be allowed. However, exchanges involving previously allocated national and foreign registrations will not be authorized in order to avoid slot reservation.

3.5.8 The SIGMA SLOT Module will not allow allocation if the aircraft is already flying at the intended time.

3.5.9 The slot does not belong to the assets of the aircraft operator or exploiter and indicates the temporary use of the airport infrastructure. Its commercialization or free-of-charge or onerous assignment is forbidden.

NOTE: Slot marketing will be regarded as an infraction. The aircraft registrations, the ANAC codes of pilots or operational flight dispatchers responsible for the allocation and the names of the operators or exploiters of the aircraft involved will be submitted to the Aeronautical Judgment Board for the appropriate actions.

3.5.10 It will not be allowed to change the slot time. The aircraft operator or exploiter that intends to change the arrival or departure time should cancel the previous allocation and obtain another slot for the new desired time. 3.5.11 Departure and destination airports may be changed. However, for an exit slot, only the destination airport can be changed and, for an arrival slot, only the departure airport can be changed.

3.5.12 The aircraft registration may be changed, provided that the replacement aircraft is registered with the operator or exploiter registration and the change is not for a foreign registration as a result of an agreement between national and international operators or exploiters, and vice versa.

NOTE: Excess exchanges may indicate possible slot reservations and, consequently, misuse of the SIGMA allocation system. Aiming at the principle of equity, the CGNA, if necessary, shall limit the number of changes (registration of aircraft and departure and destination airports) or shall temporarily freeze the exchanged registrations. However, the actions taken will be reported in the CGNA allocation system, accessed through the <u>http://www.cgna.gov.br</u> web address.

3.5.13 Cancellations of allocated slots do not exempt the pilot-in-command from submitting the ATS cancellation message if the flight plan has already been submitted.

3.5.14 The attempt to use a flight plan with the canceled slot after its presentation to the AIS agency will be regarded as infraction, and the registration involved will be submitted to the Aeronautical Judgment Board for the appropriate measures.

3.5.15 ATS update messages (DLA/ CHG) shall only be displayed if the change reflects a change in registration information, departure airport, destination, estimated off-block time (EOBT) and total flight time, by exchanging this data in the SIGMA to control the slots.

3.5.16 Specifically at the coordinated departure airports, pilots or operational flight dispatchers shall submit the respective PVC or PVS, with a maximum advance time of 120 hours and a minimum of 1h30min from the time defined as the departure slot.

3.5.17 In item 13 (EOBT) of PVC or PVS, the allocated departure slot time should be declared.

3.5.18 Specifically at the coordinated destination airports, pilots or operational flight dispatchers shall submit their respective PVC or PVS with a maximum advance time of 120 hours and a minimum of 45 minutes of EOBT. Also, the requirement that the flight plan must be submitted at least 1h30min before the time defined as the arrival slot must also be fulfilled to allow the use of the allocated slots and their possible reuse to be monitored.

3.5.19 In the item 16 (EET) of the PVC or PVS, the necessary time must be declared for the validity period of the allocated arrival slot to be respected.

3.5.20 In the case of an aircraft to take off from airports devoid of ATS agencies to a coordinated airport, the PVC or PVS must be submitted at the coordinated airport of destination with a maximum of 120 hours and a minimum of 45 minutes before the EOBT. The requirement that the flight plan must be submitted at least 1h30min before the time defined as the arrival slot must also be fulfilled to allow the use of the allocated slots and their possible reuse to be monitored.

NOTE 1: In the case of an aircraft transporting or destined to transport a sick or seriously injured person who needs urgent medical assistance, or transporting vital organs for human transplantation, an advanced take-off may be coordinated with the CGNA.

NOTE 2: In order to advance the above-mentioned take-off, the pilot, or operational flight dispatcher must add to item 18 of the flight plan the "STS/MEDEVAC" annotation.

3.5.21 AFIL plans for coordinated airports shall not be allowed while the coordination is in force.

3.5.22 Failure to meet the deadlines established for the presentation and use of the slots will result in the loss of allocation, with slots being reused as opportunity slots.

3.5.23 Slots that are canceled before four hours of their allocated time will be redirected to the SIGMA SLOT Module ruler and they may then be reused by other users.

3.5.24 The canceled slots, after four hours in advance of their allocated time, will be converted into opportu-

nity slots, even if the flight plan has already been submitted.

3.5.25 Aircraft operators or exploiters wishing to use an exit opportunity slot should contact the AIS Room of the coordinated departure airport or C-AIS to which that coordinated airport is related, in order to coordinate its use and submit said flight plan.

NOTE: When completing the Full Flight Plan (PVC), or simplified (PVS), the users must add the following information to item 18 of the form: RMK/SLOT OPT, followed by the reused opportunity slot code. Example: RMK/SLOT OPT SPPG10965619.

3.5.26 Aircraft operators or exploiters wishing to use the arrival opportunity slot should follow the following procedures:

a) Submit a PVC or PVS to the airport in the vicinity of the coordinated airport and add the following observation to item 18 of the FPL: RMK/SLOT OPT (coordinated airport). Example: RMK/SLOT OPT SBSP; and

b) As soon as you establish contact a telephone contact with the APP under whose jurisdiction the coordinated airport is located, you should reiterate your real intention of landing. This may be granted depending on the availability of reused slots as an opportunity slot.

NOTE: It is up to the agency that coordinated the landing operation to report to SIGMA the registration code of the aircraft that used the arrival opportunity slot.

3.5.27 The advanced times anticipated for the submission of flight plans with slot opportunities will be those recommended in the legislation in force.

3.5.28 The opportunity slot distribution will be suspended, whenever the delays (over 30 minutes) at the coordinated airport are above 10% of the movements.

3.5.29 If the allocated slot is not used by the aircraft, even if it is an opportunity slot, without a cancellation within the criteria and deadlines set forth in this Instruction, this will be regarded as an infraction. The aircraft registration and the name of the operator or exploiter will be reported to the Aeronautical Judgment Board for the appropriate measures.

3.6 DISPLACEMENT BETWEEN COORDINATED AIRPORTS

3.6.1 The aircraft operators or exploiters that intend to operate at a level A and C coordinated airport must allocate both departure and arrival slots.

3.6.2 In the case of an aircraft that is to operate at a level B coordinated airport, only the arrival slot is to be allocated.

3.6.3 In the case of a departure from a level A coordinated airport to another level A coordinated airport, the aircraft operator or exploiter must add to item 18 of the full or simplified FLP the departure or arrival slot code of the coordinated airport of the greatest interest. This code shall be reported to the airport coordination NOTAM.

3.6.4 The aircraft operator or exploiter that intends to make a displacement flight taking off from a coordinated airport of level A to a coordinated airport of level B, must add to item 18 of the full or simplified FPL only the departure slot code of the level A coordinated airport.

3.6.5 The aircraft operator or exploiter that intends to make a displacement flight taking off from a coordinated airport of level A to a coordinated airport of level C must add to item 18 of the full or simplified FPL the departure or arrival slot code of the greatest interest. This code shall be reported to the airport coordination NOTAM.

3.6.6 For a displacement flight taking off from a level A coordinated airport to an uncoordinated airport, the aircraft operator or exploiter must add to item 18 of the full or simplified FPL only the departure slot code of the departure airport.

3.6.7 For a displacement flight taking off from a level B coordinated airport to a level A coordinated airport, the aircraft operator or exploiter must add to item 18 of the full or simplified FPL only the destination airport arrival slot code.

3.6.8 For a displacement flight taking off from a level B coordinated airport to another level B coordinated airport, the aircraft operator or exploiter must add to item 18 of the full or simplified FPL only the airport arrival slot code destination. 3.6.9 For a displacement flight taking off from a level B coordinated airport to a level C coordinated airport, the aircraft operator or exploiter must add to item 18 of the full or simplified FPL only the destination airport arrival slot code.

3.6.10 For a displacement flight taking off from a level B coordinated airport to an uncoordinated airport, the aircraft operator or exploiter will not need a slot to exit the departure airport or to arrive at the destination airport.

3.6.11 The aircraft operator or exploiter that intends to make a displacement flight taking off from a level C coordinated airport to a level A coordinated airport must add to item 18 of the full or simplified FPL only the exit slot code of the airport of origin.

3.6.12 The aircraft operator or exploiter that intends to make a displacement flight taking off from a level C coordinated airport to a level B coordinated airport must add to item 18 of the full or simplified FPL only the exit slot code of the airport of origin.

3.6.13 For a displacement taking off from a C-level airport to another C-level coordinated airport, the aircraft operator or exploiter must add to item 18 off the full or simplified FPL the exit or arrival slot code coordinated airport of greater interest, which will be reported to the airport coordination NOTAM.

3.6.14 For a displacement flight taking off from a level-C coordinated airport to an uncoordinated airport, the aircraft operator or exploiter must add to item 18 of the full or simplified FPL only the exit code of the airport of origin.

3.6.15 For a displacement flight taking off from an uncoordinated airport a level-A coordinated airport, the aircraft operator or exploiter must to item 18 of the full or simplified FPL only the arrival slot code of the destination airport.

3.6.16 For a displacement flight taking off from an uncoordinated airport to a level-B coordinated airport, the aircraft operator or exploiter must add to item 18 of the full or simplified FPL only the arrival slot code of the destination airport. 3.6.17 For a displacement flight taking off from an uncoordinated airport to a level-C coordinated airport, the aircraft operator or exploiter must add to item 18 of the full or simplified FPL only the arrival slot code of the destination airport.

3.7 FLIGHT PLAN SUBMISSION

3.7.1 The expected advance times for the submission of flight plans (maximum 120 hours and minimum 1h30min) shall only apply when at least one of the airports involved is coordinated, observing its respective level of coordination.

3.7.2 If the origin airport is coordinated at level-B and the destination airport is uncoordinated, the minimum 1h30min advance time period for the submission of the flight plan shall not apply; however, the minimum advance time set forth in the legislation in force for the submission of flight plans must be observed.

3.7.3 If the origin airport is devoid of an ATS/AIS agency and the destination is a coordinated airport, the complete (PVC) or simplified (PVS) flight plan must be submitted to the destination coordinated airport, observing the minimum period of 1h30min from the time defined as the arrival slot.

3.7.4 When the coordinated departure airport is level A, the flight plans must be submitted at least 1h:30min before the time defined as the departure slot, and this time must be declared in item 13.

3.7.5 When the departure airport is coordinated at level B or uncoordinated and the destination is another coordinated airport at levels A, B, or C, flight plans must be submitted at least 1h30min before the scheduled time of the allocated arrival slot. The total flight time planned by the operator or exploiter to be declared in item 16 of the flight plan, must be within the validity of the allocated arrival slot.

3.7.6 The Update messages must be submitted to the AIS or C-AIS rooms that received the original flight plan.

3.7.7 The coordinated airports may not be declared in the flight plans as alternate airports, except if authorized by CGNA, after a consultation with the airport operator.

4 ASSIGNMENTS

4.1 CGNA'S ASSIGNMENTS

4.1.1 Issue the PRENOTAM declaring the coordinated public airport, showing the level of coordination and the validity period.

NOTE: Some airports are coordinated by ANAC, due to the saturation of the airport infrastructure to process aircraft of scheduled and non-scheduled air transport companies, except air taxi. In such cases, the NOTAM will not be issued, and this type of coordination will be indicated in that Agency's calendar of activities.

4.1.2 Issue the PRENOTAM declaring the private airport as coordinated, indicating the coordination level and the period of validity.

4.1.3 Suspend the opportunity slot allocation when delays of more than 30 minutes exceed 10% of the movements.

NOTE: During the suspension period, the operators of the AIS and C-AIS Rooms will not be able to allocate the opportunity slots, given the fact that they will be blocked by SIGMA.

4.1.4 The registration codes of the aircraft that fail to comply with the rules established in this ICA shall be reported to the Aeronautical Judgment Board for the application of the sanctions provided for in the regulations.

4.2 ASSIGNMENTS OF AIS ROOMS, AUTOMATED AIS ROOMS AND C-AIS OF COORDINATED AIRPORTS

4.2.1 Constantly consult the SIGMA SLOT module and check the opportunity slot availability. If it is available, offer it to the first user of the candidate queue, as long as the advance periods provided for in the legislation in force are respected.

NOTE 1: When allocating the opportunity slot, AIS operators must complete the SIGMA SLOT module form with the aircraft registration, the origin and destination airports and the EOBT.

NOTE 2: The aircraft operators or exploiters applying for an opportunity slot will only be able to submit their flight plans after having the above data entered in the SIGMA SLOT module.

4.2.2 Receive the Full (PVC) and simplified (PVS) Flight Plans, only if they

have an allocated slot compatible with the declared times.

4.2.3 Receive the update messages (DLA, CHG and CNL), only if the data inherent in the slot are correct and, if the change results in a change in the scheduled times, that these are declared in the allocated slot ruler, available in the SIGMA SLOT module.

4.2.4 Enter in the SIGMA SLOT module, submission field, the slot whose PVC or PVS has been submitted and approved.

4.2.5 Do not accept the Full (PVC) or Simplified (PVS) Flight Plan off the advance periods provided for in this Instruction.

4.2.6 Immediately report to the CGNA any discrepancies found in the SIG-MA SLOT module, or the finding of any misuse by users.

4.2.7 Suspend, in a coordinated work with the CGNA, the allocation of an opportunity slot, when delays of more than 30 minutes exceed 10% of the movements.

4.3 ASSIGNMENTS OF AIS ROOMS IN NON-COORDINATED AIRPORTS

4.3.1 Do not accept PVC or PVS, when the departure or destination airport is considered to be a coordinated one and the slot alphanumeric code is not specified in item 18.

4.3.2 Check if the slot alphanumeric code declared in the PVC or PVS is shown on the SIGMA SLOT module, as well as if the aircraft registration and the allocated time match the information provided by the system.

4.3.3 Enter in the SIGMA SLOT module, submission field, the slot whose PVC or PVS has been submitted and received within deadlines established in this Instruction.

4.3.4 Do not accept a PVC or PVS after 1h30min in advance of the allocated exit slot, nor those for which there is not enough time, as stated in item 16 (EET), so that the validity period of the allocated arrival slot is respected.

NOTE: Aircraft operators or exploiters whose PVC or PVS are not submitted within the established deadlines and in accordance with the respective allocations will have their slots converted into opportunity slots. 4.3.5 Check in the SIGMA SLOT module for the availability of an opportunity slot for arrival at a coordinated airport, in case there is any interested user.

4.3.6 Aircraft operators or exploiters in possession of an opportunity slot may only submit their respective flight plans, after having their flight data entered in the SIGMA SLOT module, respecting the advance time periods provided for in the legislation in force.

4.3.7 Immediately report to CGNA any discrepancies found in the SIGMA SLOT module, or the finding of any misuse by users.

4.4 ACC ASSIGNMENTS

4.4.1 Coordinate with the corresponding APP, through the FMCs installed in the ACC and in the APP, any intention to use the arrival opportunity slot.

4.4.2 Coordinate directly with the APP, if you do not have any FMC installed, all intentions to use the arrival opportunity slot.

4.4.3 Enter in the SIGMA SLOT module, if you do not have any FMC installed, the registration, the airports of origin and destination and the EOBT of the aircraft that has been authorized to operate within the hours available in the opportunity slot.

4.5 APP ASSIGNMENTS

4.5.1 Coordinate with the coordinated airport TWR, through the FMC installed in the APP, the use of opportunity slot, as submitted in the SIGMA SLOT module, whenever an aircraft expresses its intention to land in that location.

4.5.2 Coordinate directly with the TWR of the coordinated airport, if there is no FMC installed in the APP, the use of the opportunity slot, as shown in the SIGMA SLOT module, whenever an aircraft expresses its intention to land in that location.

4.5.3 Enter in the SIGMA SLOT module, if there is no FMC installed, the registration, the airports of origin and destination and the EOBT of the aircraft that has been authorized to operate within the available hours in the opportunity ATC SLOT.

4.6 FMC ASSIGNMENTS

4.6.1 Constantly monitor the SIGMA SLOT module and report to CGNA on any aircraft that have not met their landing slot validity times.

4.6.2 Report to CGNA on the aircraft that were redirected to an alternate airport due to the loss of the validity of its slot without the possibility of using the opportunity slot.

4.6.3 Coordinate the arrival opportunity slot with the coordinated airport TWR reporting on the authorized registrations in the event that TWR does have access to the system.

4.6.4 Enter in the SIGMA SLOT module the registration, the airports of origin and destination and the EOBT of the aircraft that has been authorized to operate within the available times of the opportunity slot.

4.7 COORDINATED AIRPORT TWR ASSIGNMENTS

4.7.1 Ratify with the FMC and/or APP the arrival opportunity slots if the TWR does not have access to SIGMA.

4.7.2 Ratify with the AIS Room the exit opportunity slots in case the TWR does not have access to SIGMA.

4.7.3 Report to FMC about all aircraft performing landing and/or take-off operations off their respective slot period.

4.8 ASSIGNMENTS OF OPERATORS OR EXPLOITERS

4.8.1 Log in the SIGMA SLOT module according to instructions provided by the CGNA website (http://slot.cgna. gov.br/).

4.8.2 Submit to CGNA, via "email", the Airworthiness Certificate (aircraft with Brazilian registration), overflight authorization (foreign registered aircraft), RIAM and insurance (experimental aircraft), as well as the ANAC code list of pilots and flight operational dispatchers authorized to allocate slot.

4.8.3 Operate the SIGMA SLOT module.

 $4.8.4 \; \text{Add}$ to the PVC or PVS the slot code supplied by the SIGMA SLOT module.

4.8.5 In case the arrival opportunity slot is unavailable at the coordinated airport of destination, when submitting the PVC or PVS, the pilot or operational flight dispatcher must submit the flight plan to an airport near the coordinated airport and add to item 18, for example, the following observation: RMK/OPT SBSP. This means that there is still an intention to perform the landing operation at the coordinated airport if, during the displacement flight, an opportunity slot is available.

4.8.6 Establish a contact with the APP under whose jurisdiction the coordinated airport is located and reiterate its real intention of landing in case there is an opportunity slot available. If not, you should proceed to the destination airport declared in the flight plan.

5 FINAL PROVISIONS

5.1

Suggestions for the continuous improvement of this publication should be sent by accessing the specific link of the publication through the electronic addresses http: //publicacoes.decea.intraer/ or http://publicacoes.decea.gov.br/.

5.2

Cases not covered by this Instruction will be submitted to the General Director of DECEA.

LAW No. 5,332 OF OCTOBER 11, 1967

This law provides for the leasing of airport areas to companies and individuals or legal entities involved in aeronautical activities.

I, THE PRESIDENT OF THE REPUBLIC, make it known that the NATIONAL CON-GRESS decrees and I sanction the following Law:

<u>Art. 1</u>

The lease of airport areas for the installation of facilities for aircraft shelter, repair, supply and other ancillary services, which are of direct interest to companies or individuals or legal entities that provide air services or services that are relevant to aviation as deemed by the competent authority are hereby waived from the public bidding process.

§ 1 The provisions of this article shall include areas for dispatch, offices, work-shops and warehouses.

§ 2 The facilities mentioned can be constructed in reserved areas of the airports, subject, however, to the payment of the fees provided for in Decree-Law No. 270 of February 28, 1967.

<u>Art. 2</u>

The leases will be formalized by contracts with a maximum term of five (5) years, and may be renewed at the discretion of the competent authority.

<u>Art. 3</u>

The competent authority may, in the cases it deems convenient and subject to the conditions it determines, grant the concessionaires areas for the construction of improvements considered as permanent, which shall revert to the Federal Government at the end of the contract term, without compensation of any kind.

 \S 1 In these cases, the concession term must be such as to allow the amortization of the capital invested in the installation.

§ 2 If the Government needs the area granted before the contract term has ended, the concession holder will be entitled to an indemnity payment corresponding to the capital yet to be amortized.

<u>Art. 4</u>

The facilities mentioned in the previous article can only be expanded with the approval of the competent authority.

§ 1 The expansion does not imply any obligation of the Government to indemnify or extend the term of reversal, except when authorized with this specific condition.

§ 2 Whatever the value of the expansion, the extension shall occur only once and for a time not in excess of one fifth of the contract term.

<u>Art. 5</u>

The Lessees engaged in the exploitation of similar services or activities are guaranteed the right to receive areas equal to those of a larger size already granted to another company of similar activity, as proven to be necessary.

<u>Art. 6</u>

The lease fees will shall be determined annually, based on the square meter, and charged monthly.

<u>Art. 7</u>

The Executive Branch, through the Ministry of Aeronautics, shall regulate the processing of the contracts referred to in this Law, complying with the legislation in force for unspecified cases.

<u>Art. 8</u>

This Law shall become effective on the date of its publication.

<u>Art. 9</u>

Provisions to the contrary are hereby revoked.

Brasilia, October 11, 1967; 146th year of Independence and 79th year of the Republic.

A. COSTA E SILVA

MÁRCIO DE SOUZA E MELLO

LAW No. 8,987 OF FEBRUARY 13, 1995

Provides for the concession and permission regime for the provision of public services covered by art. 175 of the Federal Constitution, and makes other provisions.

I, THE PRESIDENT OF THE REPUBLIC, makes it known that the National Congress decrees and I sanction the following Law:

CHAPTER I

PRELIMINARY PROVISIONS

<u>Art. 1</u>

Public service and public works concessions as well as public service permissions will be governed by the terms of art. 175 of the Federal Constitution, by this Law, by the relevant legal rules and by the clauses of the indispensable contracts.

Sole paragraph. The Federal Government, the States, the Federal District and the Municipalities shall arrange for the revision and the necessary adaptations of their legislations to the requirements of this Law, seeking to comply with the peculiarities of the different modalities of their services.

<u>Art. 2</u>

For the purposes of the provisions of this Law, the following definitions shall apply:

I – contract-letting government entity: the Federal Government, the State, the Federal District or the Municipality, under whose competence the public service falls, preceded or not by the execution of the public works object of the concession or permission;

II – public service concession: made by the granting power through competitive bidding or competitive dialogue, its provision is delegated to a legal entity or consortium of companies that demonstrate the capacity to perform the services, on their own account and at their own risk for a determined period; (Wording given by Law No. 14,133 of 2021)

III – public service concession preceded by the execution of public works:

the construction, total or partial, conservation, reform, expansion or improvement of any works of public interest, delegated by the granting authority, in the form of competitive bidding or competitive dialogue, to a legal entity or consortium of companies that demonstrate the ability to perform them at their own risk, so that the investment of the concessionaire is remunerated and amortized by exploiting the service or the works for a determined period of time; (Wording given by Law No. 14,133, of 2021)

IV – public service permission: the delegation, on a precarious basis, through a public bidding, of the provision of public services, made by the contract-letting government entity to the individual or legal entity that demonstrates having the required capacity for its performance, at its own risk.

<u>Art. 3</u>

The concessions and permissions shall be subject to inspection by the contract-letting government entity responsible for the delegation, with the cooperation of the users.

<u>Art. 4</u>

The public service concession, whether or not preceded by the execution of the public works, shall be formalized by means of a contract, which shall comply with the terms of this Law, the relevant rules and the bidding notice.

<u>Art. 5</u>

The contract-letting government entity shall publish, prior to the bidding notice, an act justifying the convenience of granting a concession or permission, characterizing its object, area and term.

CHAPTER II

SUITABLE SERVICE

<u>Art. 6</u>

Any concession or permission granted presupposes the provision of an adequate service to the full satisfaction of the users, as established in this Law, in the relevant rules and in the respective contract. § 1 An adequate service is the one which satisfies the conditions of regularity, continuity, efficiency, safety, modernity, generality, courtesy in their supply and reasonable tariffs.

2 § Modernity includes up-to-date techniques, techniques, equipment, facilities and their maintenance, as well as the improvement and expansion of the services.

 \S 3 lts interruption in an emergency situation or on a prior notice shall not be characterized in cases where:

I - it is caused for technical or security reasons involving the facilities; and

II – due to the user's default, considering the interest of the community.

§ 4 The interruption of service in the event provided for in item II of § 3 of this article may not start on a Friday, Saturday or Sunday, or on a holiday or the day before a holiday. (Included by Law No. 14015, year 2020)

CHAPTER III

RIGHTS AND OBLIGATIONS OF USERS

<u>Art. 7</u>

Without prejudice to the provisions of Law No. 8078 of September 11, 1990, the rights and obligations of users are:

I - receive the adequate service;

II – receive information from the contract-letting government entity and the concessionaire to defend individual or collective interests;

III – obtain and use the service with freedom of choice among various service providers, when applicable, subject to the rules of the contract-letting government entity. (Wording provided by Law No. 9648 of the year 1998)

IV – bring the irregularities of which they are aware, regarding the service provided, to the public authorities and the concessionaire;

V – communicate to the competent authorities the illegal acts practiced by the concessionaire in the provision of the services;

VI – contribute to the continuity of the good conditions of the public assets used for providing the services.

Article 7-A

Concessionaires for providing public services, under public and private law, in the States and in the Federal District, are required to provide consumers and users, within the validity month, the minimum of six optional dates from which to choose the due dates of their debts. (Included by Law No. 9791, year 1999)

Sole paragraph. (VETOED) (Included by Law No. 9791, year 1999)

CHAPTER IV

TARIFF POLICY

<u>Art. 8</u>

(VETOED)

<u>Art. 9</u>

Tariffs charged for the public services under the concession shall be determined by the price of the winning bid and preserved by the revision rules covered by this Law, the bidding notice and in the contract.

§ 1 The tariff shall not be subject to a prior specific legislation and, only in the cases expressly covered by law, their collection shall be dependent on the existence of an alternative and free public service provided to the user. (Wording provided by Law No. 9648 of 1998)

 \S 2 The contracts may provide for mechanisms for revision of the tariffs in order to keep the economic and financial balance.

§ 3 Except for taxes on income, the creation, modification or termination of any taxes or legal charges, after the submission of the proposal, when their impacts are proven, will lead to the revision of the tariff to a higher or lower value, as appropriate.

§ 4 In the event of a unilateral amendment of the contract, affecting its initial economic and financial balance, the contract-letting government entity should restore it, concurrently with the change.

§ 5 The concessionaire shall disclose on its website, in a way clearly and easily understood by users, a table showing the tariff values and the evolution of revisions and adjustments made in the last five years. (Included by Law No. 13673 of 2018)

<u>Art. 10</u>

Whenever the conditions of the contract are met, its economic and financial balance is regarded as maintained.

<u>Art. 11</u>

In compliance with the peculiarities of each public service, the contract-letting government entity may establish, in favor of the concessionaire, in the bidding notice, the possibility of other sources for alternative, complementary, accessory revenues or associated projects, with or without exclusiveness, with a view to favoring the moderation of tariffs, in compliance with the provisions of art. 17 of this Law.

Sole paragraph. The revenue sources provided for in this article shall be mandatorily considered for the assessment of the initial economic and financial balance of the contract.

<u>Art. 12</u>

(VETOED)

Art. 13

The tariffs may be differentiated according to the technical characteristics and the specific costs arising from serving the different segments of users.

CHAPTER V

BIDDING

<u>Art. 14</u>

Any public service concession, whether or not preceded by the execution of public works, shall be the object of a prior bidding, under the terms of its own legislation and in compliance with the principles of legality, morality, publicity, equality, judgment by objective criteria and binding on the calling instrument.

<u>Art. 15</u>

In the bidding judgment, one of the following criteria shall be considered: (Wording provided by Law No. 9648 of 1998)

I – the lowest tariff value of the public service to be provided; (Wording given by Law No. 9648 of 1998)

 II – the highest bid in the cases of payment to the contract-letting government entity for the concession; (Wording provided by Law No. 9648 of 1998)

III – the combination, two by two, of the criteria referred to in items I, II and VII; (Wording provided by Law No. 9648 of 1998)

IV – best technical proposal with a price established by the bidding notice; (Included by Law No. 9648 of 1998)

V – best proposal due to the criteria combination of the lowest tariff value of the public service to be provided and the best technique employed; (Included by Law No. 9648 of 1998)

VI – best proposal due to the criteria combination of the highest bid for the concession and the best technique; or (Included by Law No. 9648 of 1998)

VII – best payment offer for the concession after qualification of the technical proposals. (Included by Law No. 9648 of 1998)

§ 1 The application of the criteria set forth in section III shall only be accepted if this has been previously established by the bidding documents, including rules and precise formulas for economic and financial assessment. (Wording provided by Law No. 9648 of 1998)

§ 2 To implement the provisions of items IV, V, VI and VII the call for bids shall contain the parameters and requirements for the formulation of technical proposals. (Wording provided by Law No. 9648 of 1998)

§ 3 The contract-letting government entity shall reject proposals that are clearly unfeasible or financially incompatible with the objectives of the bidding (Wording provided by Law No. 9648 of 1998)

§ 4 In equal conditions, preference shall be given to the proposal made by a Brazilian company. (Wording provided by Law No. 9648 of 1998)

<u>Art. 16</u>

The granting of a concession or permission shall not be exclusive, except in the case of some technical or economic unfeasibility justified in the act referred to in art. 5 of this Law.

<u>Art. 17</u>

Proposals that require advantages or subsidies that are not previously authorized by law and available to all competitors shall be disqualified. Sole paragraph. The proposal from a state-owned entity alien to the political and administrative sphere of the contract-letting government entity, which – to be feasible – needs advantages or subsidies from the controlling government of said entity shall also be disqualified.

§ 1 The proposal submitted by a state-owned entity alien to the political and administrative sphere of the government, which – to be feasible – needs benefits or subsidies from the controlling government of said entity shall also be disqualified. (Renumbered from the sole paragraph by Law No. 9648 of 1998)

§ 2 These advantages or subsidies shall include any type of differentiated tax treatment, even if it is given as a consequence of the bidder's legal nature, that compromises the equal tax conditions that should prevail among all the bidders (Included by Law No. 9648 of 1998)

<u>Art. 18</u>

The bidding notice shall be prepared by the contract-letting government entity in compliance, where applicable, with the criteria and general rules of the specific legislation on bidding and contracts and shall set forth the following:

I – the concession object, goals and term;

II – a description of the conditions required for the adequate provision of the services;

III – the deadlines for submission of proposals, bid awarding and signature of the contract;

IV – deadline, place and time the interested parties shall be provided with the data, studies and projects required for preparing their estimates and submitting their proposals;

V – the criteria and the list of documents required to assess technical capacity, financial, legal and tax standing;

 VI – possible sources of alternative, complementary or accessory revenue, as well as revenues from associated projects;

VII – the rights and obligations of the contract-letting government entity and concessionaire with regard to changes and expansions to made in the future to guarantee the continuity of the services to be provided;

VIII – the tariff adjustment and revision criteria;

 IX – the criteria, indicators, formulas and parameters to be used in the technical and economic-financial assessment of the proposal;

X – indication of the reversible assets;

XI – the characteristics of the reversible assets and the conditions under which they will be made available in the cases where the previous concession has terminated;

XII – the express indication of the person responsible for the burden of expropriations necessary for the performance of the services or public works, or for the establishment of an administrative easement;

XIII – the leadership conditions of the responsible company in the event that the participation of companies in a consortium is allowed;

XIV – in cases of concession, the respective contract draft containing the essential clauses referred to in art. 23 of this Law, when applicable;

XV – in the case of public service concessions preceded by the execution of public works, the data related to the work, including the elements of the basic project that allow its full characterization, as well as the guarantees required for that specific part of the contract, appropriate to each case and limited to the value of the work; (Wording provided by Law No. 9648 of 1998)

XVI – in cases of permission, the terms of the adhesion contract to be signed.

<u>Art. 18-A</u>

The notice may provide for the reversal of the order of the qualification and awarding phases, in which case: (Included by Law No. 11196 of 2005)

I – after the phase of bid classification or submission of bids has ended, the envelope with the qualification documents of the best classified bidder will be opened to verify its compliance with the conditions set forth in the bidding notice; (Included by Law No. 11196 of 2005)

II – once the compliance with requirements of the notice is verified, the winning bidder shall be declared; (Included by Law No. 11196 of 2005)

III – if the best classified bidder is disqualified, the qualifying documents of the bidder with the second ranked proposal will be analyzed, and so on, until a classified bidder meets the conditions set forth in the bidding notice; (Included by Law No. 11196 of 2005)

IV – when the final result of the bidding is proclaimed, the object shall be awarded to the winner based on the technical and economic conditions offered. (Included by Law No. 11196 of 2005)

<u>Art. 19</u>

When the participation of consortium companies is allowed in the bidding process, the following rules shall be observed:

I – proof of public or private commitment to establish a consortium subscribed by the consortium members;

II – appointment of the company responsible for the consortium;

III – submission of the documents listed in items V and XIII of the previous article by each consortium member;

IV – impediment of the participation of consortium companies in the same bidding process, in more than one consortium or separately.

 \S 1 The winning bidder is required to make the necessary arrangements, before entering into the agreement, for the establishment and registration of the consortium under the terms of the commitment referred to in item I of this article.

§ 2 The consortium leading company is liable towards the contract-letting government entity for the fulfillment of the concession contract without prejudice of the joint and several liability of the other consortium members.

<u>Art. 20</u>

It is up to the contract-letting government entity, as long as provided for in the bidding notice, in the interest of the services to be provided under the concession, to determine that the winning bidder, in the case of a consortium, should establish a company before entering into the concession agreement.

<u>Art. 21</u>

The studies, investigations, surveys, projects, works and expenses or investments already made, related to the con-

cession, useful for the bidding, carried out by the contract-letting government entity or with its authorization, shall be at the disposal of the interested parties, and the bid winner of the bidding should reimburse the corresponding expenditures as specified in the bidding notice.

<u>Art. 22</u>

Any person is assured of obtaining a certificate on acts, contracts, decisions or opinions related to the bidding process or the concessions themselves.

CHAPTER VI

CONCESSION CONTRACT

<u>Art. 23</u>

Essential clauses of the concession contract are those relating to:

I – the object, area and term of the concession;

II – the manner, form and conditions of the service provision;

III – the criteria, indicators, formulas and parameters that define the service quality;

IV – the service price and the criteria and procedures for adjusting and revising tariffs;

V - the rights, guarantees and obligations of the contract-letting government entity and the concessionaire, including those related to the foreseeable need for future changes and expansion of the services and the consequent modernization, improvement and expansion of equipment and installations;

VI – the rights and duties of users to obtain and use the services;

VII – how the inspection of the facilities and equipment will be conducted, methods and practices for carrying out the services, as well as the appointment of the competent organizations to perform them;

VIII – contractual and administrative penalties to which the concessionaire is subject and how they will be applied;

IX – the cases of termination of the concession;

X – the reversible assets;

XI – the calculation criteria and how the payment of indemnities due to

the concessionaire will be made, when applicable;

XII – the conditions for extending the contract;

XIII – the obligation, form and periodicity of the concessionaire's accountability towards the contract-letting government entity;

XIV – the requirement to publish the concessionaire's periodic financial statements; and

XV – the court and the amicable way of resolving contractual differences.

Sole paragraph. The public service concession contracts preceded by the execution of public works shall, in addition:

I – stipulate the physical and financial schedules for the performance of the works related to the concession; and

II – demand a performance bond from the concessionaire for the fulfillment of the obligations related to the works under the concession.

<u>Art. 23-A</u>

The concession contract may provide for the use of private mechanisms to resolve disputes arising from or related to the contract, including arbitration, to take place in Brazil and in the Portuguese language, under the terms of Law No. 9307 of September 23, 1996. (Included by Law No. 11196 of 2005)

<u>Art. 24</u>

(VETOED)

<u>Art. 25</u>

It is up to the concessionaire to perform the services as granted, it being responsible for all losses caused to the contract-letting government entity, users or third parties, without the inspection performed by the competent agency excluding or mitigating this liability.

§ 1 Without prejudice to the liability referred to in this article, the concessionaire may contract with third parties the development of inherent activities, accessory or complementary to the services provided, as well as the implementation of associated projects. (See ADC 57)

§ 2 The contracts between the concessionaire and parties referred to in the previous paragraph shall be governed by private law, without establishing any legal relationship between the third par-

ties and the contract-letting government entity.

 \S 3 The implementation of activities hired with third parties requires the compliance with the regulations of the type of the service provided.

<u>Art. 26</u>

Subconcession is allowed under the terms provided for in the concession contract, provided it is expressly authorized by the contract-letting government entity.

§ 1 The subconcession granted shall always be preceded by a bidding.

§ 2 The subconcessionaire shall subrogate all rights and obligations of the concessionaire within the subconcession limits.

<u>Art. 27</u>

The transfer of the concession or corporate control of the concessionaire without the prior consent of the conceding authority shall imply the lapse of the concession.

§ 1 To obtain the approval referred to in this article, the applicant shall: (Renumbered from the sole paragraph by Law No. 11196 of 2005)

I – comply with the technical capacity, financial, legal and tax good standing requirements to assume the service; and

II – undertake to comply with all the clauses of the current contract.

§ 2 (revoked). (Wording provided by Law No. 13097 of 2015)

§ 3 (revoked). (Wording provided by Law No. 13097 of 2015)

4 § (revoked). (Wording provided by Law No. 13097 of 2015)

<u>Art. 27-A</u>

Under the conditions established in the concession contract, the contract-letting government entity shall authorize the control assumption or the temporary management of the concessionaire by its financiers and guarantors with whom it does not maintain a direct corporate relationship. This would promote its financial restructuring and ensure the continuity of the provision of services. (Included by Law No. 13097 of 2015)

§ 1 Under the circumstances set forth in the head of this article, the contract-let-

ting government entity shall require the lenders and guarantors to comply with the legal and tax good standing requirements and may amend or waive other requirements established in section I of the sole paragraph of art. 27. (Included by Law No. 13097 of 2015)

§ 2 The control assumption or temporary management authorized in the way indicated in the head of this article shall not change the obligations of the concessionaire and its controllers towards third parties, the contract-letting government entity and the users of public services. (Included by Law No. 13097 of 2015)

§ 3 The terminable property of stocks or shares by the financiers and guarantors meeting the requirements of art. 116 of Law 6404 of December 15, 1976 shall configure the concessionaire's control for the purposes envisaged in this article. (Included by Law No. 13,097, of 2015)

§ 4 The temporary management of the concessionaire by its financiers and guarantors shall become effective when, without the transfer of ownership of stocks or shares, the following powers are granted: (Included by Law No. 13097 of 2015)

I – appointment of the members of the Board of Directors to be elected at a Shareholders' Meeting in companies governed by Law 6404 of December 15, 1976; or directors to be elected by the shareholders in the other companies; (Included by Law No. 13097 of 2015)

II – appointment of the members of the Audit Committee to be elected by the shareholders or controlling shareholders at a Shareholders' Meeting; (Included by Law No. 13097 of 2015)

III – exercise veto power over any proposal submitted to the vote of the concessionaire's stock holders or shareholders who represent, or may represent, losses for the purposes provided for in the head of this article; (Included by Law No. 13097 of 2015)

IV – other necessary powers which are at the reach of the purposes provided for in the head of this article. (Included by Law No. 13097 of 2015)

§ 5 The authorized temporary management in the way established in this article shall not result in liability towards financiers and guarantors with regard to taxation, charges, liens, penalties, obligations or commitments to third parties, including the contract-letting government entity or employees. (Included by Law No. 13097 of 2015)

§ 6 The contract-letting government entity shall decide about the term of the temporary management. (Included by Law No. 13097 of 2015)

<u>Art. 28</u>

In the financing contracts, the concessionaires shall be able to offer as a guarantee the rights arising from the concession, up to a limit that does not compromise the operation and continuity of the service to be provided.

Sole paragraph. In cases where the financing organization is a public financial institution, other guarantees from the concessionaire must be required to make the financing viable. (Revoked by Law No. 9074 of 1995)

<u>Art. 28-A</u>

To guarantee long-term loan contracts for investments related to concession contracts, in any of their modalities, the concessionaires may assign to the lender, on a fiduciary basis, a portion of their future operating credits, subject to the following conditions: (Included by Law No. 11196 of 2005)

 I – the credit assignment contract must be registered with the Registry of Deeds and Documents to be effective before third parties;

II – without prejudice to the provisions of item I of the head of this article, the credit assignment shall not be effective with regard to the contract-letting government entity, unless it is formally notified; (Included by Law No. 11196 of 2005)

III – future credits assigned under the terms of this article shall be constituted under the ownership of the lender, regardless of any additional formalities; (Included by Law No. 11,196, of 2005)

IV – the lender may appoint a financial institution to collect and receive payments of the assigned credits or allow the concessionaire to do so, as a representative and depositary; (Included by Law No. 11,196, of 2005)

V – in the event that a financial institution has been appointed, as provided in item IV of the head of this article, the concessionaire is required to submit to that institution the credits to be collected; (Included by Law No. 11196 of 2005)

VI – the payments of the assigned credits must be deposited by the concessionaire or by the institution in charge of collecting them in the checking account related to the loan contract; (Included by Law No. 11196 of 2005)

VII – the depositary financial institution shall transfer the amounts received to the lender as the liabilities of the loan contract become due; and (Included by Law No. 11196 of 2005)

VIII – the assignment contract shall provide for the surrender of surplus funds to the concessionaire. It is forbidden to withhold the balance after full performance of the contract. (Included by Law No. 11196 of 2005)

Sole paragraph. For the purposes of this article, long-term contracts are those whose obligations have an average maturity term of more than 5 (five) years. (Included by Law No. 11196 of 2005)

CHAPTER VII

CONTRACT-LETTING GOVERNMENT ENTITY CHARGES

<u>Art. 29</u>

The contract-letting government entity is responsible for:

 I – regulating the services granted and permanently inspecting their provision;

II – applying regulatory and contractual penalties;

III – intervening in the provision of the services in the cases and conditions established by law;

IV – terminating the concession in the cases provided for in this Law and in the manner provided in the contract;

V - ratifying adjustments and enforcing tariff revisions under this Law, the relevant rules and the contract;

VI – complying with and enforcing the regulatory provisions of the services and the contractual clauses of the concession;

VII – ensuring the service good quality, receiving, investigating and resolving complaints from users, who will be informed, within 30 days, of the measures taken;

VIII – declaration of public utility as regards the assets required for performing the public services or work, arranging for expropriations, directly or through the granting of powers to the concessionaire, in which case the latter shall be responsible for the applicable indemnities;

IX – declaration of public necessity or utility, for the purpose of constituting an administrative easement, the assets required for the execution of a public service or work, promoting it directly or by granting powers to the concessionaire, in which case the latter shall be responsible for the applicable indemnities;

X – stimulating the increase of quality, productivity, preservation of the environment and conservation;

XI - stimulating competitiveness; and

XII – stimulating the formation of user associations to defend interests related to the services.

<u>Art. 30</u>

When performing the inspections, the contract-letting government entity shall have access to data related to the concessionaire's management, accounting, technical, economic and financial resources.

Sole paragraph. The service inspection shall be performed by a technical organization of the contract-letting government entity or by an entity associated with it and, periodically, as provided for in a regulatory rule, by a committee made up of representatives of the contract-letting government entity, the concessionaire and users.

CHAPTER VIII

CONCESSIONAIRE'S CHARGES

<u>Art. 31</u>

It is up to the concessionaire:

I – provide adequate services, as provided for in this Law, in the applicable technical standards and in the contract;

II – keep up-to-date the inventory and registration of assets related to the concession;

III – render service management accounts to the contract-letting government entity and users, under the terms defined by the contract;

IV – comply with and enforce the service rules and the contractual clauses of the concession;

 V – allow the inspection supervisors to have free access, at any time, to the works, equipment and facilities required for performing the services, as well as the accounting records;

VI – promote expropriations and establish easements authorized by the contract-letting government entity, as provided for in the bidding notice and the contract;

VII – ensure the integrity of the assets involved in the provision of the services and also properly insure them; and

VIII – capture, apply and manage the financial resources necessary to provide the service.

Sole paragraph. Hiring, including labor, by the concessionaire shall be governed by the provisions of private law and labor law, with no relationship being established between third parties hired by the concessionaire and the contract-letting government entity.

CHAPTER IX

INTERVENTION

<u>Art. 32</u>

The contract-letting government entity may intervene in the concession to ensure the adequacy of the services provided, as well as the faithful compliance with the relevant contractual, regulatory and legal rules.

Sole paragraph. This intervention shall take place by a decree issued by the contract-letting government entity. This decree shall contain the designation of the intervener, the term of the intervention and the objectives and limits of the measure.

<u>Art. 33</u>

Once the intervention is declared, the contract-letting government entity must, within a period of thirty days, institute an administrative procedure to prove the determinant causes of the measure and determine the responsibilities involved, ensuring the right to a fair hearing.

§ 1 If it is proved that the intervention did not comply with the legal and regulatory assumptions, it shall be declared null and void, the service being immediately returned to the responsibility of the concessionaire, without prejudice to its right to due compensation.

§ 2 The administrative procedure referred to in the head of this article should be completed within one hundred and eighty days. Otherwise, it shall be considered an invalid intervention.

<u>Art. 34</u>

After the intervention is terminated, if the concession is not terminated, the administration of the service shall be returned to the concessionaire, preceded by the rendering of accounts by the intervener, who shall be responsible for the acts performed during its term of management.

CHAPTER X

TERMINATION OF THE CONCESSION

<u>Art. 35</u>

The concession shall be extinguished by:

- I expiration of its term;
- II nationalization;
- III lapse of the concession;
- IV termination;
- V annulment; and

VI – bankruptcy or extinction of the concessionaire and death or disability of its holder, in the case of an individual company.

§ 1 Upon termination of the concession, all the reversible assets, rights and privileges transferred to the concessionaire as provided in the bidding notice and established in the contract shall return to the contract-letting government entity.

§ 2 Upon termination of the concession, the contract-letting government entity shall immediately assume the provision of the services, proceeding to conduct the necessary surveys, assessments and liquidations.

§ 3 The assumption of the services allows the contract-letting government entity to occupy the facilities and use and all the reversible assets.

§ 4 In the cases referred to in items I and II of this article, the contract-letting government entity in advance of the concession termination shall proceed to conduct the necessary surveys and assessments to determine the indemnity amounts to be due to the concessionaire under the terms of articles 36 and 37 of this law.

<u>Art. 36</u>

The reversal of the contract term shall be made with the indemnity of the investment installments related to reversible assets not yet amortized or depreciated of investments that have been made to ensure the continuity and timeliness of the services granted.

<u>Art. 37</u>

By expropriation is meant the considered to be the resumption of services by the contract-letting government entity during the concession period, for reasons of public interest, by means of a specific authorization law and after the prior payment of the indemnity, as provided for in the previous article.

<u>Art. 38</u>

The total or partial non-performance of the contract shall, at the discretion of the contract-letting government entity, result in the declaration of concession lapse or the application of contractual sanctions, in compliance with the provisions of this article, of art. 27, and the rules agreed upon by the parties.

§1 The concession lapse can be declared by the contract-letting government entity when:

 I – the service is being rendered inappropriately or deficiently, based on the standards, criteria, indicators and parameters that define service quality;

II - the concessionaire breaches contractual clauses or legal or regulatory provisions concerning the concession;

III – the concessionaire stops providing the services or concur to do so, except in the event of unforeseeable circumstances or force majeure;

IV – the concessionaire loses its economic, technical or operational conditions to keep the adequate provision of the services granted;

V - the concessionaire does not fulfill the penalties imposed for infractions within the due time;

VI – the concessionaire fails to comply with the notice received from the contract-letting government entity to take corrective measures regarding the services provided; and

VII – the concessionaire does not comply with the notice received from the contract-letting government entity to submit, within one hundred and eighty (180) days, documentation related to its good tax standing during the concession term, pursuant to art. 29 of Law No. 8666 of June 21, 1993. (Wording provided by Law No. 12767 of 2012).

§ 2 The declaration of concession lapse shall be preceded by the concessionaire>s default check in an administrative proceeding, the right to fair hearing being guaranteed.

§ 3 An administrative proceeding for default shall not be instituted before the concessionaire is informed in detail about the contractual breaches referred to in § 1 of this article, a deadline being given to correct the faults and transgressions mentioned and to comply with the contractual terms.

§ 4 After the administrative proceeding is instituted and the default is proved, the concession lapse shall be declared by a decree issued by the contract-letting government entity, regardless of a prior compensation payment calculated during the process.

§ 5 The compensation referred to in the preceding paragraph shall be due as set forth in art. 36 of this Law and in the contract, less the amount of the contractual fines and damages caused by the concessionaire.

§ 6 Once the concession lapse is declared, the contract-letting government entity shall not be subject to any liabilities with regard to charges, liens, obligations or commitments to third parties or to employees of the concessionaire.

<u>Art. 39</u>

The concession contract may be terminated at the initiative of the concessionaire, in the event of a non-compliance with the contractual terms by the contract-letting government entity, by means of a lawsuit specially brought for this purpose.

Sole paragraph. In the event referred to in the head of this article, the services provided by the concessionaire should not be interrupted or paralyzed, until the final decision by a court of law.

CHAPTER XI

PERMISSIONS

<u>Art. 40</u>

The public service permit shall be formalized by an adhesion contract, which shall comply with the terms of this Law, the other pertinent rules and the bidding notice, including with regard to the precariousness and unilateral revocability of the contract by the contract-letting government entity.

Sole paragraph. The provisions of this Law shall apply to permissions.

CHAPTER XII

FINAL AND TRANSITORY PROVISIONS

<u>Art. 41</u>

The provisions of this Law do not apply to a concession, permission and authorization for a radio sound and image broadcasting service.

<u>Art. 42</u>

Public service concessions granted prior to the entry into force of this Law are considered valid for the term established in the contract or in the granting act, subject to the provisions of art. 43 of this Law. (See Law No. 9074 of 1995)

§ 1 Once the period mentioned in the contract or act of granting has elapsed, the service can be provided by an agency or entity of the contract-letting government entity, or delegated to third parties under a new contract. (Wording provided by Law No. 11445 of 2007). (Validity) (See ADIN 4058)

§ 2 The concessions in a precarious character, those that are with an expired term and those that are in force for an undetermined period, including under a previous legislation, shall remain valid for the period required for conducting the necessary surveys and assessments to organize the bids that will precede the awarding of the concessions that will replace them. This term shall not be less than 24 (twenty-four) months.

§ 3 The concessions referred to in § 2 of this article, including those that do not have an instrument to formalize them or that have a clause that provides for an extension, shall have maximum validity until December 31, 2010, provided that, until June 30, 2009, the following conditions have been cumulatively met: (Included by Law No. 11445 of 2007). (Validity)

 I – the widest and most retroactive survey possible of the physical elements constituting the infrastructure of the reversible assets and of the financial, accounting and commercial data related to the provision of the services, in a necessary and sufficient dimension to carry out the calculation of any indemnity related to the investments not yet amortized by the revenues arising from the concession, complying with the legal and contractual provisions that regulated the provision of the services or applicable to it in the 20 (twenty) years prior to the publication of this Law; (Included by Law No. 11445 of 2007). (Validity)

II – contract entered into between the contract-letting government entity and the concessionaire on the criteria and the form of indemnification for any remaining credits from investments not yet amortized or depreciated, calculated from the surveys referred to in item I of this paragraph and audited by a specialized institution chosen by mutual contract between the parties; and (Included by Law No. 11445 of 2007). (Validity)

III – publication in the official press of a formal act of an authority from the contract-letting government entity, authorizing the precarious provision of services for a period of up to 6 (six) months, renewable until December 31, 2008, upon proof of compliance with the provisions of items I and II of this paragraph. (Included by Law No. 11445 of 2007). (Validity)

§ 4 Failing the contract provided for in section II § 3 of this article, the calculation of the investment compensation shall be made based on the criteria established in the concession instrument entered into or, failing this, by evaluating the economic value or equity revaluation, depreciation and amortization of property, plant and equipment defined by tax and corporate law. This work shall be done by an independent audit firm chosen by common contract between the parties. (Included by Law No. 11445 of 2007). (Validity)

§ 5 In the case of § 4 of this article, the payment of any compensation shall be collateralized in four (4) annual, equal and successive installments of the portion not yet amortized of investments and other indemnities related to the

provision of services, made with the concessionaire's or its controller's own capital, or originating from financing operations, or obtained through the issue of shares, debentures and other securities, with the first installment paid up to the last business day of the financial year in which the reversal occurs. (Included by Law No. 11445 of 2007). (Validity)

§ 6 If the parties agree, the indemnity referred to in § 5 of this article can be paid by the revenues from a new contract that may govern the provision of the services. (Included by Law No. 11445 of 2007). (Validity)

<u>Art. 43</u>

All public service concessions awarded without bidding are extinguished under the 1988 Constitution. (See Law No. 9,074, 1995)

Sole paragraph. All concessions awarded without a bidding prior to the 1988 Constitution, whose works or services have not started or which are paralyzed when this Law comes into force, are also extinguished.

<u>Art. 44</u>

Concessionaires with works that are behind schedule on the date of publication of this Law shall submit to the contract-letting government entity, within one hundred and eighty days, an effective plan for the completion of the works (See Law No. 9074 of 1995)

Sole paragraph. If the concessionaire does not submit the plan referred to in this article or if such a plan does not offer effective conditions for the completion of the works, the contract-letting government entity may declare the concession related to those works as terminated.

<u>Art. 45</u>

In the case dealt with in arts. 43 and 44 of this Law, the contract-letting government entity shall indemnify the works and services performed only in that case and with the resources of the new bid.

Sole paragraph. The bidding process referred to in the head of this article shall mandatorily take into account, for evaluation purposes, the stage of the paralyzed or delayed works to make it possible to apply the judgment criteria established in item III of art. 15 of this Law.

<u>Art. 46</u>

This Law shall become effective on the date of its publication.

<u>Art. 47</u>

Provisions to the contrary are hereby revoked.

Brasília, February 13, 1995; 174th year of Independence and 107th year of the Republic.

FERNANDO HENRIQUE CARDOSO

NELSON JOBIM

DECREE No. 7,624 OF NOVEMBER 22, 2011

Provides for the conditions of exploitation by the private sector of an airport infrastructure by means of a concession.

THE PRESIDENT OF THE REPUBLIC, in the use of the powers conferred on her by art. 84, items IV and VI, item "a", of the Constitution, and in view of the provisions of art. 3rd, item II of Law No. 11182, of September 27, 2005,

DECREES:

<u>Art. 1</u>

This Decree provides for the conditions of exploitation by the private sector of an airport infrastructure by means of a concession.

Sole paragraph. For the purposes of this Decree, airports are considered to be public civil airports that make up the airport infrastructure to be granted.

<u>Art. 2</u>

The Civil Aviation Secretariat of the Presidency of the Republic shall issue, through an Ordinance, an awarding plan that specifies the airports to be awarded by the Federal Government.

<u>Art. 3</u>

The provisions of this Decree shall apply to airports delegated by the Federal Government to States, the Federal District and Municipalities, under the terms of art. 24-D, item VIII of the head of Law No. 10683 of May 28, 2003, by means of a contract, in compliance with the applicable federal rules.

§ 1 For the purposes of this Decree, States, the Federal District and Municipalities may exercise their powers of being the contract-letting government entities, under the terms of the powers delegated by the Federal Government under signed contracts.

§ 2 The concession of the operation of airports by States, the Federal District and Municipalities, under the contracts referred to in the head of this article, shall be subject to the prior and express consent of the Civil Aviation Secretariat of the Presidency of the Republic.

§ 3 This Decree shall apply to contracts and other acts signed by the Federal

Government with States, the Federal District and Municipalities for the construction, maintenance or operation of airports.

CHAPTER I

CONDITIONS FOR EXPLOITATION

<u>Art. 4</u>

The concessionaire shall provide adequate services to users and comply with the legal and regulatory rules regarding technical and safety aspects of civil aviation, especially those issued by the National Civil Aviation Agency (ANAC) and the Ministry of Defense, through the Aeronautical Command (COMAER), as well as the provisions of the concession contract.

<u>Art. 5</u>

The airports awarded may be used by any aircraft, without distinction of ownership or nationality, subject to the burden of use, unless if, for operational or safety reasons, there is a restriction of use by specific types of aircraft or air services. The discrimination of users is prohibited.

<u>Art. 6</u>

The concession term shall be established by the contract-letting government entity, in the bidding notice and in the concession contract, and shall be compatible with the amortization of investments. This term may be extended only once, for up to five years, for purposes of economic and financial rebalancing resulting from the effectiveness of risks not assumed by the concessionaire in the contract, by means of a grounded act.

Sole paragraph. In a concession awarded under the public-private partnership system, the term referred to in the head of this article may not exceed thirty-five years, including any possible extension of it, for the purposes set forth herein.

<u>Art. 7</u>

In the operation of the awarded airport, airport tariffs shall be charged according to the tariff system established by ANAC. § 1 The concession contract tariff system shall provide for the transfer of efficiency and productivity gains to users, and consider aspects of quality in the provision of services.

§ 2 The tariff values shall be adjusted annually using a consumer price index.

<u>Art. 8</u>

Revoked by Decree No. 10472 of 2020

<u>Art. 9</u>

The Ministry of Defense should be consulted by the Civil Aviation Secretariat of the Presidency of the Republic on any military interest in the airport to be awarded and about the airspace control, indicating, if necessary, the restrictions to be included in the bidding notice and in the contract.

Sole paragraph. The Ministry of Defense will express its opinion, within the limits of its powers, about the terms of the concession of airports where an air base is installed.

CHAPTER II

PUBLIC NOTICE AND THE CONCESSION CONTRACT

<u>Art. 10</u>

The bidding process will take place in the form of competition or auction, subject to the provisions of Law No. 9491 of September 9, 1997.

Sole paragraph. The concession bidding related to the operation of the airport shall allow the participation of interested parties joined together in the form of a consortium.

Art. 11

The publication of the bidding notice and the concession contract shall be preceded by a public hearing and consultation.

§ 1 In the event of an ordinary concession, the highest value in the national currency offered to the contract-letting government entity as a consideration for the concession shall be used as a judgment criterion for the bid, in the amount and periodicity determined in the bidding notice, without prejudice to any stipulation in the concession contract with regard to the payment of a variable portion to the contract-letting government entity.

§ 2 In the event of a public-private partnership, the lowest value in the national currency as a consideration to be paid by the contract-letting government entity to the private partner shall be used as a judgment criterion for the bid, in the amount and periodicity determined in the bidding notice.

<u>Art. 12</u>

In the case of concessions awarded by the Federal Government, the resources indicated in § 1 of art. 11 shall constitute revenue for the National Civil Air Transport Fund – FNAC.

§ 1 The Civil Aviation Secretariat of the Presidency of the Republic shall regulate the procedures and conditions for the application of FNAC resources until December 31, 2012 to favor, among other things, the tariff affordability of the airport system.

§ 2 For the purposes of the regulation to be established as set forth in § 1, the Civil Aviation Secretariat of the Presidency of the Republic shall hear the Aeronautical Command regarding the investments to be made in the aeronautical infrastructure.

<u>Art. 13</u>

The resources derived from the concessions awarded by the States, the Federal District and Municipalities, should be invested in the development and promotion of airport and aeronautical infrastructures, including other airports of the respective Aeronautical Plan or infrastructure of road access to airports.

<u>Art. 14</u>

In the concession contracts, the clauses established in art. 23 of Law No. 8987 of February 13, 1995, and in art. 5 of Law No. 11079 of December 30, 2004, as applicable, in addition to clauses related to:

I – the value of the contract and its remuneration;

II – the allocation of risks between the contract-letting government entity and the concessionaire;

III - the conditions for maintaining the economic and financial balance;

IV – the rules for the control assumption of the concession by the financiers;

V – the rules for transferring the corporate control of the concession;

VI – security guarantees in relation to assets and civil liability;

VII – the quality of services provided by the concessionaire when performing the contract;

VIII – the concession assets and the specification of the assets in the airport area;

IX – the allocation of alternative, complementary, accessory or associated projects, with or without exclusiveness;

X – the assignment of spaces and rights to build, maintain, operate or use the airport infrastructure;

XI – revenue sharing criteria, in the case of concession of parts of an airport; and

XII - the conditions necessary for the performance of public agencies at the airport.

<u>Art. 15</u>

In order to ensure the conditions of competition, the contract-letting government entity may establish the following restrictions on obtaining and operating the concession, among others under the Brazilian Competition Defense System:

I – rules designed to preserve competition between airports;

II – provisions for the concessionaire's performance as regards the auxiliary services to companies providing air transportation services; and

III – rules for the concessionaire regarding the assignment of areas to companies providing air transport services.

<u>Art. 16</u>

At the discretion of ANAC, the direct or indirect participation of companies providing air transport services in the concessionaire's capital may be limited, as well as the participation of it or its partners, directly or indirectly, in the capital of companies providing air transport services.

Sole paragraph. In the case of concessions awarded by States, the Federal District and Municipalities, the participation of companies, as provided for in the head of this article must be subject to ANAC's prior approval.

<u>Art. 17</u>

The contract-letting government entity shall establish the conditions for the transfer of ownership of the concession or shareholding control of the concessionaire.

§ 1 The contract-letting government entity may establish a minimum period during which the transfer referred to in the head of this article shall be prohibited.

§ 2 For the purposes of obtaining the transfer, the interested party shall:

I – prove compliance with all concession requirements, including as to guarantees, legal and tax standing and the technical, economic and financial qualification required by the bidding notice; and

II – undertake to comply with all the clauses of the current contract.

§ 3 The contract-letting government entity shall establish conditions under which the concessionaire>s control of the financiers will be authorized to promote its financial restructuring and ensure the continuity of the provision of services, in compliance with Law No. 8987 of 1995, and Law No. 11079 of 2004.

§ 4 In order to comply with the provisions of the head of this article, corporate changes resulting from spin-off, consolidation, incorporation and formation of a consortium of concessionary companies will also be considered as a transfer of share control.

§ 5 The transfer of the concession or corporate control of the concessionaire without the prior consent of the contract-letting government entity shall imply the concession lapse.

<u>Art. 18</u>

Without prejudice of the provisions of art. 7, the contract-letting government entity shall establish the way in which the economic and financial balance of the concession contract will be restored, in favor of the contract-letting government entity or the concessionaire, and the following measures can be used individually or jointly, without excluding other applicable ones:

I - revision of the tariff value;

II – change of the concession term, in compliance with provisions of art. 6;

III - change of the concessionaire's contractual obligations;

IV – revision of the contribution payable by the concessionaire in the case of an ordinary; and

V – revision of the public partner's monetary consideration, in the case of a public-private partnership.

§ 1 In federal concessions, the use of the measures described in items IV and V of the head article depends on prior consent from the Civil Aviation Secretariat of the Presidency of the Republic.

§ 2 In the concessions awarded by the States, the Federal District and Municipalities, the maintenance of the economic and financial balance of the contract shall be the exclusive responsibility of the contract-letting government entity, in compliance with the tariff ceilings established by ANAC.

<u>Art. 19</u>

Without prejudice to other criteria and conditions defined by ANAC, reversible assets can be pledged as a collateral, provided that:

I – at the end of the concession, they are transferred to the government free of any charges or charges; and

II – in the event of its sale during the concession, the concessionaire proceeds to its immediate replacement by others under the same or better conditions of operation and functioning than those replaced.

Sole paragraph. In the financing contracts obtained for the execution of the works or services, the concessionaires shall be able to offer as a guarantee the rights arising from the concession, up to the limit that it does not compromise the operation and continuity of the service provision.

<u>Art. 20</u>

The bidding notice shall contain the express indication of the person responsible for the burden of expropriations necessary for the performance of the service or public works, or for the institution of an administrative easement.

§ 1 The notice and the respective concession contract may provide that the concessionaire will promote the expropriation or the necessary acts for the institution of administrative easement, with its own resources, after the declaration of public utility by the government, in accordance with the legislation and regulations in force.

§ 2 In federal concessions, the real estate values and any indemnity expenses to third parties to be taken to the airport>s capital account shall be subject to the assessment of the Federal Government Assets Secretariat – SPU.

CHAPTER III

FINAL PROVISIONS

<u>Art. 21</u>

Only the public airports suitable for operation in one of the cases of exploitation as set forth in art 36 of Law No. 7565 of December 19, 1986 shall be approved by ANAC as public airports.

<u>Art. 22</u>

The concession model applicable to the operation of São Gonçalo do Amarante Airport, located in the Municipality of São Gonçalo do Amarante, in the State of Rio Grande do Norte, shall continue to be governed by Decree No. 7205 of June 10, 2010. (Revoked by Decree No. 10472 of 2020)

<u>Art. 23</u>

This Decree shall become effective on the date of its publication.

Brasília, November 22, 2011; 190th year of Independence and 123rd year of the Republic.

DILMA ROUSSEFF

CELSO LUIZ NUNES AMORIM

GUIDO MANTEGA

MIRIAM BELCHIOR

WAGNER BITTENCOURT DE OLIVEIRA

LAW No. 13,448 OF JUNE 5, 2017

Establishes general guidelines for the extension and rebidding of the partnership contracts defined by Law No. 13334 of September 13, 2016, in the road, rail and airport sectors of the federal public administration, and amends Law No. 10233 of June 5, 2001 and Law No. 8987 of February 13, 1995.

I, THE PRESIDENT OF THE REPUBLIC, makes it known that the National Congress decrees and I sanction the following Law:

CHAPTER I

PRELIMINARY PROVISIONS

<u>Art. 1</u>

This Law establishes general guidelines for the extension and rebidding of partnership contracts defined by Law No. 13334 of September 13, 2016, in the road, rail and airport sectors of the federal public administration, and amends Law No. 10233 of June 5, 2001, and Law No. 8,987, of February 13, 1995.

<u>Art 2</u>

The extension and rebidding referred to in this Law shall only apply to a public project previously and specifically qualified for that purpose in the Investment Partnership Program (PPI).

<u>Art. 3</u>

The ministry or the regulatory agency, as a competent agency or entity, shall adopt the best regulatory practices in the extended or rebidded contract, incorporating new technologies and services and, as appropriate, new investments.

<u>Art. 4</u>

For the purposes of this Law, it is considered:

I – contractual extension: change in the partnership contract term, expressly allowed in the respective bidding notice or in the original contractual instrument, made at the discretion of the competent agency or entity and in agreement with the contractor, due to the end of the term of the contract adjustment;

II – anticipated extension: change in the duration of the partnership contract, when the contractual extension is expressly allowed in the respective bidding notice or in the original contractual instrument, made at the discretion of the competent agency or entity and by mutual contract with the contractor, producing effects before the end of the adjustment period;

III – rebidding: a procedure that includes the amicable extinction of the partnership contract and the signing of a new business contract for the enterprise, under new contractual conditions and with new contractors through a bidding promoted for this purpose.

CHAPTER II

EXTENSION OF THE PARTNERSHIP CONTRACT

<u>Art. 5</u>

The contractual extension and the advanced extension of the partnership contract in the road and rail sectors shall comply with the provisions of the respective contractual instruments, it being additionally based on the provisions of this Law.

§ 1 The extensions provided for in the head of this article may occur at the request of any of the parties to the partnership contract and shall be subject to the discretion of the competent agency or entity.

§ 2. Except when there is a contractual provision to the contrary, the request for contractual extension must be formally declared to the competent agency or entity at least twenty-four (24) months in advance, counted from the end of the contract originally signed.

§ 3 For the purposes of the provisions of this Law, and provided that it has not been previously extended, the partnership contract may be extended only once, for a period equal to or less than the extension period originally set or admitted in the contract.

<u>Art. 6</u>

The anticipated extension shall occur through the inclusion of investments not provided for in the current contractual instrument, subject to the provisions of art. 3 of this Law.

§ 1 The advanced extension shall only occur in the partnership contract whose term, at the time of the interested party>s manifestation, is between fifty percent (50%) and ninety percent (90%) of the term originally stipulated.

§ 2 The advanced extension shall also be subject to the contractors compliance with the following requirements:

I – regarding the highway concession, the completion of at least eighty percent (80%) of the mandatory works required from the beginning of the concession to the submission of the proposal for early extension, disregarding the cases of contractual default for which the contractor has not given rise to, according to the report prepared by the competent agency or entity;

II – as regards the railway concession, the provision of adequate services, by which is meant the fulfillment, in the previous period of five (5) years, counted from the date of the proposal for an early extension, of the production and safety goals defined in the contract for three (3) years, or the safety goals defined in the contract, for four (4) years.

<u>Art. 7</u>

The amendment for extension of the partnership contract must contain the respective schedule of the mandatory investments provided for and include the mechanisms that discourage possible nonperformance or delays with regard to obligations, such as the annual rebalancing discount and the award additional payment.

<u>Art. 8</u>

It shall be up to the competent agency or entity, after the qualification referred to in art. 2 of this Law, conduct a prior technical study that justifies the advantage of the extension of the partnership contract regarding a new bidding for the project. § 1 Without prejudice to the regulation of the competent agency or entity, the technical study referred to in the head of this article shall include:

I – the new investment programs when expected;

II – estimates of operating expenses and costs;

III - demand estimates;

IV - economic and financial modeling;

V – the environmental guidelines, when required, in compliance with the investment schedule;

VI – considerations on the main existing legal and regulatory issues;

VII – the amounts due to the government for the extension, when applicable.

§ 2 The formalization of the extension of the partnership contract shall depend on a prior and favorable assessment by the competent agency or entity on the contractors ability to guarantee the continuity and adequacy of the services.

<u>Art. 9</u>

Without prejudice to the other provisions of this Law, the extension of partnership contracts in the railway sector shall also be also be guided by:

I – the adoption, when applicable, of obligations to make investments to increase the installed capacity and reduce the saturation level of the railway stretch, ensuring the economic and financial rebalancing of the contract;

II – the quality-of-service parameters, with the respective investment plans to be agreed upon by the parties;

III – contractual guarantee of transport capacity to third parties granted by the National Agency for Terrestrial Transport (ANTT), providing the right of way, mutual traffic and exploration by an independent railway operator through access to the railway infrastructure and to the respective operating resources of the concessionaire, thus guaranteeing the contracted capacity remuneration.

§ 1 The transport capacity levels shall be established for each year the extended partnership contract remains in force, and it will be up to the competent agency or entity to monitor the services being provided by the contractor. § 2 The agreed investment plans may cover mandatory interventions by the contractor, compatible with the adjusted capacity levels.

§ 3 Upon the prior consent of the competent agency or entity, the investment plans will be revised to meet capacity levels, under the terms of the contract.

§ 4 The saturation level referred to in item I of the head of this article shall be determined by the contract-letting government entity.

<u>Art. 10</u>

The extensions referred to in art. 5 of this Law must be previously submitted to a public consultation by the competent agency or entity, together with the study referred to in art. 8 of this Law.

Sole paragraph. The public consultation shall be announced in the official press and on the internet and must contain the identification of the object, the reason for extension and the proposed conditions, among other relevant information, establishing a minimum time of at least forty-five (45) days for receiving suggestions.

<u>Art. 11</u>

After the public consultation is concluded, the study referred to in art. 8 of this Law, the documents that prove compliance with the requirements dealt with in items I and II of § 2 of art. 6 of this Law, if applicable, and the contractual extension amendment shall be submitted to the Federal Accounting Court.

<u>Art. 12</u>

(VETOED).

CHAPTER III

REBIDDING OF THE PARTNERSHIP CONTRACT OBJECT

<u>Art. 13</u>

In order to ensure that the services shall continue being provided, the competent agency or entity may conduct, subject to the compliance with the conditions set forth in this Law, the rebidding of the partnership contract in the road, rail and airport sectors whose contractual provisions are not being met or whose contractors demonstrate an inability to comply with the originally assumed contractual or financial obligations.

<u>Art. 14</u>

The rebidding referred to in art. 13 of this Law shall be held with a contract of the parties, under the terms and with the deadlines defined in an act of the Executive Branch.

§ 1 In any case, it will be the responsibility of the competent agency or entity to assess the need, relevance and reasonableness of initiating the process of rebidding the object of the partnership contract, considering the operational, economic and financial aspects and the continuity of the services involved.

§ 2 Without prejudice to other requirements defined in an act of the Executive Branch, the initiation of the rebidding process is subject to the presentation by the contractor of the following:

I – justifications and technical elements that demonstrate the need and convenience of adopting the rebidding process, with the possible proposals for solutions to the issues faced;

II – waiver of the term to correct any flaws and transgressions and for the framework provided for in § 3 of art. 38 of Law No. 8987 of February 13, 1995, if the lapse process is subsequently instituted or resumed;

III – formal declaration regarding the intention to adhere, in an irrevocable and irreversible manner, to the process of rebidding of the partnership contract under the terms of this Law;

IV – the express waiver as regards the participation in the new event or in the future partnership contract rebidding pursuant to art. 16 of this Law;

V – the information necessary to conduct the rebidding process, particularly the statements about the investments in reversible assets involved in the project and any financing instruments used in the contract, as well as all existing contracts for the assignment of areas for commercial and service purposes in spaces under the ownership of the current contractor.

§ 3 After the qualification of the partnership contract for rebidding, pursuant to art. 2 of this Law, the measures to institute or continue the lapse processes that may be under way against the contractor will be suspended.

§ 4 Until their completion, the court and out-of-court reorganization proceedings,

provided for in Law No. 11101 of February 9, 2005, do not apply to a partnership contract specifically qualified for rebidding purposes, except in the case provided for in § 1 of art. 20 of this Law.

<u>Art. 15</u>

The rebidding of the partnership contract shall be subject to an amendment entered into with the current contractor, including, among other particulars deemed pertinent by the competent agency or entity, the following:

I – the irrevocable and irreversible adherence of the current contractor to the rebidding of the project and the subsequent amicable extinction of the adjustment, under the terms of this Law;

II – the suspension of investment obligations falling due after the amendment is entered into and the minimum conditions under which the services will continue being provided by the current contractor until the new partnership contract is signed, ensuring, in any case, the continuity and safety of the essential services related to the project;

III – the commitment between the parties regarding the submission to arbitration or another private dispute resolution mechanism accepted under the applicable legislation, of issues involving the calculation of indemnities by the competent agency or entity, with regard to the procedures established by this Law.

§ 1 The amendment referred to in the head of this article and the future partnership contract to be signed by the competent agency or entity may also include:

I – the provision that the indemnities determined under the terms of item VII of \S 1 of art. 17 of this Law will be paid by the new contractor, under the terms and limits established in the rebidding notice;

II – the provision for payment, directly to the financiers of the original contractor, of the amounts covering the indemnities due by the competent agency or entity under the terms of item VII of § 1 of art. 17 of this Law.

 \S 2 The fines and other sums of a non-tax nature payable by the previous contractor to the competent agency or entity shall be deducted from the amounts referred to in item I of \S 1 of this article, including the amount related to the award originally offered, calculated as per an act of the competent agency or entity.

§ 3 The payment to the previous contractor of the indemnity calculated based on § 2 of this article shall be a condition for the beginning of the new partnership contract.

<u>Art. 16</u>

The following are prevented from participating in the rebidding process covered by this Law:

I – the contractor or the Special Purpose Company (SPE) responsible for the performance of the partnership contract;

II – the shareholders of the SPE responsible for the performance of the partnership contract, holding at least twenty percent (20%) of the voting capital at any time prior to the initiation of the rebidding process.

Sole paragraph. The prohibitions covered by this article shall also apply to the participation of entities mentioned:

I – in the consortia organized to participate in the rebidding;

II – in the share capital of a company participating in the bidding process;

III – in the new SPE established to participate in the rebidded project.

<u>Art. 17</u>

The competent agency or entity shall conduct the necessary technical study in a precise, clear and sufficient way to subsidize the rebidding of the partnership contracts in order to ensure their economic, financial and operational feasibility.

§ 1 Without prejudice to other particulars set forth in the regulation of the competent agency or entity, the technical study referred to in the head of this article shall include:

I - the schedule of planned investments;

II – estimates of operating expenses and costs;

III - demand estimates;

IV – the economic and financial modeling;

 V – the environmental guidelines, when required, in compliance with the investment schedule;

VI – considerations on the main existing legal and regulatory issues;

VII – the survey of indemnities possibly payable to the contractor for investments in reversible assets related to the partnership contract made and not amortized or depreciated.

§ 2 The methodology for calculating the indemnities referred to in item VII of § 1 of this article shall be regulated by a normative act of the competent agency or entity.

§ 3 Without prejudice to the provisions of the partnership contract, the competent agency or entity may consult the contractor's financiers about possible contributions to studies related to the rebidding of the project.

§ 4 When the financing conditions prove to be advantageous for the government and viable for the financiers, the competent agency or entity may, in a consultation with the financiers, demand the assumption by the future SPE of the debts acquired by the previous contractor, under the terms established by the rebidding notice.

<u>Art. 18</u>

The competent agency or entity shall submit to public consultation the studies referred to in art. 17 of this Law. The disclosure is to appear in the official press and on the Internet with the identification of the object, reason for the rebidding, the proposed conditions and other relevant information. The minimum term for receiving suggestions shall be forty-five (45) days.

<u>Art. 19</u>

After the public consultation is ended, the studies referred to in art. 17 of this Law shall be forwarded to the Federal Accounting Court, together with the documents referred to in art. 14 of this Law.

<u>Art. 20</u>

In the event of lack of parties interested in the bidding process provided for in art. 13 of this Law, the contractor shall continue providing the public services under the conditions set forth in item II of the head of art. 15 of this Law, until a new session is held to receive proposals.

§ 1 If the lack of interest of potential bidders persists or the rebidding process is not concluded in twenty-four (24) months from the date of qualification referred to in art. 2 of this Law, the competent agency or entity shall take the pertinent contractual and legal measures, revoking the suspension of the measures intended to institute or continue the lapse process previously instituted under the law.

§ 2 The term referred to in Paragraph 1 of this article may be justifiably extended by a decision of the Investment Partnership Program Council of the Presidency of the Republic (CPPI).

CHAPTER IV

FINAL PROVISIONS

<u>Art. 21</u>

Law No. 10233 of June 5, 2001 becomes effective with the following changes:

"Art. 24.....

IX – authorize projects and investments within the scope of the established awards;

XIX – declare to be of public utility for the purpose of exploitation or administrative easement the assets and properties necessary for the execution of works within the scope of the established awards.

"(NR)

"Art. 34-A. The concessions and their extensions to be awarded by ANTT and Antaq for the exploitation of infrastructure, whether or not preceded by public works, or for the provision of rail transport services associated with the exploitation of infrastructure, may have an exclusive character as regards their object, under the terms of the bidding notice and the contract, and the new concessions shall be preceded by a bidding governed by a specific regulation, approved by the Agency's Executive Board.

"(NR)

<u>Art. 22</u>

The changes in the partnership contracts resulting from modernization, adaptation, improvement or expansion of services are not subject to the limits set forth in §§ 1 and 2 of art. 65 of Law No. 8666, of June 21, 1993.

<u>Art. 23</u>

In the event of a concession to private initiative of airports assigned to the Brazilian Airport Infrastructure Company (Infraero), the bidding notice and the respective concession contract may stipulate the payment by the concessionaire of an indemnity for the costs of personnel adaptation directly to Infraero.

<u>Art. 24</u>

The Executive Branch shall establish guidelines for the use of the marginal cash flow method for the purpose of restoring the economic and financial balance of the partnership contracts related to the sectors covered by this Law.

<u>Art. 25</u>

The competent agency or entity is authorized to make changes to the partnership contracts of the railway sector to resolve operational and logistical issues, also by extensions or rebidding of all or part of the contracted projects.

§ 1 The competent agency or entity may, in agreement with the contractors, seek solutions for the entire system and adopt differentiated measures for each contract or rail section that take into account the network reconfiguration, provided that considerations are being made regarding investments by the contractors in their own network or those of interest to the government.

§ 2 For the purpose of the provisions of § 1 of this article, the following, among other measures, shall be expected in keeping with the economic and financial balance of the adjustments:

I – the incorporation of all or parts resulting from the spin-off of other partnership contracts;

II – the deallocation of assets related to the provision of services and the extinction of services related to those goods;

III – the use of unincorporated stretches for the provision of short distance transportation services by third parties;

IV – the division of a part of the right of way for federal entities which intend to implement railway passenger transportation.

§ 3 Under the terms and in the time defined in an act of the Executive Branch, the parties shall promote the extinction of the lease contracts for assets related to partnership contracts in the railway sector, preserving the financial obligations paid and payable under the terminated lease contracts in the economic and financial equation of the partnership contracts.

§ 4 The operational and non-operational assets related to the terminated lease contracts will be transferred free of charge to the contractor and will integrate the adapted partnership contract, with the exception of real estates, which will be the object of assignment for use to the contractor, in compliance with the provisions of § 2 of this article and without prejudice to other obligations.

§ 5 The contractor shall be responsible for managing, replacing, or disposing of the operational and non-operational personal properties already transferred or that may be part of the partnership contracts under the terms of § 3 of this article, in compliance with the conditions related to the transport capacity and quality of the services covered by a contract.

§ 6 At the end of the term of the partnership contracts, all real and personal property necessary for the performance of the contracted services and related to the capacity availability, in the volumes and conditions agreed upon by the parties, shall revert to the Federal Government, Union, respecting the economic and financial balance of the contract, with indemnity for the unamortized portion of the investment.

§ 7 The provision in item XVII of the head of this article and in § 4, both of art. 82 of Law No. 10233 of June 5, 2001 does not apply to the cases covered by this article.

<u>Art. 26</u>

Under the terms of the Executive Branch regulations, the contractors shall be allowed to promote the sale or disposal unserviceable business personal property of the National Department of Transport Infrastructure (Dnit), leased or not, located in the right of the way of the railway covered by the partnership contract.

<u>Art. 27</u>

The railway sector partnership contracts may cover the construction of new railway stretches or branches, with the necessary extension to meet the freight generating centers, as requested by the concessionaire and with the consent of the contract-letting government entity. § 1 For the purposes set forth in the head of this article, the submission of a study that demonstrates the technical, economic and financial feasibility of the project is required.

§ 2 With regard to the new stretch, the study mentioned in § 1 of this article should demonstrate the economic unenforceability of the segregated exploitation of the partnership contract.

§ 3. Investments made at the contractor>s own risk for the feasibility of new railway stretches or branches shall not generate any indemnity at the end of the contract.

<u>Art. 28</u>

(VETOED).

<u>Art. 29</u>

(VETOED).

<u>Art. 30</u>

The Federal Government and the indirect federal public administration entities, either jointly or separately, are authorized to compensate non-tax assets and liabilities, including fines, with the respective contractors, under the contracts in the road and railway industries.

§ 1 The amounts already registered as overdue tax liability with the Federal are excluded from the compensation referred to in the head of this article.

§ 2 The amounts determined according to the head of this article can be used for investment, directly by the respective concessionaires and subconcessionaires, in their own network or in those of interest to the public administration entities.

§ 3 The portion of the investments corresponding to the offset amounts cannot be used for purposes of economic and financial rebalancing of the contract and indemnity.

§ 4 The competent agency or entity shall conduct a technical study to justify the inclusion of the new investments or services to be considered. Technical studies conducted by the respective contracted partner can be used.

<u>Art. 31</u>

Controversies arising as a result of contracts in areas covered by this Law, after the final decision of the competent authority with regard to the property rights available, can be submitted to arbitration or other alternative dispute resolution mechanisms.

§ 1 Contracts that do not have an arbitration clause, including those in force can be amended in order to comply with the provisions in the head of this article.

§ 2 The costs and expenses related to the arbitration procedure, when instituted, shall be advanced by the private partner and, when applicable, refunded according to a final decision later in an arbitration instance.

§ 3 The arbitration will be held in Brazil in the Portuguese language.

§ 4 The following shall be regarded as controversies on property rights for the purposes of this Law:

I – issues related to the restoration of the economic and financial balance of the contracts;

II – the calculation of indemnities resulting from the termination or transfer of the concession contract; and

III – the default on contractual obligations by either party.

§ 5 An act of the Executive Power shall regulate the accreditation of the arbitration chambers for the purposes of this Law.

<u>Art. 32</u>

In cases where there is a study or bidding in progress to replace the current contract and there is not enough time for the bid winner to assume the object of the contract, the competent agency or entity is justifiably authorized to extend the term of the contract for up to twenty-four (24) months, so that the services provided are not discontinued.

<u>Art. 33</u>

The railway service concessionaires may subaward the maintenance and operation of railway stretches to the interested federal entities, as long as this is done with the consent of the contract-letting government entity, according to the regulation in force.

<u>Art. 34</u>

When it proves to be necessary for the viability of the associated projects or ancillary ventures, the exploitation of such projects or ventures shall be allowed to take place for a period longer than the term of the respective partnership contracts. Sole paragraph. The competent agency or entity shall evaluate the pertinence of adopting the measure referred to in the head of this article. However, it is forbidden to advance revenues arising from associated projects or ancillary ventures related to a period beyond the partnership contract term.

<u>Art. 35</u>

(VETOED).

<u>Art. 36</u>

The establishment of a wholly-owned subsidiary having a foreign company as its sole shareholder shall be allowed for the performance of partnership contracts.

<u>Art. 37</u>

This Law shall become effective on the date of its publication.

Brasilia, June 5, 2017; 196th year of the Independence and 129th year of the Republic.

MICHEL TEMER

MAURICIO QUINTELLA

DYOGO HENRIQUE DE OLIVEIRA

GRACE MARIA FERNANDES MENDONÇA
DECREE No. 9,957 OF AUGUST 6, 2019

Regulates the procedure for the rebidding of partnership contracts in the road, railway and airport sectors covered by Law No. 13448 of June 5, 2017.

THE PRESIDENT OF THE REPUBLIC, in the use of the powers conferred on him/ her by art. 84, head article, items IV and VI, item "a", of the Constitution, and in view of the provisions of Law No. 13448 of June 5, 2017,

DECREES:

CHAPTER I

PRELIMINARY PROVISIONS

<u>Art. 1</u>

This Decree establishes the procedure for rebidding of partnership contracts in the road, rail and airport sectors referred to in Law No. 13448 of June 5, 2017.

<u>Art. 2</u>

Guidelines for the rebidding process are:

I – continuity, regularity and efficiency in the contracted services provided to users; and

II – transparency, necessity and adequacy of the decisions of the competent agencies and entities.

CHAPTER II

PROJECT REBIDDING QUALIFICATION

SECTION I

REQUEST FOR REBIDDING

<u>Art. 3</u>

The request for rebidding shall be made in writing by the original contractor and submitted to the competent regulatory agency with the following contents:

I – justifications and technical data that make it possible to analyze the need and convenience of the rebidding;

II – waiver of the term for the correction of failures and transgressions and compliance with § 3 of art. 38 of

Law No. 8987, of February 13, 1995, if the lapse process is subsequently instituted or resumed;

III – formal declaration of the intention to adhere, in an irrevocable and irreversible manner, to the rebidding of the partnership contract after the signing of the amendment and compliance with the provisions of Law No. 13448 of 2017;

IV – express waiver of participation by the contractor and its direct or indirect shareholders in the rebidding event or in the future partnership contract that contemplates, in the whole or in part, the object of the partnership contract to be rebidded, in compliance with the provisions of art. 16 of Law No. 13448 of 2017;

V - information on:

a) the reversible assets related to the project covered by the partnership and the statements related to the investments made in them;

b) the financing instruments used in the partnership contract;

c) the contracts in force with third parties, resulting from the partnership contract, with the specifications of the current stage of its physical and financial execution and any non-compliances;

d) the ownership situation of the areas affected by the partnership contract, especially with regard to procedures for expropriation, eviction and removal;

e) the controversies involving the contractor, the contract-letting government entity and third parties, in the administrative, judicial and arbitration spheres, indication the lawsuit number, the disputed object, the parties, amount in controversy and the procedural stage; and

f) the existence of a court-supervised organization, an out-of-court reorganization or bankruptcy proceeding related to the special purpose company; and

VI – a well-grounded indication aimed at ensuring the continuity and security of essential services related to the project covered by the partnership contract:

a) the conditions proposed for the provision of essential services during the rebidding process; and

b) the essential investment obligations to be maintained, changed or replaced after the signature of the amendment.

§ 1 The head article provision does not prevent the competent regulatory agency from requesting the original contractor to submit additional documents essential to an analysis of the application.

§ 2 For the purposes of this Decree provisions, services related to the maintenance, conservation and operation of the project are considered essential, unless there is a duly justified decision otherwise by the competent regulatory agency.

§ 3 Investments in capacity expansion or new investments can only be considered essential if they are related to security or are absolutely necessary to the provision of the service.

SECTION II

THE QUALIFICATION PROCEDURE

<u>Art. 4</u>

The request for rebidding shall be processed and preliminarily analyzed by the competent regulatory agency, which will be responsible for expressing a technical and legal opinion on the feasibility of the request for re-bidding, subject to the provisions of this Decree and Chapter III of Law No. 13448 of 2017.

<u>Art. 5</u>

After the manifestation of the competent regulatory agency, pursuant to the provisions of art. 4, the process will be sent to the Ministry of Infrastructure, which will be responsible for expressing an opinion on the compatibility of the request for rebidding with the scope of public policy formulated for the corresponding sector.

<u>Art. 6</u>

The rebidding process, including the statements of the competent regulatory agency and the Ministry of Infrastructure, will be submitted to the Council for the

Investment Partnership Program of the Presidency of the Republic, which will be give its opinion on the matter, prior to the decision of the President of the Republic, regarding the convenience and opportunity of rebidding and the qualification of the project in the Investment Partnership Program of the Presidency of the Republic, under the provisions of art. 2 of Law No. 13448 of 2017.

§ 1 A favorable decision as to the request for rebidding does not imply the recognition by the Government of the sufficiency of the issues raised by the original contractor within the scope of the partnership contract, especially with regard to possible economic and financial imbalances.

§ 2 After the qualification of the project for rebidding by the Presidency of the Republic>s Investment Partnership Program, the actions under way to institute or continue the lapse process against the original contractor will be suspended.

CHAPTER III

THE QUALIFIED PROJECT REBIDDING

SECTION I

GENERAL PROVISIONS

<u>Art. 7</u>

It shall be the responsibility of the competent regulatory agency or the Ministry of Infrastructure, when applicable, to adopt the necessary measures regarding the rebidding of the qualified project in accordance with the provisions of Chapter II, in particular:

I - prepare and enter into the contract amendment referred to in art.15 of Law No. 13448 of 2017;

II – conduct or support the technical studies necessary for the qualified project bidding, in compliance with the provisions of art. 17 of Law No. 13448 of 2017;

III – publish the bidding notice, judge the bidding process and conduct the bidding procedure for the qualified project; and

IV – enter into and manage the future partnership contract and the administrative instruments resulting from the rebidding process covered by this Decree.

Sole paragraph. The competent regulatory agency shall hire an independent audit company to follow up the rebidding process of the partnership contract, the fulfillment of the obligations assumed in the contract amendment and the financial conditions of the specific purpose company.

SECTION II

THE CONTRACT AMENDMENT

<u>Art. 8</u>

The following are mandatory clauses of the contract amendment referred to in art. 15 of Law No. 13448, of 2017, without prejudice to other clauses regarded as pertinent by the competent regulatory agency:

I – the irrevocable and irreversible adherence of the original contractor to the project rebidding and the subsequent termination of the partnership contract;

II – the conditions for the provision of services that are the subject of the partnership contract until the effective date of the new partnership contract, in compliance with the guarantee of continuity and security of the essential services related to the project;

III – the suspension, on the date of execution of the contract amendment until the conclusion of the rebidding process, of the falling due investment obligations that have not been considered essential under the terms of paragraphs 2 and 3 of art. 3rd;

IV – the adoption of an arbitration or private dispute resolution mechanisms for issues involving the calculation of indemnities and the determination of assets and duties possibly related to the termination of the partnership contract;

V – the estimated payment date for the indemnities related to the reversible assets not amortized or depreciated, as referred to in item VII of § 1 of art. 17 of Law No. 13448 of 2017, in compliance with the provisions of art. 11 of this Decree;

VI – access by the competent regulatory agency and the Ministry of Infrastructure to relevant information about the project, including information on the commercial and financial conditions of the specific purpose company; VII – the express consent of the original contractor, under the terms of the provisions set forth in item V of § 3 of art. 1 of Supplementary Law No. 105 of January 10, 2001, so that the financiers or guarantors of said contractor may provide directly to the competent regulatory agency, whenever requested, additional information to support the assessment of the financial conditions of the specific purpose company, including information regarded as confidential;

VIII – the conditions under which the operational transition of assets and contractual and non-contractual obligations to the future contractor will take place;

IX – the provision that the signing, extension, renewal and amendment of contracts with third parties, resulting from the partnership contract, shall comply with the term provided for in § 1 of art. 20 of Law No. 13448 of 2017, except for a justified reason and with express authorization of the competent regulatory agency;

X – the option of the contract-letting government entity to follow up the meetings of the board of directors of the original contractor;

XI – the duty of the original contractor till the termination of the partnership contract:

a) not to distribute dividends or interest on its own capital and not to perform operations that constitute a shareholder remuneration under the provisions of § 4 of art. 202 of Law No. 6404 of December 15, 1976;

b) not to reduce its share capital;

c) not to offer new guarantees in favor of third parties, except for a justified reason and with the express authorization of the competent regulatory agency;

d) not to dispose of, assign, transfer, dispose of or constitute liens, pledges or encumbrances on assets or rights related to the partnership contract, except for justified reasons and with the express authorization of the competent regulatory agency; and

e) not to file for bankruptcy, court supervised or out-of-court reorganization of the special purpose company;

XII – the sanctions for noncompliance with the obligations agreed upon in

the contract amendment and the circumstances in which the repetition or the seriousness of the infraction committed will give rise to a proposal for the disqualification of the project under the Investment Partnership Program of the Presidency of the Republic;

XIII – the provision that the disqualification of the project by the Investment Partnership Program Council of the Presidency of the Republic implies:

a) the immediate opening or resumption of the lapse process that may be in progress against the original contractor; and

b) the automatic reestablishment of the charges, obligations and conditions in force before entering into the contract amendment, considering, for all purposes, the time elapsed between the entry into the contract amount and the disqualification;

XIV – the provision that the effectiveness of the contract amendment is subject to proof by the original contractor, within sixty days, counted from the date of its signature, of the nonexistence of court or out-of-court reorganization or bankruptcy proceedings for the purposes of the provisions in § 4 of art. 14 of Law No. 13448 of 2017; and

XV – the provision for payment by the future contractor of indemnities related to reversible assets not amortized or depreciated possibly due by the contract-letting government entity to the original contractor, under the terms and limits to be dealt with in the contract amendment and replicated in the future call for bids referred to in art. 10.

§ 1 The provisions of items II and III of the article head shall not imply the automatic revision of other terms and conditions of the partnership contract that have not been expressly regulated in the contract amendment.

§ 2 – The investment obligations not yet fulfilled on the date the contract amendment is entered into which have not yet been considered essential under the terms of the provisions in § 2 and § 3 of article 3 will not give rise to the application of penalties during the term of said amendment, without prejudice to the validity of the penalties whose triggering event happens prior to the date of it is entered into. § 3 In the contract amendment referred to in the head article, the competent regulatory agency may provide for the payment, in the whole or in part, of the amounts of the indemnities payable by the contract-letting government entity to the original contractor, directly to its financiers and guarantors, under the terms and limits to be governed by the amendment in the future rebidding notice covered by art. 10.

SECTION III

THE REBIDDING PROCESS

<u>Art. 9</u>

The qualification project's rebidding process shall follow the same preparatory procedures for entering into a new partnership, including the need to approve a new awarding plan and the requirements provided for in the legislation.

<u>Art. 10</u>

The rebidding notice and the draft of the future partnership contract shall contain the payment forecast referred to in item XV of the head of art. 8 of the contract, under the terms and limits set forth in the contract amendment.

Sole paragraph. The indemnity amounts possibly due to the financiers and guarantors of the previous contractor may appear in the bidding notice and the partnership contract draft under the provisions of § 3 of art. 8.

SECTION IV

INDEMNITIES

<u>Art. 11</u>

The following expenses will be deducted from the amount calculated by the competent regulatory agency as an indemnity for the nonamortized or depreciated reversible assets related to the partnership contract, as set forth in item VII of § 1 of art. 17 of Law No. 13448 of 2017:

I – the fines and other sums of a non-tax nature payable by the original contractor to the competent agency or entity and not paid till the moment of the indemnity payment;

II – the awards due till the termination of the partnership contract and not paid till the moment of the indemnity payment; and

III – the excess value of the tariff revenue earned by the original contractor as a result of the non-accounting of the economic and financial impact in the tariff value resulting from the suspension of non-essential investment obligations at the time of entering into the contract amendment.

§ 1 The overdue and paid awards, including the premium payment, are not included in the indemnity due calculation.

§ 2 The payment of the amounts referred to in the head article will be a condition for the beginning of the new partnership contract, in compliance with the provisions of § 3 of art. 15 of Law No. 13448 of 2017, without prejudice to other amounts to be determined and paid later, resulting from a judicial or arbitration decision or other private dispute resolution mechanism, as provided for in item IV of the head of article 8.

 \S 3 The indemnity calculation referred to in the head article shall be certified by an independent audit company referred to in the sole paragraph of art. 7.

CHAPTER IV

FINAL PROVISIONS

<u>Art. 12</u>

The rebidding process will not result in any kind of responsibility for the contract-letting government entity in relation to charges, encumbrances, obligations or commitments with third parties or with the original or future employees of the contractor.

<u>Art. 13</u>

The Investment Partnership Program Council of the Presidency of the Republic may establish a technical committee to monitor the rebidding process, according to the provisions of art. 6 of Decree No. 8791 of June 29, 2016.

<u>Art. 14</u>

This Decree shall become effective on the date of its publication.

Brasilia, August 6, 2019; 198th year of the Independence and 131st year of the Republic.

JAIR MESSIAS BOLSONARO

PAULO GUEDES

TARCISIO GOMES DE FREITAS

LUIZ EDUARDO RAMOS BAPTISTA PEREIRA

PRIVATE OPERATIONS

BRAZILIAN CIVIL AVIATION REGULATION -RBAC No. 91

AMENDMENT No. 03

GENERAL OPERATING REQUIREMENTS FOR CIVIL AIRCRAFT

SUBPART A

GENERAL

91.1 Applicability

(a) This Regulation applies and establishes requirements for:

(1) the operation of any civil aircraft within Brazil, including territorial waters, as well as Brazilian civil aircraft abroad (except captive balloons, aircraft within the scope of RBAC No. 103 and unmanned aircraft); and

(2) each person, whether natural or legal, involved in air operations conducted under this Regulation, including maintenance, preventive maintenance and aircraft changes.

(b) [Reserved].

(c) This Regulation applies to anyone on board an aircraft operated under this Regulation, unless otherwise specified.

(d) [Reserved].

(e) Brazilian airlines, foreign airlines operating in Brazil and private air operators must additionally comply with the requirements established in the specific regulations (when applicable) that complement and/or supplement the requirements of this Regulation.

Note: The inspection of all rules, criteria and procedures established in the rules of the Airspace Control Department (DE-CEA) and mentioned in this Regulation is not the responsibility of ANAC.

<u>91.3 Responsibility and authority of the pilot-in-command</u>

(a) The pilot-in-command of an aircraft has the final authority and responsibility for the operation and flight safety.

(b) In an emergency requiring immediate action, the pilot-in-command may deviate from any requirement of this Regulation to the extent required to deal with that emergency.

(c) Each pilot-in-command who deviates from a requirement in accordance with paragraph (b) of this section must record the occurrence in the logbook and send a written report to ANAC describing and justifying the deviation.

(d) The report dealt with in paragraph (c) of this section must be sent to ANAC within a maximum time of twenty (20) working days from the occurrence, unless otherwise required or authorized by ANAC.

91.5 Crew requirements

(a) The operation of a civil aircraft registered in Brazil is permitted only if:

 the flight crew complies with the minimum aircraft crew as established in its certificate of airworthiness;

(2) the operator designates a pilot to act as a pilot-in-command; and

(3) the operation is conducted by properly licensed/certified and qualified crew members for the aircraft according to RBAC No. 61 or RBHA 63, or the RBAC that will replace it, for the function they exercise on board, with recent experience, and holders of valid aeronautical medical certificates (CMA), issued in accordance with RBAC No. 67.

(b) In addition to the requirements of paragraph (a) of this section, if the operation involves IFR flight:

(1) the aircraft must be certified for IFR flight and the crew must conduct the operation according to the IFR flight procedures established by the approved flight manual or the aircraft operation manual (AOM);

(2) for aircraft with an approved configuration for passengers with 9 or less seats:(i) with an operational autopilot, the crew must be composed of a pilot qualified for IFR; and(ii) without an automatic pilot, the crew must be composed of two pilots qualified for IFR; and

(3) for aircraft with an approved configuration for passengers with 10 or more seats, the crew must be composed of two pilots gualified for IFR.

(c) For aircraft engaged in public specialized air services (SAE):

(1) the flight crew, in addition to meeting the applicable requirements of paragraph (a) of this section, must additionally comply with the specific requirements for the type of operation being conducted; and

(2) the other crew members necessary for the SAE must have been trained for their duties and responsibilities according to the current rules of ANAC.

(d) The crew members must hold the licenses and/or certificates, as well as the associated qualifications that are required for the flight, within the validity period (when applicable), and must demonstrate this sufficiently in an inspection, if requested, under the penalty of being prevented from acting as crew members on the flight until they do.

(e) If a pilot who has demonstrated poor performance under the provisions of paragraph 91.1071 (b) of this Regulation also acts as a pilot for a certificate holder issued under RBAC No. 119, he/she must notify that certificate holder of his/her unsatisfactory performance and immediately stop composing the crew until he/ she is able to complete satisfactorily a new exam, which will be taken after submitting an evidence of having received new theoretical and/or practical instruction. Likewise, if a pilot who has shown unsatisfactory performance under the provisions of paragraph 135.301 (b) of RBAC No. 135 or paragraph 121.441 (e) of RBAC No. 121 also acts as a pilot for a program administrator under Subpart K of this Regulation , he/she must notify that program administrator of his/ her unsatisfactory performance and immediately stop composing the crew until he/she is able to complete satisfactorily complete a new exam, which will be taken after submitting an evidence of having received new theoretical and/or practical instructions. (Included by Resolution No. 606, of 11.02.2021)

91.7 Airworthiness of civil aircraft

(a) It is only permitted to operate a civil aircraft if it is in airworthy condition.

(b) The pilot-in-command of a civil aircraft is responsible for checking the aircraft's condition for flight safety. He must discontinue the flight as soon as possible when mechanical, electrical or structural problems occur that degrade the airworthiness of the aircraft.

91.9 Requirements for approved flight manual or aircraft operation manual (AOM), civil aircraft markings and placards

(a) Except as provided in paragraph (d) of this section, it is not permitted to operate a civil aircraft without complying with the operational limitations specified in the approved flight manual (or an AOM), markings and placards posted, or as otherwise established by the civil aviation authority of the country in which the aircraft is registered

Note: In the case of an amateur-built aircraft, the need or not of the approved flight manual will be established at the time the experimental flight authorization certificate (CAVE) is issued.

(b) It is only allowed to operate a civil aircraft registered in Brazil:

(1) for which a flight manual approved by section 21.5 of RBAC No. 21 is required, if an approved flight manual (or an updated AOM) is on board. In the case of acrobatic aircraft performing acrobatic flights, the documents must be available at the place of operation with no need to carry them on board the aircraft; and

(2) for which a flight manual approved by section 21.5 of RBAC No. 21 is required, if there is on board:

(i) an approved flight manual (or an updated AOM);

(ii) material for an approved manual;

(iii) approved markings and placards; or

(iv) any combination of these items.

(c) It is only permitted to operate a civil aircraft registered in Brazil if the aircraft

is identified according to the rules established by RBAC No. 45.

(d) Anyone taking off or landing on a helipad built on water with a helicopter of the type certified according to RBAC No. 29 may momentarily fly through the prohibited range of the height-speed limiting envelope established for a helicopter, as necessary to take off or land, if that flight within the prohibited range occurs over water, in which a forced landing can be made, and if the helicopter is amphibious or equipped with floats or other suitable emergency flotation device to complete an emergency landing in open waters.

(e) The pilots must know the elements and procedures necessary for the operation contained in the manuals and/or other applicable documents.

91.11 [Reserved]

91.13 Careless or negligent operation

(a) It is forbidden to operate an aircraft, even if it is not for the purpose of flying, in a carelessly or negligent way, putting the lives and properties of third parties at risk.

91.15 Dropping objects

(a) Except for the situation provided for in paragraph (b) of this section, the pilot-in-command of a civil aircraft can only allow any object to be dropped from an aircraft in flight if such operation is previously authorized by ANAC.

(b) In cases of proven emergency, the pilot-in-command may jettison aircraft objects without prior authorization from ANAC, pursuant to paragraphs 91.3 (b), (c) and (d) of this Regulation, if reasonable precautions are taken to avoid injury or damage to people and/or property.

<u>91.17 Use of psychoactive</u> <u>substances</u>

(a) It is forbidden for anyone to act or attempt to act in activities regulated by ANAC while:

(1) [reserved];

(2) under the influence of alcohol or using alcoholic beverages;

(3) under the influence or using a psychoactive substance (as defined in RBAC No. 120) that affects, in any way contrary to operational safety, the faculties of that person; or

(4) have any concentration of alcohol in the body. The tolerance will be sub-

ject to the margin of error of the device used to measure the concentration, observing the metrological legislation.

(b) Except for emergencies, a pilot-in-command should not allow a person who appears to be intoxicated or under the influence of psychoactive substance, including alcohol, to be carried on board the aircraft in a way that could compromise flight safety.

(c) ANAC may request a person who has acted or attempted to act in activities regulated by ANAC, after acting or attempting to act, who undergoes a toxicological examination made with the use of an ethylometer maintained and used in compliance with paragraph 120.331 (e) of RBAC No. 120 to check the alcohol concentration in the body.

(d) Whenever there is a reasonable basis to believe that a person has violated the requirements of paragraph (a)(2), (a)(3) or (a) (4) of this section, ANAC may request that person to submit a toxicological examination to check for the presence and concentration of:

(1) alcohol, by means of a toxicological examination made with an ethylometer maintained and used in compliance with paragraph 120.331 (e) of RBAC No. 120 up to two (2) hours after the person has performed or intended to perform in his/her activities; or

(2) other psychoactive substances, through a laboratory toxicological examination made in up to 32 hours after the person has performed or intended perform in his/her activities.

(e) The results of the toxicological tests obtained by ANAC in accordance with paragraphs (c) and (d) of this section will be used to assess the person's psychophysical conditions in order to prove his/ her compliance with or violations of the requirements of this section and may be used as evidence in any administrative or judicial proceeding.

(f) The body matrix, the psychoactive substances evaluated and the cut-off values to be used in the context of a laboratory toxicological examination made in accordance with the requirements of paragraph (d) (2) of this section to assess compliance with the provisions of paragraph (a)(3) of this section are shown in in RBAC No. 120 and in a specific supplementary instruction.

(g) The laboratory toxicological examination required by paragraph (d) (2) of this section will be made according to para-

graph 120.331 (f) of RBAC No. 120. The regulated entity will be guaranteed the right to a reviewing physician, acceptable to ANAC, to determine whether the positive result of a toxicology test is due to legitimate treatment or another innocuous source, as well as assessing whether an individual was unable to undergo a toxicology test because he/she was unable to produce the necessary body sample due to a specific medical condition, as well as the right to a counterproof of a positive laboratory toxicology test result. This control analysis will be made according to the standards used to obtain the positive result.

(h) Prior to undergoing any toxicological examination in accordance with paragraphs (c) and (d) of this section, the person will be informed by ANAC of his/her right to refuse to undergo the examination and the consequences of such a refusal.

(i) The refusal to undergo a toxicological examination in accordance with paragraphs (c) and (d) of this section or confirmation of a positive result obtained from said examination will result in the holder of a license, certificate or authorization the automatic precautionary suspension of the license, certificate or authorization and other applicable administrative measures in accordance with Resolution No. 472, of June 6, 2018.

<u>91.19 Transport of substances or</u> <u>drugs subject to special control</u>

It is only permitted to transport substances and drugs subject to a special control on a civil aircraft within Brazil if duly authorized by the competent judicial, police or health authorities.

91.21 Portable electronic devices

(a) Except as provided in paragraph (b) of this section, it is prohibited to use and the operator of an aircraft is prohibited from authorizing the use of any portable electronic device in any civil aircraft registered in Brazil while operated under IFR.

(b) Paragraph (a) of this section does not apply to:

- (1) portable sound recorder;
- (2) hearing aid device;
- (3) cardiac pacemaker;
- (4) electric shaver; or

(5) any other portable electronic device that the air operator has determined, in an acceptable manner to ANAC, not to cause any interference with the communications or navigation systems of the aircraft in which it is being used.

(c) This section does not apply to operators certified under RBAC No. 119, who must comply with the requirements for the portable electronic devices listed in their operational regulations, as applicable.

91.23 Transport of remains

(a) Mortal remains are equivalent to ordinary cargo and may be transported in cargo and passenger aircraft, both on national and international flights, provided that they are prepared and packaged in accordance with current health legislation and regulations.

(1) In scheduled air transport, the cargo must be segregated from passengers.

(2) Paragraph (a) (1) does not apply to the transportation of ashes resulting from cremation processes, objects made up of the remains of animals (such as leather, skins, food) properly manufactured, as well as tissues, organs and other organic materials for transplants, implants and other medical treatments, which can be transported as carry-on baggage, subject to restrictions imposed by other relevant legislation. (Included by Resolution No. 606 of 11.02.2021)

(b) It is the operator's responsibility to find out and comply with the requirements of other federal or local laws or recommendations, if any, for the embarkation, transport and disembarkation of the remains.

(c) The air operator may refuse to transport the remains if it judges, in a duly justified manner, that the preparation or packaging is not adequate and that there are unacceptable risks to the flight safety.

(d) If the remains are contaminated or are transported together with material classified as a dangerous article, the air operator shall also comply with the applicable rules of RBAC No. 175.

SUBPART B

FLIGHT RULES

91.101 Applicability

(a) This Subpart establishes operational rules applicable to the operation of civil aircraft in the Brazilian airspace.

91.102 General rules

(a) It is only permitted to operate a civil aircraft in Brazil if the operation is con-

ducted in accordance with this Regulation, air traffic rules and the applicable documentation.

(b) Certificate holders with a concession or authorization to provide public air transport services shall comply, in addition to the requirements established in this Regulation, with the requirements contained in the specific regulations, as applicable.

(c) The only person that can start the engines or taxi an aircraft is:

(1) a pilot qualified for that aircraft; or

(2) in the case of airplanes, a person bound to and authorized by an operator certified under RBAC No. 119 or a maintenance organization certified under RBAC No. 145 who additionally meets the following requirements:

(i) is competent to start engines or taxi the airplane;

(ii) is qualified in the use of radio communication equipment, if such equipment is required; and

(iii) has received instruction from a competent person regarding the layout of the airport and, where appropriate, information on the taxiways, signaling, markings, lights, signs and instructions from the air traffic service agency (ATS unit), phraseology and procedures, and is capable of complying with the operational requirements for the safe movement of the airplane on the airport.

(d) It is only permitted to use a Brazilian airport if the airport is registered and the operator determines that the airport is suitable for the type of aircraft involved and for the proposed operation.

(e) The pilot-in-command of an aircraft may only allow passengers to board or disembark from his/her aircraft with the engine (s) running if:

(1) a qualified pilot is at the pilot station while the rotors or propellers are rotating;

(2) in the case of an airplane, its geometry allows passengers to use a conventional gate for boarding and disembarking without dangerously approaching rotating propellers or flue gas exhaust streams from the engine (s) running;

(3) in the case of a helicopter, the rotor(s) is(are) stopped or, if this is not possible, the distance from the rotors is sufficient to allow passengers to pass with a safety margin; and

(4) a briefing is conducted with the passengers addressing safety aspects related to boarding and disembarking operations while the aircraft propellers or rotors are in motion; and

(5) he/she assumes the responsibility for the operation and takes appropriate measures to ensure safety.

(f) The pilot-in-command of an aircraft may only allow his/her aircraft to be fueled with the engine(s) running (except APU) if the operation is performed according to the procedure established in the approved flight manual or AOM, or according to other procedures approved by ANAC. Additionally:

(1) there may not be a passenger on board; and

(2) the pilot-in-command must remain in the pilot position, the engine(s) must be idling and the electrical and electronic equipment unnecessary for the operation are switched off before fueling starts, and remains in this condition until the fueling is completed, unless otherwise specified in the approved flight manual or AOM, or another procedure approved by ANAC.

(g) It is only permitted to authorize the fueling of an aircraft while passengers are on board, embarking or disembarking, if:

 there is an approved procedure and a flight crew member at the flight deck of the aircraft supervising that procedure;

(2) there is a minimum of 50% of the number of required flight attendants and/or persons adequately trained to conduct an emergency evacuation, as well as the means of emergency evacuation are available;

(3) the aircraft engines are turned off (excluding the APU), as well as the systems not necessary for the aircraft operation; and

(4) communication between the ground personnel and crew members in the cockpit is possible.

(h) It is prohibited to simulate abnormal or emergency procedures in an operation carrying passengers.

91.103 Pre-flight assignments

Before starting a flight, the pilot-in-command of an aircraft must be made aware of all the information necessary for planning the flight. Such information should include: (a) the information required for flight planning contained in DECEA publications;

(b) the dimensions of the runways and the regularity of the airports to be used and the following information on landing and takeoff distances:

(1) for a civil aircraft for which the approved flight manual is required to contain take-off and landing distance data, take-off and landing distance data contained therein; and

(2) for a civil aircraft not covered by paragraph (b) (1) of this section, other reliable information, appropriate to the aircraft, related to its performance according to the known values of airport altitude, runway gradient, gross aircraft weight, wind and temperature; and

(c) verification of the regularity of the aircraft documents, the technical crew and the destination and alternate airports (when required).

91.105 Flight crew station

(a) During takeoffs, landings and en route, each required flight crew member must:

(1) be at his/her workstation, unless, while en route, his/her absence is necessary for the performance of duties related to the operation of the aircraft or in connection with his/her physiological needs; and

(2) keep the seat belt adjusted while at the crew member station.

(b) Each flight crew member of a Brazilian civil aircraft must, during takeoffs and landings, keep the shoulder harness fastened and adjusted while at the crew member station. This paragraph does not apply to:

(1) aircraft whose flight crew seats do not require shoulder harness; or

(2) aircraft whose shoulder belts on flight crew seats do not allow their occupants to perform their duties with the shoulder harness adjusted.

91.107 Use of seat belts, shoulder harnesses and child restraint systems

(a) Unless otherwise authorized by ANAC:

(1) The pilot is only allowed to take off with a Brazilian civil aircraft (except a free balloon that incorporates a basket or gondola or an airship of a type certified before November 2, 1987) if the pilot-in-command of the aircraft makes sure that each person on board has been informed of:

(i) how to fasten, adjust and remove the seat belt and, if installed, his/her shoulder harness; and

(ii) how to evacuate the aircraft in an emergency;

(2) the pilot is only allowed to move on the ground, take off or land a Brazilian civil aircraft (except a free balloon that incorporates a basket or gondola or an airship of a type certified before November 2, 1987) if the pilot-in-command of aircraft ensure that each person on board has been instructed on how to fasten and adjust their seat belt and, if fitted, their shoulder harness; and

(3) during the aircraft movement on the ground and during the takeoff and landing of a Brazilian civil aircraft (except a free balloon incorporating a basket or gondola or an airship of a type certified before November 2, 1987), each person on board must occupy a seat or berth with a seat belt and shoulder harness (if fitted) properly adjusted around the person. For seaplanes and aircraft equipped with floats when moving over water, the persons in charge of docking and unberthing the aircraft do not need to meet the requirements of this paragraph regarding seat occupancy and the use of seat belts. Subject to such requirements, a person may:

(i) being held on the lap of an adult who is occupying a seat or berth, provided that person being held has not completed his/her second year of life;

(ii) use the aircraft floor as a seat, provided that the person is on board the aircraft for the purpose of engaging in skydiving activities; and

(iii) subject to any other requirement of the other regulations, occupy a child safety seat provided by the operator or by one of the persons mentioned in paragraph (a)(3)(iii) (A) of this section, provided that:

(A) the child is accompanied by a parent, guardian or attendant designated by the parents or guardian to ensure the child's safety during the flight;

(B) the child safety seat has been approved for use on aircraft by ANAC or a foreign civil aviation authority, based on national or ICAO safety standards. Such approval must be attested on a label attached to the chair. The label must state the maximum weight for which the chair has been approved; and

(C) the operator complies with the rules below: (1) the safety seat must be properly fixed to an approved seat or berth, facing the front of the aircraft; (2) the child must be adequately secured by the chair fastening system and must not exceed the established weight limit; and (3) the chair must bear the label required by paragraph (a)(3)(iii) (B) of this section.

(b) Unless otherwise provided:

(1) this section does not apply to operations conducted by operators certified under RBAC No. 119; and

(2) paragraph (a)(3) of this section does not apply to persons subject to the requirements of section 91.105 of this Regulation.

91.109 Flight instruction, simulated instrument flight and certain in-flight tests

(a) Flight instruction on a Brazilian civil aircraft (except a manned free balloon) is only permitted if the aircraft has a double command in full operation. However, instrument flight instruction can be given on an airplane equipped with a single functioning throwover control wheel instead of two fixed elevator and aileron controls when:

(1) the instructor has verified that the flight can be conducted safely; and

(2) the person manipulating the controls has at least a private pilot's license (PP) and the appropriate aircraft qualification.

(b) [Reserved].

(c) It is only permitted to operate a Brazilian civil aircraft in a simulated instrument flight if:

(1) the other pilot position is occupied by a safety pilot who holds at least a PP license and a valid license for the aircraft used;

(2) the safety pilot has adequate visibility forward and to each side of the aircraft or a competent observer, inside the aircraft and with communication with the safety pilot, to supplement the safety pilot's visibility; and

(3) the aircraft is equipped with fully functioning double controls, with the exception of free manned balloons. However, simulated instrument flight can be conducted on a single-engine airplane equipped with a single functioning throwover control wheel instead of two fixed elevator and aileron controls when:

(i) the safety pilot verifies that the flight can be conducted safely; and

(ii) the person manipulating the controls has at least a PP license and an appropriate license for the airplane.

(d) It is only permitted to operate a Brazilian civil aircraft that is being used in a proficiency exam under RBAC No. 121, if the pilot who is occupying one of the control positions, other than the pilot being examined, is qualified to act as a pilot-in-command of the aircraft.

(e) For the purposes of this section, a competent observer means a person who is able to visually identify adverse conditions to the safety of the aircraft and alert the pilot-in-command or the safety pilot.

<u>91.111 Operating near other</u> <u>aircraft</u>

(a) It is prohibited to operate an aircraft so close to another that it could create a risk of collision. The rules and criteria for separation between aircraft and the communication and air navigation procedures are those established in the rules of DECEA.

(b) It is only permitted to operate a civil aircraft on a training flight with other aircraft (s) if the flight is conducted in accordance with the air traffic rules established by DECEA.

(c) It is forbidden to operate an aircraft on a training flight if that aircraft is carrying passengers for profit.

91.113 to 91.117 [Reserved]

91.119 Minimum safety heights and altitudes

The minimum heights and altitudes allowed for any flight are those established in the air traffic rules published by DECEA.

91.121 to 91.143 [Reserved]

91.144 Temporary restriction on flight operations during abnormally high barometric pressure conditions

(a) Special flight restrictions. When there is information that the barometric pres-

sure on a normal flight route exceeds or will exceed 31 inHg (1049.8 hPa), it is prohibited to operate an aircraft or start a flight contrary to requirements established by DECEA and published in NOTAM.

(b) ANAC, after hearing DECEA, may authorize deviations from the restrictions imposed under paragraph (a) of this section to allow emergency supply, transport or medical services to be delivered to isolated communities, where the operation can be conducted with an acceptable level of safety.

91.145 to 91.147 [Reserved]

91.149 Information on potentially dangerous conditions

(a) Whenever a pilot encounters a potentially dangerous weather condition or other abnormality in flight, the disclosure of which the pilot considers essential to the safety of other flights, he/she shall notify the ATS unit and/or the meteorological unit as soon as possible.

(b) Operators certified under RBAC No. 119 or operating under RBAC No.129 or under subpart K of this Regulation must establish policies and procedures for the flight crew to record and notify the information provided in paragraph (a), including volcanic activities. (Included by Resolution No. 606 of 02.11.2021).

91.151 Fuel and oil requirements for visual flights (VFR)

(a) It is only permitted to start a VFR flight on an airplane if, considering wind and known weather conditions, there is enough fuel and oil to fly to the first point of intended landing and assuming normal cruising speed:

(1) during the day, fly more than at least 30 minutes, except for aerobatic flights 50 km (27 NM) at most from an airport; or

(2) at night, fly more at least 45 minutes.

(b) It is only permitted to start a VFR flight in a helicopter if, considering wind and known weather conditions, there is enough fuel and oil to fly to the place scheduled for the first landing and, assuming normal cruising speed, to fly more, at least, 20 minutes.

91.153 to 91.165 [Reserved]

<u>91.167 Fuel and oil requirements</u> for instrument flights (IFR)

(a) It is only permitted to operate a civil aircraft on an IFR flight if, considering

wind and known weather conditions, there is sufficient fuel and oil to:

(1) complete the flight to the airport scheduled for the first landing;

(2) fly from that airport to the alternate airport; and

(3) after that, fly at normal cruising speed:

(i) another 45 minutes, for airplanes; and

(ii) 30 more minutes for helicopters.

91.169 [Reserved]

91.171 Verification of VOR equipment for IFR flight

(a) It is only permitted to operate a civil aircraft under IFR flight using a VOR radio navigation system (VHF omnidirectional range) unless the VOR equipment of that aircraft:

(1) is maintained, checked, and inspected in accordance with an approved procedure; or

(2) it has been operationally checked within the preceding 30 days and was found to be within the permissible limits for indication errors of magnetic bearing set out in paragraphs (b) or (c) of this section.

(b) Except as provided in paragraph (c) of this section, each person conducting a VOR test under paragraph (a)(2) of this section shall:

(1) use, at the airport from which it intends to take off, a VOR test signal operated by the ATS agency or a certified maintenance organization (or, outside Brazil, a VOR signal approved by the authority with jurisdiction over the airport) to check the VOR equipment, the maximum permissible error in the indication of magnetic bearing is ± 4 degrees;

(2) use, if a test signal is not available at the airport from which you intend to take off, a point on its surface, designated as a VOR test point by the authority with jurisdiction over the airport), with the maximum permissible error in the indication of magnetic bearing, ± 4 degrees;

(3) use, if there is neither a test signal nor a test point, a fixed test in an approved flight, when then the maximum permissible error, in the indication of magnetic bearing, is \pm 6 degrees; or

(4) perform, if there is neither a test signal nor a test point on the ground, nor a test fix in an approved flight, while in flight:

(i) select a VOR radial that indicates the axis of an established VOR airway;

(ii) select a prominent ground point, along the selected radial, preferably more than 37 km (20 NM) from the VOR station, and maneuver the aircraft directly to that point at, reasonably, low altitude; and

(iii) note the magnetic bearing indicated by the receiver when over the point (the maximum permissible variation between the published radial and the indicated bearing is \pm 6 degrees).

(c) If the aircraft has a dual system VOR (units independent of each other, except for the antenna), the person testing the equipment may check one unit against the other, in place of the check procedures specified in paragraph (b) of this section. The person must tune both systems to the same VOR station and note the indicated magnetic bearings. The maximum permissible variation between the two indications is ± 4 degrees.

(d) Each person making the VOR operational test, as provided for in paragraphs (b) or (c) of this section, shall enter the date, place, bearing error and their signature in the on-board maintenance book or similar document. Additionally, if the signal for the test was issued by a certified maintenance organization as provided for in paragraph (b)(1) of this section, that organization must certify, in the maintenance book (or similar document), that the signal was provided by it transmitted and record the date of transmission.

SUBPART C

EQUIPMENT, INSTRUMENTS AND CERTIFICATE REQUIREMENTS

91.201 Definition

(a) For the purposes of this Regulation, shore means an area of land adjacent to the liquid surface and which is above the highest water level bearing, excluding areas of land which are intermittently under water.

<u>91.203 Civil aircraft – required</u> <u>documents</u>

(a) Unless otherwise authorized by specific operating regulations, it is only permitted to operate a Brazilian civil aircraft if it has the following documents on board: (1) a valid registration certificate and airworthiness certificate, issued by ANAC on behalf of the operator, except for the cases provided for in paragraphs (b), (c) and (e) of this section;

(2) those documents required under paragraph 91.9(b) of this regulation and the condensed checklist of the aircraft;

(3) appropriate printed aeronautical publications or otherwise expressly authorized by ANAC, valid and updated, including appropriate information regarding navigational aids, approach and departure procedures, and other aeronautical information regarding the route to be flown and the airports to be used;

(4) flight log duly completed. In the case of aircraft engaged in recreational or sporting activities, the flight log does not need to be on board when transport is impracticable due to the constructive characteristics of the aircraft. However, it must be updated as soon as practicable;

(5) a valid insurance policy or insurance certificate;

(6) a valid aircraft station license or other acceptable document that replaces it; (Wording given by Resolution n° 606, dated February 11, 2021);

(7) an airworthiness verification certificate (CVA) or aircraft inspection report, as provided for in paragraphs 91.327(b)(2) and 91.403(f) of these Regulations;

(8) documents and manuals required according to the applicable type of operation;

(9) authorizations for special or specific operations, if applicable;

(10) the passenger list, if applicable, except for experimental, light-sport or glider aircraft, which must be kept by the operator for at least 1 year after the flight;

(11) the load sheet, with information on the weight and balance of the aircraft, duly completed, whenever passenger(s) and/or cargo are transported; and

(12) weight and balance sheet, with the respective floor plan of the approved configuration for flight, referring to the last weighing required for the aircraft by section 91.423 of this regulation or by specific regulation. (b) It is only allowed to operate an experimental aircraft if it has a CAVE on board and, when applicable, the respective certificate of experimental brand (CME).

(c) It is only permitted to operate an aircraft that has a provisional type certificate if it has a provisional airworthiness certificate on board in accordance with RBAC n° 21 and Resolution n° 293, dated November 19, 2013.

(d) It is only allowed to operate a Brazilian or foreign civil aircraft, within Brazilian territory, unless requirements of drainage of fuel and emissions from aircraft engines established by RBAC n° 34 have been met.

(e) It is only allowed to operate a new aircraft, manufactured in Brazil, and not yet delivered to its owner or operator, if the operation is conducted by its manufacturer and the aircraft has a special certificate of airworthiness on board, according to the purposes defined in the RBAC n° 21.

(f) It is only permitted to operate a civil aircraft if the certificate (s) issued, as applicable, unless one of the paragraphs (a), (b), (c) or (e) of this section, is (are) valid.

(g) It is only permitted to operate an aircraft with a fuel tank installed inside the passenger compartment or in the luggage compartment if the installation was made in accordance with RBAC n° 43 and there is a copy of the ANAC authorization for installation inside of the aircraft.

<u>91.205 Instrument and equipment</u> <u>requirements – powered civil</u> <u>aircraft holding an airworthiness</u> <u>certificate</u>

(a) Except in the cases provided for in paragraphs (e) and (f) of this section and in section 91.213 of this regulation, it is only allowed to operate a powered civil aircraft, with a valid airworthiness certificate, in any operation described in paragraphs (b) through (e) of this section and in section 91.1711 of this Regulation, unless that aircraft contains the equipment and instruments required by the same paragraphs or section (or equivalent equipment and instruments, approved by ANAC) for that type of operation and unless such equipment and instruments are in operable conditions, properly inspected, calibrated, weighed and sealed, as applicable.

(b) For VFR flight during the day, the following equipment and instruments are required:

(1) airspeed indicator;

(2) altimeter;

(3) direction indicator showing the magnetic bow;

(4) tachometer for each engine;

(5) oil pressure gauge for each engine using a pressure system;

(6) temperature gauge for each liquid-cooled engine;

(7) oil temperature gauge for each air-cooled engine;

(8) manifold pressure gauge for each altitude engine;

(9) fuel gauge indicating the quantity of fuel for each tank;

(10) landing gear position indicator if the aircraft has a retractable landing gear;

(11) for small airplanes of certified type after March 11, 1996, an approved white or red anticollision light system. In the event of failure of any light in the anticollision light system, the aircraft operator may proceed to a location where repair or replacement can be made;

(12) an approved seat belt, equipped with metal-to-metal latching devices, or another approved restraint system, for each occupant 2 years of age or above;

(13) for small airplanes manufactured after July 18, 1978, shoulder belts or approved restraint systems on each front seat. For small civil airplanes built after December 12, 1986, shoulder belts or approved restraint systems on all seats. Shoulder belts installed in the flight crew seat must allow the crew member, seated in his/her post and with belts in place and adjusted, to be able to perform all the functions necessary for the flight operation. For the purposes of this paragraph:

(i) date of manufacture of an aircraft is the date on which the inspection records of its manufacture show that the aircraft was considered completed and, if applicable, in accordance with the approved type design;

(ii) front seat is a seat located in a pilot station or any other seat positioned beside it;

(14) emergency locator(s) transmitter(s) (ELT) or Personal Locator Beacon (PLB), as required by 91.207 of this Regulation, except when performing aerobatic flights; (15) for rotorcrafts manufactured after September 16, 1992, a shoulder belt for each seat that meets the requirements of sections 27.2 and 29.2, of 14 CFR Part 27 and 29, respectively, issued by the Federal Aviation Administration of the United States of America (FAA/USA) effective September 16, 1991;

(16) torquemeter and gas temperature gauge for each engine and turbine, as applicable;

(17) engine speed gauge for each main rotor;

(18) a portable fire extinguisher, accessible to flight crew members, according to applicable technical specifications;

(19) for seaplanes and amphibians, at least one anchor and one drogue (water anchor), in addition to a life jacket or flotation device for each occupant 2 years of age or above;

(20) when the type of flight and/or airspace requires continuous bilateral radio communication, at least one bilateral VHF radio communication, appropriate for each ground station to be used, including associated headphones and microphones;

(21) a means of displaying time in hours and minutes and measuring time in minutes and seconds; and

(22) engine instruments, as required by the engine manufacturer.

(c) VFR flight at night, the following equipment and instruments are required:

(1) instruments and equipment required by paragraph (b) of this section, all instruments being adequately lit;

(2) approved navigation lights;

(3) approved red or white anticollision light system. Anticollision light systems initially installed before August 11, 1971, on an aircraft for which a type certificate was issued or required before the same date, must meet at least the standards for anticollision lights established by 14 CFR Part 23, 25, 27 or 29, as applicable, all issued by the FAA/USA, which were in effect on August 10, 1971, except that the color of the lights may be white or red;

(4) landing light;

(5) adequate source of electrical energy to power all installed electrical equipment and radios; (6) a spare set of fuses or three spare fuses for each kind required, placed in a location accessible to the pilot in flight

(7) a gyroscopic attitude indicator (artificial horizon);

(8) a portable flashlight, in good operating condition, for each crew member; and

(9) at least one radionavigation equipment appropriate to each ground station to be used, when the type of flight and/or airspace requires radionavigation.

(d) For IFR flight, the aircraft must be certified for this operation and the following instruments and equipment are required:

(1) instruments and equipment specified in paragraph (b) of this section and, for IFR night flight, instruments and equipment specified in paragraph (c) of this section;

(2) appropriate two-way VHF radio communication and at least one navigation equipment, appropriate to the route to be flown, including headphones (or speakers) and associated microphones;

(3) gyroscopic rate-of-turn indicator, except for the following aircraft:

(i) airplanes with a third attitude indicator instrument system usable in 360° of pitch and roll, and installed in accordance with paragraph 121.305(j) of RBAC n° 121; and

(ii) rotorcraft with a third attitude indicator instrument system usable in attitudes of $\pm 80^{\circ}$ of pitch and $\pm 120^{\circ}$ of roll and installed in accordance with paragraph 29.1303(g) of RBAC n° 29;

(4) slip-skid indicator;

(5) sensitive altimeter, adjustable for barometric pressure for each required pilot;

(6) [reserved];

(7) generator of adequate capacity;

(8) pitch and bank attitude indicator (artificial horizon) for each required pilot;

(9) gyroscopic direction indicator (directional gyro or equivalent);

(10) airspeed indicator with means to prevent malfunction due to condensation or freezing; and

(11) vertical speed indicator.

(e) If VOR navigation equipment is required by paragraph (d)(2) of this section, it is only permitted to operate a civil aircraft registered in Brazil at an altitude equal to or above FL240 if the aircraft is equipped with an approved distance measuring equipment (Distance Measuring Equipment (DME) or suitable RNAV system. If the DME equipment or RNAV system required by this paragraph fails when flying at an altitude equal to or above FL240, the pilot-in-command must immediately report to the ATS agency but may continue the flight to the next airport where it is possible to repair or replace the equipment.

(f) For aircraft with a special airworthiness certificate, ANAC may issue authorization allowing certain equipment or instruments required by paragraphs (b) through (e) of this section not to be installed or operational, upon acceptable justification.

91.207 Emergency locator transmitters (ELT) and Personal Locator Beacon (PLB)

(a) Except as provided for in paragraphs (e) and (f) of this section, it is only permitted to operate a civil aircraft registered in Brazil unless it has:

(1) in the case of an airplane with a maximum capacity of more than 19 passengers, an ELT of the automatic type and another ELT of any type (the latter being the one required by paragraph (a)(3) of this section, if applicable), which are in operable conditions, for operations under RBAC n° 121 and 135. Airplanes whose airworthiness certificate has been issued by July 1, 2008 may have only one ELT of the automatic type;

(2) in the case of aircraft operations other than those specified in paragraph (a)(1) of this section, an automatic type ELT (this cannot be the one required by paragraph (a)(3) of this section) in operable conditions;

(3) in the case of any certified type airplane in the transport category flying more than 185 km (100 NM), or non-certified airplane in the transport category flying more than 93 km (50 NM), from the nearest shore, except in operations under RBAC n° 121, a floating or waterproof ELT or survival ELT, in an inflatable raft or life vest, which is in operable condition;

(4) [reserved]; and

(5) in the case of glider, light-sport aircraft, glider tug, aerobatic aircraft, parachutist launch aircraft or aircraft aimed at air sports in general, an ELT of any type, a PLB or other similar device authorized by ANAC.

(b) Each ELT required by paragraph (a) of this section must be placed on the aircraft to minimize the probability of damage to the ELT in the event of an accident. Fixed and deployable automatic ELTs must be attached to the aircraft as far aft as practicable.

(c) Batteries used in the ELT required by paragraph (a) of this section must be replaced (or recharged, if the batteries are rechargeable), and the new replacement date (or recharge) must be clearly expressed outside the ELT or, in the case of case of ELT fixed to the aircraft, recorded in the on-board maintenance book, whenever:

(1) the ELT has been used for more than one cumulative hour; or

(2) when 50% of its useful life (or charge life, if rechargeable batteries) is reached, as established in the manufacturer's approved specifications. This paragraph does not apply to batteries that are essentially unaffected during storage intervals (such as water-activated batteries).

(d) Each ELT required by paragraph (a) of this section must be inspected every 12 calendar months for:

(1) installation conditions;

(2) battery corrosion;

(3) operation of the controls and crash sensor; and

(4) the presence of a sufficient power radiated from its antenna.

(e) Subject to paragraph (a) of this section, a person may transfer an airplane if no person is aboard other than crew members with function aboard and the transfer is:

(1) from a newly acquired airplane from the place where it was purchased, to the place where the ELT is to be installed; and

(2) from an airplane from a location where the ELT cannot be repaired or replaced, to a location where this service can be made.

(f) Paragraph (a) of this section does not apply to:

(1) airplanes while engaged in local flight training operations conducted

entirely within an area with a radius of 93 km (50 NM) and center at the airport of origin of the flight;

(2) airplanes while engaged in flights incident to design and trials;

(3) new airplanes while engaged in flights incident to their manufacture, receipt, preparation and delivery;

 (4) airplanes while engaged in air services incident to the aerial application of chemicals and other substances for agricultural purposes;

(5) planes approved by the aeronautical authorities for research and development operations;

(6) airplanes while used to demonstrate compliance with requirements, for training crew members and for exhibitions, air racing or market surveys;

(7) airplanes capable of carrying not more than one person on board and primary category airplanes;

(8) airplanes while in a situation where the ELT has been temporarily removed for inspection, repair, modification, or replacement, subject to the following conditions:

(i) it is only permitted to operate the airplane if the maintenance records include the date of removal, the make, model, serial number, and reason for removing the ELT, and that there is, in view of the pilot-in-command, a placard saying that ELT is not installed; and

(ii) it is forbidden to operate the aircraft if the ELT remains removed for more than 90 consecutive days. In airplanes where it is required to have more than one ELT, only one of them can be removed from the aircraft at a time in accordance with the provisions of this paragraph.

(g) Each ELT placed abord an aircraft registered in Brazil must comply with the provisions of section 91.229 of this Regulation and, in addition:

(1) all ELTs used in aircrafts registered in Brazil must be able to transmit simultaneously on frequencies 121.5 and 406 MHz;

(2) each ELT installed on a Brazilian aircraft and/or the PLBs mentioned in paragraph (a)(5) of this section must be registered with the BRMCC – Brazilian Center for Mission Control COSPAS – SARSAT. Operators must keep this record updated; and

(3) an ELT that only meets the requirements of OTP (TSO) C91, cannot be used in new installations.

91.209 Aircraft lights

(a) Between the period from sunset to sunrise it is prohibited to:

(1) operate an aircraft, unless the navigation lights are on;

(2) park or move an aircraft within, or in dangerous proximity to, the flight operations area of an airport, unless the aircraft:

(i) is clearly illuminated;

(ii) has the navigation lights on; or

(iii) is in an area marked by obstruction lights; and

(3) anchor an aircraft, unless the aircraft:

(i) has the anchor lights on; or

(ii) is in an area where anchor lights are not required.

(b) A person may only operate an aircraft equipped with an approved anticollision light system if such lights are on. However, anticollision lights need to be lighted when the pilot-in-command determines that, because of the operating conditions, it would be in the interest of safety to turn such lights off. In the event of failure of any light of the anticollision light system, the operation of the aircraft can be continued until the place where repair or replacement can be made.

91.211 Supplemental oxygen

(a) A civil aircraft registered in Brazil can only be operated:

(1) at cabin pressure altitudes above 12,500 feet MSL (Mean Sea Level) up to and including 14,000 feet MSL, unless the minimum required flight crew is provided with and uses supplemental oxygen for the parts of the flight at those altitudes that have more than 30 minutes in duration; and

(2) at cabin pressure altitudes above 14,000 feet MSL unless each aircraft occupant is provided with, and each crew member uses, supplemental oxygen during the entire flight time at those altitudes.

(b) Aircrafts with a pressurized cabin:

(1) It is only allowed to operate civil aircrafts with a pressurized cabin, registered in Brazil:

(i) above FL250 if at least 10 minutes of supplemental oxygen supply, in addition to any oxygen required to satisfy paragraph (a) of this section, is available for use by each aircraft occupant in the event that a descent is necessitated by loss of cabin pressurization;

(ii) above the FL350 if one of the pilots at the controls of the aircraft is wearing an oxygen mask that is placed and adjusted on his/her face and that continuously delivers oxygen or starts to supply automatically if the cabin pressure altitude exceeds 14,000 feet MSL. However, the pilot does not need to put on and wear the mask while flying below the FL410, as long as there are two pilots at the controls of the aircraft and each has a guick-fit mask, which can be put on in 5 seconds using only one of the hands, and that automatically adjusts and starts to supply oxygen as soon as it is placed on the face; and

(iii) above FL125 unless enough supplemental oxygen supply is available for use by each aircraft occupant throughout the period that the cabin pressure altitude exceeds 12,500 feet MSL, in the event that a descent is necessitated due to loss of pressurization of the cabin; and

(2) except as provided in paragraph (b)(1)(ii) of this section, if for any reason and at any time it is necessary for a pilot to leave the controls of the aircraft when operating above FL350, the remaining pilot at the controls shall put on and use his/her mask until the other pilot returns to his/her station.

91.213 Inoperative equipment and instruments

(a) Except as provided in paragraph (d) of this section, it is only permitted to take off a civil aircraft with inoperative equipment or instruments installed unless the following conditions are met:

(1) aboard the aircraft there is a Minimum Equipment List (MEL) developed by the aircraft operator;

(2) the MEL has been approved by ANAC. Such approval may be required by the holder of the aircraft's airworthiness certificate. For legal purposes, a MEL developed by the operator and approved by ANAC constitutes a supplemental type certificate for the aircraft;

(3) MEL must:

(i) be prepared in accordance with the limitations specified in paragraph (b) of this section; and

(ii) provide procedures and methods for operating the aircraft with equipment and instruments inoperative;

 (4) maintenance book records include information to the pilot about inoperative equipment and instruments; and

(5) the aircraft is operated under all applicable conditions and limitations contained in the MEL.

(b) The following equipment and instruments may be included in a MEL:

(1) instruments and equipment that are specifically required by certification requirements under which the aircraft has been certificated and that are essential for safe operation under all operating conditions;

(2) instruments and equipment that an airworthiness directive, safety directive (referring to light-sports category aircraft treated in section 21.190 of RBAC n° 21) or equivalent document requires to be in operational conditions, unless the said document provides otherwise; and

(3) for specific operations, the instruments and equipment required by this Regulation for such operations.

(c) A person authorized to use a MEL issued pursuant to Subpart K of this Regulation or by a certified operator under RBAC n° 119, for a specific aircraft, shall use that MEL to comply with the requirements of this section. (Wording given by Resolution n° 606, dated February 11, 2021)

(d) Except for operations conducted under paragraphs (a) or (c) of this section, a person may takeoff an aircraft, in operations conducted under this Regulation, with inoperative equipment or instruments and without a MEL approved by ANAC, provided:

(1) the operation is conducted in:

(i) rotorcrafts, planes with conventional engines, gliders, lighter-than-air aircrafts, powered parachutes, or weight-shift-control aircrafts, for which a Master Minimum Equipment List (MMEL) has not been developed; or (ii) small rotorcrafts, small aircrafts with conventional engines, primary category aircrafts, gliders or lighter-than-air aircrafts for which an MMEL has been developed;

(2) the inoperative instruments or equipment are not:

(i) part of the instruments or equipment required for daytime VFR flight according to the airworthiness requirements under which the aircraft has been certificated;

(ii) indicated as required in the aircraft's equipment list or in the equipment list for each kind of operation (kinds of operation equipment list) contained in the approved flight manual or AOM for the operation being conducted;

(iii) required by section 91.205 or by any RBAC operational requirement for the kind of operation conducted; or

(iv) required to be operational by an airworthiness directive;

(3) the inoperative instruments and equipment are:

(i) removed from the aircraft and a placard is placed in the cockpit, as well as the occurrence recorded in the aircraft maintenance book according to paragraph 43.9 of RBAC n° 43; or

(ii) deactivated and labeled "inoperative". If deactivation of the instrument or equipment involves maintenance, it must be accomplished and recorded in the aircraft maintenance book in accordance with RBAC n° 43; and

(4) a pilot appropriately qualified under RBAC n° 61 or a person duly qualified and authorized to perform aircraft maintenance determines that the inoperative instrument or equipment does not constitute a hazard to the aircraft.

(d)-I An aircraft with instruments or equipment inoperative as provided in paragraph (d) of this section is considered by ANAC to be appropriately modified.

(e) Notwithstanding any other provision of this section, an aircraft with inoperable instruments or equipment may be operated under a special flight permit issued in accordance with sections 21.197 and 21.199 of RBAC n° 21.

91.215 Transponder and automatic altitude transmitter

(a) All airspace – Brazilian civil aircraft equipment. For operations not conducted under RBAC n° 121 or 135, the installed transponder equipment must meet the performance and environmental requirements of any class of OTP (TSO) C74c (Mode A with altimetry information) as appropriate, or the appropriate class of OTP (TSO) C112 (Mode S).

(b) When the kind of operation and/or airspace requires, the aircraft must be equipped with a transponder, with OTP approval (TSO), maintained in accordance with section 91.413 of these Regulations.

91.217 Information correspondence between the automatic altitude transmitter and the pilot's altitude reference system (altimeter)

(a) It is only permitted to operate an automatic altitude transmitter associated with a transponder:

(1) if the ATS agency has not requested that the system be deactivated;

(2) unless, as installed, the equipment was tested and calibrated to transmit altitudes within the range of 125 feet (onca 95% accuracy probability basis) in relation to the altitudes read on the altimeter normally used to maintain the flight level, adjusted to 1013.2 hPa, from sea level to the maximum operating altitude approved for the aircraft; and

(3) if the equipment's altimeters and analog-to-digital converters meet the standards of OTP (TSO) C10b and OTP (TSO) C88, respectively.

91.219 Altitude alerting system or device. Reaction engine civil aircraft

(a) Except as provided for in paragraph (d) of this section, it is only permitted to operate a civil reaction engine aircraft registered in Brazil unless that aircraft is equipped with an approved altitude alerting device or system and that device or system is operational and meets the requirements of paragraph (b) of this section.

(b) Each altitude alerting device or system required by paragraph (a) of this section must be able of:

(1) alert the pilot:

(i) upon approaching a preselected altitude, in either ascent or descent,

by a sequence of aural and visual signals in sufficient time to establish level flight at the preselected altitude; or

(ii) upon approaching a preselected altitude, in either ascent or descent, by a sequence of visual signals, in sufficient time to establish level flight at the preselected altitude and, when deviating above and below that preselected altitude, by aural signals;

(2) provide the required signals from sea level to the highest approved operating altitude for the airplane in which it is installed;

(3) allow preselection of altitudes in increments that are commensurate with the altitudes at which the airplane is operated;

(4) be tested, without special equipment, to determine proper operation of the alerting signals; and

(5) accept necessary barometric pressure settings if the system or device operates according to that pressure. However, for operations below 3,000 feet above ground level (AGL), the system or device need only to provide one signal, visual or aural, to comply with this paragraph. A radio altimeter can be used to provide this signal in determining the altitude/ height (DA/DH) or minimum descent altitude (MDA) if the operator has an approved procedure for its use.

(c) Each operator to whom this section applies must establish and designate procedures for the use of the altitude alerting device or system and each flight crew member must comply with the procedures assigned to him/her.

(d) Paragraph (a) of this section does not apply to the operation of an airplane that has a CAVE or to the operation of any airplane for the following purposes:

(1) transfer a newly acquired airplane from the place where it was purchased to the place where the device or system is to be installed;

(2) continuing a flight as originally planned, if the device or system becomes inoperative after the plane has taken off;

(3) moving the aircraft from a location where the inoperative altitude alarm device or system cannot be repaired or replaced to a location where this can be made; (4) conducting a test or experimental flight of an airplane;

(5) transfer an airplane outside Brazil for the purpose of exporting it;

(6) conduct sales demonstration of the operation of the airplane; and

(7) to train foreign flight crew members in the operation of the aircraft before exporting it to another country.

91.221 Airborne collision avoidance system (Airborne collision avoidance system – ACAS)

(a) Any collision avoidance system installed on a civil aircraft registered in Brazil must be approved by ANAC.

(b) Each person operating an aircraft equipped with an ACAS in operating condition shall keep the system on and operating.

(c) To operate in airspace with reduced vertical separation minimum (RVSM) with an aircraft equipped with TCAS II, it must comply with OTP (TSO) C-119b (version 7.0) or later.

(d) Transport category aircrafts with installed configuration for passengers with more than 30 seats, which have received their first certificate of airworthiness (regardless of the issuing country) as of January 1, 2008, shall be equipped with an ACAS II system and this must comply with OTP (TSO) C-119b (version 7.0) or later.

(e) Transport category aircrafts with installed configuration for passengers with more than 19 seats, which have received their first certificate of airworthiness (regardless of the issuing country) as of January 1, 2010, must be equipped with an ACAS II system and this must comply with OTP (TSO) C-119b (version 7.0) or later.

(f) All new ACAS II installations shall have equipment that meets OTP (TSO) C-119c (version 7.1) or later.

(g) Airplanes with turbine engines that have a maximum takeoff weight above 15,000 kg shall be equipped with an ACAS Il system and this must comply with OTP (TSO) C-119b (version 7.0) or later.

91.223 Terrain awareness warning system (TAWS)

(a) Except as provided in paragraph (d) of this section, it is only permitted to operate an airplane with turbine-powered

airplane registered in Brazil with an approved configuration of six or more passenger seats, excluding any pilot seat, unless the airplane is equipped with a TAWS that meets the requirements for Class B OTP (TSO)-C151 equipment (equipment provided with the ground detection function in front of the aircraft).

(b) [Reserved].

(c) The approved flight manual or AOM must contain appropriate procedures for:

(1) use of TAWS; and

(2) proper flight crew reaction in response to visual and aural alerts from TAWS.

(d) Paragraph (a) of this section does not apply to:

(1) parachuting operations when conducted entirely within a circular area with a radius of 93 km (50 NM) from the airport where the flight began;

(2) firefighting operations; or

(3) flight operations when incident to the aerial application of chemicals and other substances.

91.225 and 91.227 [Reserved]

91.229 Requirements for on-board electronic equipment

(a) All on-board electronic equipment required by this Regulation and the operational regulations of operators certified under RBAC n° 119 that receive and/or transmit radio signals to/from ATS, meteorology and search and rescue agencies must comply with the rules and specifications established by DECEA.

91.231 Survival equipment for water operations

(a) It is only permitted to take off with an aircraft for a flight over water beyond the planned flight distance (or in autorotating flight in the case of helicopters) from the nearest shore unless the aircraft is equipped with a life preserver (or other flotation means) for each aircraft occupant and at least one pyrotechnic signaling device. (Wording given by Resolution n° 606, dated February 11, 2021).

(b) It is only permitted to take off a type certificated airplane in the transport category for a flight over water more than 185 km (100 NM) away from the nearest shore, or with a noncertified airplane type in the transport category or helicopter for a flight over water more than 93 km (50

NM), or with an aircraft for flight over water more than 30 minutes flight from the nearest shore, whichever is less, unless the aircraft is equipped with the following survival equipment:

(1) a life preserver, equipped with an approved survival locator light, for each occupant of the aircraft;

(2) inflatable life rafts (each equipped with an approved survival locator light) with an approved capacity to accommodate all aircraft occupants, except that, for helicopters, subject to ANAC authorization, the raft may be dispensed if it is proven that the type of helicopter precludes the transport of an inflatable life raft;

(3) at least one pyrotechnic signaling device in each boat (if any);

(4) [reserved]; and

(5) for large planes and turbine-powered multi-engine airplanes and fractional ownership operations under Subpart K of this regulation, a safety wire installed in accordance with paragraph 25.1411(g) of RBAC n° 25. (Wording given by Resolution n° 606, dated February 11, 2021)

(c) [Reserved].

(d) The required life rafts, life preservers and signaling devices must be installed in clearly marked and easily accessible locations in the event of a ditching without appreciable time for preparatory procedures.

(e) A survival kit, appropriately equipped for the route to be flown, must be attached to each required life raft.

(f) This section does not apply to operations of companies certificated under RBAC n° 119 and RBAC n° 129.

SUBPART D

SPECIAL FLIGHT OPERATIONS

91.301 [Reserved]

<u>91.303 Aerobatic, aerial</u> <u>demonstration, air racing and air</u> <u>events in general</u>

(a) Aerobatic flights may only be performed on aircraft holding a standard or special airworthiness certificate and in compliance with design limitations.

(b) The aerobatic flight performed by a SAE company in the air sports experimentation mode may only be performed on: (1) aircraft certificated under RBAC n° 21 in the aerobatic category; or

(2) aircraft designed and built for military use and accepted by one of the Brazilian armed forces as aerobatic if it has obtained a Brazilian type certificate under the terms of section 21.27 of RBAC n° 21.

(c) In case of aerobatic flight, aerial demonstration, air racing or to attend air events in general, with an audience on the ground, the organization responsible for promoting the event must:

(1) obtain prior authorization from ANAC;

(2) ensure that aerial activities are not carried out if the weather conditions are below the minimum required for VFR flight;

(3) ensure that, if paid, the aerobatic demonstration flight is performed by a SAE company in the aerial demonstration mode;

(4) ensure adequate separation and protection of the public from the air-craft involved; and

(5) present an operational safety management plan.

(d) It is forbidden for a person to be abord an aircraft during aerobatic flight, aerial demonstration, air racing or to attend air events in general, other than persons duly aware of the risks of the operation and who have given their express consent accepting this risk. Note: Considering the principle of autonomy and that the citizen is entitled to assume and manage his/her own risk when only he/ she or his/her legal guardians (in the case of minors) will be exposed, ANAC allows the participation of persons in aerobatic flights, aerial demonstration, air racing or events in general, provided that these people have expressly given their consent, thereby expressing their will. However, ANAC clarifies to those who freely choose to give this consent that it is not possible to guarantee an acceptable level of risk of operational safety and that the control of exposure to that risk is entirely his/her responsibility.

(e) If the event is restricted only to the launching of objects from the aircraft on people, the applicant may choose to meet only the requirements of section 91.15 of this Regulation.

(f) Demonstration flights conducted by manufacturers of certificated aircrafts to potential customers or in certification campaigns may be performed without meeting the requirements of this section.

(1) Manufacturers of agricultural aircraft may use a landing area for aero agricultural use, without complying with the provisions of paragraph 91.102 (d) of this Regulation, for demonstration to potential customers or in certification campaigns, if authorized by ANAC.

(g) For the purposes of this section, the following definitions apply:

(1) air competition means an air sport activity involving a race between the pilots of the aircraft involved;

(2) air demonstration means the presentation to a certain audience of one or more aircraft in flight within a given air space and as small as practicable, in which the pilot seeks to demonstrate the performance and flight qualities of the aircraft being presented, operating it within the limits of your approved flight envelope;

(3) air event means an event in which an air activity occurs with joint operation of aircraft or for the purpose of presentation to an audience;

(4) aerial maneuver means changing the attitude and/or altitude of an aircraft in flight, through the pilot's intentional performance on the flight controls and/or the aircraft's engine; and

(5) aerobatic flight is one that involves the intentional performance of aerial maneuvers implying sudden changes in altitude, flights in abnormal attitudes or abnormal variations in speed, not necessary for a normal flight.

91.305 [Reserved]

91.307 Parachutes and parachuting

(a) The pilot of a civil aircraft may only allow a parachute available for emergency use to be placed on board that aircraft if the parachute is an approved type and has been packed by a qualified person:

(1) within the preceding 180 (one hundred and eighty) days, if the canopy, shrouds, and harness are composed exclusively of nylon, rayon or other similar synthetic fibers, or materials that are substantially resistant to damage from mold, various fungi or other rotting agents propagated in a moist environment; or (2) within the preceding 60 (sixty) days, if any part of the parachute is composed of silk, or a mixture of wool and silk, or other natural fibers or materials not specified in paragraph (a)(1) of this section.

(b) The pilot-in-command may only allow a parachute jump within Brazil unless the provisions of RBAC n° 105 are met.

(c) Unless each occupant of the aircraft is wearing an approved parachute, the pilot of a civil aircraft carrying any person (except crew members) is allowed to execute any intentional maneuver that exceeds:

(1) a bank of 60° relative to the horizon; or

(2) 30° pitch, positive or negative, relative to the horizon.

(d) Paragraph (c) of this section does not apply to:

(1) flight tests for pilot certification or rating; or

(2) flight maneuvers required by the regulations for any certificate or ration, when given by a certificated flight instructor.

(e) For the purposes of this section, approved parachute means:

(1) a parachute manufactured under a type certificate or an OTP (TSO) C23 approval; or

(2) an individual parachute for military use, identified by part number and serial number or by any other military designation or specification number.

91.309 Glider towing

(a) It is only permitted to operate a civil aircraft towing a glider unless:

(1) [reserved];

(2) the towing aircraft is equipped with a tow-hitch of an approved kind and installation;

(3) the towline used has a breaking strength of not less than 80% of the maximum certificated operating weight of the glider and not more than twice this operating weight. However, the towline used may have greater resistance to breakage than the limit specified here if:

(i) a safety link is installed at the point of attachment of the towline to the glider, with a breaking strength not less than 80% of the maximum certificated operating weight of the glider and not greater than twice this operating weight; and

(ii) a safety link is installed at the point of attachment of the towline to the towing aircraft, with a breaking strength not greater than 1.25 times the strength of the safety link between the towline and the glider and not greater than two times the maximum operating weight certificated of the glider;

(4) [reserved]; and

(5) the pilots of the towing aircraft and the glider have agreed upon actions to be taken during operations, such as: glider takeoff and release signals, airspeeds, and emergency procedures for each pilot.

(b) It is forbidden for the pilot of a civil aircraft to release a towline, after release of a glider, in a manner that endangers the life or property of third parties.

91.311 Towing other than those under section 91.309

The pilot of a civil aircraft is only allowed to tow anything with that aircraft (other than those under section 91.309 of this Regulation) unless the operation has been expressly approved by ANAC.

<u>91.313 Restricted category civil</u> <u>aircraft</u>

(a) Only a restricted category civil aircraft is allowed to operate:

(1) for the purposes for which it was certificated; or

(2) in operations necessary to accomplish work activities directly associated with the special purposes for which it has been certificated.

(b) For the purposes of paragraph (a) of this section, the operation of a restricted category civil aircraft to provide flight crew training in a special purpose operation for which the aircraft has been certificated, is considered to be an operation for that special purpose.

(c) It is prohibited to operate a restricted category civil aircraft carrying passengers or cargo for profit. For the purposes of this paragraph, a special purpose operation, involving the transportation of persons and materials necessary to accomplish that operation (such as spraying, seeding and banner towing, and including the transportation of persons and materials to the location of that operation) and an operation for the purpose of providing training for flight crew members in a special purpose operation are not considered operations for transportation of passengers and cargo for profit.

(d) The transportation of a person on a restricted category civil aircraft is permitted only if:

(1) that person is a flight crew member;

(2) that person is a flight crew member in training;

(3) that person performs an essential function aboard in connection with a special purpose operation for which the aircraft is certificated; or

(4) the transportation is necessary to accomplish the work activity directly associated with the special purposes of the operation.

(e) Unless otherwise authorized by ANAC, it is prohibited to operate a restricted category civil aircraft:

(1) over densely populated areas;

(2) in a congested airway; or

(3) in the vicinity of busy airports with a high frequency of public air transport operations.

(f) This section does not apply to civil rotary wing aircraft operations conducted with external loads, and without carrying passengers, in accordance with RBAC n° 133.

(g) It is only permitted to operate a small restricted-category civil aircraft, manufactured after July 18, 1978, unless approved shoulder belts or restraint systems are installed for each front seat. The installation of shoulder belts or restraint systems for each crew member seat must permit the crew member, seated in his/her position and with the safety belts fastened and adjusted or with the restraint system engaged, to be able to perform all the functions necessary for the operation of the flight. For the purposes of this paragraph:

(1) the date of manufacture of an aircraft is the date the inspection acceptance records reflect that the aircraft is deemed complete and, if applicable, in accordance with the approved type design; and

(2) a front seat is a seat located in a flight crew member station or any other seat located alongside it.

91.315 [Reserved]

91.317 Aircraft with provisional certificate of airworthiness: operating limitations

(a) It is only permitted to operate an aircraft with a provisional type certificate if the aircraft is eligible to obtain a provisional airworthiness certificate under section 21.213 of RBAC n° 21.

(b) It is only permitted to operate an aircraft with a provisional type certificate outside Brazil unless specifically authorized by ANAC and the civil aviation authority of each country involved in the operation.

(c) It is prohibited to operate an aircraft with a provisional type certificate in commercial air transport unless such operation is authorized by ANAC.

(d) Unless otherwise authorized by ANAC, an aircraft with a provisional type certificate is only allowed to operate:

(1) in operation in direct connection with the type or supplemental type certification process of that aircraft;

(2) for training flight crews, including in simulated air transport operations;

(3) demonstration flights carried out by the manufacturer, with a view to selling the product;

(4) flights for market surveys, carried out by the manufacturer;

(5) flight checking of instruments, accessories, and equipment that do not affect the basic airworthiness conditions of the aircraft; or

(6) operating tests of the aircraft.

(e) Each person operating an aircraft with a provisional type certificate shall do so within the prescribed limitations displayed by the aircraft's placards and bearings or set forth in the provisional aircraft flight manual or any other document. However, when operating in direct conjunction with the type or supplemental type certification process, that person shall do so in accordance with the limitations established for experimental aircraft in section 21.191 of RBAC n° 21 and, when flight testing, shall operate under the applicable air traffic regulations.

(f) Each person operating an aircraft with a provisional type certificate shall establish approved procedures for:

(1) the use and guidance of ground and flight personnel in operations under this section; and (2) operate at airports where takeoff and landing will take place overpopulated areas.

(g) Each person operating an aircraft with a provisional type certificate shall ensure that each flight crew member is properly qualified, and has adequate knowledge of, and familiarity with, the aircraft and procedures to be used by the crew member.

(h) Each person operating an aircraft with a provisional type certificate shall maintain it as required by applicable requirements.

(i) Whenever the manufacturer, or ANAC, determines that a change in design, construction or procedure is necessary to ensure safe operation, it is only permitted to operate an aircraft with a provisional type certificate unless the change is made and approved. The provisions of section 21.99 of RBAC n° 21 are applicable to operations under this section.

(j) A person operating an aircraft with a provisional type certificate may carry in that aircraft only persons who are connected to the operations allowed by this section and specifically authorized by both the manufacturer and ANAC.

(k) ANAC may prescribe additional limitations and procedures deemed necessary, including limitations on the number of persons who may be transported in the aircraft.

<u>91.319 Civil aircraft having</u> <u>experimental flight authorization</u> <u>certificate (CAVE)</u>

(a) It is only permitted to operate a civil aircraft with CAVE:

(1) for the purposes for which the certificate was issued;

(2) without transporting people or goods for profit; and

(3) if the operational limitations contained in the CAVE addenda are observed.

(b) It is only permitted to operate an aircraft with CAVE outside the area designated in NOTAM, operational agreement with aeronautical authority or AIP, if it is demonstrated that:

(1) the aircraft is controllable throughout its normal range of speeds and throughout all the maneuvers to be executed; and

(2) the aircraft has no hazardous operating characteristics or design features.

(c) It is only permitted to operate an aircraft with CAVE over densely populated areas if such an operation is authorized by ANAC and in accordance with the rules of DECEA.

(d) Each person operating an aircraft with CAVE shall:

(1) inform each person transported aboard of the experimental nature of the aircraft; and

(2) operate under VFR daytime flight, unless otherwise authorized by ANAC.

(e) ANAC may establish other additional limitations deemed necessary.

(f) Aircraft operating under a flight authorization certificate (CAV) shall comply with the same operational limitations as the requirements in this section.

91.321 and 91.323 [Reserved]

91.325 Primary category aircraft: operating limitations

(a) It is prohibited to operate a primary category aircraft in operations certified under RBAC n° 119.

(b) A primary category aircraft that is maintained by the pilot-owner under an approved special inspection and maintenance program may only operate:

(1) the pilot-owner himself; or

(2) a pilot designated by the pilot-owner, provided that the pilot-owner does not receive remuneration or compensation for the use of the aircraft.

91.327 Aircraft having a special airworthiness certificate in the light-sport category

(a) It is only permitted to commercially operate an aircraft that has a special airworthiness certificate in the light-sport category:

(1) to tow a glider in accordance with section 91.309 of these Regulations; or

(2) to conduct flight training.

(b) It is only permitted to operate an aircraft that has a special certificate of airworthiness in the light-sport category if:

(1) the aircraft is maintained in accordance with RBAC n° 43, and the maintenance and inspection procedures developed by the manufacturer or otherwise accepted by ANAC; (2) the operator has submitted a CVA to ANAC in the form established by the regulations in force for that aircraft in the last 12 months;

(3) the owner or operator complies with all applicable airworthiness directives;

(4) the owner or operator complies with all safety directives applicable to the aircraft that correct any unsafe conditions. In lieu of complying with a safety directive, an owner or operator may:

(i) correct the unsafe condition in a manner different from that specified in the safety directive provided that the person issuing the safety directive concurs with the action; or

(ii) obtain a specific authorization from ANAC to proceed in a different way to that established in the safety directive, based on the conclusion that it was issued without adhering to the applicable consensus standard;

(5) each alteration accomplished after the date of manufacture of the aircraft meets the applicable consensus standard in effect on the date of application of the alteration and has been authorized by the manufacturer or otherwise accepted by ANAC;

(6) each major alteration to an aeronautical product produced under a consensus standard is authorized, accomplished, and inspected in accordance with the maintenance and inspection procedures developed by the manufacturer or by a person authorized by ANAC; and

(7) the owner or operator complies with the registration requirements for major repairs and major alterations made to certificated products, in accordance with paragraph 43.9(d) of RBAC n° 43 and with the registration requirements described in section 91.417 of these Regulations.

(c) It is only permitted to commercially operate an aircraft that has a special airworthiness certificate in the light-sport category if, within the 100 hours of flight preceding the operation, the aircraft has been:

(1) inspected by a certified person or entity, in accordance with inspection procedures developed by the aircraft manufacturer or otherwise accepted by ANAC and approved to return to service in accordance with RBAC n° 43; or (2) received an inspection for the issuance of an airworthiness certificate, in accordance with RBAC n° 21.

(d) Each person operating an aircraft with a special airworthiness certificate in the light-sport category must operate the aircraft in accordance with the aircraft's operating instructions, including any provisions for necessary operating equipment specified in the aircraft's equipment list.

(e) Each person operating an aircraft with a special airworthiness certificate in the light-sport category must advise each person transported of the special nature of the aircraft and that it does not comply with the airworthiness requirements corresponding to an aircraft for which a standard airworthiness certificate has been issued.

(f) ANAC may prescribe additional limitations that it deems necessary.

<u>91.329 Helicopter landings and</u> takeoffs from non-registered areas

(a) Except as provided in paragraph 91.102(d) of these Regulations, helicopter landings and takeoffs from non-registered areas may be conducted, under the operator's full responsibility, provided that:

(1) the operation is conducted:

(i) in areas:

(A) owned by an individual;

(B) whose access to the public is restricted; or

(C) uninhabited, where there are no demarcations or constructions on the ground that indicate the presence of people within a radius of 30 meters from the touchdown (except those persons involved in the operation);

(ii) where the final approach and takeoff area and the touchdown area are free from obstacles or animals that could compromise the safety of the operation; and

(iii) in areas where any point on the helicopter is at least 30 meters away from any public access route;

(2) there is no supply operation of the aircraft on site;

(3) there is no operating prohibition at the chosen location;

(4) the operation is conducted under VFR flight daytime rules and under VMC conditions; (5) the person responsible for the site has authorized the operation or, in the case of uninhabited areas, has not prohibited it, and

(6) the operator performs risk management to guarantee an acceptable level of risk to the safety of the operation, the aircraft, its occupants and third parties.

(b) In the event of natural disasters or emergencies, helicopter landings and take-offs from non-registered areas may be carried out without meeting the criteria in paragraphs (a)(1) to (a)(5) of this section, under the operator's full responsibility.

(c) If there is any special situation, not provided for in this Regulation, that causes disturbance to public order, ANAC may prohibit operations in a certain area, even if that area meets the other criteria of paragraph (a) of this section.

(d) ANAC may approve landings in non-registered areas to attend air events in general, provided that the provisions of section 91.303 of this Regulation are met.

91.331 Landings and takeoffs in non-registered areas in the water

(a) Landings and takeoffs by seaplanes or amphibians in non-registered areas in the water may be conducted, under the operator's full responsibility, provided that:

(1) the operator determines that the area is suitable for the purpose of the operation;

(2) any point on the aircraft is at a lateral distance determined in accordance with paragraph 154.207(c)
(3) of RBAC n° 154, and safe distance ahead for landing or taking off, of any object or person in the water;

(3) there is no prohibition on operating in the chosen location and the rules of the maritime authority, as well as the legislation in effect in the area, are observed;

(4) the operation is conducted under VFR flight daytime rules and under VMC conditions; and

(5) the air operator performs risk management to guarantee an acceptable level of risk to the safety of the operation, the aircraft, its occupants and third parties.

(b) ANAC may approve landings in the water that do not comply with the provi-

sions of paragraph (a)(2) of this section to attend air events in general, provided that the applicable provisions of section 91.303 of this Regulation are met.

SUBPART E

MAINTENANCE, PREVENTIVE MAINTENANCE AND CHANGES

91.401 Applicability

(a) This Subpart prescribes requirements for the maintenance, preventive maintenance and alterations of civil aircraft registered in Brazil and operating inside or outside the Brazilian territory.

(b) Sections 91.405, 91.409, 91.411, 91.417 and 91.419 of this Subpart do not apply to an aircraft maintained under a continued airworthiness maintenance program (CAMP) as provided in RBAC n° 121 or in paragraph 135.411(a)(2) of RBAC n° 135.

(c) Sections 91.405 and 91.409 of this Regulation do not apply to aircraft inspected in accordance with RBAC n° 125.

(d) Section 91.423 of this Regulation does not apply to an aircraft operating under RBAC n° 121.

91.403 General provisions

(a) The operator or, failing this, the owner of an aircraft is responsible for maintaining that aircraft in airworthy conditions, including compliance with RBAC n° 39.

(b) Maintenance, preventive maintenance, or alterations are only permitted if the provisions of this Subpart and other applicable regulations are met, including RBAC n° 43.

(c) It is only permitted to operate an aircraft that has a manufacturer's maintenance manual or instructions for continued airworthiness containing a section of airworthiness limitations unless the components replacement times, inspection intervals and specific procedures contained in that section are met. Alternatively, the inspection intervals and procedures established in the operating specifications issued in accordance with the operational regulations of operators certified according to RBAC nº 119 or established in an inspection program approved in accordance with paragraph 91.409(e) of this Regulation, may be used.

(d) Modification of an aircraft based on a supplemental type certificate is only permitted if the person who modifies it is the holder of this certificate or has written permission from the holder.

(e) It is only permitted to operate an aircraft in operation under RBAC n° 121 or 135 registered in the TPR category if the operator has submitted to ANAC a CVA in the manner established by the regulations in effect for the said aircraft in the last 3 years.

(f) It is only allowed to operate an aircraft under this Regulation unless the operator has submitted to ANAC a CVA in the manner established by the regulations in effect for the said aircraft in the last 12 months. This paragraph does not apply to aircraft in operations under RBAC n° 121 or 135 registered in the TPR category. An initial (VTI) or special (VTE) technical survey replaces the presentation of the CVA required by this paragraph.

91.405 Maintenance required

Each owner or operator of an aircraft:

(a) shall have that aircraft inspected under this Subpart and shall between mandatory inspections, repair any discrepancies that may arise, as provided in RBAC n° 43, except as provided in paragraph (c) of this section;

(b) shall ensure that maintenance personnel have made appropriate entries in the aircraft maintenance records, indicating that the aircraft has been approved for return to service;

(c) ensure that any instrument or item of equipment inoperative, and that paragraph 91.213(d)(2) allows it to be inoperative, be repaired, replaced, removed, or inspected at the next required inspection; and

(d) when listed discrepancies, include inoperative instruments and equipment, shall ensure that a placard has been installed as required by section 43.11 of RBAC n° 43.

91.407 Operation after maintenance, preventive maintenance, rebuilding, or alteration

(a) An aircraft that has undergone maintenance, preventive maintenance, reconstruction, or alteration is only allowed to operate unless.

(1) it has been approved for return to service by a person authorized under section 43.7 of RBAC n° 43; and

(2) the entries in the maintenance records required by sections 43.9 or

43.11 of RBAC $\ensuremath{n^\circ}$ 43, as applicable, have been made.

(b) It is only permitted to transport any person (other than crew members) on an aircraft that has undergone maintenance, preventive maintenance, rebuilding, or alterations that may have altered or appreciably change its flight characteristics or substantially affected its operation in flight, if a qualified pilot on the aircraft has flown on the aircraft and made an operational check of the work performed and logs the flight and its result in the aircraft records.

(c) If inspections and ground tests conclude that maintenance, preventive maintenance, rebuilding, or alterations have not substantially changed the flight characteristics, nor appreciably affected the operation of the aircraft, paragraph (b) of this section need not be met.

91.409 Inspections

(a) Except as provided in paragraph (c) of this section, it is only permitted to operate an aircraft unless, within the 12 months preceding the operation, that aircraft has been subjected to:

(1) an annual inspection in accordance with RBAC n° 43 and approved for return to service by a person authorized by section 43.7 of said RBAC n° 43; or

(2) an initial survey to obtain a certificate of airworthiness in accordance with RBAC n° 21.

(a)-I An inspection carried out under paragraph (b) of this section cannot replace any inspection or survey required by paragraph (a) of this section, unless the inspection is performed by a person authorized to perform an annual inspection and is entered as an "annual inspection" on the documents of the aircraft.

(b) Except as provided in paragraph (c) of this section, it is only permitted to operate an aircraft carrying any person (except crew members) for profit or to give paid flight instruction in an aircraft under his control unless within 100 hours of flight preceding the operation, the aircraft has undergone an annual inspection or a 100-hour inspection and has been approved for return to service in accordance with RBAC nº 43 or has undergone an inspection to issue an airworthiness certificate in accordance with RBAC nº 21. The limitation of 100 hours of service time may be exceeded by not more than 10 hours while en route unless it is necessary to move the aircraft to a location

where the inspection can be done. However, the excess time will be included in the count for the next 100 hours of time in service.

(c) Paragraphs (a), (a)-I and (b) of this section do not apply to:

(1) an aircraft that has a special flight authorization, a CAVE, a special airworthiness certificate in the light-sport category or a provisional airworthiness certificate;

(2) an aircraft inspected under an inspection program approved under RBAC n° 135 and duly identified by registration in the operating specifications of the company that has the approved program;

(3) an aircraft subject to the requirements of paragraphs (d), (d)-I, (e) or (i) of this section;

(4) turbine-powered rotorcraft when the operator elects to inspect the aircraft in accordance with paragraph (e) of this section; or

(5) a light-sport aircraft.

(d) Each owner or operator of an aircraft desiring to use a progressive inspection program must submit a written request to ANAC together with:

(1) the appointment of a qualified mechanic authorized to conduct inspections, or of a certified and appropriately qualified maintenance organization, or of the aircraft manufacturer to supervise or conduct the progressive inspections;

(2) a current inspection procedures manual, readily and easily understandable to pilots and maintenance personnel containing, in detail:

(i) an explanation of the progressive inspection, including the continuity of inspection responsibility, how the making of reports, the keeping of records and technical reference material;

(ii) an inspection program specifying the intervals in hours or days at when routine or detailed inspections will be performed and including instructions for exceeding inspection interval by not more than 10 hours of flight while en route and for changing an inspection interval because of service experience;

(iii) samples of inspection forms to perform and record routine and detailed inspections, and instructions for their use; and (iv) samples of reports, records and instructions for their use;

(3) a listing of facilities, equipment, and tools necessary for disassembly and proper inspection for aircraft; and

(4) appropriate current technical information for the aircraft.

(d)-I the frequency and detail of the progressive inspection shall provide for the complete inspection of the aircraft within each 12-month period and be consistent with the manufacturer's recommendations, service experience and the kind of operation in which the aircraft engaged. The inspection program must ensure that the aircraft will be continuously airworthy and will conform to all applicable specifications, technical specifications of the type certificate, airworthiness directives and other requirements. If a progressive inspection is discontinued, the owner or operator must immediately inform ANAC.

(e) It is only permitted to operate a large airplanes or turbojet multiengine airplanes, or turbine-powered rotorcraft, unless the replacement times for all life-limited parts specified in the aircraft specifications, technical specifications of the type certificate and other approved documents are complied with and the aircraft, including airframe, engines, propellers, rotors, appliances, survival and emergency equipment, has been inspected according to an inspection program selected under the provisions of paragraph (f) of this section. However, the owner or operator of a turbine-powered rotorcraft may choose to use the inspection provisions of paragraphs (d) and (d)-I of this section in lieu of the inspection option contained in paragraph (f) this section.

(f) The owner or operator of each airplane described in paragraph (e) of this section must select, identify in the aircraft maintenance records, and use one of the following programs for the inspection of that aircraft:

(1) a continuous airworthiness inspection program as part of a CAMP in use by a certificate holder issued under RBAC n° 119 and operating the same make and model of aircraft, as per technical specifications issued under RBAC n° 121 or operating the aircraft type and model under RBAC n° 135 and maintaining it under paragraph 135.411(a)(2) of RBAC n° 135;

(2) an inspection program, approved under paragraph 135.419 of RBAC n°

135 and currently in use by a company certified under said RBAC n° 135

(3) a current inspection program recommended by the manufacturer; or

(4) any other inspection program, established by the aircraft owner or operator and approved by ANAC, as per paragraph (g) of this section. However, ANAC may request revisions of this program in accordance with provisions of section 91.415 of this Regulation.

(f)-I Each operator shall include in the selected program under paragraph (f) of this section, the name and address of the company responsible for scheduling the inspections required by the program and have a copy of that program presented to the company that is performing inspections and ANAC, when required.

(f)-II In the cases described in paragraphs (f)(1) and (f)(2) of this section, the company's inspection program may only be used if it is executed by the airline itself or by another company subcontracted by it according to its operating specification.

(g) Each operator of an aircraft with a turbine engine that wishes to establish or modify an approved inspection program in accordance with paragraph (f)(4) of this section must apply for ANAC approval. The application must be made in writing and must contain at least the following information:

(1) instructions and procedures for the conduct of inspections on the specific make and model of aircraft, including the necessary tests and verifications. The instructions and procedures must set forth in detail the parts and areas of the airframe, engines, propellers, rotors, and appliances, including emergency and survival equipment, which required to be inspected; and

(2) a program for performing the inspections that must be performed, expressed in terms of flight time, elapsed time, system operating cycles or any combination of these criteria.

(h) When an operator changes from an approved inspection program under paragraph (f) of this section to another program, the accumulated in-service times, run times and operating cycles under the previous program shall be used to determine the inspections due under the new program.

(i) Except as provided in paragraphs (d), (e), (f) and (g) of this section, it is only permitted to operate an aircraft that has a maintenance program recommended by the type certificate holder (or supplemental type certificate) unless the inspections of this current maintenance program are met.

91.411 Test and inspection equipment in an altimeter system and automatic altitude reporting equipment (Mode C)

(a) It is only permitted to operate an airplane or helicopter in controlled airspace, under an IFR flight, if:

(1) within the preceding 24 months, each static pressure system, altimeter and automatic altitude reporting equipment (if required in the area of operation) has been tested, inspected, and found to comply with Appendix E of RBAC n° 43;

(2) that system has been tested, inspected, and found to comply with paragraph (a) of Appendix E of RBAC n° 43, except for opening of system drains or *alternate* static *pressure valve*, following any opening and closing of the static pressure system; and

(3) after the installation or maintenance of the automatic altitude reporting system or the transponder, when errors in matching altitude data may be introduced, and the whole system has been tested, inspected, and found to comply with paragraph (c) of Appendix E of RBAC n° 43.

(b) The tests required by paragraph (a) of this section must be conducted

 by the manufacturer of the aircraft, on which tests and inspections are to be performed

(2) by a maintenance organization holding the appropriate Category, class and Operating Specifications, and authorization from ANAC to

(i) perform work on instruments;

(ii) repair the type and model of the equipment to be tested;

(iii) perform the specific test; or

(iv) work on the specific type of aircraft to be tested; or

(3) by an aeronautical maintenance mechanic with airframe and/or avionics skills and qualified in instruments (only for the tests and inspections of the static pressure system). (c) Altimeters and automatic altitude reporting equipment, approved according to an OTP (TSO), are considered tested and inspected as of their date of manufacturing.

(d) It is prohibited to operate an airplane or helicopter in controlled airspace, on an IFR flight, above the maximum altitude at which all altimeters and the aircraft's automatic altitude reporting equipment (if required in the area of operation) have been tested.

91.413 Transponder tests and inspections

(a) It is only permitted to use a transponder as specified in paragraphs 121.345(c) and 135.143(c) of RBAC n° 121 and 135, respectively, and in paragraph 91.215(a) of this Regulation, if, within the previous 24 months, the transponder has been tested, inspected, and found to comply with Appendix F of RBAC n° 43

(b) Following any installation or maintenance of the transponder, where data correspondence errors may be introduced, the whole system must be tested, inspected, and found to comply with paragraph E43.1(c) of Appendix E of RBAC n° 43.

(c) Tests and inspections required by this section must be conducted:

(1) by an ANAC certified maintenance organization;

(2) by persons authorized to perform maintenance of the airline, having a CAMP, approved under RBAC n° 121 or paragraph 135.411(a)(2) of RBAC n° 135, or

(3) by the manufacturer of the aircraft on which the transponder to be tested is installed, if installed by the manufacturer itself.

91.415 Changes to aircraft inspection programs

(a) Whenever ANAC deems that changes to an approved inspection program are required, pursuant to paragraph 91.409(f)
(4) of this Regulation, to maintain the adequacy of this program, the aircraft owner or operator must, after receiving notification from ANAC, make the required changes.

(b) The aircraft owner or operator may appeal to ANAC requesting reconsideration of the changes determined in its inspection program. (c) The referred appeal must be submitted to ANAC within 30 days after receipt of the notification.

(d) The filing of an appeal leaves the effectiveness of the changes determined pending final decision of ANAC, except in the case of an emergency requiring immediate action in the interest of security.

91.417 Maintenance records

(a) Except for work performed under sections 91.411 and 91.413 of this Regulation, each owner or operator shall keep, for the periods established in paragraph (b) of this section, the following records:

(1) record of the maintenance, preventive maintenance and alteration, and records of 100-hour inspections, annual, progressive, and other mandatory or approved inspections, as appropriate, for each aircraft (including airframe, engine, propeller, rotor and equipment). All records must include:

(i) description (or reference to data acceptable to ANAC) of the work performed;

(ii) date of completion of the work performed; and

(iii) the signature and license number of the person who approved the aircraft for return to service; and

(2) records containing the following information:

(i) the total flight time of each airframe, engine, propeller and rotor;

(ii) the current status of parts with limited lifetime of each airframe, engine, propeller, rotor, and equipment;

(iii) the time since the last overhaul of items installed on the aircraft that require to be overhauled on a specified time basis;

(iv) the identification of the current status of the aircraft in relation to inspections, including the time since the last mandatory inspection required by the inspection program under which the aircraft and its components are maintained;

(v) the updated status of the applicable airworthiness directives and safety directives, including, for each one, the method to comply with it, the number of the airworthiness directive or the safety directive and the revision date. If the airworthiness directive or safety directive requires periodic actions, the time and date when the next action is required; and

(vi) copies of the forms prescribed by paragraph 43.9(d) of RBAC n° 43 for each major alteration or major repair to the airframe, engines, propellers, rotors, and equipment currently installed on the aircraft.

(b) The owner or operator shall retain the following records for the periods below:

(1) the records required by paragraph (a)(1) of this section, until the work is repeated for the 3rd consecutive time, even if it has been replaced by more detailed work, or for 5 (five) years after the end of the work. work, whichever is greater;

(2) the records required by paragraph (a)(2) of this section, permanently and must be transferred with the aircraft if it is sold; and

(3) a list of defects furnished to an owner or operator in accordance with section 43.11 of RBAC n° 43 until all defects have been repaired and the aircraft approved for return to flight.

(c) Each owner or operator must provide all records required by this section to ANAC, whenever required.

(d) When an additional fuel tank is installed within a passenger or luggage compartment in accordance with RBAC n° 43, the record of that change shall be kept on board the modified aircraft and the operator or owner must present it to the ANAC whenever required, according to paragraph (c) of this section.

91.419 Transfer of maintenance records

Any owner or operator who sells an aircraft must transfer to the buyer, at the time of sale, the following records of the aircraft, in plain language or in coded form, at the election of the purchaser, provided that the coded form allows the retrieval of information in a manner acceptable by ANAC:

(a) the records specified in paragraph 91.417(a)(2) of these Regulation; and

(b) the records specified in paragraph 91.417(a)(1) of this Regulation which are not included in the records required by paragraph (a) of this section, except when the purchaser authorizes the seller to maintain physical custody of such records. However, physical custody does not exempt the purchaser from the liability established by paragraph 91.417(c) of this Regulation.

91.421 Record of maintenance after rebuilt engine

a) The owner or operator may use a new maintenance record, without previous operating history, for an engine rebuilt by an authorized person under RBAC n° 43.

(b) Each person who grants zero time to an engine rebuilt by him/her shall enter in the new record:

(1) a signed statement of the date the engine was rebuilt;

(2) each change made in accordance with airworthiness directives; and

(3) each change made in compliance with the manufacturer's service bulletins, if the entry is required by the bulletin.

(c) For the purposes of this section, a rebuilt engine means a used engine that has been completely disassembled, inspected, repaired as necessary, reassembled, tested, and approved in the same manner and to the same tolerances and limitations as a new engine, with either new or used parts. However, all parts used in a rebuilt engine must conform to the tolerances and limits for new parts or with approved undersized or oversized dimensions, as applicable, for a new engine.

91.423 Weighing and balancing of aircraft

(a) Aircrafts, whose approved manuals define time intervals between consecutive weighing, must be weighed in accordance with such manuals.

(b) Regional transport and transport category aircrafts, multi-engine airplanes with reaction engines of any category and rotary wing aircraft category transport, when they do not have weighing intervals defined in their approved manuals, they must be weighed every 5 years.

(c) Except as provided in paragraphs (a) and (b) of this section, any aircraft must be weighed:

(1) whenever there are doubts as to the accuracy of their weight and balance; and

(2) after being subjected to maintenance services and changes which may have changed its weight, such as: general painting, major repairs, major changes, configuration changes, etc. (d) The aircraft's weight and balance sheet must be recalculated whenever the aircraft has undergone changes due to removal, installation or change of equipment position, accessories, internal decoration, etc.

(e) The weighing of an aircraft must be performed by a person authorized for the service.

SUBPART F

LARGE AND TURBINE-POWERED MULTIENGINE AIRPLANES AND FRACTIONAL OWNERSHIP PROGRAM AIRCRAFT (WORDING GIVEN BY RESOLUTION N° 606, DATED FEBRUARY 11, 2021)

91.501 Applicability

(a) This Subpart establishes operational requirements, in addition to those of other subparts of this Regulation, for the operation of large civil airplanes and multi-engine civil airplanes, with turbine engines, registered in Brazil, and for fractional ownership operations under Subpart K of this Regulation, not involving the commercial transport of people and cargo. The operational requirements of this Subpart do not apply to airplanes that are required to operate under RBAC nº 129, 137 and according to the operational regulations of operators certified under RBAC nº 119. (Wording given by Resolution nº 606, dated February 11, 2021).

(b) Operations not involving commercial transportation of people and cargo may be conducted in accordance with the requirements of this Subpart instead of those of RBAC n° 121, 129, 135 and 137. These operations include:

(1) ferry and training flights;

(2) special air operations such as photography, remote sensing and pipeline inspection, but not including firefighting operations;

(3) demonstration flights of an aircraft to potential buyers, provided that nothing is charged to them, except as provided for in paragraph (d) of this section;

(4) flights conducted by the operator of an aircraft for his/her personal transport or transportation of his/her guests, provided there is no charge to the occupants of the aircraft;

(5) the air transportation of officials, guests, employees, and property of a company in an aircraft operated by that company, or by the parent or subsidiary of that company, provided that the flight is intended to serve the interests of the company and that nothing is charged for transportation in addition to the costs of ownership, operation and maintenance of the aircraft; however, nothing may be charged for the transportation of a company guest, if the transportation is not linked to the business of that company;

(6) the air transportation of officials, guests and employees of a company in an aircraft operated under temporary assignment, aircraft exchange or common ownership contracts as defined in paragraph (c) of this section;

(7) the air transportation of property (except postal pouches) and people on an aircraft operated by a company in the furtherance of its business, provided that such transportation is within the scope of that business and nothing is charged, except as specified in paragraph (d) of this section;

(8) the air transport of a group of athletes, sports team, choir group or other groups, having community objectives and purposes, when nothing is charged for the transportation; and

(9) the transportation of persons on an aircraft operated by a person in the furtherance of a line of business other than air transportation for the purpose of selling them lots (land), goods or property, including representations or distributorships, when the transportation is within the scope of interest and is inherent to the business and no compensation, tax or fee is charged for this transportation.

(10) any operation identified in paragraphs (b)(1) to (b)(9) of this section, when conducted:

(i) by a fractional ownership program manager under Subpart K of this Regulation; or

(ii) by a program manager on behalf of a shareholder in a fraction ownership program under Subpart K of this Regulation, except when a flight under a fractional ownership contract is performed under paragraph (b)(6) of this section. For a flight under a barter contract under paragraph (b)(6) of this section, the exchange for equal time for the operation must be appropriately accounted for as part of the total hours associated with the shareholder quota of the fractional ownership program.

(Included by Resolution n° 606, dated February 11, 2021)

(c) For the purposes of this section:

(1) temporary assignment contract means a contract in which a person assigns his/her aircraft (with flight crew) to another person and no charge is made for flights conducted under that contract, except those provided for in paragraph (d) of this section;

(2) barter contract means a contract in which a person assigns his/her aircraft to another person in exchange, for equal time and when necessary, for that other person's aircraft and nothing is paid for the use of the aircrafts, except for the difference between the costs of ownership, operation and maintenance of the two aircrafts; and

(3) common ownership contract means a contract in which one of the registered owners of an aircraft employs and supplies the crews for the aircraft and the other registered owners share the total costs as specified in the contract.

(d) The following may be charged as cost of a specific flight as authorized by paragraphs (b)(3), (b)(7) and (c)(1) of this section:

(1) fuel, oil, lubricants and other additives;

(2) travel expenses of the crew, including food, lodging and ground transportation;

(3) hangar and tie-down costs away from the <u>aircraft</u>'s base of operation.

(4) insurance obtained specifically for the flight;

(5) landing fees, $\underline{\text{airport}}$ taxes, and similar fares

(6) customs and foreign taxes, directly related to the flight;

(7) in flight food and beverages;

(8) passenger ground transportation;

(9) tariffs for the use of facilities of navigation, communication and meteorology; and

(10) an additional charge, equal to 100% of the expenses listed in paragraph (d)(1) of this section.

91.503 Flight equipment and operating information

(a) The pilot-in-command of an airplane under this Subpart shall ensure that, in addition to the documents required by paragraph 91.203(a), the following documentation and flight equipment are available on board for each flight.

(1) a portable flashlight in good working condition;

(2) cockpit checklist containing the procedures listed in paragraph (b) of this section;

(3) [reserved];

(4) [reserved]; and

(5) in the case of multi-engine aircraft, one-engine inoperative climbs performance data.

(b) Each cockpit checklist must contain the following procedures and must be used by the flight crew when operating the aircraft:

(1) before starting engines;

(2) before takeoff;

(3) cruise;

(4) before landing;

(5) after landing;

(6) at stopping engines; and

(7) in emergencies.

(c) Each emergency cockpit checklist required by paragraph (b)(7) of this section must contain the following procedures, as appropriate:

(1) emergency operation of fuel, hydraulic, electrical and mechanical systems;

(2) emergency operation of flight instruments and controls;

(3) procedures with engine inoperative; and

(4) any other procedures necessary for safety.

91.505 Familiarity with operating limitations and emergency equipment

(a) The pilot-in-command of an airplane under this Subpart shall, before beginning a flight become familiar with the approved flight manual or AOM for this airplane and with the placards, condensed checklists and instrument markings containing operating limitations established for that airplane, including those specified in paragraph 91.9(b) of this Regulation.

(b) Each required member of the crew shall, before beginning a flight, become familiar with the emergency equipment installed on the airplane for which he/she was assigned and with the procedures to be followed for the use of that equipment in emergency situations.

91.507 and 91.509 [Reserved]

91.511 Radio equipment for overwater operations

(a) Except as provided in paragraphs (c) and (d) of this section, it is only permitted to take off with an airplane under this Subpart for a flight over water, with more than 30 minutes flying time or more than 185 km (100 NM) near to the coast (as defined in paragraph 91.201(a) of this Regulation), if the airplane has at least the following equipment in operating conditions:

(1) radio communication equipment capable of maintaining bilateral communications, at any point on the route with at least one ATS body and containing:

(i) two transmitters;

(ii) two microphones;

(iii) two headsets, or one headset and one speaker; and

(iv) two independent receivers; and

(2) appropriate electronic navigational equipment, consisting of at least two independent electronic navigation units, capable of providing the pilot with the information necessary to navigate the aircraft within the air space assigned by the ATS body. However, a single receiver that receives both the signals required for navigation and communications may be used instead of a receiver for navigation and another receiver for communication.

(b) For the purposes of paragraphs (a)(1) (iv) and (a)(2) of this section, a receiver or an electronic navigation unit is independent if the functioning of any of its parts does not depend on the functioning of any part of another receiver or other electronic navigation unit.

(c) Except as provided in paragraph (a) of this section, and unless the airplane has an approved MEL allowing flight in this situation, a person may operate an airplane under this Subpart, in which passengers are not being transported, from

a place where repairs or replacements cannot be made to another place where they can be made, if not more than one of each of the dual item of the communication and navigation equipment specified in paragraph (a) of this section becomes inoperative or malfunctions.

(d) Except as provided in paragraph (a) of this section, when both VHF and HF communications equipment are required for the route, and the airplane has two VHF transmitters and two VHF receivers, only one HF receiver and one HF transmitter is required for communications.

91.513 Emergency equipment

(a) It is only permitted to operate an aircraft under this Subpart if it is equipped with the following emergency equipment listed in this section.

(b) Each item of equipment:

(1) must be inspected in accordance with section 91.409 of this Regulation to ensure its continued serviceability and immediate readiness for its intended purposes;

(2) must be readily accessible to the crew;

(3) must clearly indicates its method of operation; and

(4) when transported in a compartment or packaging, that compartment or packaging must be clearly identified as to its contents and the date of last inspection.

(c) Portable fire extinguishers shall be available for use in the pilots, passengers, and cargo compartments, in accordance with the following:

(1) the type and quantity of extinguishing agent must be suitable for the kinds of fire likely to occur in the compartment where the extinguisher is intended to be used;

(2) at least one extinguisher must be placed in the pilots' compartment in a place readily accessible to flight crew members;

(3) at least one extinguisher properly located in the passenger compartment of each airplane accommodating more than 6 and less than 31 passengers and at least 2 extinguishers properly located in the passenger compartment of each airplane accommodating more than 30 passengers; and (4) fire extinguishers must be installed and secured in such a manner that they do not interfere with the safe operation of the airplane and do not affect the safety of crew members and passengers. They must be quickly accessible and, unless their locations are obvious, their stowage locations must be properly identified.

(d) [Reserved].

(e) At least one rescue hatchet must be available on airplanes with a maximum capacity of more than 19 passengers.

(f) Each passenger-carrying airplane must have one or more portable battery-powered megaphones, readily accessible to crew members assigned to direct emergency evacuations, installed as follows:

(1) a megaphone on each airplane with an approved configuration for passengers over 60 and under 100 seats, located in the rearmost possible position of the passenger compartment where it may be reached from a normal flight attendant seat. However, ANAC may authorize a different location if it considers it more suitable for evacuating people in an emergency; and

(2) two megaphones in the passenger compartment of each airplane with an approved configuration for passengers with 100 or more seats, one installed in front and one behind the passenger compartment, in places where they may be reached from normal flight attendant seats.

91.515 [Reserved]

91.517 Passenger information

(a) Except as provided in <u>paragraph (b)</u> of this section, it is only permitted to operate an airplane carrying passengers under this Subpart if it is equipped with luminous signs informing when it is necessary to fasten safety belts and with signs informing that smoking is prohibited, visible to all passengers and flight attendants. Luminous signs must be installed in such a way as to allow crew members to switch them on and off. They must be turned on during airplane movements on the surface, for each takeoff and each landing, and whenever the pilot-in-command deems necessary.

(b) On an airplane that does not require to be equipped as provided for in paragraph (a) of this section by the airworthiness requirements applicable to it, the pilot-in-command shall ensure that passengers are notified orally when smoking is prohibited and at each time it is necessary to fasten and adjust their safety belts.

(c) [Reserved].

(d) Anyone required by paragraph 91.107(a)(3) to occupy a seat or berth should put his/her safety belt on and keep it tight around his/her body as long as any sign to adjust belts is lighted.

(e) Each passenger shall comply with the instructions given to him/her by the crew members in relation to paragraphs (b) and (d) of this section.

91.519 Passenger briefing

(a) Before each takeoff, the pilot-in-command of an airplane carrying passengers, under this Subpart, shall ensure that all passengers have been orally briefed on:

(1) smoking: each passenger shall be briefed on when, where and under what conditions smoking is permitted. This briefing should clarify that ANAC regulations require that passengers comply with luminous signs and non-smoking signs, that passengers comply with the relevant crew members instructions and that smoking in lavatories is prohibited;

(2) use of safety belts and shoulder belts: each passenger must be briefed on when, where and under what conditions it is necessary to fasten the safety belt and shoulder belts (if fitted) and keep it adjusted around his/her body. This briefing shall clarify that ANAC regulations require passengers to comply with the luminous signs and the instructions of the crew members on the use of the belts;

(3) location and means of opening the passenger entry door and emergency exits;

(4) location of survival equipment;

(5) for flights over water, procedures for landing on water and use of the flotation equipment required by section 91.231 of these Regulations; and

(6) the normal and emergency use of oxygen equipment installed on the airplane.

(b) The oral briefing required by paragraph (a) of this section shall be given by the pilot-in-command or a member of the crew but need not be given when the pilot-in-command determines that all passengers are familiar with the contents of the briefing. The briefing may be supplemented by printed cards for use by each passenger, containing:

(1) a diagram of, and method of operating, the emergency exits; and

(2) other instructions necessary for use of emergency equipment.

(c) Each card used in accordance with paragraph (b) of this section must be conveniently placed on the airplane to be consulted from each passenger seat and must contain information pertinent only to the type and model of the airplane on which it is used.

(d) For operations under Subpart K of this Regulation, the passenger briefing requirements of section 91.1035 of this Regulation apply, instead of the requirements of paragraphs (a) through (c) of this section. (Included by Resolution n° 606, dated February 11, 2021)

91.521 Shoulder belts

(a) It is only allowed to operate a transport category of certified type airplane under this Subpart in its country of origin after January 1, 1958, if it is equipped with a combination of safety belts and shoulder belts at each seat from the cockpit. The combination must meet the requirements of section 25.785 of RBAC n° 25, except that:

(1) shoulder belts and safety belts combined with shoulder belts that were approved and installed before March 6, 1980, may continue to be used; and

(2) automatic locking systems for safety belts and shoulder belts may be used, provided that they are designed to meet the inertia load factors established under the certification basis of the airplane.

(b) It is only allowed to operate a transport category of airplane, under this Subpart, if it is equipped with a combination of safety belt and shoulder belt at each flight attendant seat, and this combination must meet the requirements of section 25.785 of the RBAC n° 25, except that:

(1) shoulder belts and safety belts combined with shoulder belts that were approved and installed before March 6, 1980, may continue to be used; and

(2) automatic locking systems for safety belts and shoulder belts may

be used, provided that they are designed to meet the inertia load factors established under the certification basis of the airplane.

91.523 Carry-on luggage

The pilot-in-command of an airplane, under this Subpart, with an approved configuration for passengers with more than 19 seats may only allow a passenger to place his/her carry-on luggage on board the airplane if:

(a) in a suitable baggage or cargo compartment as provided for in section 91.525 of this Regulation; or

(b) under a passenger seat that has a device to prevent luggage from sliding forward under the impulse of the final inertia loads that may occur in a forced landing, as specified in paragraph 25.561(b)(3) of RBAC n° 25. Such a device must also prevent lateral slippage of luggage under the same loads and according to the referred paragraph 25.561(b)(3) of RBAC n° 25.

91.525 Cargo transportation

(a) The pilot-in-command may only allow cargo to be transported on an airplane under this Subpart if:

(1) it is carried in an approved cargo rack, bin, or compartment installed in the airplane;

(2) It is secured by approved means

(3) it is transported in accordance with the following:

(i) it is properly secured by a safety belt or other fastening means that has sufficient strength to eliminate the risk of shifting under any condition anticipated in flight and on the ground;

(ii) it is properly packaged or covered to avoid possible injury to passengers;

(iii) it does not impose any load on the seats or on the floor structure that exceeds the load limits of these components;

(iv) it is not located in a position that restricts the access to, or use of any regular or emergency exit or the use the aisles of the passenger compartment, including the aisle leading to the pilots compartment; and (v) is not transported directly above seated passengers unless in approved compartments (overhead bin).

(b) When cargo is transported in the cargo compartment that requires the physical entry of a crewmember to extinguish any fire that may occur in flight, the cargo must be distributed within that compartment to allow the crewmember to effectively reach all parts of the compartment with the contents of a portable fire extinguisher.

91.527 Operating in icing conditions

(a) The pilot is prohibited to take off with an airplane, under this Subpart, that has ice, frost or snow adhering to any propeller, windshield, stabilizing and control surfaces, to engine installation, parts of a speedometer system, altimeter, vertical speed and flight altitude instruments or wing.

(b) It is only allowed to fly under IFR into known or forecast light or moderate icing conditions, or under VFR into known light or moderate icing conditions, if the airplane:

(1) has, functioning deicing or anti-icing equipment protecting each propeller, windshield, wing, stabilizer or control surface and each system speedometer, altimeter, vertical speed and flight altitude instrument;

(2) has the ice protection provisions established by the Special Federal Aviation Regulation n° 23 (SFAR 23), section 34, issued by the FAA/USA; or

(3) meets the provisions of transport category airplane type certification, including requirements for certification for flight in icing conditions.

(c) It is only allowed to fly an airplane under this Subpart into known or forecast severe icing conditions if the airplane meets ice protection provisions required by SFAR 23, section 34, issued by the FAA/USA, or the protection provisions against icing conditions required for certification of transport category airplanes.

(d) If current weather reports and other briefing information relied upon by the pilot-in-command indicate that the forecast icing conditions that would prohibit the flight will not be encountered during the flight because of changed weather conditions since the forecast, the restrictions in paragraph (b) and (c) of this section based on forecast conditions do not apply.

91.529 Flight engineer requirements

(a) It is only permitted to operate, under this Subpart, the following airplanes, if a flight engineer, duly qualified, is part of the technical crew:

(1) an airplane with an approved maximum takeoff weight of higher than 36.300 kg (80,000 lb), of type certificated in your home country before January 2, 1964; or

(2) an airplane type certificated in your country of origin after January 2, 1964, for which a flight engineer is required as crew member, by the type certification.

(b) It is only allowed to work in an airplane under this Subpart as required flight engineer if, within the preceding 6 months, he/she has at least 50 hours of flight time as flight engineer on that type of airplane or have been submitted to and approved in a verification on this type of aircraft conducted by ANAC.

91.531 Second-in-command requirements

(a) Except in the condition provided in paragraph (b) of this section, it is prohibited to operate the following airplanes without a pilot trained and designated as second-in-command:

(1) any airplane certified for operation with more than 1 (one) pilot;

(2) any large airplane or a level 4 normal category certification airplane; and

(3) any regional transport category airplane or level 3 normal category certification airplane.

(b) It is permitted to operate the following airplanes without a pilot designated as second-in-command:

(1) any airplane certified to operate with only 1 (one) pilot; and

(2) a large airplane a level 4 normal category certification airplane or multi -engine airplane with turbine engine that holds a special airworthiness certificate if:

(i) the airplane was originally designed with only one pilot position; or

(ii) the plane was originally designed with more than one pilot station, but operations with only one (1) pilot are allowed by the airplane flight manual, the Brazilian Armed Forces or the Armed Forces of a contracting State to the Convention on International Civil Aviation.

91.533 Flight attendant requirements

It is only allowed to operate an airplane, under this Subpart, carrying on board more than 19 passengers, if the airplane has one flight attendant for each passenger group of maximum 50 persons.

91.535 Stowage of food, beverage and passenger service equipment during aircraft movement on the surface, takeoffs and landing of the airplane

(a) It is not allowed to an operator to move an airplane, under this Subpart, on the surface, takeoff, or land, if any food, beverage, or tableware furnished by the correlative operator is located at a passenger seat.

(b) It is only allowed to an operator to move an airplane, under this Subpart, on the surface, takeoff, or land, unless each food and beverage tray and seat back tray table is secured in its stowed position.

(c) It is only allowed to an operator to move an airplane, under this Subpart, on the surface, takeoff, or land, unless each passenger serving cart is secured in its stowed position.

(d) It is only allowed to an operator to move an airplane, under this Subpart, on the surface, takeoff, or land, unless each movie screen that extends into the aisle is stowed.

(e) Each passenger shall comply with instructions given by a <u>crewmember</u> with regard to compliance with this section.

SUBPART G

ADDITIONAL EQUIPMENT AND OPERATING REQUIREMENTS FOR LARGE AND TRANSPORT CATEGORY AIRCRAFT

91.601 Applicability

This Subpart establishes additional requirements applicable to the operation of large aircraft and transport category aircraft registered in Brazil.

91.603 Aural speed warning device

It is only allowed to commercially operate a transport category airplane unless that

airplane is equipped with an aural speed warning device that complies with paragraph 25.1303(c)(1) of RBAC n° 25.

<u>91.605 Weight limitations of</u> transport category civil airplanes

(a) It is only allowed to take off any transport category airplane (other than a turbine-engine powered airplane type certificate in your country of origin after September 30, 1958) unless:

(1) the takeoff weight does not exceed the authorized maximum takeoff weight for the altitude of the airport of departure;

(2) the altitude of the airport of departure is within the altitude range for which maximum takeoff weights have been determined;

(3) the normal consumption of fuel and oil in flight to the airport of first planned landing allows that the weight on arrival does not exceed the authorized maximum weight for the altitude of that airport; and

(4) the altitude of the first landing airport, and the corresponding alternate airports, is within the altitude range at which maximum landing weights have been determined.

(b) It is only allowed to operate a turbine-engine powered transport category airplane, certified in its country of origin, after September 30, 1958, unless the provisions of the approved flight manual, or AOM, are fulfilled. In addition, it is only allowed to take off with this airplane unless:

(1) the takeoff weight does not exceed the takeoff weight shown in the approved flight manual or AOM for the altitude of the airport of departure and ambient temperature existing at the time of takeoff;

(2) the normal consumption of fuel and oil in flight to the airport of first planned landing and to corresponding alternate airports allow the weight on arrival not to exceed the landing weight provided for in the approved flight manual or AOM for the altitude of each of the involved airports, considering the ambient temperature expected in such airports at the time of landing on each of them;

(3) the take-off weight does not exceed the weight shown in the approved flight manual or AOM, corresponding to the weight for the minimum distances required for takeoff, considering the altitude of the airport, the runway to be used, the gradient of this runaway, the ambient temperature and the wind existing at the time of takeoff and if the approved flight manual, or AOM, contains performance information with wet runaway, the runaway surface conditions (dry or wet). Distances in wet runaway associated with grooved runaway or porous friction course runaway, if available in the approved flight manual, or AOM, may be used only on runaways that are really grooved or provided with porous friction course and the airplane operator has proven they have been designed, built and maintained in an acceptable manner by ANAC; and

(4) where the takeoff distance includes a clearway, the clearway distance is not more than one-half of:

(i) the takeoff run, in the case of airplanes certificated in their country of origin after September 30, 1958, but before August 30, 1959; or

(ii) the runway length, in the case of airplanes certificated in their country of origin after August 29, 1959.

(c) It is only allowed to take off with a turbine-engine powered transport category airplane, the type certificated in your country of origin after August 29, 1959, unless, in addition to requirements of paragraph (b) of this section:

(1) the accelerate-stop distance is no greater than the length of the runaway plus the length of the stopway (if present);

(2) the takeoff distance is no greater than the length of the runaway plus the length of the clearway (if present);and

(3) the takeoff run is no greater than the length of the runaway.

<u>91.607 Emergency exits for</u> <u>airplanes for profit-oriented</u> <u>passenger transport operations</u>

(a) Except any other provision of RBAC, it is prohibited to operate a large airplane (certificated according to the US Civil Air Regulation in force before April 9, 1957) in operations of passenger transport for profit with more than the number of occupants:

(1) allowed by the Civil Air Regulations, paragraphs 4b.362(a), (b) and (c) as in effect on December 20, 1951; or (2) approved under the Special Civil Air Regulations of the USA, SR-387, SR-389, SR-389a or SR-389B, or under this section as in effect.

(a)-I Except as provided in paragraph (a) of this section, the types of aircraft listed in the following table may be operated up to the listed number of occupants (including flight crew) and the corresponding number of exits (including doors and emergency exits) approved as emergency exit of passengers or with an occupant/exit configuration approved under paragraphs (b) or (c) of this section.

[TABLE DELETED FROM THIS VERSION]

(b) The number of additional occupants authorized by paragraphs (a) and (a)-I of this section which may be transported is:

(1) for each additional floor-level exit at least 24 inches (61 cm) wide by 48 inches (122 cm) high, with an unobstructed 20 inches (51 cm) wide access aisleway between the exit and the passenger aisle, twelve additional occupants;

(2) for each additional window exit located over the wings that complies with the requirements of airworthiness standards under which the type of airplane has been certified and that is large enough to inscribe an ellipse of 19x26 inches (48 x 66 cm), eight additional occupants;

(3) for each additional window exit that is not located over the wings, but that otherwise complies with paragraph (b)(2) of this section, five additional occupants; and

(4) for an airplane having a ratio of maximum number of occupants to the number of exits, computed with values extracted from table of paragraph (a)-I of this section, greater than 14:1, and for each airplane that has not at least one large size door type exit on the side of the fuselage at the rear part of the cabin, the first additional exit should be an exit at the floor level that complies with paragraph (b)(1) of this section and should be located at the rear part of cabin on the side of the fuselage opposite to the main entrance door. However, it is only allowed to operate an airplane under this section transporting more than 115 occupants unless there is one exit on each side of the fuselage at the rear part of the cabin.

(c) It is only permitted to eliminate any approved exit if:

(1) the maximum number of occupants previously approved is reduced by the same number of additional occupants authorized for this additional exit under this section;

(2) exits are eliminated according to the following sequence of priorities: first, exit windows that are not over the wings; second, exit windows over the wings; third, floor level exits located at the front part of the cabin; and fourth, floor level exits located at the rear part of the cabin;

(3) at least one exit is maintained on each side of the fuselage, regardless of the number of occupants; and

(4) the resulting ratio between the maximum number of occupants per approved exit is no greater than 14:1.

(d) This section does not exempt any person operating under RBAC n° 121 from complying with section 121.291 of RBAC n° 121.

<u>91.609 Flight data recorders and</u> <u>cockpit voice recorders</u>

(a) It is only permitted to an operator holding a certificate issued under RBAC n° 119 to conduct any operation under this Regulation with an aircraft listed in its operating specifications if that aircraft complies with the applicable requirements with respect to flight data recorder and cockpit voice recorder, the regulation according to which a certificate of air operator (COA) has been issued. However, this operator may:

(1) transfer the aircraft with an inoperative flight data recorder or cockpit voice recorder from an airport where the repair or replacement of the equipment may not be done, to a location where this is possible;

(2) continue a flight as originally planned if the flight data recorder or cockpit voice recorder becomes inoperative after the aircraft has taken off;

(3) conduct an experimental flight during which the required recorder is turned off to test electrical or communications equipment installed on the aircraft; or

(4) transfer a new aircraft to the location from where it has been acquired to where the required recorder will be installed. (b) Except for paragraphs (c) and (e) of this section, an operator who does not hold a COA may: (Wording given by Resolution n° 606, dated February 11, 2021)

(1) transfer the aircraft with an inoperative flight data recorder or cockpit voice recorder from an airport where the repair or replacement of the equipment may not be done, to a location where this is possible;

(2) continue a flight as originally planned if the flight data recorder or cockpit voice recorder becomes inoperative after the aircraft has taken off;

(3) conduct an experimental flight during which the required recorder is turned off to test electrical or communications equipment installed on the aircraft; or

4) transfer a new aircraft to the location from where it has been acquired to where the required recorder will be installed.

(5) operate an aircraft:

(i) for not more than 15 days while the flight data recorder and/or cockpit voice recorder is inoperative or has been removed for repair, provided that the aircraft maintenance records contain an entry that indicates the date of failure and a placard is located in the view of the pilot to show that the flight data recorder or cockpit voice recorder is inoperative; and

(ii) for not more than an additional 15 days, provided that the requirements in paragraph (b)(5)(i) of this section are met and that a certificated pilot or an authorized qualified person to return an aircraft to service under section 43.7 RBAC n° 43 enters in the aircraft maintenance records the additional time that is required to complete the repair or get a replacement unit.

(c) With respect to a Brazilian civil registered, multi-engine, turbine-powered aircraft, having an approved passenger seating configuration of 10 or more seats, excluding any pilot seats, and which has been manufactured after October 11, 1991:

(1) is only permitted to operate the aircraft if it is equipped with one or more approved flight data recorders that utilize digital methods of recording and storing data that are capable of recording the data specified in Appendix E (in the case of airplanes) or appendix F (in the case of rotorcrafts) of this Regulation, within the range, accuracy, and recording interval specified, and that are capable of retaining no less than 8 hours of aircraft operation;

(2) for airplanes manufactured before April 7, 2012, must meet the requirements of paragraphs 23.1459(a)(7) of RBAC n° 23 or 25.1459(a)(8) of RBAC n° 25, as applicable; and

(3) in the case of aircrafts manufactured as of April 7, 2012, they must meet the requirements of sections 23.1459 of RBAC n° 23, 25.1459 of RBAC n° 25, 27.1459 of RBAC n° 27 or 29.1459 of RBAC n° 29, as applicable and retain at least the last 25 hours of recorded information using a recorder that meets the standards of the OTP (TSO) C124a, or later revision.

(d) When a flight data recorder required by this section is installed, it must be operated continuously from the instant the airplane begins the takeoff run, or the rotary-wing aircraft begins ground lift-off, until the airplane has completed the landing run, or the rotary-wing aircraft has landed at its destination.

(e) Unless authorized by ANAC, it is only allowed to operate a Brazilian registered civil aircraft, multi-engine, turbine-powered aircraft, having an approved passenger seating configuration of 6 or more seats and for which 2 pilots are required by the certification requirements or by an operational rule, if it is equipped with an approved cockpit voice recorder that:

(1) is installed in compliance with paragraphs 23.1457(a)(1) and (2), (b), (c), (d)(1)(i) (2) and (3), (e), (f) and (g) of RBAC n° 23; 25.1457(a)(1) and (2), (b), (c), (d)(1)(i) (2) and (3), (e), (f) and (g) of RBAC n° 25; 27.1457(a)(1) and (2), (b), (c), (d)(1)(i) (2) and (3), (e), (f) and (g) of RBAC n° 27; or 29.1457(a) (1) and (2), (b), (c), (d)(1)(i) (2) and (3), (e), (f) and (g) of RBAC n° 29, as applicable; and

(2) is operated continuously from the use of the checklist before the flight to completion of the final checklist at the end of the flight.

(f) In complying with the requirements of this section, a voice recorder may be used in the cockpit that has a recording erasure device, provided that, at any time during the operation of the recorder, recordings made at least during the last 15 minutes are kept. (g) In the event of an accident or occurrence that determines the end of a flight, any operator who has installed approved cockpit voice recorder or approved flight data recorder should report it to ANAC and retain information recorded for at least 60 days or for a longer period if so determined by CENIPA.

(h) All airplanes that, under this section, should have a cockpit voice recorder and a flight data recorder and have been manufactured before April 7, 2012, must have a flight deck voice recorder that also meets the following:

(1) the requirements of paragraphs 23.1457(d)(6) of RBAC $n^{\rm o}$ 23 or 25.1457(d)(6) of RBAC $n^{\rm o}$ 25, as applicable; and

(2) if certified in the transport category, the requirements of paragraphs 25.1457(a)(3), (a)(4) and (a)(5) of RBAC n^o 25.

(i) All aircrafts which, according to this section, must have a flight deck voice recorder and a flight data recorder and which were manufactured after April 7, 2012, must have a voice recorder installed that:

(1) also meets the requirements of section 23.1457 of the RBAC n° 23 (except paragraphs (a)(6) and (d)(5)); the requirements of section 25.1457 of RBAC n° 25 (except paragraphs (a)(6) and (d)(5)); the requirements of section 27.1457 of RBAC n° 27 (except paragraphs (a)(6) and (d)(5)); or to the requirements of section 29.1457 of RBAC 29 (except paragraphs (a)(6) and (d)(5)); as applicable;

(2) retain at least the last 2 hours of recordings using a recorder that meets the standards of the OTP (TSO) C123a or later revision; and

(3) in the case of aircrafts manufactured as of April 6, 2014, must also meet the requirements of paragraphs 23.1457 (a)(6) and (d)(5) of RBAC n° 23; 25.1457 (a)(6) and (d)(5) of RBAC n° 25; 27.1457 (a)(6) and (d)(5) of RBAC n° 27; or 29.1457 (a)(6) and (d) (5) of RBAC n° 29, as applicable.

(j) All aircrafts which, according to this section, must have a flight deck voice recorder and a flight data recorder, must record all messages generated by the datalink communication equipment, as required by the certification regulation applicable to the aircrafts, if they have such equipment installed. 91.611 Authorization for ferry flight with one engine inoperative

(a) The holder of a certificate issued under RBAC n° 119 may conduct a ferry flight of a four-engine <u>airplane</u> or a turbine-engine-powered <u>airplane</u> equipped with three engines, with one engine inoperative, to a base for the purpose of repairing or replacing that engine provided that:

(1) the airplane model has been tested in flight and found satisfactory for safe operation under paragraph (b) or (c) of this section. However, each operator which before November 19, 1966 has shown that an airplane model with one engine inoperative is satisfactory for safe flight through a test flight conducted in accordance with performance data contained in the approved flight manual, or AOM applicable, in compliance with the provisions of paragraph (a)(2) of this section, need not to repeat the test flight for this model;

(2) the approved flight manual, or AOM, contains the following performance data with one engine inoperative and the flight is conducted in accordance with that data:

(i) maximum weight;

(ii) limits of the center of gravity (CG);

(iii) inoperative propeller configuration (if applicable);

(iv) runway length for takeoff (including temperature corrections);

(v) altitude range;

(vi) certificate limitations;

(vii) ranges of operational limits;

(viii) performance information; and

(ix) operating procedures;

(3) the operating procedures have been approved by ANAC for the safe operation of the airplane and have been included in the company manual, including specific requirements for:

 (i) limiting the operating weight which, on any ferry flight, to the minimum necessary for executing the flight plus the necessary reserve fuel load;

(ii) the limitation that takeoffs must be made on dry runaways, unless, based on a demonstration of actual operating takeoff techniques on wet runaways with one engine inoperative (and included in the approved flight manual or AOM) is shown that takeoffs with full controllability may be done on wet runaways;

(iii) airport operations where the runaway requires takeoffs and landings passing over populated areas; and

(iv) inspection procedures for determining the operating conditions of the remaining engines;

(4) it is not permitted to take off with an airplane under this section if:

(i) the initial climb is over thickly populated areas; or

(ii) the weather conditions at the takeoff and destination airport are less than the minimum required for VFR flight;

(5) only crew members required for the operation be transported on the aircraft; and

(6) a flight crew member is not employed under this section, unless that crew member is fully familiar with the operating procedures for ferry flights with an engine inoperative approved by ANAC and included in the company manual, and with the limitations and performance data contained in the approved flight manual or AOM.

(b) The performance of an airplane with conventional engines with an engine inoperative must be determined by flight tests as follows:

(1) a speed not less than 1.3 VS1 must be chosen at which the airplane may be controlled satisfactorily in a climb with the critical engine inoperative (with its propeller removed or in a configuration desired by the operator) and with all other engines operating at the maximum power determined in paragraph (b)(3) of this section;

(2) the distance required to accelerate to the speed listed in paragraph (b)(1) of this section and to rise to 50 feet must be determined with:

(i) the landing gear lowered;

(ii) the critical engine inoperative and its propeller removed or in a configuration desired by the operator; and

(iii) the other engines operating at not more than the maximum power established under paragraph (b)(3) of this section;

(3) the takeoff, flight, and landing procedures should be established, cruising and landing, such as trim

settings, methods of power application, appropriate maximum power and speed;

(4) the performance should be determined for a maximum weight not greater than the weight that permit a rate of climb of at least 400 ft/min, in the cruise configuration defined in paragraph 25.67(d) of 14 CFR Part 25, issued by FAA/USA, effective January 31, 1977, at an altitude of 5,000 feet; and

(5) the performance should be determined using the takeoff distance corrections to the ambient temperature, as calculated according to section 25.61 of 14 CFR Part 25, issued by the FAA/USA, effective January 31, 1977.

(c) The performance of a turbine-engine powered airplane with one engine inoperative must be determined by flight tests including at least three takeoff tests in accordance with the following:

(1) VR and V2 speeds not less than the corresponding speeds with which the airplane was certified according to section 25.107 of RBAC n° 25, in which the airplane can be satisfactorily controlled with the critical engine inoperative (with its propeller removed or in the configuration chosen by the operator, if applicable) must be chosen and with the other engines operating at no more than the power selected for the type certification as defined by section 25.101 of RBAC n° 25;

(2)) the minimum runway length for takeoff must be the horizontal distance required to accelerate and climb up to 35 feet in height, at speed V2 (including any additional speed increases obtained in the test) multiplied by 1.15 and determined with:

(i) landing gear lowered;

(ii) the critical engine inoperative with its propeller removed or in the configuration chosen by the operator, if applicable; and

(iii) the remaining engines operating at no more than the selected power for the aircraft type certification, as defined in Section 25.101 of RBAC n° 25;

(3) procedures of takeoff, cruise, and landing should be established, such as approximate trim settings methods of power application, appropriate maximum power and speed. The airplane must be satisfactorily controllable throughout the take-off run when operating in accordance with these procedures;

(4) performance should be determined with a maximum weight not greater than the weight determined under paragraph 25.121(c) of RBAC n° 25, but with:

(i) the actual stabilized gradient of the requirement for the final takeoff climb not less than 1.2% at the end of the takeoff path with 2 critical engines inoperative; and

(ii) the climb speed not less than the compensation speed with 2 engines inoperative, at the actual stabilized gradient of the final takeoff climb as defined in paragraph (c)(4)(i) of this section;

(5) the airplane must be satisfactorily controllable in a climb with two engines inoperative. The climb performance must be demonstrated by calculations based on test results and with the same precision; and

(6) performance should be determined using corrections to ambient temperature for determining the takeoff distance and final takeoff climb as provided in section 25.101 of RBAC n° 25.

(d) For the purposes of paragraphs (c) (4) and (c)(5) of this section, two critical engines means two adjacent engines on one side of the airplane for a four-engine airplane, the center engine and one of the side engines for an airplane with 3 engines.

91.613 Materials for compartment interiors

(a) It is only allowed to operate an aircraft that conforms to an amended type certificate or supplemental type certificate issued under SFAR 41, published by the FAA/USA for operation with maximum takeoff weight of over 5670 kg (12,500 lb), if, within 1 year of the issuance of its first airworthiness certificate under this SFAR, the airplane meets the requirements for interior materials required by paragraphs 25.853(a), (b), (b-1), (b-2) and (b-3) of 14 CFR Part 25, issued by the FAA/USA, in effect on September 26, 1978.

(b) For aircraft of the type transport category issued after January 1, 1958:

(1) in the case of airplanes manufactured before September 2, 2005 when, from the day [DOU + 1 year], a thermo-acoustic insulation is installed in the fuselage as replacement to the existing, this insulation must meet the flame propagation requirements of 25.856 section of 14 CFR Part 25, issued by the FAA/USA, effective on September 2, 2003, if this isolation:

(i) is an insulation blanket; or

(ii) is installed around air ducting; and

(2) in the case of airplanes manufactured as of September 2, 2005, thermo-acoustic insulation materials installed in the fuselage must meet the flame propagation requirements of section 25.856 of 14 CFR Part 25, issued by the FAA/USA, effective on September 2, 2003.

SUBPART H

FOREIGN AIRCRAFT OPERATIONS, OPERATIONS OF BRAZILIAN REGISTERED CIVIL AIRCRAFT OUTSIDE OF BRAZIL AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

91.701 Applicability

(a) This subpart applies to the operations of civil Brazilian aircraft outside of Brazil, and to the operations of foreign civil aircraft within Brazil.

§ 91.703 Operations of civil aircraft of Brazilian registry outside of Brazil

(a) Each person operating a civil aircraft of Brazilian registry outside of Brazil shall:

(1) when over the high seas, comply with Annex 2 (Rules of the Air) to the Convention on International Civil Aviation and, if applicable, with Brazilian airspace control regulations;

(2) when within another State, comply with the operational regulations there in force and with interception orders from that State;

(3) except for paragraph 91.307(b) and sections 91.309 and 91.711, of this Regulation, comply with this Regulation so far as it is not inconsistent with applicable regulations of the State where the aircraft is operated or Annex 2 of the Convention on International Civil Aviation; and

(4) when operating within airspace designated as North Atlantic High Level Airspace (NAT-HLA) airspace, comply with section 91.1707 of this Regulation. When operating within airspace which requires a special approval (RVSM, PBN, etc.), comply with subpart N of this Regulation; and (5) for airplane, helicopter, airship or powered lift aircraft pilots, be able to communicate with the air traffic service (ATS) using the English language, and hold a valid ICAO level 4, 5 or 6 rating granted by ANAC, according to the stablished by the section 61.10 of RBAC 61.

66 91.705 to 91.709 [Reserved]

§91.711 Special rules for foreign civil aircraft

(a) In addition to the other applicable regulations of this RBAC 91, each person operating a foreign civil aircraft within Brazil shall comply with this section.

(b) No person may conduct VFR operations which require two-way radio communications under this part unless at least one pilot of the aircraft is able to conduct two-way radio communications in either the Portuguese or English languages.

(c) No person may operate a foreign civil aircraft under IFR unless:

(1) that aircraft is equipped with:

(i) radio equipment allowing two-way radio communication with the air traffic service (ATS) pertinent to the operation; and

(ii) navigation equipment suitable for the route to be flown;

(2) each person piloting the aircraft:

(i) holds a current instrument rating issued by the State of registry of the aircraft; and

(ii) is thoroughly familiar with the Brazilian IFR procedures; and

(3) at least one pilot of the aircraft on duty is able to conduct two-way radio communications in either the Portuguese or English languages.

(d) Each person operating a foreign civil aircraft over water off the shores of Brazil shall file a flight plan in accordance with the Supplementary Procedures for the ICAO region concerned.

(e) If VOR navigation equipment is required under paragraph (c)(1)(ii) of this section, no person may operate a foreign civil aircraft within Brazil at or above FL 240, unless the aircraft is equipped with approved DME or a suitable RNAV system capable of determining and presenting the distances to each VOR station. When the DME or RNAV system required by this paragraph fails at and above FL 240, the pilot in command of the aircraft must notify ATS immediately and may then continue operations at and above FL 240 to the next airport of intended landing where repairs or replacement of the equipment can be made. A foreign civil aircraft may be operated within Brazil at or above FL 240 without DME or an RNAV system when operated for the following purposes, and ATS is notified before each takeoff:

(1) ferry flights to a place where repairs or alterations are to be made;

(2) ferry flights to a new country of registry;

(3) flight of a new aircraft of Brazilian manufacture for the purpose of:

(i) flight testing the aircraft;

(ii) training foreign flight crews in the operation of the aircraft; or

(iii) ferrying the aircraft for export delivery outside Brazil; or

(4) ferry, demonstration, and test flight of an aircraft brought to Brazil for the purpose of demonstration or testing the whole or any part thereof.

(f) No person may operate a foreign civil aircraft in Brazilian airspace which requires a special approval (RVSM, PBN, etc.) unless such aircraft and the crew are authorized to perform such operation under the rules issued by the civil aviation authority of the State of registry of the aircraft.

6 91.713 [Reserved]

§ 91.715 Special flight authorizations for foreign civil aircraft

(a) Foreign civil aircraft may be operated without airworthiness certificates required under section 91.203 of this Regulation if a flight permit (AVANAC) for that operation is issued by ANAC, according to the Resolution nr. 178, issued in December 21th, 2010. The flight permit or an extract must be on board while the aircraft is within Brazil.

(b) ANAC may issue a flight permit for a foreign civil aircraft subject to any conditions and limitations that ANAC considers necessary for safe operation in Brazil.

SUBPART I

OPERATING NOISE REQUIREMENTS

91.801 Applicability

(a) This Subpart establishes operating noise limits and related requirements that apply to the operation of civil aircraft in Brazil, as described below: (1) section 91.805 of this Subpart applies to any civil subsonic reaction engine airplane, except experimental, for which an airworthiness certificate has been issued by ANAC;

(2) [reserved];

(3) section 91.817 of this subpart applies to any aircraft for which an airworthiness certificate has been issued by the ANAC; and

(4) section 91.815 of this Subpart applies to small-propelled airplanes assigned to agricultural operations (as defined in paragraph 137.3(a)(13) of RBAC n° 137) and airplanes used to launch fire-fighting equipment.

(b) For purposes of framing the requirements of this subpart, the following noise ratings are accepted as equivalent, respectively as provided in Annex 16 to the International Civil Aviation Convention and RBAC n° 36:

(1) Chapter 3 and Stage 3; and

(2) Chapter 4 and Stage 4.

91.803 [Reserved]

91.805 Operating limitations

You may not operate in Brazil any airplane under 91.801(a)(1) of this subpart, unless it is demonstrated that this aircraft meets the noise levels of the "Stage 3" or pattern of subsequent noise certification as defined by the RBAC n° 36.

91.807 to 91.813 [Reserved]

<u>91.815 Agricultural and fire-fighting</u> <u>aircraft: operational noise</u> limitations

(a) [Reserved].

(b) In the case of agricultural aircraft or fire-fighting if the flight manual approved or AOM, or any other information, approved markings or scores indicate that she does not meet the noise requirements established by RBAC n° 36, is only allowed operate this aircraft:

(1) to the extent necessary to carry out the work activities directly associated with the purposes for which it was designed;

(2) to provide training to crew members in the operation for which the aircraft was designed or approved; or

(3) to conduct operations under RBAC nº 137.

91.817 General operating limitations

(a) It is prohibited to an aircraft exceeds Mach 1 unless the operator obtains approval of ANAC according to section 91.1713 of this Regulation.

(b) [Reserved].

(c) It is forbidden for any civil aircraft produce any other noises or sounds in populated areas, including those produced by sound equipment, other than those from the normal aircraft operation, unless authorized by the competent authority of the place to be affected by noise or sound.

SUBPART J [RESERVED]

SUBPART K

SHARED PROPERTY AIRCRAFT OPERATIONS [RESERVED] (SUBPART INCLUDED BY RESOLUTION No. 606 OF 11.02.2021)

91.1001 Applicability

(a) In addition to the requirements established in other subparts of this Regulation, this Subpart establishes requirements applicable to shareholders, companies or associations of shareholders, and administrators of shared ownership programs governing:

(1) the provision of services to third parties administering the program under a shared ownership program;

(2) the operation of an aircraft from a shared ownership program in a shared ownership program; and

(3) the operation of a program aircraft included in a shared ownership program managed by an associate of a program administrator of which the shareholder is a part.

(b) For the purposes of this Subpart:

(1) associated with a program administrator means an administrator who, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under the common control of another program administrator. The holder of at least 40% of the participation and 40% of the voting power of an entity has presumed control for the purposes of determining an association under this Subpart;

(2) aircraft exchange means an agreement, documented by a written program contract, under which an

aircraft from the program becomes available, as needed, to each share-holder;

(3) shareholder or owner means an individual or entity that has at least a minimum share on a program aircraft, directly or through companies or associations, and that has entered into the applicable program contracts. In the case of the flight operations described in paragraph (b) (6)(ii) of this section, and only for the purposes of the requirements relevant to those operations, the beneficiary shareholder of the aircraft operation is considered to be a shareholder in the program managed by the associate;

(4) share means ownership, the right of use/possession, and/or the right of use/possession convertible into property right of an aircraft in a program;

(5) shared ownership program or program means any aircraft ownership and exchange system that contains all of the following:

(i) provision of program management services by a single program administrator on behalf of the other shareholders directly or through companies or associations of shareholders;

(ii) two or more airworthy aircraft;

(iii) one or more shareholders per aircraft of the program, with at least one aircraft of the program having more than one shareholder;

(iv) right of ownership or use/possession of at least a minimum share of one or more aircraft in the program for each shareholder;

(v) an aircraft exchange contract involving all shareholders; and

 (vi) program management agreement covering the following aspects: the share, the program management services and the aircraft exchange of the program;

(6) the aircraft from a shared ownership program or the aircraft from a program means:

(i) an aircraft in which a shareholder has, directly or through companies or associations of shareholders, the right to a minimum share and which has been included in an aircraft exchange agreement in accordance with the program management agreement; (ii) in the case of a shareholder of a program operating an aircraft in a different program managed by an associate of the program administrator of that shareholder, an aircraft:

> (A) included in the program managed by the associate of the program administrator of the operating shareholder; and

> (B) included in the exchange contract in accordance with the program management contract for the operating shareholder program; or

(iii) an aircraft with a total or partial share belonging to the program administrator that has been included in the aircraft exchange contract and is used for supplementing program operations;

(7) shared ownership program flight or program flight means a flight under this Subpart when one or more passengers or goods designated by a shareholder are on board the aircraft;

(8) shared ownership program administration services or program administration services means the administrative and aviation support services supplied in accordance with the applicable requirements of this Subpart or supplied by the program administrator on behalf of the shareholders, directly or through of companies or associations of shareholders, including but not limited to:

(i) the establishment and implementation of the program's security guidelines;

(ii) the employment, supply or hiring of pilots and other crew members;

(iii) the training and qualification of pilots and other crew members;

(iv) the scale and coordination of the program's aircraft and crew;

(v) the maintenance of the program's aircraft;

(vi) compliance with record keeping requirements;

(vii) the development and use of a program procedures and operations manual; and

(viii) request and maintenance of the administrative specifications and other authorizations and approvals;

(9) administrator of a shared ownership program or program administrator means the entity that offers to the shareholders, either directly or through shareholders' partnerships or associations, management services for a shared ownership program and is designated in program contracts referenced in paragraph (b) (5) (vi) of this section to meet all RBAC requirements applicable to the program administrator to which the aircraft to be operated belongs. When a program administrator, on behalf of a shareholder, is operating an aircraft on a program managed by an associate of the program administrator, the references in this Subpart to the program manager's flight-related responsibilities apply with respect to the private flight, to the associate of the shareholder's program administrator instead of the shareholder's program administrator; and

(10) minimum share of shared ownership or minimum share means:

(i) a share of the shared property equal to or greater than one sixteenth (1/16) of at least one subsonic fixed-wing aircraft or one power sustaining aircraft of the program; or

(ii) a share of the shared property equal to or greater than one thirty-second (1/32) of at least one rotary-wing aircraft in the program.

(c) The requirements of this Subpart regarding a shareholder or a program administrator shall also apply to any person who engages in an operation governed by this Subpart without having the administrative specifications required by it.

91.1003 Program management agreement

Each shareholder must have a contract between him/her, the shareholder partnership or association (if applicable), and the program administrator, with at least 1 (one) year duration, which:

(a) requires the program administrator to ensure that the program will comply with all applicable RBAC requirements;

(b) give the shareholder the right to inspect and audit, personally or through a legal representative, the program administrator's records regarding the operational security of the program and those records required to demonstrate compliance with administrative specifications and other applicable rules. Such records include, but are not limited to, specifications, approvals, manuals, log books and maintenance records maintained by the program administrator;

(c) designate the program administrator as the shareholder's attorney to receive information regarding the program that ANAC supplies to shareholders and authorize ANAC to send such information to the program administrator playing the role of attorney; and

(d) recognize ANAC's right to contact the shareholder if it is considered that such a direct contact is necessary.

91.1005 Prohibitions and limitations

(a) Paid transportation of persons or goods on a program flight is prohibited. However, the reimbursements provided for in section 91.501 of these Regulations are permitted.

(b) During the validity of the program management contracts under which a shareholder obtained a minimum share of shared ownership on a program aircraft, the flight hours used during that period by the program aircraft shareholder should not exceed the hours associated with the number of shares on its property.

(c) It is only permitted to sell or lease an aircraft ownership share in a program that is smaller than the one established in paragraph 91.1001 (b) (10) of this Regulation if the flights associated with that share are operated in accordance with RBAC No. 121 or 135 and are conducted by an airline certified under RBAC No. 119.

91.1007 Flights conducted according to RBAC No. 121 or RBAC No. 135

(a) Except as provided for in paragraph 91.501 (b) of this Regulation, the program administrator may only offer a shareholder a flight on an aircraft other than a program aircraft if that flight is operated by the holder of a certificate issued under the RBAC No. 119 and in accordance with RBAC No. 121 or 135, as applicable.

(b) A program administrator who holds a certificate issued under RBAC No. 119 may conduct a flight for the use of a shareholder under RBAC No. 121 or 135 if the aircraft is listed in the operating specifications issued under RBAC No. 121 or 135, as applicable, of that certificate holder.

(c) The shareholder must be informed when a flight is being conducted as a

program flight or as a flight under RBAC No. 121 or 135.

OPERATIONAL CONTROL

<u>91.1009 Clarification on operational</u> <u>control</u>

(a) The operational control is always exercised by the program administrator, who must be an operator of the aircraft included in the program with the RAB, even when the flight is being conducted for the benefit of a shareholder.

(b) Flights where the operational control is exercised by someone other than the program administrator is not considered a program flight under this subpart, even if using an aircraft maintained by the program administrator under this Subpart.

(c) An aircraft included in the program must be maintained according to this Subpart.

91.1011 and 91.1013 [Reserved]

PROGRAM ADMINISTRATION

91.1014 Issuance or rejection of administrative specifications

(a) A request for administrative specifications under this Subpart must be submitted to ANAC in the form and with the contents established by it.

(b) The administrative specifications shall be issued to the program administrator as a representative of the shareholders if ANAC considers that the applicant:

(1) meets the applicable requirements of this Subpart; and

(2) is properly and adequately equipped in accordance with the requirements of the applicable RBAC and is capable of conducting safe operations in accordance with the appropriate provisions of this Regulation and the administrative specifications issued under this Subpart.

(c) A request for administrative specifications shall be rejected if ANAC finds out that the applicant is not properly and adequately equipped or that it is not capable of conducting safe operations under this Regulation.

91.1015 Administrative specifications

(a) Each person conducting operations under this Subpart or providing shared ownership program management services to shareholders must do so in accordance with administrative specifications issued by ANAC under this Subpart to the program administrator. The administrative specifications shall include:

(1) an updated list of all shareholders and types of aircraft operated;

(2) the authorizations, limitations and other procedures under which operations are to be conducted;

(3) other procedures according to which each class and size of aircraft must be operated;

- (4) [reserved];
- (5) [reserved];

(6) the specific location of the program administrator's primary base of operations and, if different, the address that serves as the primary point of contact for correspondence between ANAC and the program administrator and the name and postal address of the representative of the program administrator;

(7) the specific location of the maintenance main base of the program manager and the certified workshops contracted for the program's aircraft maintenance;

(8) other trade names that the program administrator may use;

(9) [reserved];

(10) any specific authorizations or requirement exemption decisions that may have been granted; and

(11) any other information that ANAC considers necessary.

(b) The program administrator may keep an updated list of all shareholders required by paragraph (a) (1) of this section in their main base of operations or another location accepted by ANAC and referenced in its administrative specifications. Each program administrator must keep its list of shareholders available for ANAC inspections.

(c) The administrative specifications issued under this Subpart are effective, unless:

(1) they are amended as provided for in section 91.1017 of this Regulation; or

(2) they are suspended or revoked by ANAC.

(d) The program administrator must inform ANAC in writing, at least 30 days in advance, of any establishment or change in the location of its main base of operations or main base of maintenance.

(e) The program administrator must keep separately a complete set of its administrative specifications in its main base of operations or in another location approved by ANAC, and must keep such specifications at the disposal of ANAC's civil servants and the shareholders to whom the program administrator provides its services so that they may be revised and audited.

(f) Each program administrator must insert in the program manual the relevant extracts from its administrative specifications or references to them and must:

(1) clearly identify each extract as part of the administrative specifications; and

(2) make it clear that compliance with each requirement of the administrative specifications is mandatory.

(g) Each program administrator must keep each person linked to it and other persons performing support tasks for its operations informed about the provisions of its administrative specifications applicable to the duties and responsibilities of those persons.

(h) ANAC may revoke an administrative specification in force if its holder has been suspended and it is found out that it has no interest or capacity to correct the situation.

(i) The administrative specification may be revoked at any time by request of its holder, in the event that no interest is expressed in keeping the activity.

<u>91.1017 Amendments to</u> <u>the program administrator's</u> <u>administrative specifications</u>

(a) ANAC may amend any administrative specification issued under this Subpart if it:

(1) verifies that the amendment is necessary in order to keep an acceptable level of operational security; or

(2) the program administrator requests the amendment and ANAC verifies that the amendment does not affect the acceptable level of operational security.

(b) When the program administrator requests an amendment to its administrative specifications, the following provisions shall apply:

(1) the program administrator must file the request for amendment to its

administrative specifications at least 45 days before the date for the proposed amendment to become effective, unless ANAC accepts a shorter period; and

(2) the application must be completed in the format and in the manner provided for by ANAC.

(c) When a program administrator requests reconsideration of ANAC's decision with respect to an amendment to its administrative specifications, the following provisions shall apply:

(1) the program administrator must request reconsideration of the decision within 30 (thirty) days after receiving a notification from ANAC regarding the rejection; and

(2) the program administrator must file its request for reconsideration with ANAC.

(d) If ANAC issues an amendment to the administrative specifications, it will come into effect not less than 30 (thirty) days after the program administrator is notified of it, unless ANAC considers that there is an emergency that causes an unacceptable risk to the operational security, which requires immediate action. In this case, ANAC:

(1) may make the amendment to the administrative specifications effective on the day that the program administrator receives the notification from ANAC; and

(2) inform the program administrator, in the notification, of the emergency or unacceptable risk to operational security that led ANAC to determine the immediate adoption of the amendment to the administrative specifications.

91.1019 ANAC inspections

(a) At any time or place, ANAC may perform inspection activities to verify the compliance of a program administrator under this Subpart with the applicable laws and regulations and its administrative specifications.

(b) The program administrator must:

(1) make available to ANAC, at the administrator's main base of operations or at another location approved by ANAC, its administrative specifications; and

(2) allow ANAC to perform any inspection activity to verify compliance with applicable laws and regulations and its administrative specifications. (c) Each person linked to the program administrator who is responsible for maintaining the records required or necessary to demonstrate compliance with this Subpart must make such records available to ANAC.

91.1021 Operational safety management system (SGSO)

(a) The program administrator must establish, implement and maintain an SGSO, acceptable to ANAC, which guarantees the conditions of safety of the operations and the fulfillment of the requirements established in this Regulation. The SGSO required by ANAC must:

(1) establish the organization's policy and objectives for operational safety;

(2) establish the operational safety goals and performance indicators that allow the evaluation of the achievement of the operational safety objectives;

(3) establish the organizational structure and those responsible for the implementation, maintenance and continuous improvement of the system;

(4) identify the hazards and assess the operational risks associated with them;

(5) apply corrective and preventive actions developed based on the operational risks assessed, as well as assess the effectiveness of these actions;

(6) perform a permanent supervision of the organization's activities in order to guarantee the required operational safety;

(7) plan and periodically conduct internal assessments or audits of the SGSO, aiming at adapting them to the operational context of the organization and the continuous improvement of operational safety performance levels;

(8) ensure that people involved in activities that are sensitive to operational safety have the necessary skills and are aware of their responsibilities;

(9) communicating results related to the performance of operational safety, as well as disseminating information that enhances the organization's operational safety culture;

(10) generate and organize documents and records that provide evidence of the development, operation, maintenance and continuous improvement of the SGSO; and

(11) meet any other specific SGSO requirements established in normative instruments applicable to PSAC.

(b) The SGSO must be described in an MGSO. The SGSO must contain the following structure:

(1) operational security policy and objectives:

(i) senior management's responsibility and commitment:

(A) The program administrator must define an operational security policy that:

(1) reflects the senior management's commitment to operational safety, including the promotion of a positive operational safety culture;

(2) includes a clear statement on the provision and allocation of resources necessary for the implementation of the operational security policy;

(3) includes an operational security reporting policy;

(4) clearly indicates what types of behavior are considered unacceptable by the organization, as well as the circumstances in which disciplinary actions will not be applied;

(5) is duly approved and signed by the responsible manager;

(6) is communicated, with visible endorsement by senior management, across the organization; and

(7) is periodically reviewed to ensure that it remains relevant and appropriate for the organization; and

(B) The program administrator must define operational security objectives considering what is established in its operational security policy. Operational security objectives should:

(1) establish the reference for the monitoring and measurement of operational safety performance provided for in paragraph (b) (3) of this section;

(2) reflect the commitment of senior management to continuously improve the organization's overall SGSO performance;

(3) be communicated throughout the organization; and

(4) be periodically reviewed to ensure that they remain relevant and appropriate for the organization;

(ii) primary responsibility for operational safety:

(A) The program administrator must:

(1) clearly identify the responsible manager who, regardless of other functions, has the ultimate responsibility and accountability, on behalf of the organization, for the implementation and maintenance of an effective SGSO;

(2) clearly define operational security prerogatives and responsibilities across the organization, including senior management's operational security prerogatives and responsibilities;

(3) identify the responsibilities of all managers, regardless of other roles, as well as employees, in relation to operational safety performance;

(4) document and communicate information regarding the operational security prerogatives, responsibilities and authorities for the entire organization; and

(5) define the management levels with authority to make decisions regarding the tolerability of risks to operational safety;

(iii) designation of key operational security personnel:

(A) The program administrator must appoint an operational safety manager, who will be responsible for implementing and maintaining the SGSO;

(iv) coordination of the Emergency Response Plan (PRE):

(A) The program administrator must establish and keep a plan to respond to accidents, incidents and other emergency situations related to its air operations; and

(B) The program administrator must ensure that its emergency response plan is adequately coordinated with the emergency response plans of the organizations with whom it interacts during the performance of its operations; and

(v) description of the documentation that supports the SGSO, including the MGSO:

(A) The program administrator must develop and keep updated the SGSO documentation that describes:

(1) operational security policy and objectives;

(2) the operational safety requirements of the SGSO;

(3) the SGSO's processes and procedures;

(4) the obligations, responsibilities and attributions of the members of the organization in relation to the processes and procedures of the SGSO; and

(5) the SGSO records and the respective controls required for their identification, storage, protection, retention and disposal; and

(B) The program administrator must develop and keep an operational safety management (MGSO) manual, which is part of the company's general manual, as part of its SGSO's documentation;

(2) management of operational security risks:

(i) hazard identification process:

(A) The program administrator must develop and maintain a process that ensures that hazards associated with its products or services are identified; and

(B) The hazard identification process should be based on a combination of reactive and proactive methods of collecting operational safety data; and

(ii) risk assessment and mitigation process:

(A) The program administrator must develop and keep a process that ensures the analysis, assessment and control of the operational security risks associated with the identified hazards;

(3) guarantee of operational safety:

(i) process for monitoring and measuring the operational safety performance:

(A) The program administrator must develop and keep the means necessary to monitor and measure the organization's operational safety performance and to validate the effectiveness of its operational safety risk controls; and (B) The operational safety performance of the program administrator should be monitored and measured against its SGSO's operational safety performance indicators and targets;

(ii) change management process:

(A) The program administrator must develop and keep a process to identify changes that may affect the level of operational safety risk for its products or services and to identify and manage the operational safety risks that may arise from these changes; and

(iii) process of continuous improvement of the SGSO:

(A) The program administrator must monitor and evaluate the effectiveness of the SGSO processes in order to allow for the continuous improvement of the overall performance of the system; and

(4) promotion of the operational safety:

(i) training and qualification:

(A) The program administrator must develop and keep an operational safety training program that ensures that its employees are trained and competent to perform their duties within the SGSO; and

(B) The scope of the operational safety training program must be appropriate to the participation of each individual within the SGSO; and

(ii) disclosure of the SGSO and communication about operational safety:

(A) The program administrator must develop and keep formal means of disseminating the SGSO and communication about the operational safety that:

(1) ensure that your staff is aware of the SGSO to a degree compatible with their positions;

(2) transmit critical information about operational safety;

(3) explain why specific operational safety actions are taken; and

(4) explain why operational safety procedures are introduced or changed.

(c) The responsible manager of the program administrator must implement an SGSO compatible with the size, nature and complexity of the operations to be performed in the program, considering its administrative specifications and the dangers and risks related to its activities.

(d) The program administrator, in order to operate under this Regulation, must have an SGSO in place.

(e) The responsible manager must ensure that all of his/her staff have easy access to the most up-to-date copy of the parts of the MGSO relating to their duties, and that each person is informed and advised of any changes to the MGSO applicable to his/her activities.

(f) The responsible manager must ensure that the MGSO is amended whenever necessary, so that the information contained therein reflects the reality of what is practiced in the organization.

(g) SGSO records:

(1) the program administrator must record data relevant to the security of the program's operations, and keep it stored for at least five years; and

(2) the program administrator must send ANAC periodic reports regarding its operations and its SGSO, within the deadlines and models defined by ANAC.

(h) Any amendments made by the program administrator in its MGSO must be sent to ANAC in at least 10 (ten) consecutive days before the date foreseen for its entry into force. The entry into force of the MGSO amendment does not depend on prior approval by ANAC. However, if ANAC at any time identifies in the MGSO the non-compliance with regulatory norms or the existence of a procedure that causes deterioration of operational safety or inefficiency of the system, it may determine to the administrator that the MGSO should be amended as necessary, without prejudice to administrative sanctions and the applicable laws.

(i) The responsible manager must incorporate into the MGSO all amendments required by ANAC, within the period established by the Agency in the corresponding notification.

(j) The program administrator must establish internal anonymous reporting procedures that may foster a safety environment in which there is no retaliation for completing the report.

(k) The program administrator who operates airplanes whose maximum approved take-off weight is greater than 27000 kg must establish and keep a flight data monitoring and analysis program as part
of its SGSO. The program administrator may contract with third parties to operate a flight data monitoring and analysis program, but should continue being fully responsible for the maintenance of that program.

91.1023 Program operations manual requirements

(a) The program administrator must prepare and submit to ANAC for prior acceptance a program operations manual setting out policies and procedures. This manual must be used by the flight administrator, ground and maintenance personnel of the program administrator, when performing their operations. However, ANAC may authorize deviations from this paragraph if it is considered that, due to the limited size of the operations, the manual, or part of it, is not necessary for the guidance of flight, ground and maintenance personnel.

(1) Each revision of the program's operations manual must be submitted for prior acceptance by ANAC, except for those exempted from this submission by the manual already accepted.

(b) The program administrator must keep at least one copy of the manual at its main base of operations.

(c) The manual may not contradict any applicable federal laws or regulations, any foreign regulations applicable to operations in other countries, or the administrative specifications of the program administrator.

(d) A copy of the manual, or the appropriate parts of it (with amendments and additions, if any), must be made available to ground, maintenance and operations personnel by the program administrator, who must also supply it to:

(1) its flight crew; and

(2) the civil servants designated by ANAC in charge of supervising the program administrator.

(e) Each person linked to the program administrator to whom the manual or parts of it has been distributed pursuant to paragraph (d) (1) of this section must keep it updated with the amendments and additions supplied. Additionally:

(1) each person linked to the program administrator working on the ground must keep his/her copy of the manual at his/her workplace; and (2) the program administrator must keep on board its aircraft a number of manuals (or appropriate parts of them) appropriate to the number and role of the crew members on board. Keep these manuals duly updated is the responsibility of the program administrator.

(f) For the purposes of complying with paragraph (d) of this section, a program administrator should provide the persons named therein with part of the manual in printed form or in another form acceptable to ANAC, retrievable in the Portuguese language. If the program administrator supplies the maintenance portion of the manual in a form other than printed, they must be provided with compatible reading device available so that they may have access to legible images of the instructions and maintenance information, or a system that is capable of retrieving maintenance instructions and information in Portuguese.

(1) For the use in flight of an electronic device containing part of the required manual on board, specific authorization from ANAC is required.

(g) If a program administrator performs aircraft inspections or maintenance on specific bases where it keeps sections of the manual with the approved inspection program, it does not need to carry those sections of the manual on board on board the aircraft en route to those bases.

(h) The program administrator may supply sections of its manual in English, provided that it makes sure that the personnel who uses them are proficient in reading and understanding that language.

(i) In the preparation of its manual, the program administrator shall comply with those principles related to human factors, presenting a manual that is easy to understand and read.

(j) Program administrators who are also certified to operate under RBAC No. 121 or 135 may be authorized to use the operations manual required by those RBAC to meet the manual requirements of this Subpart provided that:

(1) the policies and procedures are consistent for both operations; or

(2) when the policies and procedures are different, applicable policies and procedures must be identified and used.

91.1025 Contents of the program operations manual

The program's operations manual must have the date and number of the last revision on each revised page. Unless otherwise authorized by ANAC, the manual should include:

(a) the name of each administration person as required by section 91.1051 who is authorized to act on behalf of the program administrator, the duties, authority and area of responsibility assigned to that person; the name and title of each person authorized to exercise operational control in accordance with section 91.1009;

(b) procedures to ensure compliance with the aircraft weight and balance limitations;

(c) information and limitations contained in the program administrator's administrative specifications, including areas of authorized operations, category and class of the authorized aircraft, crew composition requirements and types of authorized operations;

(d) procedures for compliance with the accident/incident notification requirements under the terms of the specific legislation of the Aeronautical Accident Investigation and Prevention System (SI-PAER);

(e) procedures to ensure that the pilot-in-command knows that required airworthiness inspections have been carried out and that the aircraft has been approved for return to service in accordance with applicable maintenance requirements;

(f) procedures to inform and record mechanical irregularities that come to the knowledge of the pilot-in-command before, during and after the end of a flight;

(g) procedures to be followed by the pilot-in-command to determine whether mechanical irregularities or defects reported on previous flights have been corrected or whether this correction has been postponed;

(h) procedures to be followed by the pilot-in-command to obtain maintenance, preventive maintenance and ramp services for the aircraft in places where no prior arrangements have been made by the program administrator, when the pilot is authorized to act on behalf of the program administrator;

(i) procedures under section 91.213 for the release or continuation of a flight, if an item of equipment required for a particular type of operation becomes inoperative or unusable en route;

(j) procedures for refueling the aircraft, eliminating contaminants, protecting against fire (including electrostatic protection) and supervising and protecting passengers during refueling;

(k) procedures to be followed by the pilot-in-command in the notices to passengers provided for in section 91.1035 of these Regulations;

(I) procedures to ensure compliance with emergency procedures, including a listing of the functions allocated to each category of crew members required in connection with their duties in an emergency or emergency evacuation;

(m) the approved aircraft inspection program, when applicable;

(n) procedures for evacuating people who need the assistance of another person to move them quickly towards an exit in the event of an emergency;

(o) performance planning procedures taking into account takeoff, route and landing conditions;

(p) [reserved];

(q) an adequate system (which may include an encrypted or electronic system) that provides for the preservation and retrieval of the information and maintenance records required by section 91.1113 of this Regulation, in a manner acceptable to ANAC, and which contains:

(1) a description (or reference to data acceptable to ANAC) of the works carried out;

(2) the name of the person who performed the work, if such work was performed by a person outside the program administrator's organization; and

(3) the name or another positive identification of the individual who approved the work;

(r) stopover and flight location procedures;

(s) procedures to ensure that each aircraft operated by the program administrator is maintained in airworthy conditions;

(t) procedures to ensure that the emergency and operational equipment required for an intended flight is airworthy; (u) procedures to ensure that the program administrator's airworthiness certificate for each aircraft remains valid;

(v) a description of the maintenance procedures and of completing and signing the aircraft's airworthiness release, when the maintenance services are performed by an ANAC-certified maintenance organization;

(w) a reference to the maintenance programs that will be used for each model of aircraft operated by the program administrator;

(x) the description of the method for filling and archiving the maintenance records required by section 43.11 of RBAC No. 43, or by sections 91.417 of this Regulation and 43.9 of RBAC No. 43, as applicable;

(y) a procedure for acquiring and evaluating the applicable continued airworthiness information, and for implementing the required actions;

(z) a procedure for acquiring and evaluating airworthiness directives and for implementing the required actions;

(aa) for program administrators who use aircraft with type certification for more than 9 seats, a description of the establishment and maintenance of an analysis system to monitor on a continuous basis the performance and efficiency of the adopted maintenance program and correct any deficiency of said program;

(bb) a description of the aircraft models to which the manual applies;

(cc) a description of the methodology to ensure that diagnosed defects are recorded and corrected;

(dd) procedures to inform ANAC of significant occurrences in service;

(ee) procedures for determining the aerodrome operating minima and other special air traffic procedures, in accordance with the rules of the Aeronautical Command;

(ff) standard operating procedures (SOP) that provide flight operations personnel with guidance for operations, in all phases of the flight, in a safe, efficient, logical and predictable manner;

(gg) description of the policies and procedures related to the routine reporting of meteorological conditions and observations en route, climbing and in other phases of the flight (AIREP);

(hh) obligation of information to the crew by AIREP Special when encountering

phenomena related to volcanic activities; and

(ii) other instructions and procedures relating to the operations of the program administrator, at the discretion of the program administrator.

91.1026 Declaration of conformity

The program administrator must prepare and keep a declaration of conformity up to date. This declaration of conformity must be a complete listing of all the sections and requirements of this Regulation, with the corresponding method of compliance to be adopted by it or an indication that the requirement does not apply to it.

91.1027 Record keeping requirements

(a) The program administrator must keep in its main administrative offices or in other places approved by ANAC, and make available to the designated ANAC civil servants the following:

(1) the administrative specifications issued on its behalf;

(2) an updated listing of the aircraft used or available for use in operations under this Subpart, and the operations for which each is equipped (for example: NAT-HLA, RNP5/10, RVSM);

(3) an individual record of each pilot used in operations under this Subpart, including the following information:

(i) the pilot's full name and ANAC code;

(ii) the pilot's license (by type and number) and the qualifications the pilot has;

(iii) the pilot's aeronautical experience in sufficient detail to determine his/her qualification to fly an aircraft operating under this Subpart;

(iv) the pilot's current duties and the date on which he/she was assigned to those duties;

(v) the date of issue and the CMA class;

(vi) the date and result, including the assessment sheets, of each exam required by this Subpart and, when applicable, the type of aircraft flown during the exams; (vii) the workday records, the number of flight hours of the pilot and the workday lengths with sufficient details to determine the compliance with Law No. 13475, of August 28, 2017 (Aeronaut Law), limitations of flight of this Regulation and the operational limits of RBAC No. 117;

(viii) accreditation as a pilot examiner, if any;

(ix) any action taken regarding the waiver of the pilot's entitlement due to physical or professional disqualification;

(x) the end date of the initial phase and each periodic training phase required by this Subpart; and

(xi) certificates of completion in accordance with paragraph 91.1073 (c), in addition to instruction sheets of the flight curricula of each type of approved training (in aircraft, FSTD and/ or other training device approved by ANAC), with details sufficient to demonstrate the correct fulfillment of the planned training and its result;

(4) an individual record for each flight attendant required by this Regulation, including records of working hours, number of hours of flight and length of hours, kept in sufficient detail to determine compliance with the applicable requirements of this Regulation, of Law No. 13475 of August 28, 2017 (Aeronaut Law) and RBAC No. 117; and

(5) an updated list of all shareholders and associated aircraft. The list, or a reference to its location, must be included in the administrative specifications and should contain sufficient details to determine the minimum share for each aircraft.

(b) The program administrator shall keep each record required by paragraph (a)(2) of this section for at least 6 (six) months and shall keep each record required by paragraphs (a)(3) and (a) (4) of this section for at least 5 (five) years.

(c) The program administrator is responsible for the preparation and accuracy of a two-way cargo manifest (or by digital means) containing information regarding the loading of the aircraft. The manifest must be prepared before each takeoff, be signed by the pilot-in-command and must include:

(1) the number of passengers;

(2) the total weight of the loaded aircraft;

(3) the maximum allowed take-off weight for the flight;

(4) the limits of the center of gravity;

(5) the loaded aircraft's center of gravity, except that the actual center of gravity does not need to be calculated if the aircraft is loaded according to a loading schedule or other approved method that ensures that the loaded aircraft's center of gravity is within approved limits. In such cases, a note should be made on the manifest indicating that the center of gravity is within the limits according to a loading schedule or other approved method;

(6) the aircraft registration number or flight number;

(7) the origin and destination;

(8) the identification of the crew and their designations; and

(9) the date of the flight.

(d) The pilot-in-command of an aircraft must have with him/her a copy of that manifest till the destination of the flight. Another copy of the manifest must be kept on the ground at least till the end of the flight, unless otherwise approved by ANAC. The program administrator must keep the original or one copy of the cargo manifest at its main base of operations or at another location approved by ANAC, for at least 90 (ninety) days after the flight.

(e) The program administrator must keep a record of fuel and oil consumption on each flight for at least 90 days after the flight.

(f) If the program administrator has an approval for its administrative specifications regarding the preparation of a cargo manifest through the EFB, the signature required in paragraph (c) of this section can be replaced by a digital authentication of the pilot-in-command or by his/her signature on the device itself. In addition, the copy required by paragraph (d) of this section can only be sent electronically to the program administrator's base, and the pilot-in-command should ensure that it was received.

(g) Program administrators who are also certified to operate under RBAC No. 121 or 135 can meet the requirements of this section and section 91.1113 of this Regulation regarding record keeping, with records kept to fully comply with the equivalent requirements of RBAC No. 121 or 135.

91.1029 Flight schedule and location requirements

(a) The program administrator shall establish and use an appropriate system to schedule and release the program aircraft.

(b) Except as provided in paragraph (d) of this section, the program administrator must have procedures in place to locate each of its flights so that:

(1) it may provide the program administrator with at least the information required for a Visual Flight Plan (PLN);

(2) it may supply a timely notice to a search and rescue station if the aircraft is delayed or is missing; and

(3) it may provide the program administrator with the location, date and estimated time to reestablish communications, if the flight is being operated in an area where communications cannot be maintained.

(c) Flight location information shall be maintained at the program administrator's primary base of operations, or at any other location designated by the program administrator in flight location procedures, until the flight is completed.

(d) The flight location requirements of paragraph (b) of this section do not apply to flights for which a flight plan has been completed if that flight plan is canceled within 25 nautical miles of the destination aerodrome.

91.1031 Pilot in command or second-in-command: required designation

(a) Each program administrator shall designate:

(1) a pilot-in-command for each flight in the program; and

(2) a second pilot-in-command for each flight in the program that requires two pilots.

(b) The pilot-in-command, as designated by the program administrator, shall remain as pilot-in-command for the entire duration of the flight.

91.1033 Required operational information

(a) The program administrator must, for all program operations, supply the following documents, in an updated and appropriate form, accessible to the pilot at his/ her/her workplace and for compulsory use in flight: (1) a checklist for the cockpit;

(2) for multi-engine aircraft or for aircraft with a retractable landing gear, a list of emergency cockpit checks containing the procedures required by paragraph (c) of this section, as appropriate;

(3) relevant aeronautical charts; and

(4) for IFR operations, navigation chart for airways, charts of terminal areas, IFR approach and departure charts and other documents relevant to the operation.

(b) Each checklist required by paragraph (a) (1) of this section shall contain the following procedures:

(1) before the engines start;

(2) before takeoff:

(3) cruise:

(4) before landing;

(5) after landing; and

(6) stopping the engines.

(c) Each emergency checklist required by paragraph (a)(2) of this section shall contain the following procedures, as appropriate:

(1) emergency operation of the fuel, hydraulic, electrical and mechanical systems;

(2) emergency operation of instruments and controls;

(3) procedures for inoperative engine; and

(4) any other emergency procedure necessary for safety.

91.1035 Notices to passengers

(a) Before each takeoff the pilot-in-command of an aircraft carrying passengers on a program flight shall ensure that all passengers have received verbal instructions on:

(1) smoking: each passenger must be instructed about when, where and under what conditions smoking is permitted. Such an instruction should clarify that ANAC regulations require that passengers comply with luminous warnings and non-smoking signs, that passengers follow the relevant instructions of the crew and that smoking in lavatories is prohibited;

(2) use of seat belts, shoulder belts and child restraint systems: each

passenger should be instructed about when, where and under what conditions it is necessary to fasten and adjust seat belts and, if fitted, shoulder belts and, if children are being transported, the appropriate use of child restraint systems, if available. Such instruction should clarify that ANAC regulations require passengers to comply with the luminous warnings and/or the instructions of the crew on such items;

(3) placing the seat back in an upright position before take-off and landing;

 (4) location and means of opening the passenger entrance door and emergency exits;

(5) location of survival equipment;

(6) water landing procedure and use of the flotation equipment required by section 91.231 of these Regulations;

(7) normal and emergency use of oxygen equipment installed on the aircraft; and

(8) location and operation of fire extinguishers.

(b) Before each takeoff, the pilot-in-command of an aircraft on a program flight shall ensure that each person who may need assistance from another person to move quickly to an exit should an emergency occur and that the that person's assistant, if any, has been instructed on the procedures to be followed if an evacuation occurs. This paragraph does not apply to a person to whom such instructions were given at a previous stage of the same flight on the same aircraft.

(c) [Reserved].

(d) The oral instructions required by paragraphs (a), (b) and (c) of this section must be given by the pilot-in-command or another crew member.

(e) The oral instructions required by paragraph (a) of this section may be provided by reproducing the recording on an approved device that is audible to each passenger under normal noise levels.

(f) The verbal instructions required by paragraph (a) of this section must be supplemented by printed cards that must be carried on the aircraft in convenient locations for the use of each passenger. Cards must:

(1) be appropriate to the aircraft on which they will be used;

(2) contain a diagram and the method of operating the emergency exits; and

(3) contain other instructions necessary for the use of emergency equipment on board the aircraft.

91.1037 Large transport category airplanes with turbine powered engines: limitations; destination and alternate aerodromes

(a) In the case of a large transport category airplane with turbine engines, it is prohibited to take off with that airplane with a weight that (allowing for normal consumption of fuel and oil during the flight to the destination or alternate aerodrome) the weight of the plane, upon arrival, would exceed the landing weight in the airplane flight manual for the altitude of the destination or alternate aerodrome at the expected ambient temperature at the time of landing.

(b) Except as provided in paragraph (c) of this section, in the case of a large transport category airplane with turbine engines, it is only permitted to take off with that airplane if its weight at the destination, allowing for normal fuel and oil consumption en route and according to the landing distance charts in the airplane flight manual for the elevation and expected wind of the destination aerodrome, at the estimated landing time, would allow a complete landing at the destination aerodrome within 60% of the effective length of each of the runways described below, considering that the plane passes at a height of 15 m (50 feet) over the vertical of the intersection point of the obstacle clearance plane with the runway center line. For the purpose of determining the allowable landing weight at the destination aerodrome, it is assumed that the aircraft must land:

(1) on the runway and in the most favorable direction in still air; or

(2) on the most suitable runway, considering the direction and intensity of the wind expected at the estimated landing time, the maneuverability characteristics of the aircraft type on the ground and other conditions such as landing aids and terrain characteristics.

(c) A turboprop aircraft, which would be prohibited from taking off because it is unable to comply with paragraph (b) (2) of this section, may take off if it indicates an alternative aerodrome that meets all the requirements of this section, except that the airplane can perform a complete landing within 70% of the actual runway length. (d) It is only permitted to designate an aerodrome as an alternate aerodrome for a large transport category airplane with turbine engines if (based on what is assumed in paragraph (b) of this section) that aircraft, with the expected weight at the time of arrival, can perform a complete landing at 80% of the effective runway length of the aerodrome, always considering that the plane passes 15 m (50 feet) above the point at which the obstacle clearance plane intersects the runway center line.

(e) It is only allowed to take off with a jet engine when the weather information and forecasts indicate that the runway at the destination aerodrome may be wet or slippery at the estimated time of landing if the effective length of that runway at the destination aerodrome is at least 115% of the runway length required by paragraphs (b) or (c) of this section. However, if it is demonstrated, in real conditions, for a specific type and model of airplane, that landing techniques on wet runways require shorter distances (but never less than those required by paragraphs (b) or (c) of this section) and if these techniques and distances are approved and included in the airplane flight manual, ANAC may authorize operations in accordance with them.

(f) Notwithstanding the provisions of paragraphs (b) and (c) of this section, if authorized by ANAC, the effective runway length foreseen for landing in those paragraphs may be increased to up to 80%.

91.1039 IFR take-off; approach and landing minima

(a) A pilot may only initiate an instrument approach procedure to an aerodrome if:

(1) there is a diffusion of meteorological conditions at this aerodrome; and

(2) the last meteorological information issued in accordance with paragraph (a) (1) of this section indicates that the atmospheric conditions are at or below the approved IFR approach minima for the aerodrome.

(b) A pilot may only start the final segment of an instrument approach to an aerodrome if the last meteorological information issued by the agency mentioned in (a) (1) of this section indicates that the atmospheric conditions at the aerodrome are at or above the minimum for IFR approach approved for it.

(c) If the pilot has already started the final segment of an instrument approach, complying with the provisions of paragraph (b) of this section, and is informed that the atmospheric conditions have fallen below the minima, then the pilot can continue the approach and the landing can be performed if the following two conditions are met:

(1) the most recent meteorological information has been received by the pilot when the aircraft is in one of the following phases of the approach:

(i) at the end of an ILS approach, having passed the final approach fix;

(ii) at the end of a radar approach (ASL or PAR) having passed to the final approach controller; or

(iii) at the end of an approach using VOR, NDB or a comparable approach system and the aircraft:

(A) has passed the final approach fix; or

(B) where there is no final approach fix, has completed the base curve, is stabilized in the final approach course for the aerodrome runway and at the correct distance provided for by the procedure; and

(2) upon reaching the minimum descent altitude set in the procedure (MDA or DA/DH), the pilot judges that the real atmospheric conditions are at least equal to the minima established for the procedure being performed.

(d) For each pilot-in-command of an airplane with turbine engines that has not accumulated at least 100 hours of flight time as a pilot-in-command of that type of aircraft, the MDA or DA/DH and the minimum visibility established in the procedures for approach by instruments must be increased by 100 feet and 900m ($\frac{1}{2}$ mile), respectively, but without exceeding the ceilings and minima for the aerodrome when used as an alternate aerodrome.

(e) It is only permitted to take off an aircraft from an aerodrome in an IFR flight where the meteorological conditions are at or above the minima for takeoff, but below the minima allowed for landing, if there is an alternate aerodrome:

(1) less than 1 hour flight from the take-off aerodrome (considering normal cruising speed, in still air); and

(2) for multi-engine airplanes at a distance not in excess of the equivalent of one hour of flight time, at cruising speed, with an inoperative engine. (f) Except when operating under credits granted under section 91.1717 of this Regulation, if minima are specified for takeoff from a given aerodrome, a pilot may not take off IFR from that aerodrome when the weather conditions reported under paragraph (a) (1) of section are below these minima.

(g) If no minima are specified for takeoff from a given aerodrome, the pilot may not take off IFR from that aerodrome when the weather conditions reported under paragraph (a) (1) of this section are below the general IFR minima established by DECEA.

91.1041 Operational assessment flights and validation tests

(a) The program administrator may only permit the operation of an aircraft, other than a jet engine, for which the type certification requirements require 2 pilots for VFR operation and which has not been previously operated by this administrator according to this Subpart, if it has performed at least 25 hours of operational evaluation flight with this aircraft model, or aircraft of similar design, in a manner acceptable to ANAC, including:

(1) five hours of night flight, if night flights are authorized;

(2) five instrument approach procedures, under simulated or real instrument flight conditions, if IFR flights are authorized; and

(3) approaches at a representative number of aerodromes, as determined by ANAC.

(b) The program administrator may only permit the operation of a jet engine if it has performed at least 25 hours of operational assessment flight with a jet engine in a manner acceptable to ANAC, including:

(1) five hours of night flight, if night flights are authorized;

(2) five instrument approach procedures, under simulated or real instrument flight conditions, if IFR flights are authorized; and

(3) approaches at a representative number of aerodromes, as determined by ANAC.

(c) The program administrator cannot carry passengers on an aircraft during the operational evaluation flights, except those necessary for the evaluation and those designated by ANAC to observe the evaluation. However, pilot training on these flights is authorized.

(d) For the purposes of paragraph (a) of this section, an aircraft is not considered to be of similar design to another if:

(1) it has different aeronautical engines, according to the classification of RBAC No. 01, from those with which the original aircraft was certified; or

(2) there are changes in the aircraft or its components that materially affect flight characteristics.

(e) Validation tests are required to determine that the program administrator is able to conduct operations safely and in compliance with applicable regulatory standards. Validation tests are required for the following authorizations:

(1) incorporation of an aircraft for which two pilots are required for VFR operations or a jet aircraft, if this aircraft, or an aircraft of the same manufacturer or similar design has not been approved or validated for operations under this part;

(2) operations outside Brazilian airspace;

(3) Class II navigation permits; and

(4) performance or special operating authorizations.

(f) Validation tests must be performed by methods acceptable to ANAC. Actual flights may not be required when the applicant can demonstrate competence and compliance with appropriate regulations, without conducting the flight.

(g) Validation tests and operational evaluation flights can be performed simultaneously when appropriate.

(h) ANAC may authorize deviations from this section if the operator proves that special circumstances make full compliance with this section unnecessary.

91.1043 [Reserved]

91.1045 Additional equipment requirements

It is only permitted to operate an aircraft in the program if the aircraft is equipped with:

(a) airplanes having an approved configuration for passengers with more than 30 seats, excluding any crew seats, or a payload capacity exceeding 3400 kg (7500 pounds): (1) a voice recorder in the cabin as required by section 121.359 of RBAC No. 121, as applicable to airplanes specified in that section;

(2) a flight data recorder as required by section 121.343 or 121.344 of RBAC No. 121, as applicable to aircraft specified in that section;

(3) a ground proximity perception and alarm system as required by section 121.354 of RBAC No. 121, as applicable to the aircraft specified in that section;

(4) [reserved]; and

(5) an onboard weather radar as required by section 121.357 of RBAC No. 121, as applicable to the aircraft specified in that section;

(b) airplanes having an approved configuration for passengers of 30 seats or less, excluding any crew seats, and payload capacity of 3400 kg (7500 pounds) or less, and any helicopter (as applicable):

(1) a cabin voice recorder as required by section 135.151 of RBAC No. 135, as applicable to the aircraft specified in that section;

(2) a flight data recorder as required by section 135.152 and 135.152a of RBAC No. 135, as applicable to the aircraft specified in that section;

(3) a ground proximity perception and alarm system as required by section 135.154 of RBAC No. 135, as applicable to the aircraft specified in that section;

(4) [reserved]; and

(5) as applicable to the aircraft specified in the respective sections:

(i) lightning detection equipment, as required by section 135.173 of RBAC No. 135; or

(ii) an onboard weather radar, as required by section 135.175 of RBAC No. 135.

91.1047 Educational program for the prevention of the risk associated with the misuse of psychoactive substances

(a) Each program administrator must provide each of the persons linked to it and performing activities related to operational safety risk (ARSO), in any of the roles listed in paragraph 120.1 (b) of RBAC No. 120, information on the misuse of psychoactive substances. (b) The program administrator is only allowed to use a person linked to it to perform ARSO roles if that person has received information about the misuse of psychoactive substances.

(c) [Reserved].

(d) If a program aircraft is operated on a program flight at an aerodrome where the maintenance personnel are not available subject to the requirements of paragraphs (a) and (b) of this section and emergency maintenance is required, the administrator Program personnel may use persons who do not meet the requirements of paragraphs (a) and (b) of this section to provide such maintenance under the following conditions:

(1) the program administrator must notify ANAC within 10 (ten) days after the occurrence; and

(2) the aircraft must be reinspected by maintenance personnel who meet the requirements of paragraphs (a) and (b) of this section at the next aerodrome where such maintenance personnel are available.

(e) For the purposes of this section, emergency maintenance means that maintenance that:

(1) is not programmed; and

(2) it is necessary for an aircraft condition not known prior to takeoff to that location.

(f) Subject to paragraph (a) of this section, an educational program for the prevention of the risks associated with the misuse of psychoactive substances conducted in accordance with RBAC No. 120 may be used to satisfy the requirements set out in paragraphs (a) and (b) of this section.

91.1049 Personnel

(a) The program administrator shall use in program operations on program aircraft flight crews complying with the provisions of section 91.1053 of these Regulations. The program administrator shall keep supervision over those crews.

(b) The program administrator shall hire an adequate number of pilots per program aircraft.

(c) The program administrator shall publish crew rosters sufficiently in advance to comply with the Aeronaut Law and RBAC No. 117.

(d) In a program operation, the aircraft crew shall consist of at least two quali-

fied pilots contracted by program administrator in the following situations:

(1) if the operation requires two pilots under sections 91.5 or 91.531 of this regulation;

(2) if the aircraft has an approved configuration for passengers with 10 or more seats, excluding seats for pilots;

(3) on IFR flights with passengers on board, except as provided in paragraphs (f) and (g) of this section; or

(4) in category II operations.

(e) The program administrator must ensure that trained and qualified in-service personnel are available to schedule or release flights during the hours when the program aircraft is available for program operations.

(f) Except as provided in paragraphs (d) (2) and (d) (4) of this section, and unless two pilots required by this regulation are required for VFR operations, a person may operate an aircraft under this Subpart that is equipped with an approved autopilot system in operation, without a second-in-command, as long as its use is authorized.

g) ANAC may issue administrative specifications authorizing the use of an autopilot system instead of a second pilot-in-command, if:

(1) the autopilot is capable of operating the aircraft controls to keep it in flight and maneuver it on the three flight axes (longitudinal, transverse and vertical); and

(2) the program administrator demonstrates, to the satisfaction of ANAC, that the operation using the autopilot system can be conducted safely and in accordance with this regulation.

91.1051 Required administrative staff

(a) The program administrator shall have an administration structure that allows it to control all levels of the organization through people who have the training, experience and qualifications required to ensure the safety of the operations.

(b) The program administrator shall have at least the following management personnel:

(1) a responsible manager;

(2) a director or operations manager;

(3) an operational safety manager; and

(4) a director or maintenance manager.

(c) All persons holding the positions and performing the roles required by paragraph (b) of this section must be and remain qualified to perform their respective roles.

(d) The operational safety manager is prohibited from accumulating another position listed in paragraph (b) of this section.

(e) ANAC may prohibit the accumulation of any of the positions defined in paragraph (b) of this section if it considers that they cannot be accumulated due to the size and/or complexity of the program administrator's operations.

(f) The program administrator must inform ANAC that a person has been hired for any of the jobs covered by paragraph (b) of this section, prior to his/her entry into office.

(g) The start date of a newly hired person does not depend on prior approval by ANAC.

(h) The program administrator may not designate for the roles covered by paragraph (b) of this section a person who has a proven track record of inappropriate conduct or performance.

(i) For the purposes of the preceding paragraph, the following people are considered as having a history of inappropriate conduct or performance:

(1) a person who, less than five years after the date of his/her appointment, has held a management position required by ANAC for a civil aviation service provider or another program administrator, and upon finding an irregularity in the area under the responsibility of that person, the civil aviation service provider or program administrator has been the subject of:

(i) suspension or restriction of operations for more than 90 days by ANAC; or

(ii) revocation or annulment of certificates or authorizations; or

(2) a person who, less than five years after the date of his/her appointment, has suffered an administrative sanction due to an infraction referred to in art. 299, items I, V, VI or VII, of Law No. 7565, of December 19, 1986, even though on those occasions he/ she did not occupy a management position required by ANAC for a civil aviation service provider or a program administrator.

(j) The program administrator must, upon ANAC's determination, within 30 (thirty) days, extendable by ANAC for the same period, replace any person who occupies a position covered by paragraph (b) of this section and who has a proven track record of inadequate conduct and/or performance, in accordance with the criteria in paragraph (h) of this section.

(k) In the event of any vacancy for any of the positions covered by paragraph (b) of this section, the program administrator must report the fact to ANAC within 5 (five) consecutive days, arrange for the replacement within sixty (60) consecutive days, and also perform a risk management test related to the change management.

(I) Responsible manager.

(1) The responsible manager is the unique and identifiable person in the organizational structure of the program administrator who, regardless of other duties, has the following prerogatives:

(i) must be the final authority about the operations conducted under the regulations applicable to the program administrator;

(ii) must decide on the allocation of human, financial and technical resources of the program administrator; and

(iii) must be responsible for the accountability of the operational safety performance of the program administrator.

(2) Regardless of other responsibilities towards the organization, the responsible manager has the following responsibilities:

(i) ensure that the SGSO is implemented effectively in all areas of the program administrator's organization, in accordance with the applicable requirements, in a manner compatible with the size and complexity of the operations;

(ii) communicate to the entire organization the importance of conducting operations in compliance with the applicable operational safety requirements; (iii) establish and sign the operational safety policy and communicate the importance of the commitment of all employees to said policy, ensuring that it remains appropriate for the program administrator;

(iv) ensure the availability of the necessary resources to guarantee the achievement of the operational safety objectives and for the management of the SGSO;

(v) ensure that other managers' decision making is guided by an institutionalized risk assessment process, considering the potential impacts of their decisions on operational safety;

(vi) conducting critical analyzes of the management of the SGSO, aiming to ensure the continuous improvement of the system;

(vii) regularly review the operational safety performance of the system administrator program, and take the necessary measures to deal with any unsatisfactory performance of the operational safety;

(viii) ensure that the operational safety management prerogatives and responsibilities are clearly and objectively established and communicated to all areas of the program administrator's organization;

(ix) ensure that all the personnel of the organization involved in activities with an impact on operational safety comply with the applicable requirements and internal criteria of competence, experience and training for the exercise of their prerogatives and responsibilities;

(x) ensure that the operational safety objectives are established, and that they are measurable and aligned with the operational safety policy;

(xi) ensure that strategic plans, systems, manuals and other internal normative documents related to the management of the SGSO are approved by the competent managers;

(xii) ensure that effective mechanisms for internal communication and communication with the authorities are established in relation to the performance and continuous improvement of the SGSO; and

(xiii) ensure the integrity and performance of the SGSO, in the face of internal changes (in the organization or in the SGSO) or external changes that have potential impacts on the operation of the program administrator.

(3) The responsible manager can delegate, in writing, his/her duties to others within the organization, as long as his/her responsibilities are kept.

(4) The designation of the responsible manager should reflect the prerogatives and responsibilities assigned to that function, in accordance with the constitutive acts of the program administrator.

(m) Operational safety manager.

(1) The operational safety manager is the unique and identifiable person in the organizational structure of the program administrator who, regardless of other duties, has:

(i) direct access to the responsible manager; and

(ii) access to data and operational safety information required for the exercise of those responsibilities.

(2) The operational safety manager must:

(i) coordinate the implementation, maintenance and integration of the SGSO in all areas of the program administrator's organization, in accordance with section 91.1021 of these Regulations;

(ii) facilitate the identification of hazards and the analysis of risks to operational safety;

(iii) monitor the effectiveness of risk controls on operational safety;

(iv) formalize, with the responsible manager, the need to allocate the required resources for the implementation, maintenance and continuous improvement of the SGSO;

(v) plan and facilitate the promotion of operational safety in all areas of the program administrator's organization;

(vi) report regularly to the responsible manager about the SGSO's performance and any need for improvement; and

(vii) advising the responsible manager in the exercise of his/her responsibilities related to the management of operational safety, providing support for decision making.

(3) The program administrator must designate an operational safety manager who meets the qualification

criteria established by the program administrator to exercise this function before ANAC.

91.1053 Qualifications for pilot

(a) The program administrator may only use one person and that one person may only work as a pilot-in-command in program operations transporting passengers in which a jet plane is used or an airplane having an approved passenger configuration, excluding any seating for crew member, equal to or greater than 10 seats, if that person holds an airline pilot license in the airplane category, IFR license and class or type license, as applicable, all valid.

(b) Except as provided in paragraph (a) of this section, the program administrator may only use one person and that one person may only work as a pilot-in-command of an aircraft operating VFR on a program flight, if that person:

(1) holds at least one commercial pilot license, in the appropriate category, with a valid class or type qualification, as applicable;

(2) has at least 500 flight hours as a pilot, including a minimum of 100 flight hours in navigation, of which at least 25 have been flown at night; and

(3) has an IFR qualification for an airplane or an airline pilot's license with qualification for an airplane category.

(c) Except as provided in paragraph (a) of this section, the program administrator may only use one person and that one person may only work as a pilot-in-command of an aircraft operating IFR, if that person:

(1) holds at least one commercial pilot license in the appropriate category, with valid class or type qualification, as applicable;

(2) has at least 1200 flight hours as a pilot, including a minimum of 500 flight hours in navigation, 100 hours of night flight and 75 hours of flight by real or simulated instruments, of which at least 50 hours are acquired in real flight; and

(i) has an IFR qualification for an airplane or an airline pilot's license with an airplane category qualification; or

(ii) has an IFR helicopter certification or an airline pilot license with helicopter category certification. (d) Paragraph (b) (3) of this section does not apply if:

(1) the airplane used is single-engine, with a conventional engine;

(2) [reserved];

(3) the area of operations, as stated in the administrative specification of the program administrator, is an area in which the primary means of navigation is navigation by contact with radio navigation facilities, inexistent or unsuitable for use by aircraft flying at low altitudes, and where the primary means of transport is by air;

(4) each flight is conducted in VMC conditions, during the daylight time;

(5) the distance of each flight, from the program administrator's base to any destination, does not exceed 300 NM, except if it is possible to keep a radio contact with the ATS or ATC units at every flight hour for monitoring the operation; and

(6) the type of operation established by this paragraph is authorized in the administrative specification of the program administrator.

(e) Except as provided in paragraph (b) (2) of this section, for an aircraft certified to operate with a single pilot, if the program administrator's administrative specifications only authorize operations under VMC conditions during the daylight time, the pilot-in-command must have at least 300 hours of total flight time as a pilot, including 50 hours of travel time and 10 hours of night flight time.

(f) For operation with helicopters certified for operation with a single pilot, if the program administrator's administrative specifications exclusively authorize VFR operations for those helicopters, the pilot-in-command does not need to have IFRH clearance when the flight is conducted during the daylight time or, if conducted at night, when it occurs entirely in ATZ, CTR or TMA, including projections of its lateral limits, or even in the absence of these airspaces, within a radius of 50 km (27 NM) from the departure aerodrome or helipad.

(g) Except as provided in paragraph (h) of this section, the program administrator may only use one person and one person may only work as a second pilot-in-command of an aircraft, if that person has at least a commercial pilot license or multi-crew pilot, in the appropriate category, is qualified for IFR flight and for the aircraft, and has completed the appropriate training program for the aircraft and for the onboard function approved by the program administrator.

(h) The second pilot-in-command of an aircraft does not need to have IFR clearance if this section does not require IFR clearance for the pilot-in-command of that aircraft.

91.1055 Operational limitations of the pilot

It is forbidden to designate a person as a pilot-in-command in program operations for more than two types of aircraft that require different types of qualifications.

91.1057 to 91.1061 [Reserved]

<u>91.1063 Exams and training:</u> <u>applicability and terms used</u>

(a) Sections 91.1065 to 91.1107:

(1) establish the examinations required for pilots and flight attendants and for the approval of accredited examiners in operations under this Subpart;

(2) set out the requirements for establishing and maintaining an approved training program for the crews, examiners, instructors and operations personnel used by the program administrator in program operations;

(3) establish the requirements for the qualification, approval and use of FSTD and other training devices in conducting an approved training program; and

(4) allow that the authorized personnel from a civil aviation training center (CTAC), certified or validated under RBAC No. 142, or a class aircraft manufacturer (according to RBAC criteria No. 61) of their own manufacture, who meet the requirements of section 91.1075 of these Regulations, perform their roles in the training and exams.

(b) If authorized by ANAC, the program administrator may comply with the requirements of the applicable training and examination sections of subparts N, O and Z of RBAC No. 121 in lieu of those covered by sections 91.1065 to 91.1107 of this Regulation, except for the requirements of operating experience of section 121.434 of RBAC No. 121.

(c) If authorized by ANAC, the program administrator may comply with the requirements of the applicable training and examination sections of subparts G, H and K of RBAC No. 135 in lieu of those covered by sections 91.1065 to 91.1107 of this Regulation, except for the requirements of the operating experience of section 135.244 of RBAC No. 135.

(d) For the purposes of this Subpart, the following terms and definitions shall apply:

(1) initial training. It is training for a function required for a crew member who has not been qualified and has not worked in that function on an aircraft;

(2) transition training. It is training for a function required for a crew member who has been qualified and worked in the same function on another aircraft;

(3) level training. It is the training required for a crew member who has been qualified and worked as a second-in-command pilot on a particular type of aircraft, before starting to work as a pilot-in-command on that type of aircraft;

(4) difference training. It is the training required for a crew member who has been qualified and worked on a particular type of aircraft before starting to work in the same function on a particular variant of the same type of aircraft, if considered necessary by ANAC;

(5) periodic training. It is the training required for a crew member to remain properly trained and permanently proficient for each aircraft, function on board and type of operation in which the crew member works;

(6) in flight. The maneuvers, procedures or functions that must be performed in an aircraft;

(7) CTAC. An organization operating according to the applicable requirements of RBAC No. 142, which provides training and exams under a contract or another form of agreement for program administrators subject to this Subpart;

(8) requalification training. It is the training required for crew members previously trained and qualified, but who have lost the qualification for not having completed within the required period:

(i) the requirements for periodic training in section 91.1107;

(ii) the requirements for the periodic pilot examination of section 91.1065; or

(iii) exam requirements for flight attendants under section 91.1067;

(9) proficiency exam:

(i) for pilots: practical exam performed on an approved flight simulation training device (FSTD) or on a flight not conducted under this Subpart; and

(ii) for flight attendants: practical exam undergone on a flight simulation training device (FSTD) or on a static aircraft; and

(10) qualified. It means that the pilot must have the appropriate category and class, type and operation qualifications valid, have successfully completed the approved training program for the operations approved for the program administrator and have the recent experience requirements met in a specific aircraft and function on board.

<u>91.1065 Initial and periodic</u> <u>examination requirements for</u> <u>pilots</u>

(a) The program administrator may only use one person as a pilot and a person may only work as a pilot on a flight if, within the 12 calendar months preceding that flight, that pilot has passed an oral or written exam, applied by a civil servant designated by ANAC or by an accredited pilot examiner, on the pilot's knowledge in the following areas:

(1) the appropriate provisions of this Regulation and RBAC No. 61, as well as the program administrator's administrative specifications and operations manual;

(2) for each type of aircraft to be flown by the pilot, the power unit, the main components and systems, the main equipment, operational performance and limitations, normal and emergency operating procedures and the contents of the aircraft's flight manual or equivalent, as applicable;

(3) for each type of aircraft to be flown by the pilot, the method of determining compliance with weight and balance limitations for take-off, landing and en-route operations;

(4) navigation and use of navigation facilities appropriate to the pilot's operation or qualifications, including, where applicable, instrument approach facilities and procedures;

(5) air traffic control procedures, including IFR procedures when applicable; (6) meteorology in general, including principles of frontal systems, ice, fog, thunderstorms and windshear and, if appropriate for the program administrator's operations, high altitude meteorology;

(7) emergency procedures and procedures for:

(i) recognize and avoid severe atmospheric situations;

 (ii) getting out of severe atmospheric situations in the event of inadvertent entry, including low windshear (except helicopter pilots who do not need to be tested at low windshear); and

(iii) operating in or near thunderstorms (including better penetration altitudes), turbulent air (including clear sky turbulence), ice, hail and other potentially dangerous weather conditions; and

(8) new equipment, procedures or techniques, as appropriate.

(b) The program administrator may only use one person as a pilot and a person may only work as a pilot on a flight if, within the 12 calendar months preceding that flight, that pilot has passed a proficiency exam administered by a civil servant designated by ANAC or by a pilot examiner accredited for the aircraft class, if a single-engine plane other than a jet plane, or in the aircraft type, whether a helicopter, multi-engine plane or the jet plane, with a view to determining the pilot's proficiency in the practical performance of the maneuvers and techniques on that aircraft or class of aircraft. The extent of the proficiency exam will be determined by the civil servant designated by ANAC or an accredited pilot examiner conducting the exam. The proficiency exam must include simulated emergency recovery, a navigation and instrument approach involving the navigation facilities that the pilot is authorized to use, if the pilot is authorized to operate under IFR, and can include any of the maneuvers and procedures normally required for the original issuance of the particular pilot license required for the authorized operations and appropriate for the category, class or type of aircraft involved. For the purposes of this paragraph, type, for an airplane, means any group of airplanes that ANAC considers to have similar means of propulsion, same manufacturer and without significant differences in maneuverability or flight characteristics. For the purposes of this paragraph, type, for a helicopter, means a basic model from the same manufacturer.

(c) [Reserved].

(d) For the purposes of this Subpart, the proficient performance of a procedure or maneuver by the person to be used as a pilot requires that the person obviously has a command of the aircraft, without any doubt as to the successful conduction of any phase of the flight.

(e) The ANAC designated civil servant or accredited pilot examiner will certify the proficiency of each successful pilot in the knowledge exam and the proficiency exam, entering the results in the pilot's records.

(f) Parts of a required proficiency exam may be performed on an FSTD and/ or other training device, if approved by ANAC.

(g) If the program administrator has obtained a credit grant under section 91.1717 of these Rules, the proficiency examination provided for in paragraph (b) of this section must include tasks appropriate for operations using EVS.

91.1067 Initial and periodic

examination requirements for flight attendants

The program administrator may only use one person as a flight attendant and a person may only work as a flight attendant on a flight if, within the 12 calendar months preceding that flight, the program administrator has verified by appropriate initial or periodic examination, applied by a designated civil servant from ANAC or an accredited examining attendant, that the person being examined has knowledge and competence in the following areas, as appropriate for the duties and responsibilities that will be assigned to him/her:

(a) authority of the pilot-in-command;

(b) treatment of passengers, including procedures that must be followed to provide adequate assistance to passengers in need of special assistance (PNAE) and to deal with disturbed persons or other persons whose conduct may jeopardize safety;

(c) crew members' duties, roles and responsibilities during landing and evacuation of people who may need assistance from another person to move quickly to an exit in an emergency;

(d) instructions to passengers;

(e) location and operation of portable fire extinguisher and other items of emergency equipment; (f) appropriate use of cabin equipment and controls;

(g) location and operation of oxygen equipment for passengers;

(h) location and operation of all normal and emergency exits, including escape ramps and escape lines; and

(i) seat accommodation for people who may need assistance from another person to move quickly to an exit in an emergency as provided in the program administrator's operations manual.

91.1069 [Reserved]

91.1071 Crew members: standards for exam acceptance

(a) If a crew member needs to undergo an examination required by these Regulations in a given calendar month and complete that examination in the calendar month before or after the scheduled month, that crew member is considered to have completed the examination in the calendar month in which it was due.

(b) If a pilot being examined under this Subpart fails to perform any of the required maneuvers, the person applying the exam may provide additional training to the pilot during the course of the exam. In addition to requiring the repetition of the unsuccessful maneuver, the person applying the exam may require the pilot being examined to repeat any other maneuvers he/she deems necessary to determine the pilot's proficiency. If the pilot being examined cannot demonstrate a satisfactory performance to the person applying the exam, the program administrator cannot use that pilot, nor can the pilot serve as a member of a flight crew under this Subpart, until he/ she can satisfactorily complete a new exam, which will take place after proof of having received a new theoretical and/or practical instruction.

91.1073 Training program: general

(a) The program administrator who is required to have a training program under section 91.1097 of these Rules must:

(1) obtain the appropriate initial and final approval, and complete a training program according to this Subpart that ensures that each crew member, flight instructor, flight examiner and that each person who directly performs or supervises any function defined in RBAC 175 is properly trained to perform his/her duties; (2) obtain from ANAC, the initial and final approval of the training program, before its implementation;

(3) provide adequate ground and in-flight training facilities and resources and appropriately qualified ground instructors for the training required by this Subpart;

(4) for each type of aircraft used and, if applicable, for each particular variant of each type, provide and keep up to date the appropriate training materials, tests, forms, instructions and procedures for use when conducting the training and examinations required by this Subpart; and

(5) have a sufficient number of flight instructors, flight examiners and FSTD instructors to conduct such training, flight examinations and FSTD courses permitted by this Subpart.

(b) If a crew member has to complete the periodic training required by this Subpart in a given calendar month and finishes it in the calendar month before or after the scheduled month, ANAC will consider that the training was completed in the month in which it was due.

(1) A crew member may perform his/ her duties during the 1 calendar month grace period after the end of the calendar month in which the periodic training is due.

(c) Each instructor or examiner, who is responsible for a particular ground training subject, flight training segment, using an FSTD and/or other training device approved by ANAC, or exam under this Subpart, must certify proficiency and the knowledge of each crew member, flight instructor or flight examiner at the end of the training or exam. This certification must be included in the records of the person examined and approved. When the certification required by this paragraph is made through a computer registration, the person certifying the approval must be identified in said registration. In this case, there is no need for that person's signature.

(d) Matters applicable to more than one aircraft or more than one function on board that have been satisfactorily completed during the training previously conducted by the program administrator for another aircraft or other function on board do not need to be repeated during subsequent training other than the periodic training. (e) FSTD and/or other training device approved by ANAC can be used in the training program.

(f) The program administrator is responsible for establishing safe and efficient crew management practices for all the flight phases of the program's operations, including CRM training for all crew members used in these operations.

(g) [Reserved].

(h) All training and examinations to be conducted by the program administrator in compliance with the approved training program must be previously notified to ANAC, in the manner determined by ANAC. Training and examinations that are conducted without being previously notified to ANAC will not be considered for the fulfillment of the program administrator's training program.

91.1075 Training program: special rules

(a) In addition to the program administrator, only another program administrator, under this Regulation, a CTAC certified or validated according to RBAC No. 142, a manufacturer of class aircraft (according to criteria of RBAC No. 61), of its own manufacture, or the holder of a certificate issued under RBAC No. 119 and operating under RBAC No. 121 or 135, is eligible under this Subpart to provide training and examinations, under contract or otherwise, for persons subject to the requirements of this Subpart.

(b) A program administrator may only contract or use any other form of agreement to obtain the service of a CTAC certified or validated under RBAC No. 142, to provide training and examinations required by this Subpart if that CTAC:

(1) has applicable training specifications issued under RBAC No. 142;

(2) has facilities, training equipment and teaching material for the course meeting the applicable requirements of RBAC No. 142;

(3) has curricula, curriculum segments and portions of curriculum segments approved and applicable for use in training courses required by this Subpart; and

(4) has sufficient instructors and qualified examiners under the applicable requirements of sections 91.1089 to 91.1095 of this Regulation to provide training and examinations for persons subject to the requirements of this Subpart.

<u>91.1077 Training program and</u> reviews: initial and final approval

(a) To obtain initial and final approval of a training program or a review of an approved program, the program administrator must submit to ANAC:

(1) a summary of the proposed or revised curriculum, providing sufficient information for a preliminary assessment of the program or proposed revision; and

(2) additional information that ANAC considers relevant.

(b) If the training program or the proposed revision meets this Subpart, ANAC will grant, in writing, an initial approval. Except as otherwise established by ANAC, the program administrator may only start conducting the training after obtaining the initial approval. After an evaluation of the program efficiency, ANAC will inform the program administrator of the deficiencies, if any, that must be corrected.

(c) ANAC will grant the program final approval or the proposed revision if the program administrator demonstrates that the training, conducted in accordance with the program approved under paragraph (b) of this section, ensures that each person who satisfactorily completes it is properly trained to perform his/her duties.

(d) Whenever ANAC considers that, in order to maintain the adequacy of a training program with final approval, revisions to the program are necessary, the program administrator must, after being notified by ANAC, make all the changes deemed necessary. Within 30 days after receiving the notification from ANAC, the program administrator may submit a request for reconsideration, in which case the entry into force of the changes will be pending ANAC's final decision. However, if ANAC considers that an emergency requires urgent action in the interest of safety, it may determine a review with immediate effectiveness.

91.1079 Training program: curriculum

(a) The program administrator shall prepare and keep up to date a written training program curriculum for each type of aircraft and for each type of crew required by the type. The curriculum must include the ground and flight training required by this Subpart.

(b) Each training program curriculum must contain the following:

(1) a list of the main ground training subjects, including emergency matters, that will be taught;

(2) a list of all training devices, mockups, system trainers, procedure trainers and other instructional facilities to be used in the training; and

(3) detailed descriptions or pictorial posters of the normal, abnormal and emergency maneuvers, functions and procedures that will be performed in each phase of training and in-flight examinations, indicating the maneuvers, functions and procedures to be performed on the aircraft, FSTD and/ or other training device approved by ANAC during training and flight exams.

91.1081 Requirements for training crew members

(a) The program administrator shall include in its training programs, as appropriate for each particular type of crew member, the following initial and transitional ground training:

(1) basic ground indoctrination for crew members newly hired by the program administrator, including instruction on at least the following:

(i) duties and responsibilities of the crew member, as applicable;

(ii) the appropriate provisions of these Regulations;

(iii) content of the program administrator's administrative specifications (not applicable to flight attendants);

(iv) appropriate parts of the program administrator's operations manual;

(v) for flight attendants, aircraft basics and theory of flight;

(vi) the SGSO;

(vii) civil aviation security (AVSEC); and

(viii) human factors and CRM;

(2) the initial and transitional ground training covered by sections 91.1101 and 91.1105 of these Regulations, as applicable; and

(3) the emergency training covered by section 91.1083 of this Regulation.

(b) Each training program must provide the initial and transition flight training covered by section 91.1103 of these Rules, as applicable.

(c) Each training program must provide the periodic flight and ground training covered by section 91.1107 of these Rules.

(d) The leveling training covered by sections 91.1101 and 91.1103 of this Regulation may be included in the training program, for a particular type of aircraft, aiming to promote crew members who have been qualified and are working as second-in-command pilots in that type of aircraft.

(e) In addition to initial, transition, level-elevation and periodic training, each training program must provide ground and flight training, instruction and practice necessary to ensure that each crew member:

(1) remain adequately trained and permanently proficient for each function on board, type of aircraft and type of operation in which the crew member works; and

(2) qualify for new equipment, facilities, procedures and techniques, including aircraft changes.

<u>91.1082 Team resource</u> management (CRM) training

(a) The program administrator shall establish and maintain a team resource management (CRM) training program that includes initial and periodic training. The training program must include instruction on at least the following:

(1) leadership and managerial skills of the pilot-in-command;

(2) communication, decision and coordination processes, including communication with air traffic control units, with personnel performing flight location activities and other operational activities and with passengers;

(3) formation and maintenance of teams;

(4) time and workload management;

(5) error and threat management strategies;

(6) monitoring and automation;

(7) maintenance of situational awareness;

(8) effects of fatigue on performance, prevention and mitigation strategies;

(9) effects of stress and stress reduction strategies;

(10) effects of the use of alcohol and other drugs on performance; and

(11) training in judgment and decision making adapted to the aviation environment and the operations of the program administrator.

(b) The program administrator may only use one person as a member of the flight crew if that person has completed the initial and, every 24 months, staff resource management training in accordance with the program administrator's approved training program.

(c) The personnel resource management training conducted prior to the approval of the training program established in accordance with paragraph (a) of this section may be used to comply either fully or partially with the training required by paragraph (b) of this section, to the extent that equivalence is shown between the curriculum given (or part of it) and the minimum curriculum required by paragraph (a) of this section.

(d) To grant credits, as established in paragraph (c) of this section, ANAC considers instructional aids, training devices, methods and procedures to address the CRM content, which have been previously used by the program administrator and included in its training program required by sections 91.1097, 91.1101, 91.1105 or some specific ANAC standard.

(e) The program administrator must develop a continuous evaluation and validation system for their CRM training program in order to verify that the proposed objectives are being achieved.

(f) For the purposes of this section, a CRM facilitator is an instructor who is qualified to teach CRM courses.

(1) The program administrator can only use one person and a person can only serve as a CRM facilitator in a training program established under this Subpart if, within the previous 24 months, that person has gone through a training program in CRM.

(g) The CRM training program required by paragraph (f) (1) of this section must include instruction in at least CRM philosophy, knowledge, techniques and skills.

91.1083 Emergency training for crew members

(a) Each training program must provide emergency training in accordance with this section, for each type, model and configuration of aircraft, each crew member and each type of operation conducted, as appropriate for each crew member and program administrator. (b) Emergency training must be annual and must provide the following:

(1) instructions on emergency procedures and assignments, including crew coordination;

(2) individual instruction on the location and operation of the emergency equipment, including:

(i) equipment used for water landing and emergency evacuation;

(ii) first aid equipment and its appropriate use; and

(iii) portable fire extinguishers, with an emphasis on the type of extinguishing agent to be used in the different classes of fire;

(3) instructions on emergency procedures, including:

(i) fast decompression;

(ii) fire on board in flight and on the ground and smoke control procedures, with an emphasis on electrical equipment and corresponding circuit breakers located inside the aircraft;

(iii) water landing and evacuation;

(iv) illnesses, bruises or other abnormal situations involving passengers or crew; and

(v) unlawful interference and other unusual situations; and

(4) review and study of accidents and incidents previously occurred with the program administrator, involving real emergency situations.

(c) Each crew member must perform at least the following emergency exercises, using appropriate emergency procedures and equipment, unless ANAC considers that, for a particular exercise, the crew member can be adequately trained by a demonstration of the exercise:

(1) landing on water, if applicable;

(2) emergency evacuation;

(3) fire extinguishing and smoke control;

(4) operation and use of emergency exits, including opening and using escape slides, if applicable;

(5) use of oxygen for crew and passengers;

(6) removal and filling of aircraft lifeboats, use of lifelines and boarding passengers and crew in boats, if applicable; and (7) putting on and inflating life jackets and use of other flotation equipment, if applicable.

(d) Crew members flying in operations above 25,000 feet in altitude must be instructed on:

(1) breathing problems;

(2) hypoxia;

(3) duration of consciousness, at altitude, without supplemental oxygen;

(4) expansion of gases;

(5) formation of gas bubbles in the blood; and

(6) physical phenomenon and decompression incidents.

91.1085 Training in hazardous materials

(a) The program administrator may only use one person and a person may only perform tasks and responsibilities regarding the handling and transportation of hazardous materials if that person has been trained to recognize, handle or refuse the transportation of hazardous materials.

91.1087 Approval of FSTD and other training devices

(a) Training courses using FSTD and other training devices can be included in the program administrator's training program, provided they are approved by ANAC.

(b) Each FSTD and/or other training device to be used in a training course or exam required by this Subpart must:

(1) be specifically approved for:

(i) the program administrator; and

(ii) the particular maneuver, procedure and function of the involved crew member;

(2) keep the functional performance and other characteristics that are required for approval;

(3) additionally, in the case of flight simulator (FFS):

(i) be approved for the type of aircraft and, if applicable, for the particular variation of the type in which the training or examination will be conducted;

(ii) be modified to conform with any modification to the aircraft to be simulated that changes the performance, operation or other characteristics required for approval; (4) before the start of each working day, be subjected to a functional pre-flight; and

(5) have a book for the daily record of usage and observed discrepancies; this book must be completed by instructors or examiners at the end of each training or exam session.

(c) A private FSTD and/or other training device approved by ANAC may be used by more than one program administrator or certificate holder under RBAC No. 135.

(d) When granting initial approval and final approval of a training program (or its revisions), ANAC takes into account the FSTD and/or other training device approved by ANAC, and the procedures and methods listed in the administrator's curriculum program required by section 91.1079 of these Regulations.

(e) In order for an FSTD to be used in place of an aircraft to satisfy the flight training requirements of this Subpart, it must:

(1) be qualified or validated, and approved in accordance with this section and meet the requirements established by Appendix H of RBAC No. 121 or provisions that will replace it; and

(2) be used as part of an approved program that meets the training requirements of section 91.1103 of this Regulation and Appendix H of RBAC No. 121.

91.1089 Qualifications: accredited aircraft and FSTD examiner and/or other training device approved by ANAC

(a) For the purposes of this section and section 91.1093 of these Rules:

(1) aircraft examiner is a person qualified to conduct in-flight exams in an aircraft, in FSTD and/or in another training device approved by ANAC for a particular type of aircraft;

(2) FSTD examiner and/or other training device approved by ANAC is a person qualified to conduct in-flight examinations, but only on an FSTD and/or other training device approved by ANAC for a particular type of aircraft; and

(3) aircraft examiner and FSTD examiner and/or other training device approved by ANAC are examiners that perform the functions described in paragraphs 91.1073 (a) (4) and (c) of this Regulation.

(b) The program administrator may only use one person and a person may only work as an aircraft examiner in a training program established under this Subpart if, for a particular type of aircraft involved, that person:

(1) holds a pilot's license and the qualifications required for a pilot-in-command in operations under this Subpart;

(2) has satisfactorily completed the training phases for the aircraft that are required for him/her to act as a pilot-in-command in operations under this Subpart;

(3) has satisfactorily completed the appropriate proficiency exams required to work as a pilot-in-command in operations under this Subpart;

(4) has satisfactorily completed the applicable training requirements required by section 91.1093 of these Rules;

(5) has a valid and suitable CMA to work as a pilot-in-command in operations under this Subpart; and

(6) has been approved by ANAC as an aircraft examiner.

(c) The program administrator may only use one person and a person may only work as an examiner on FSTD and/or other training device approved by ANAC in a training program established under this Subpart, if that person, in relation to the type aircraft involved, meets the provisions of paragraph (b) of this section, or if that person:

(1) has the license and qualifications required to act as a pilot-in-command in operations under this Subpart, except for the CMA;

(2) has satisfactorily completed the training phases for the aircraft that are required to serve as a pilot-in-command in operations under this Subpart;

(3) has successfully completed the proficiency exams, which are required to serve as a pilot-in-command in operations under this Subpart;

(4) has successfully completed the applicable training requirements of section 91.1093 of this Regulation; and

(5) has been approved by ANAC as an FSTD examiner and/or other training device approved by ANAC.

(d) The compliance with the requirements of paragraphs (b) (2), (3) and (4) or (c) (2), (3) and (4) of this section, as applicable, should be noted in the records of individual training provided by the program administrator.

(e) The examiner who does not have an appropriate CMA may work as an examiner on FSTD and/or other training device approved by ANAC, but may not serve as a flight crew member in operations under this Subpart.

(f) An FSTD-accredited examiner and/or other training device approved by ANAC shall perform the following:

(1) fly at least 2 flight segments as a crew member required for the type, class or category of the aircraft involved within the 12 months preceding the performance of any examiner service on an FSTD and/or other training device approved by ANAC; or

(2) satisfactorily complete an approved route observation program within the period established by the program and which must precede the performance of any examiner service on an FSTD and/or other training device approved by ANAC.

(g) The flight segments or the route observation program required by paragraph (f) of this section are considered to have been completed in the required month if completed in the calendar month before or after the calendar month in which they were due.

91.1091 Qualifications: aircraft flight instructor and FSTD flight instructor and/or other training device approved by ANAC

(a) For the purposes of this section and section 91.1095:

(1) aircraft flight instructor is a person who is qualified to give instruction on an aircraft, on FSTD and/or other training device approved by ANAC for a particular type, class or category of aircraft;

(2) flight instructor on FSTD and/or other training device approved by ANAC is a person who is qualified to give instruction on an FSTD and/or another training device approved by ANAC for a particular type, class or category aircraft; and (3) aircraft flight instructor and FSTD flight instructor and/or other training device approved by ANAC are instructors who perform the functions described in paragraphs 91.1073 (a) (4) and (c) of this Regulation.

(b) The program administrator may only use one person and a person may only serve as an aircraft flight instructor in a training program established under this Subpart if, in relation to the type, class or category of the aircraft involved, if that person:

(1) holds the license required to serve as a pilot-in-command in operations under this Subpart or under RBAC No. 121 or 135;

(2) has satisfactorily completed the stages of training for the aircraft that are required to act as a pilot-in-command in operations under this Subpart;

(3) has satisfactorily completed the proficiency exams that are required to act as a pilot-in-command in operations under this Subpart;

(4) has satisfactorily completed the applicable training requirements in section 91.1095 of this Regulation; and

(5) has a valid and suitable CMA to work as a pilot-in-command in operations under this Subpart.

(c) The program administrator may only use one person and one person may only act as a flight instructor in FSTD and/ or another training device approved by ANAC in a training program established under this Subpart, if that person meets the provisions of paragraph (b) of this section in relation to the type, class or category of the aircraft involved, or if that person:

(1) holds the license and qualifications, except CMA, required to act as a pilot-in-command under this Subpart or under RBAC No. 121 or 135;

(2) has satisfactorily completed the training phases for the aircraft that are required to act as a pilot-in-command in operations under this Subpart;

(3) has satisfactorily completed the proficiency exams that are required to act as a pilot-in-command in operations under this Subpart; and

(4) has satisfactorily completed the applicable training requirements in section 91.1095 of this Regulation.

(d) The compliance with the requirements of paragraphs (b) (2), (3) and (4) or (c) (2), (3) and (4) of this section, as applicable, should be noted in the records of individual training provided by the program administrator.

(e) A person who does not have a CMA cannot act as a flight instructor on an aircraft nor can he/she act as a member of the flight crew in operations under this Subpart.

(f) An FSTD flight instructor and/or other training device approved by ANAC shall perform the following:

(1) fly at least two flight segments as a crew member required for the type, class or category of the aircraft involved within the 12-month period preceding the performance of any flight instructor activity on a FSTD and/or other training device approved by ANAC; or

(2) satisfactorily complete an approved route observation program within the period established by this program and which must precede the conduction of any flight instructor activity on an FSTD and/or other training device approved by ANAC.

(g) The flight segments or the route observation program required by paragraph (f) of this section are considered to have been completed in the required month if completed in the calendar month before or after the calendar month in which they were due.

91.1093 Initial, transition and exam training: aircraft examiner and FSTD examiner and/or on another training device approved by ANAC

(a) A program administrator can only use one person and a person can only serve as an accredited examiner if:

(1) that person has satisfactorily completed the initial or transitional examiner training; and

(2) within the previous 24 calendar months, this person has successfully conducted a proficiency exam under the observation of a civil servant designated by ANAC or an accredited examiner attached to the program administrator. The examination under observation can be carried out in part or in the whole or in part on an aircraft or an FSTD and/or other training device approved by ANAC.

(b) The examination under observation required by paragraph (a)(2) of this section is considered to have been completed in the required month if completed in the calendar month before or after the calendar month in which it was due.

(c) Initial ground training for a pilot examiner should include the following:

(1) the duties, responsibilities and functions of a pilot examiner;

(2) the applicable provisions of this Regulation, the aeronautical regulations and the program administrator's policies and procedures;

(3) the appropriate methods, procedures and techniques for conducting the required examinations;

(4) proper assessment of a pilot's performance, including the identification of:

(i) inadequate or insufficient training; and

(ii) an applicant's personal characteristics that may adversely affect safety;

(5) the appropriate corrective actions in the case of unsatisfactory examinations; and

(6) methods, procedures and limitations approved for the performance of the aircraft's normal, abnormal and emergency procedures.

(d) Transitional ground training for a pilot examiner must include approved methods, procedures and limitations to perform the required normal, abnormal and emergency procedures applicable to the aircraft for which the pilot examiner is transitioning.

(e) Initial and transition flight training for a pilot examiner (aircraft) must include the following:

(1) security measures for emergency situations that may occur during an examination;

(2) the potential results of safety measures not taken, taken out of time or improper;

(3) training and practice in conducting in-flight exams from the left and right pilot seats, performing the required normal, abnormal and emergency procedures in order to ensure competence in conducting in-flight exams of pilots required by this Subpart; and

(4) the safety measures to be taken, from either of the two pilot seats, for emergency situations that may develop during the exam. (f) The requirements of paragraph (e) of this section may be met in an aircraft, on an FSTD and/or another training device approved by ANAC, as appropriate.

(g) Initial and transition flight training for an examiner on an FSTD and/or other training device approved by ANAC must include the following:

(1) training and practice in conducting in-flight exams, performing the required normal, abnormal and emergency procedures, in order to ensure competence in conducting in-flight exams required by this Subpart. This training and practice must be carried out on an FSTD and/ or another training device approved by ANAC; and

(2) training in the operation of the FSTD and/or another training device approved by ANAC to ensure competence in conducting the in-flight exams required by this Subpart.

91.1095 Initial and transition training and checking: flight instructors (aircraft) flight instructors (FSTD) and/or other training device approved by ANAC

(a) A program administrator can only use one person and a person can only act as a flight instructor if:

(1) that person has successfully completed the initial or transition flight instructor training; and

(2) within the previous 24 calendar months, this person has successfully conducted instruction activities under the observation of a civil servant designated by ANAC or an accredited examiner from the program administrator. The instruction under observation can be performed in part or in the whole on an aircraft or on an FSTD and/or other training device approved by ANAC.

(b) The instruction under the observation required by paragraph (a)(2) of this section is considered to have been completed in the required month if completed in the previous calendar month or in the calendar month following the month in which it is due.

(c) The initial ground training for flight instructors must include the following:

(1) flight instructor's duties, roles and responsibilities;

(2) the applicable regulations and standards and the program administrator's policies and procedures; (3) methods, procedures and techniques applicable when conducting the flight instruction;

(4) appropriate assessment of the student performance, including the identification of:

(i) improper and insufficient training; and

(ii) a candidate's personal characteristics that may adversely affect safety;

(5) corrective actions in the event of an unsatisfactory training progress;

(6) the methods, procedures and limitations approved for performing the normal, abnormal and emergency procedures required on the aircraft; and

(7) except for flight instructor license holders:

(i) the fundamental principles of the teaching-learning process;

(ii) teaching methods and procedures; and

(iii) the instructor-student relationship.

(d) The transition ground training for flight instructors must include approved methods, procedures and limitations to perform the required normal, abnormal and emergency procedures applicable to the type, class or category of the aircraft for which the flight instructor is in transition.

(e) The Initial and transition flight training for aircraft flight instructors must include the following:

(1) safety measures for emergency situations that may develop during the instruction;

(2) the potential results of improper or inopportune safety measures taken during the investigation;

(3) training and practice, from the left and right pilot seats, of the required normal, abnormal and emergency maneuvers in order to ensure competence when delivering the flight instructions required by this Subpart; and

(4) the safety measures to be taken, from either of the two pilot seats, for emergency situations that may develop during the instruction.

(f) The requirements of paragraph (e) of this section can be met on an aircraft, on an FSTD and/or other training device approved by ANAC, as appropriate. (g) The initial and transition flight training for an FSTD flight instructor and/or other training device approved by ANAC must include the following:

(1) training and practice in the normal, abnormal and emergency procedures required to ensure competence when delivering the flight instructions required by this Subpart. These maneuvers and procedures must be performed in part or in the whole on an FSTD and/or another training device approved by ANAC; and

(2) training in the operation of an FSTD and/or another training device approved by ANAC to ensure competence when delivering the flight instructions required by this Subpart.

91.1097 Training program: pilots and flight attendants

(a) The program administrator must establish and keep an approved pilot training program and the program administrator using flight attendants must establish and keep an approved flight attendant training program, which should be appropriate for the operations in which each pilot and each flight attendant are involved. The programs must ensure that pilots and flight attendants are adequately trained to meet the applicable knowledge and practice requirements required by sections 91.1065 through 91.1071 of these Regulations.

(b) The program administrator, for whom a training program is required by paragraph (a) of this section, must include in that program ground and in-flight training curricula for:

- (1) initial training;
- (2) transition training;
- (3) level training;
- (4) difference training;
- (5) periodic training;

(c) The program administrator, for whom a training program is required by paragraph (a) of this section, must provide appropriate and updated study materials for the use of each pilot and each flight attendant.

(d) The program administrator must provide ANAC with copies of the training programs for pilots and flight attendants, as well as their modifications and additions. If the program administrator uses other people's training facilities, a copy of the training programs, or appropriate parts of them, used at those facilities, must also be supplied. ANAC publications used in the curricula can only be referenced in the copy of the training program to be provided to ANAC, with no need to attach copies of these publications.

91.1099 Initial and periodic training requirements for the crew members

(a) The program administrator may only use one person and a person may only work as a crew member operating under this subpart if that crew member has completed, within the 12 calendar months preceding that operation, the appropriate phases of the initial or periodic training program established for the type of function that person will perform.

91.1101 Pilots: initial, transition and upgrade ground training

(a) Initial, transitional and upgrade ground training for pilots must include instruction in at least the following, as applicable to their assignments:

(1) general matters:

(i) program administrator's procedures for clearing and locating flights;

(ii) principles and methods for determining weight and balance and runway limitations for takeoff and landing;

(iii) knowledge of meteorology in order to ensure practical knowledge of atmospheric phenomena, including principles of frontal systems, ice, fog, thunderstorms, windshear and, if appropriate, high altitude meteorology;

(iv) air traffic control systems, procedures and phraseology;

(v) navigation and use of navigation aids, including instrument approach procedures;

(vi) normal and emergency communications procedures;

(vii) familiarization with visual references before and during the descent below the decision altitude or the minimum descent altitude in approach by instrument;

(viii) ETOPS, if applicable;

(ix) [reserved]; and

(x) other instructions necessary to ensure the competence of the pilot;

(2) for each type of aircraft:

(i) general description;

(ii) performance characteristics;

(iii) powertrain system;

(iv) main components;

(v) main aircraft systems (flight controls, electrical, hydraulic, etc.), other systems if applicable, principles of normal, abnormal and emergency operation and appropriate procedures and limitations;

(vi) knowledge and procedures for:

(A) recognize and avoid severe weather conditions;

(B) get rid of severe atmospheric conditions, in case they are found inadvertently, including, for airplanes, low-altitude windshear;

(C) operating in or near storms (including better penetration altitude), turbulent air (including clear sky turbulence), ice, hail and other potentially dangerous weather conditions; and

(D) operating airplanes during ground-ice conditions (that is, at any time when conditions are such that frost, ice or snow can reasonably be expected to adhere to the aircraft), if the program administrator intends to authorize takeoffs in ground icing conditions, including:

(1) the use of operating time when using defrost/antifreeze fluid;

(2) defrost/anti-icing procedures for the aircraft, including responsibilities and procedures for inspections and checks;

(3) communications;

(4) contamination of the aircraft surface (i.e., frost, ice or snow adherence) and critical area identification, knowledge of how the contamination adversely affects the aircraft performance and flight characteristics;

(5) type and characteristics of defrost/antifreeze fluids if used by the program administrator;

(6) pre-flight inspection procedures for low temperature conditions; and

(7) techniques for recognizing contamination on the plane;

(vii) operational limitations;

(viii) cruise control and fuel consumption;

(ix) flight planning;

(x) each normal and emergency procedure; and

(xi) the aircraft's flight manual or equivalent.

(b) The transitional and upgrade ground training for pilots can be reduced according to paragraph 91.1073 (d) of these Regulations.

91.1103 Pilots: initial, transition, upgrade ground and differences training

(a) The initial flight, transition, upgrade ground and differences training for pilots must include flight and practice of each procedure and maneuver contained in the approved training program.

(b) The maneuvers and procedures required by paragraph (a) of this section must be performed in flight, except for maneuvers and procedures that can be performed on an FSTD and/or other training device approved by ANAC, as authorized by this Subpart.

(c) If the program administrator's approved training program includes a training course using an FSTD and/or other training device approved by ANAC, each pilot shall satisfactorily complete:

(1) training and practice on the FSTD and/or another training device approved by ANAC at least for the maneuvers and procedures that this Subpart allows to be performed on an FSTD and/or another training device approved by ANAC; and

(2) an examination on the aircraft, FSTD and/or other training device approved by ANAC for the level of pilot-in-command or second-in-command pilot proficiency, as applicable, at least in the maneuvers and procedures that can be performed on an FSTD and/or another training device approved by ANAC.

(d) A program administrator may opt for an initial, transition, grade ground and differences training program for pilots, conducted primarily on an FSTD and/ or another training device approved by ANAC, provided that:

(1) the program complies with the provisions of paragraph (a) of this section and other applicable provisions of this Subpart;

(2) at the end of the training, the pilot must pass a flight exam at the FSTD and/or another training device approved by ANAC and conducted by an ANAC designated civil servant or an accredited pilot examiner;

(3) if the training is conducted on a level C flight simulator, after the examination provided for in paragraph (d) (2) of this section, the pilot performs, with a flight instructor (aircraft), 5 aircraft landings or 8 helicopter landings. This paragraph does not apply to exams conducted on a level D flight simulator; and

(4) if the training is conducted on a level B flight simulator, in addition to what is provided for in paragraph (d)
(3) of this section, all the foreseen maneuvers that cannot be conducted on the level B flight simulator must be performed on an aircraft. The examination provided for in paragraph
91.1065 (b) of this Regulation must be completed on an aircraft to include the maneuvers specified in this paragraph.

(e) After completing the flight training and being subjected to the examination provided for in paragraph 91.1065 (b) of these Regulations, the pilot will receive the certificate of technical qualification in that type of equipment.

<u>91.1105 Flight attendants: Initial</u> and transition ground training

(a) The initial and transition ground training for flight attendants shall include instruction on at least the following subjects:

(1) general matters:

(i) the authority of the pilot-in-command; and

(ii) guidance and control of passengers, including providing adequate assistance to PNAE and procedures to be followed in the case of disorderly people or people whose conduct may impair safety; and

(2) for each type of aircraft:

(i) general description of the aircraft, emphasizing the physical characteristics that can serve as a guidance for landings on the water, evacuations and other in-flight emergencies, including the associated duties;

(ii) the use of the public address and crew intercommunication system, including the emergency procedures in the event of an attempted hijacking and other unusual situations; (iii) knowledge, location and operation of flight and emergency safety equipment and systems; and

(iv) proper use of galley equipment and controls of the cabin's conditioning and ventilation systems.

(b) Transition training for flight attendants can be reduced in accordance with paragraph 91.1073 (d) of these Rules.

91.1107 Recurrent training

(a) Each program administrator must ensure that each crew member receives recurrent training, is properly trained and keeps his/her proficiency with respect to the type of aircraft. The recurrent training must be annual.

(b) The recurrent ground training for crew members must include at least the following:

(1) an oral or written assessment to determine the knowledge of the crew member about the aircraft and the function on board involved; and

(2) the necessary instructions on the subjects required for initial ground training by this Subpart, as appropriate, including low altitude windshear training and training on ground operations during ice conditions, as set out in sections 91.1097 and 91.1101, respectively, as well as emergency training.

(c) Periodic flight training for pilots must include at least training on an aircraft, on an FSTD and/or on another training device approved by ANAC for the maneuvers and procedures provided for in this Subpart, ending with the satisfactory examination required by the section 91.1065 of this Regulation.

91.1109 Aircraft maintenance

The program administrator shall keep the program's aircraft in accordance with sections 91.401 to 91.423 of this Regulation.

91.1111 [Reserved]

91.1113 Record keeping

Each program administrator shall keep (using the system specified in the manual required by section 91.1025 of this Regulation) the records specified in paragraph 91.417 (a) for the periods specified in paragraph 91.417 (b) of this Regulation.

91.1115 Inoperative instruments and equipment

(a) It is only permitted to take off with an aircraft with inoperative instruments and equipment installed if the following conditions are met:

(1) there must be an approved MEL for the aircraft;

(2) there must be a letter from ANAC authorizing operations in accordance with the approved MEL. The flight crew must have direct access before each flight to all information contained in the approved MEL through printed documentation or other means approved in the program administrator's administrative specifications and made available to them. A MEL approved as authorized by the administrative specifications constitutes an approved change to the aircraft type design without requiring new certification;

(3) the approved MEL must:

(i) be prepared in accordance with the limitations specified in paragraph (b) of this section; and

(ii) provide procedures for the operation of the aircraft with certain instruments and equipment in an inoperable condition;

(4) records identifying inoperable equipment and instruments and the information required by paragraph (a)(3)(ii) of this section must be available for the pilot's knowledge; and

(5) the aircraft must be operated in accordance with all conditions and limitations contained in the MEL and in the administrative specifications authorizing their use.

(b) The following instruments and equipment should not be included in the MEL:

(1) instruments and equipment that are specifically or otherwise required by the airworthiness requirements under which the aircraft has received type certification and that are essential for safe operation under all operating conditions;

(2) instruments and equipment that an airworthiness directive requires to be in working condition, unless the airworthiness directive itself provides otherwise; and

(3) the instruments and equipment required by this Regulation for specific operations.

(c) Except for paragraphs (b) (1) and (b) (3) of this section, an aircraft with inoperative instruments and equipment may be operated under a special flight permit issued in accordance with sections 21,197 and 21,199 of RBAC No. 21.

(d) A person authorized to use an approved MEL issued for a specific aircraft operating under RBAC No. 119 certified operator operational regulations must use that MEL to comply with this section

SUBPART L

CONTINUED AIRWORTHINESS

91.1501 Purpose

(a) This Subpart requires an operator to support the continued airworthiness of each aircraft. These requirements may include, but are not limited to, a review of the inspection program, incorporating design changes and revisions to the instructions for continued airworthiness.

91.1503 [Reserved]

91.1505 Evaluation of pressurized fuselage repairs

(a) It is only allowed to operate an Airbus A-300 (excluding series -600), British Aerospace Model BAC 1-11, Boeing model 707, 720, 727, 737, or 747, McDonnell Douglas model DC-8, DC -9/ MD-80 or DC-10, Fokker model F28, or Lockheed model L-1011 in addition to the applicable number of flight cycles for the implementation specified below, or till May 25, 2004, whichever occurs later if it has already been developed lines of action for the assessment of applicable repairs on the surface of the fuselage pressure boundary (fuselage skin, door skin and bulkhead webs) and such lines of action have been incorporated into the approved inspection program by ANAC:

(1) Airbus model A300 (excluding the -600 series), the implementation time is:

(i) model B2: 36,000 flights;

(ii) model B4-100 (including model B4-2C): 30,000 flights above the window line and

36,000 flights below the window line; and

(iii) model B4-200: 25,500 flights above the window line and 34,000 flights below the window line;

(2) for all British Aerospace BAC 1-11 models, the implementation time is 60,000 flights;

(3) for all Boeing 707 models, the implementation time is 15,000 flights;

(4) for all Boeing 720 models, the implementation time is 23,000 flights;

(5) for all Boeing 727 models, the implementation time is 45,000 flights;

(6) for all Boeing 737 models, the implementation time is 60,000 flights;

(7) for all Boeing 747 models, the implementation time is 15,000 flights;

(8) for all models of McDonnell Douglas DC-8, implementation time is 30,000 flights;

(9) for all McDonnell Douglas DC-9/ MD-80 models, the implementation time is 60,000 flights;

(10) for all models of McDonnell Douglas DC-10, the implementation time is 30,000 flights;

(11) for all models of the Lockheed L-1011, implementation time is 27,000 flights; and

(12) for models Fokker F-28 Mark 1000, 2000, 3000, and 4000, the implementation time is 60,000 flights.

91.1507 Fuel tank inspection program

(a) This section applies to transport category turbine-powered aircraft a type certificate issued after January 1, 1958, which, as a result of original type certification or later increase in capacity has:

(1) a maximum passenger seating capacity certified for the type of 30 or more seats; or

(2) a maximum payload capacity equal to or greater than 3400 kg (7500 lbs).

(b) Airplanes identified in paragraph (a) of this section may only be operated if the safety inspection program for that airplane includes Continuing Airworthiness Instructions (ICA) for fuel tank systems developed in accordance with the provisions of RBHA-E 88 effective until June 30, 2021, or another requirement ANAC deems to be equivalent (including those developed for auxiliary fuel tanks, if any, installed in accordance with a supplemental type certificate or other design approvals). (Wording given by Resolution No. 624 of 07.06.2021)

SUBPART M [RESERVED]

SUBPART N

AUTHORIZATION FOR SPECIFIC OPERATIONS

91.1701 [Reserved]

91.1703 General provisions

(a) To perform any specific operation under this Subpart, an air operator should obtain an operational authorization from ANAC for each type of operation it intends to perform.

(b) To obtain a specific operation authorization, the interested party must demonstrate in an acceptable way to ANAC:

(1) the capacity of the aircraft to perform specific operations for which the approval is sought;

(2) the qualification of the personnel involved in the operation, maintenance and supervision of the systems required for specific operations in the aircraft;

(3) the operator's capacity to perform specific operations, which should be reflected in the manuals in case of holders of a certificate issued according to RBA No.119 or administrative specifications issued under Subpart K of this Regulation; and (Wording provided by Resolution No. 606, of 11.02.2021);

(4) the qualifications of the technical crew on the model of the aircraft that will perform the specific operations.

(c) The list of the aircraft, personnel and relevant manuals for the specific operation to be proposed by the air operator and forwarded to the ANAC along with an authorization request.

(d) The holders of a certificate issued according to RBAC No. 119 or administrative specifications issued under Subpart K of this Regulation should insert in their initial and recurrent training the training related to the qualifications required by paragraph (b) (2) of this section and should provide training to all flight crew members, the maintenance personnel and the operational flight dispatchers (DOV), as applicable, involved in the specific operations for which approval is requested. (Wording provided by Resolution No. 606, of 02.11.2021).

(e) Operators not covered by paragraph (e) of this section must provide a training covering the qualifications required by paragraph (b) (2) of this section to all flight crew members, the maintenance personnel and DOV, as applicable, involved in the specific operations whose approval is requested, initially and every two years.

(f) Each air operator authorized by ANAC to perform specific operations can only perform them if it keeps the compliance with the procedures referred to in the authorization of the aircraft, of each ground equipment required and the training of the personnel involved in any step or procedure listed in the corresponding authorization, as applicable.

(g) For the purposes of this Subpart, specific operation means any operation, which must be authorized by ANAC in accordance with this Subpart, whose performance has technical prerequisites set out in the regulations issued by ANAC. They are not necessarily limited to the operations listed in this Subpart and others not listed may be authorized, provided that they meet the requirements of this section.

91.1705 Operations defined by Performance Based Navigation (PBN)

To obtain and keep an operational authorization to perform any PBN operation, an air operator must comply with the provisions of section 91.1703 of this Regulation.

91.1707 Operations defined by NAT-HLA

(a) To obtain and keep an operational authorization to perform any operation in the NAT-HLA airspace, an air operator is required to meet the provisions of section 91.1703 of this Regulation.

(b) The combination of equipment and operation method must meet the established navigation accuracy established for the operation in the intended NAT-HLA airspace.

91.1709 Operations in RVSM airspace

(a) To obtain and keep operational authorization to perform any operation in the RVSM airspace, an air operator must comply with the provisions of this section and section 91.1703 of this Regulation, except as provided in paragraph (c) of this section.

(b) Operational requirements:

(1) in the first six months of operation after the initial approval and, subsequently, every two years or 1000 hours of flight, whichever is greater, each aircraft must perform and be approved in a monitoring flight to verify if the altimetry system error (ASE) is within the limits established by ICAO. This paragraph does not apply to the case of operators with a RVSM monitoring program, which must comply with the ICAO/CARSA-MA requirements; and

(2) the operator must inform ANAC, in no longer than three business days, when an event is observed in which the aircraft has shown the following height-keeping performance:

(i) total vertical error of 300 feet or more;

(ii) ASE of 245 feet or more; or

(iii) deviation from the authorized altitude by 300 feet or more.

(c) It is forbidden to operate in a specific flight in an RVSM airspace without an RVSM airspace operating permit issued by the ANAC, unless the operator informs the DECEA about that condition before the specific flight and DECEA authorizes the operation.

91.1711 ILS category II and III precision approaches

(a) To obtain and keep an operational authorization to perform any ILS precision approach Category II or III, the air operator shall comply with the provisions of section 91.1703 of this Regulation.

(b) To request an authorization to perform any ILS category II or III precision approach, in addition to the requirements of section 91.1703:

(1) the aircraft that will perform the approaches must have the instruments and equipment specified in paragraph 91 205 (d) of this Regulation;

(2) the air operator must forward to ANAC the relevant information for each aerodrome where it intends to make the approaches; and

(3) the air operator must submit a proposal for the minima of use of the aerodrome for each aerodrome where it intends to perform the approaches.

(c) For the approval of ILS category II precision approach, the operator must demonstrate that the crew has completed the training on a level C or D a flight simulator in the respective aircraft model (and if not feasible, in the alternative way established by ANAC), and that the aircraft was operated for a period of at least 6 months and 30 approaches with DH 200 feet or more and not less than 450m RVR, using the expected operation and maintenance procedures when the minima are achieved.

(d) For the approval of ILS category III precision approaches, the operator must demonstrate that the crew has completed its training on Level C or D flight simulator in the respective aircraft model (and if not feasible, in the alternative way established by ANAC), and that the aircraft was operated for a period of at least 6 months and 100 approaches with the minima of category II, using the expected operation and maintenance procedures when the DH is reached.

(e) If the number of unsuccessful approaches exceeds 5% of the total approaches required by paragraphs (c) and (d) of this section, the number of approaches required must be increased by at least 10 till a maximum number of 5% unsuccessful approaches is achieved.

(f) It is only allowed to operate a civil aircraft in an ILS category II or III precision approach if the crew consists of a pilot-in-command and second-in-command, both holding the appropriate licenses, qualifications and authorizations issued or recognized by the ANAC.

91.1713 Authorization to exceed Mach 1

(a) To obtain and keep an operational authorization to exceed Mach 1, an air operator shall comply with the provisions of section 91.1703 of this Regulation.

(b) It is prohibited to exceed Mach 1 over the continent, except as provided in paragraph (c) of this section.

(c) For the situations covered by paragraph (d) of this section, an authorization to exceed Mach 1 over the continent can be granted by ANAC if:

(1) the operator demonstrates that it is not feasible for flights to be conducted over ocean areas;

(2) the operator submits a description of the proposed testing area, including an analysis showing that the effects of sonic booms will not result in environmental damage on the surface thereof;

(3) the area impacted by the sonic boom is uninhabited; and

(4) the operator demonstrates that the sonic boom will not significantly

reach the surface outside the authorized area.

(d) ANAC will only issue authorization to exceed Mach 1 in accordance with the conditions imposed by paragraph (c) of this section on flights for the following purposes:

(1) demonstration of compliance with airworthiness requirements;

(2) determination of the characteristics of the airplane's sonic boom; or

(3) evaluation of means to reduce or eliminate the effects of the sonic boom.

(e) ANAC may suspend an authorization to exceed Mach 1 if it is shown some potential or actual environmental damage on a surface not covered when the authorization was granted.

91.1715 Steep approach operations

(a) To obtain and keep an operational authorization to perform any steep approach operation, an air operator shall comply with this section and section 91.1703 of this Regulation.

(b) For the training required by paragraphs 91.1703 (d) or (e), the operator shall include the requirements of the civil aviation authority of the place where the approval is requested.

(c) The aircraft that will perform the steep approach operations above 4.5 degrees must be certified for such operations, and shall include in its approved flight manual the relevant procedures.

91.1717 Operations with head up displays (HUD) and/or enhanced vision system (EVS)

(a) To obtain credits using HUD and/or EVS, an air operator shall comply with the provisions of this section and section 91.1703 of this Regulation. Such approvals do not affect the classification of instrument approach procedures. Operating credits include:

 use of meteorological minimum below the aerodrome meteorological minimum;

(2) reduction or satisfaction of visibility requirements; and/or

(3) reduction of ground facilities, compensated by the on-board equipment.

(b) For the purposes of this section, the following definitions shall apply:

(1) head-up display (HUD) means a system that provides flight information in the pilot's external field of view; and

(2) enhanced vision system (EVS) means a system that electronically provides real-time images of the external scene through the use of image sensors.

Note: EVS does not include night vision imaging system (NVIS).

91.1719 Approach using credits through an EVS

(a) To perform any approach for landing using credits through an EVS, an air operator shall comply with the provisions of this section and section 91.1703 of this Regulation.

(b) For the purposes of this section, EVS means a navigation system installed that consists of the following features and capabilities:

(1) an electronic means to provide a view of the external topographic front scene (applicable natural or artificial resources of a place or region especially in a way to show their relative positions and elevations) through the use of image sensors, including, but not limited to, infrared vision, millimeter wave radiometry, millimeter wave radar or low light level image intensifier;

(2) EVS sensor images, aircraft flight data and flight symbols are displayed on a HUD, or an equivalent display, so that they are clearly visible to the pilot flying in his/her normal position and line of sight, looking forward along his/her flight path. Aircraft flight information and flight symbology must consist of at least the speed, vertical speed, aircraft attitude, heading, altitude, height above ground level such as that provided by a radio altimeter or another device capable of providing equivalent performance, command guidance as appropriate for the approach to be flown, trajectory deviation indications, flight path vector and flight path angular reference) are presented. Additionally, for aircraft, except helicopters, the EVS must show the prompt or the flare;

(3) images displayed on the EVS, attitude symbology, flight path vector, angular reference of the flight path, and other references, which are referenced to these images and scenes of the external topography must be displayed so that they are aligned and scaled with the external view;

(4) the flight path angle reference should be displayed with the pitch scale selected by the pilot to the desired descent angle for the approach, and suitable for monitoring the vertical flight trajectory of the aircraft;

(5) the displayed images, flight data from the aircraft and flight symbology should not adversely obscure the pilot's vision or outside the field of view through the cab window; and

(6) the display characteristics, dynamics and references are suitable for the aircraft manual control to touch the desired runway in the touch-down zone and during the landing run.

[APPENDICES TO RBAC NO. 91 HAVE BEEN DELETED FROM THIS VERSION]

NATIONAL CIVIL AVIATION AGENCY – RESOLUTION No. 178 OF DECEMBER 21, 2010

Establishes the procedures for communicating landings or overflight operations and requests from foreign civil aircraft carrying out unpaid air transport and from foreign air taxi companies to remain within Brazilian territory. (Wording given by Resolution No. 632 of 08.26.2021)

THE BOARD OF DIRECTORS OF THE NA-TIONAL CIVIL AVIATION AGENCY – ANAC, based on its competence granted by article 11, item V, of Law No. 11,182, of September 27, 2005, and considering what is established by the Title II of Law No. 7,565, of December 19, 1986 and by the Decree No. 97,464, of January 20, 1989 and by the opinions composing Process No. 60800.005240/2010-97 and also considering decisions taken during the Deliberative Meeting of December 21, 2010,

RESOLVES:

Article 1

Establishes, based on Title II of Law No. 7,565, of December 19, 1986, which provides for the Brazilian Aeronautical Code, the procedures for communicating landings or overflight operations and requests to remain within Brazilian territory made by foreign civil aircraft registered in any Member State of the International Civil Aviation Organization – ICAO, which is performing unpaid air transport, or by foreign air taxi companies. (Wording given by Resolution No. 632 of 08.26.2021).

Sole paragraph. This Resolution does not apply when the aircraft mentioned herein:

I – belongs to a foreign airline company with accredited representative in Brazil and which operates air transportation services of passengers, cargo or mail in the country;

II – is equipped with sensors and/ or aero survey or scientific research equipment; or

III – is transporting explosives and/or war material.

SECTION I

GENERAL PROVISIONS

<u>Article 2</u>

In order to overfly and/or land in the Brazilian territory, all foreign civil aircraft must have insurance against damages to third parties on ground.

<u>Article 3</u>

The Aerodrome Operator is responsible to notice federal inspection authorities about foreign aircraft arrival at least 2 (two) hours prior to the estimated time for landing.

SECTION II

INFORMING ENTRY ON BRAZILIAN AIRSPACE AND OVERFLYING, LANDING OR NOT IN THE BRAZILIAN TERRITORY

Article 4

Before presenting the flight plan, every operator or pilot in command of a foreign aircraft mentioned in article 1 of this Resolution must inform ANAC about the location of landing or overflying as well as the estimated day and time for the flight, the route and specific entry point in the Brazilian territory, aircraft nationality and type, the purpose of the flight and, if appropriate, the international airport of stopover for entry in Brazil.

§1 The communication required in the caput of this article shall be made by registering information on ANAC>s website. [See ANAC>s website] (Wording given by Resolution No. 632 of 08.26.2021)

§ 2 Recording the information according to what is established in this article implies the generation of foreign aircraft registry.

 \S 3 Aircraft authorized according to what is established in article 7 of this Resolution are exempted from the prior notice mentioned in the caput of this article.

<u>Article 5</u>

In case of hindrance to the registry according to article 4 of this Resolution, the information contained in the flight plan may be accepted, submitted in accordance with the rules of the Department of Airspace Control (DECEA) as advance notice of arrival of the aircraft in Brazilian territory.

Article 6

The Aerodrome Operator is responsible for verifying if the aircraft is registered in ANAC's website, prior to the collection airport charges, and before the aircraft takeoff and departure from Brazilian territory.

Sole paragraph. If it is proved that the foreign aircraft is not registered, the Aerodrome Operator must request appropriate registering according to article 4, first paragraph of this Resolution.

SECTION III

PERMIT TO STAY IN THE BRAZILIAN TERRITORY

Article 7

Every operator or pilot in command of a foreign aircraft that intends to fly to another airport in the Brazilian territory after first landing in an international airport located in the Brazilian territory, must receive a permit to stay before ANAC.

§ 1 Application to obtain a permit to stay in the Brazilian territory with the intention of receiving the Flight Permission issued by ANAC (AVANAC) must be requested at least 24 (twenty four) hours before the estimated time for landing, by means of an electronic application form available at the ANAC's website, and the following documents must be electronically attached to the above-mentioned form:

 I – aircraft registration and airworthiness certificates;

II – licenses and certificates of technical qualification and physical capacity of the crew; and

III – insurance policy against damages to third parties on ground.

§ 2 Provisions in the caput of this article also applies to aircraft manufactured in the country to be transferred abroad, by the manufacturer, from the Brazilian territory to the foreign buyer.

Article 8

In case of emergency or in exceptional cases, applications may be accepted in a period shorter than the established in art. 7, first paragraph of this Resolution. Nonetheless, permit to stay in the Brazilian territory is conditional upon obtaining the AVANAC.

Article 9

The AVANAC will not be issued if the aircraft leaves the country after its first landing in Brazil, regardless of the period that the aircraft stays parked at the international airport of entry.

Article 10

Apart from obtaining the AVANAC, foreign aircraft staying within Brazilian territory are subject to the fulfillment of customs requirements provided for in specific legislation. (Wording given by Resolution No. 632 of 08.26.2021)

Article 11

The AVANAC expires when:

 I – the aircraft leaves the Brazilian territory after last departing from an international airport in the country;

II – any of the documents listed in article 7, first paragraph of this Resolution expires or is suspended or canceled;

III – there is a change of technical crew without previously notifying ANAC for due authorization;

IV – the station of the Secretariat of Brazilian Federal Revenue (RFB) located at the international airport of arrival does not issue the temporary admission document provided for in the customs legislation in force; [See Temporary Admission Concession Agreement (TECAT) with the Federal Revenue] (Wording given by Resolution No. 632, of 26.08.2021) or

V – the aircraft does not land at an international airport in 2 (two) business days after the estimated time for its arrival.

Article 12

The AVANAC will have an initial term of sixty (60) days and may be extended for equal periods of forty-five (45) days, provided it is requested at least fifteen (15) days in advance. (Wording given by Resolution 632, of 08.26.2021)

§1 The extension of the AVANAC depends on the proof of extension of the document provided for in item IV of art. 11 of this Resolution, and their validity periods shall be identical. (Wording given by Resolution 632, of 08.26.2021).

§2 If extension is not authorized, the aircraft must leave the country using an international airport until AVANAC's expiration date.

Article 13

AVANAC number identifies the pilot in command as well as the aircraft, and its registration on flight plans is mandatory during the operation of the aircraft in Brazilian territory and also when the aircraft last leaves the country through the last international airport.

Article 14

Confirmation of AVANAC's authenticity and consultation of foreign aircraft registration marks duly registered are available at ANAC's website.

Sole paragraph. (Revoked by Resolution No. 632, of 26.08.2021)

SECTION IV

FINAL DISPOSITIONS

Article 15

Any foreign aircraft may be subject to seizure, interdiction or compelled to leave the country if it commits one or more of the violations listed in articles 299 and 302 of Law No. 7,565, of December 19, 1986, or even any of the following irregularities:

 I – breach of laws, regulations or instructions governing the use of foreign aircraft;

II – execution of remunerated transportation, contrary to the provisions of art. 1, caput, of this Resolution; (Wording by Resolution 632, of 08.26.2021)

III – failure to pay airport fees, taxes and/ or fees levied on the aircraft; and

IV – failure to pay a fine imposed on the owner or operator and / or its pilot in command, for breaches of laws or regulations.

Article 16

(Revoked by Resolution No. 632, of 26.08.2021)

Article 17

This Resolution shall entry into force on January 10, 2011 and shall also be published in the English language.

Article 18

This Resolution revokes Ordinance No. 621/DGAC, of December 3, 1993, published in the Federal Official Gazette on January 19, 1994, Section 1, page 917, which approved the Civil Aviation Instruction 2216 (IAC 2216-1293).

SOLANGE PAIVA VIEIRA

Director-President

DRONES

BRAZILIAN CIVIL AVIATION SPECIAL REGULATION – RBAC-E No. 94

AMENDMENT No. 01

General requirements for unmanned aircraft of civilian use.

PREAMBLE

This Brazilian Civil Aviation Special Regulation - RBAC-E addresses the general competence requirements of ANAC for unmanned aircraft. By its nature, an RBAC-E is intended to exclusively regulate technical matter that may affect the safety of civil aviation, with a limited duration in time and restricted to a reasonable number of requirements and persons, until the requirements contained therein are incorporated in an appropriate RBAC or definitively repealed. This Special Regulation establishes the conditions for the operation of remotely piloted aircraft in Brazil considering the current stage of development of this technology. The objective is to promote sustainable and safe development for the sector, and thus some operational restrictions - notably on areas distant from third parties - were deemed necessary at this time. We hope that the experience gained in practice over the next few years will result in greater knowledge and overcoming the challenges for a comprehensive integration of this class of aircraft into the civil aviation system. In addition, the regulations of other entities of the direct and indirect public administration, such as the National Telecommunications Agency (ANATEL), the Department of Airspace Control (DECEA) and the Ministry of Defense, must be followed as well as responsibilities in the civil, administrative and criminal spheres that may affect the use of unmanned aircraft, with special emphasis on those provisions concerning the inviolability of privacy, privacy, honor and the image of persons.

SUBPART A

GENERAL

E94.1 Applicability

(a) This Special Regulation applies to unmanned civil aircraft (hereinafter referred to only as unmanned aircraft) capable of being sustained and/or circulating in the airspace by means of aerodynamic reactions under the following conditions:

(1) if they have a certificate of inscription, a Brazilian registration certificate or certificate of experimental marks, issued by ANAC; or

(2) if they operate over Brazilian territory.

(b) The rules set forth in RBHA 91, or RBAC replacing it, and in RBACs 21, 43, 45, 61 and Resolution 293/2013, do not apply to unmanned aircraft, unless when expressly stated in this Special Regulation.

E94.3 Definitions

(a) For the purposes of these Special Regulations, the following definitions apply:

 model aircraft means any unmanned aircraft for recreation purposes;

(2) Remotely-Piloted Aircraft (RPA) means unmanned aircraft piloted from a remote pilot station for any purpose other than recreational;

(3) area distant from third-parties means an area determined by the operator from a certain horizontal distance from the unmanned aircraft while in operation in which uninvolved and unaccompanied personnel are not subject to unacceptable safety risk. Under no circumstances the distance of the unmanned aircraft may be less than 30 horizontal meters of persons not involved and not consenting to the operation. The 30-meter limit does not need to be observed if there is a mechanical barrier strong enough to isolate and protect uninvolved and non-consenting persons in the event of an accident;

Note: The 30m limit, in this case, is a criterion for the application of ANAC rules. Access to airspace is the responsibility of DECEA, which may establish lower boundaries of greater magnitude.

(4) Remote Pilot Station (RPS) means the RPAS component containing the necessary equipment for piloting the RPA;

(5) RPA observer means a person who, without the aid of equipment or lenses (other than corrective lenses), assists the remote pilot in the safe conduct of the flight, maintaining direct visual contact with the RPA;

(6) Beyond Visual Line of Sight (BV-LOS) operation means operation that does not meet VLOS or EVLOS conditions;

(7) Autonomous operation means the normal operation of an unmanned aircraft during which it is not possible for the remote pilot to intervene in the flight or part thereof;

(8) Visual Line of Sight (VLOS) operation means operation under visual meteorological conditions (VMC), in which the pilot, without aid of RPA observers, maintains direct visual contact (without aid of lenses or other equipment) with the remotely piloted aircraft in order to conduct the flight with the responsibilities of maintaining planned separations with other aircraft and to avoid collisions with aircraft and obstacles;

(9) Extended Visual Line of Sight (EV-LOS) operation means operation in VMC, in which the remote pilot, without the aid of lenses or other equipment, is not able to maintain direct visual contact with the RPA, thus requiring the aid of RPA observers to conduct the flight with the responsibilities of maintaining planned separations with other aircraft, as well as avoiding collisions with aircraft and obstacles, following the same rules of a VLOS operation;

(10) remotely piloted operation means the normal operation of an unmanned aircraft during which it is possible for the remote pilot to intervene at any stage of the flight, allowing the possibility of autonomous flight only in cases of command and control link failure, being obligatory the constant presence of the remote pilot, even in case of said failure of the command and control link;

(11) consenting person means a person whose presence is not indispensable for a successful unmanned aircraft operation to occur but at his/ her own will and at his own risk expressly agrees that an unmanned aircraft operates close to him or their legal guardians without observing the criteria of areas distant from third parties;

Note: Considering the principle of autonomy and that any citizen has the right to assume and manage his own risk when only he or his legal guardians (in the case of minors) will be exposed, ANAC allows the operation of unmanned aircraft near persons without observing the criteria of areas distant from third parties, provided that such persons have expressly given their consent, thus manifesting their will. However, ANAC makes clear to those who freely choose to give this consent that it is not possible to guarantee an acceptable level of safety risk and that the control of exposure to this risk is entirely their responsibility.

(12) person involved means a person whose presence is indispensable for a successful unmanned aircraft operation to occur;

(13) remote pilot is the person handling the flight controls of an unmanned aircraft; and

(14) Remotely-Piloted Aircraft System (RPAS) means the RPA, its RPS (s), the C2 link and any other components as specified in its design.

E94.5 Classification of RPAS and RPA

(a) RPAS and RPA are classified according to the maximum take-off weight (MTOW) of the RPA as follows:

(1) Class 1: RPA with maximum take-off weight greater than 150 kg;

(2) Class 2: RPA with maximum take-off weight greater than 25 kg and less than or equal to 150 kg; and

(3) Class 3: RPA with maximum take-off weight of 25 kg or less.

Note: The unit of measure considered for the label "maximum takeoff weight"

is that of mass (kg), due to the use already established by the aeronautical community, which labels "weight" what technically refers to "mass".

E94.7 Responsibility and authority of the remote pilot in command

The remote pilot in command of an unmanned aircraft is directly responsible for the safe conduct of the aircraft, due to its consequences, and has final authority over its operation.

E94.9 Requirements for remote pilot and observer

(a) All remote pilots and RPA observers must be at least 18 years of age.

(b) All Class 1 or 2 RPA remote pilots must hold a valid 1st, 2nd, or 5th Class Aeronautical Medical Certificate (CMA) in accordance with paragraph 67.13 (g) of the RBAC # 67 or a valid 3rd Class CMA issued by the Brazilian Air Force Command according to ICA 63-15.

(c) All remote pilots engaged in operations above 400 feet above ground level or operating in Class 1 or 2 RPAS operations must have a license and rating issued or validated by ANAC. ANAC will determine, for each type of operation, the acceptable criteria for issuing the appropriate license and rating.

E94.11 Civil airworthiness

(a) It is only permitted to operate an unmanned aircraft that is in an airworthy condition.

(b) The remote pilot in command of an unmanned aircraft is responsible for verifying its flight safety conditions. He must discontinue flight as soon as possible when mechanical, electrical, or structural problems occur that compromise the safety of the operation.

E94.13 [Reserved]

E94.15 Use of psychoactive substances

The remote pilot in command and observers (if applicable) of an unmanned aircraft must comply with the applicable requirements of Section 91.17 of RBHA 91, or corresponding provisions replacing them.

E94.17 Non-compliance with established rules

(a) Failure to comply with the requirements set forth in these Special Regulations must be determined and violators must be subject to the penalties provided for in Law No. 7,565/86 (CBA).

(b) By means of a precautionary measure, ANAC may temporarily suspend operations when there is suspicion or evidence of noncompliance with the requirements of these Special Regulations that significantly affect the level of risk of the operation.

E94.19 Possession of documents

It is only allowed to operate a RPA with a maximum take-off weight above 250 grams if, throughout the operation, the following documents are available in the RPS:

- (a) the Certificate of Inscription, the Certificate of Registration or the Certificate of Experimental Marks, as applicable, all valid;
- (b) the valid certificate of airworthiness, if applicable;
- (c) the flight manual;

(d) the insurance policy or the certificate of insurance with proof of payment, within the validity, if applicable;

(e) document containing the risk assessment referred to in paragraphs E94.103 (f) (2) and E94.103 (g) (2) of this Special Regulations; and

(f) remote pilot license, rating and extract of the CMA, valid and as applicable under this Special Regulations.

Note: The documents listed above only cover those that are required by ANAC. Other documents may be required by DECEA, ANATEL, or other competent bodies.

SUBPART B

FLIGHT RULES

E94.101 Applicability

This subpart establishes requirements for unmanned aircraft operations.

E94.103 General rules for the operation of unmanned aircraft

 (a) It is prohibit the transport on unmanned aircraft of persons, animals, dangerous goods referred to in RBAC No.
 175 or cargo prohibited by competent authority.

(1) This prohibition must not apply to dangerous articles carried by an unmanned aircraft, where such articles:

(i) are intended for launches related to agriculture, horticulture, forestry, avalanche control, ice block and landslide control or pollution control;

(ii) are electronic equipment containing lithium batteries necessary for its operation, provided they are intended for use in flight, such as cameras, camcorders, computers, etc. This item does not exempt compliance with the certification requirements required by other ANAC regulations;

(iii) are transported by unmanned aircraft belonging to entities controlled by the State, under the full responsibility of said entities, provided they comply with the applicable provisions of RBAC 175; or

(iv) are required on board the unmanned aircraft in accordance with the relevant airworthiness and/or operations requirements.

(b) It is forbidden to operate an unmanned aircraft, even if it is not for the purpose of flying, carelessly or negligently, endangering the lives or property of others.

(c) The autonomous operation of unmanned aircraft is prohibited.

(d) All operations of unmanned aircraft of non-recreational use above 250 grams maximum takeoff weight must be insured against damage to third parties except for operation of aircraft belonging to entities controlled by the State.

(e) The operation of model aircraft with a maximum take-off weight of more than 250 grams is only permitted by ANAC in areas distant from third parties, under the full responsibility of its operator and as allowed by DECEA's use of airspace.

(f) The RPA operation of maximum take-off weight above 250 grams is only allowed by ANAC in areas distant from third parties and as allowed by DECEA's use of airspace, under the full responsibility of its operator, under the following conditions:

(1) if the other requirements of these Special Regulations are met; and

(2) if there is an operational risk assessment in an acceptable format, contemplating each operational scenario, which must be updated within the last 12 calendar months prior to the operation.

(g) The operation of RPA with a maximum take-off weight above 250 grams of a public institution engaged in security, police, tax and customs inspection, to fight vectors of disease transmission, civil defense and/or firefighting or an operator in the service of one of these, is only allowed by ANAC, and as allowed by the use of air space by DECEA, under full responsibility of the agency or operator, in any areas, under the following conditions:

(1) if the other requirements of these Special Regulations are met; and

(2) if there is an operational risk assessment, contemplating each type of operation, under the terms of Specific Supplementary Instruction, which must be updated within the last 12 calendar months prior to the operation.

(h) Other state controlled entities not mentioned in paragraph (g) of this section may only operate under the conditions of said paragraph (g) with express authorization from ANAC, being required to demonstrate:

(1) the public interest of the operation; and

(2) that there would be a greater risk to life if the operation was performed by alternative means.

(i) Operation of unmanned aircraft up to 250 grams maximum take-off weight is permitted by ANAC, under the full responsibility of its operator, and as permitted by DECEA's use of airspace, if the other requirements of these Special Regulations are met.

Note: Users should always be aware that it is not enough to comply with ANAC rules in order to operate, but it is also necessary to comply with the rules of DECEA, ANATEL and, if applicable, other competent authorities, which may create restrictions or operational prohibitions beyond ANAC rules.

 (j) Operations of unmanned aircraft outside the criteria set forth in paragraphs (e), (f),
 (g), (h) and (i) of this section are prohibited.

(k) The operator must keep records of all flights carried out in Classes 1 and 2 RPA in an acceptable format by ANAC.

E94.105 Pre-flight assignments

Before commencing a flight, the remote pilot in command of an unmanned aircraft must be aware of all the information necessary for the flight planning.

E94.107 Remote pilot work station

(a) The presence of a remote pilot necessary for operation in the RPS is required during all phases of the flight and the replacement of the remote pilot in command during operation is permitted. (b) A remote pilot can only operate a single RPAS at a time, except when otherwise authorized by ANAC (wording given by Resolution No. 622, of 01.06.2021).

E94.109 Autonomy requirements

(A) It is only permitted to commence an unmanned aircraft operation if, considering wind and other known meteorological conditions, there is sufficient autonomy to perform the flight and to land safely at the intended location.

(B) Class 1 RPA must comply with the provisions of sections 91.151 and 91.167 of RBHA 91, or corresponding provisions replacing them.

E94.111 Unmanned aircraft landing and take-off areas

(a) The operation of unmanned aircraft at aerodromes must be authorized by the respective airport operator, and ANAC may establish restrictions or specific conditions for such operation.

(b) RPA landings and take-offs may be performed under the full responsibility of the remote pilot in command and/or the operator, as applicable, provided that:

(1) the landing or take-off is made in areas distant from third parties, with the exception of operators referred to in paragraphs E94.103 (g), (h) or (i), who may land and take off under their full responsibility; and

(2) there is no prohibition of operation at the place chosen.

(c) In the event of any special situation, not foreseen by this Special Regulation, which causes disruption to public order, ANAC may prohibit operations in a particular area, even if this area meets the other criteria in paragraph (b) of this Section.

(d) If the RPAS is provided with one or more areas for emergency landing (crash site), these areas must meet the requirements of this Section.

E94.113 Operational limitations for RPA with CAVE

(a) It is only allowed to operate a civil RPA with CAVE, and as allowed by the use of airspace by DECEA:

- (1) for the purposes for which the certificate was issued;
- (2) non-profit making; and
- (3) on areas distant from third parties.

(b) ANAC may establish any additional limitations it deems necessary to ensure safety.

E94.115 International operations

An unmanned aircraft may only cross national borders to access Brazilian territory while in flight after issuance of express authorization from ANAC, subject to specific regulations on airspace control and other relevant bodies.

SUBPART C

[RESERVED]

SUBPART D

REGISTRATION AND MARKS

E94.301 Registration and inscription

(a) All RPAs that are of an authorized design or of a certified type must be registered in compliance with the provisions of Resolution No. 293 of November 9, 2013, which provides for the Brazilian Aeronautical Registry. These aircraft are entitled to a Certificate of Experimental Mark or a Certificate of Registration, as applicable.

(b) Except as provided in paragraph (d) of this section, every model aircraft, or Class 3 RPA which operates only in VLOS up to 400 ft AGL, and which is not of an authorized design or a certified type, must be inscripted with ANAC and linked to a person (physical or legal, with CPF or CNPJ in Brazil), who will be legally responsible for the aircraft.

(c) Except as provided in (d), any model aircraft, or Class 3 RPA which operates only in VLOS up to 400 ft. AGL, and which is not of an authorized design or a certified type, must be identified with its number of inscription.

(1) The identification must be kept in a readable condition for a near visual inspection and be located:

(i) on the outside of the aircraft fuselage; or

(ii) in an internal compartment of the aircraft that can be easily accessed without the use of any tool.

(d) Unmanned aircraft of maximum take-off weight of up to 250 grams do not need to be registered or inscripted with ANAC or identified.

(e) The inscription made under this section will be valid for 24 months. The inscription not revalidated until 6 months after expiration will be inactivated and can no longer be revalidated.

E94.303 Identification, nationality and registration marks

(a) A registered RPAS can only be operated if:

(1) the RPA complies with the provisions of paragraphs 45.11(a)(1) and (a) (2); 45.12-I(b), (d) and (e); 45.13; 45.14; 45.15 (if applicable); 45.16 (if applicable); 45.21; 45.22; 45.23-I; 45.25; 45.27(a)-I and (b)-I; 45.29-I (where practicable); 45.30-I; 45.31; and 45.33 of the RBAC 45, as applicable;

(2) the RPA identification plate required by paragraph 45.11(a) of RBAC 45 is attached:

(i) on the outer side of the fuselage of the RPA, legibly; or

(ii) n an RPA internal compartment that can be easily inspected; and

(3) the RPS has a fireproof nameplate which:

(i) includes the information specified in paragraph (a) of section 45.13 of the RBAC 45, using an approved fireproof marking method; and

(ii) is placed so as to be unlikely to be damaged or removed during normal service, or lost or destroyed in the event of an accident;

(b) Except as provided in paragraph (d) (1) of this section, no one may remove, change or place the information required by paragraph 45.13 (a) of the RBAC 45 in any RPA or RPS without ANAC's approval.

(c) Except as provided in paragraph (d) (2) of this section, no person may remove or install an identification plate required by section 45.11 of RBAC 45 or paragraph (a) (3) of this section without ANAC's approval.

(d) Persons performing maintenance work, provided that according to methods, techniques and practices acceptable to the ANAC, may:

(1) remove, replace, or affix the identification data required by paragraph 45.13 (a) of RBAC 45 in any RPA or RPS; or

(2) remove an identification plate required by section 45.11 of RBAC 45 or paragraph (a)(3) of this section, if necessary for maintenance operations. (e) No person may install a plate removed pursuant to paragraph (d)(2) of this section on any RPA or RPS other than the one from which the plate was removed.

(f) Certified engines and propellers must comply with the applicable provisions of RBAC 45.

(g) If it is impossible to place the required information in accordance with that prescribed for the configuration or dimensions of an aircraft, the information must be placed as large as possible and on the largest of the authorized surfaces.

SUBPART E

RPAS DESIGN AUTHORIZATION

E94.401 RPAS design authorization

(a) It is only allowed to operate a civil RPAS in Brazil if the design of the RPAS is authorized by the ANAC taking into account the RPAS class and the type of operation (VLOS or BVLOS), except in the following cases:

(1) Class 3 RPAS intended exclusively for VLOS operations up to 400 ft AGL;

(2) the RPA holds a type certificate; or

(3) the RPA is used in accordance with section E94.503 of this regulation.

(b) An applicant for a RPAS design authorization must:

(1) demonstrate, in an manner acceptable to ANAC, that the RPAS meets the applicable requirements of this Subpart in force on the date the application was filed, unless:

(i) is otherwise determined by ANAC; or

(ii) compliance with amendments that will be in force at a future date is chosen by the applicant or required by ANAC;

(2) demonstrate, in a manner acceptable to ANAC, that the RPAS meets any additional requirements established by ANAC in order to ensure an acceptable level of risk; and

(3) provide a statement that the applicant has complied with the applicable requirements.

(c) Notwithstanding the provisions of this Subpart, any interested party may request a type certificate for a remotely piloted aircraft project of any class based on RBAC 21. E94.403 Determination of the applicable requirements for the RPAS design authorization

(a) Class 2 RPAS intended exclusively for VLOS operations must demonstrate compliance with the requirements of sections E94.405 and E94.409 of this Special Regulation.

(b) Class 2 RPAS intended for BVLOS operations must demonstrate compliance with the requirements of sections E94.405, E94.407 and E94.409 of this Special Regulation.

(c) Class 3 RPAS intended for BVLOS operations must demonstrate compliance with the requirements of sections E94.405 and E94.407 of this Special Regulation.

(d) Class 3 RPAS intended for VLOS operations above 400 ft AGL must demonstrate compliance with the requirements of section E94.405 and paragraphs (a), (c) and (d) of section E94.407 of this Regulation Special.

E94.405 RPAS design – General

(a) The applicant must submit in a manner acceptable to ANAC the following documents:

(1) RPAS flight manual which establishes the conditions, limitations, and procedures for the safe operation of the RPAS;

(2) RPAS maintenance manual containing information necessary for the continued

airworthiness of RPAS; and

(3) safety analysis report demonstrating that RPAS is safe when operated in the manner specified in the flight manual.

(b) The applicant must demonstrate that the operation of the command and control link is adequate to the maximum intended distance for the operation of the RPA.

(c) Flight and/or ground demonstrations may be required by ANAC.

E94.407 RPAS design for BVLOS operations

All RPAS that are intended for BVLOS operations must:

(a) present relevant information and alerts on the condition of the aircraft to the remote pilot;

(b) have a navigation system with sufficient performance and reliability to ensure operation safety;

(c) have emergency recovery capability; and

(d) have an adequate aircraft lighting system.

E94.409 Class RPAS design

Class 2 RPAS must meet the following additional requirements:

(a) considering its operational flight envelope, the RPA must:

(1) be safe in control and maneuver during all phases of flight; and

(2) have adequate performance, taking into account the maximum operating weight, all loading conditions and operating altitudes;

(b) the power generation, storage and distribution systems for any RPAS system must be capable of:

(1) providing the energy required for proper operation of connected loads during all the foreseen operating conditions; and

(2) feed the essential loads required for safe flight and landing even in the event of any simple failure or malfunction;

(c) each RPA power system feed system must be designed, arranged and constructed to:

(1) ensure proper operation of the propulsion system under all operating conditions and intended maneuvers; and

(2) provide the minimum amount of fuel/energy required to ensure the powertrain operation at its maximum power/thrust, in addition to the operation of all systems using that power source;

(d) the fuel/energy storage system that feed the RPA propulsion system must:

(1) withstand the expected loads in all phases of operation; and

(2) be constructed, arranged and installed in such a way as to minimize dangerous conditions to the aircraft;

(e) the RPA propulsion system must be constructed, arranged and installed to ensure a safe landing. Proper operation of the propulsion system must be ensured when it is necessary for the proper functioning of the emergency recovery system;

(f) the primary structures of the aircraft must withstand the loads expected at all stages of operation;

(g) the primary structures of the aircraft must be designed and manufactured by means of acceptable design and production;

(h) the design of command and control systems must minimize the possibility of jamming and inadvertent operation, including prevention of incorrect assembly and unintentional engagement of control surface locking devices;

(i) the design of each command and control system must allow it to be able to operate with ease and precision appropriate to its functions;

(j) there must be means for presenting to the remote pilot the fight and systems operating parameters necessary to operate the RPA safely;

(k) information on the systems operating unsafe conditions must be provided in a timely manner to the remote pilot to enable him to take appropriate corrective action. The presentation of this information must minimize possible remote pilot errors that may create additional hazards;

(I) all systems must be designed to minimize operating errors that may contribute to the creation of hazards;

(m) each component of an system essential to the safety of the flight must:

(1) be of a type and design suitable for its intended function; and

(2) be installed according to limitations specified for that component

 (n) the systems required for the safe operation of a RPAS must work properly;

(o) the RPAS must be able to operate safely in all environmental and operating conditions possible and foreseen in its operating profile; and

(p) each RPAS system, considered separately, or in relation to other systems must be designed and installed so that the operation or failure of this does not result in unacceptable risks to flight safety.

E94.411 Class 1 RPAS design

RPAS Class 1 must be of a type certificated in acoordance with RBAC 21. The type certificate will be issued to the RPA, but must encompass the entire RPAS, including interdependencies between its components.

E94.413 Design modifications

(a) Any modification in RPAS of a certificated type must be made as set forth in RBAC 21.

(b) Any modification to a Class 2 or 3 RPAS whose design was authorized in accordance with this Subpart can only be performed after the holder of the authorization ensures that the modified design meets all applicable requirements.

SUBPART F

RPA AIWORTHINESS CERTIFICATES

E94.501 General provisions

(a) Except as provided in (c), no unmanned aircraft can fly without possessing a valid airworthiness certificate.

(b) The following types of airworthiness certificate may be issued for a RPA:

(1) Experimental Flight Authorization Certificate (Certificado de Autorização de Voo Experimental - CAVE);

(2) Special Flight Permit (Autorização Especial de Voo - AEV);

(3) Special airworthiness certificate for RPA (Certificado de Aeronavegabilidade Especial para RPA – CAER);

(4) Certificate of Airworthiness restricted category; e

(5) standard Certificate of Airworthiness.

(c) Class 3 RPAs which are only intended to VLOS operations up to 400 feet AGL and model aircraft are not required to have any airworthiness certificate.

E94.503 Issuance of CAVE and AEV for RPA

(a) A CAVE may be issued for a RPA for the following purposes, subject to compliance with Section 21.193 of RBAC 21:

(1) research and development. Testing new aircraft design concepts, new aircraft equipment, new aircraft installations, new aircraft operating techniques, or new uses for aircraft; (2) showing compliance with regulations. Conducting flight tests and other operations to show compliance with the airworthiness regulations including flights to show compliance for issuance of RPAS design authorization, flights to substantiate major design changes, and flights to show compliance with the function and reliability requirements of the regulations;

(3) remote pilot training. Training of the applicant's remote pilots; and

(4) market survey. Use of the aircraft for the purpose of conducting market survey, sales demonstrations and training of remote pilots of the aircraft buyer.

(b) The applicant for a CAVE for the purposes of remote pilot training and/or market survey is entitled to the certificate if, in addition to meeting the requirements of section 21.193 of RBAC 21:

(1) he has established a program of inspections and maintenance to ensure the continued airworthiness of the aircraft; and

(2) he demonstrates that the RPA flew at least fifty (50) hours.

(c) An AEV may be issued to a RPA for the following purposes, subject to compliance with Section 21.199 of RBAC 21:

(1) flying the aircraft to a base where repairs, modifications or maintenance services are carried out, or a base where the aircraft will be stored;

(2) delivering or exporting the aircraft to its buyer;

(3) production flight testing new production aircraft, including flight training of remote pilots from the manufacturers;

(4) evacuating aircraft from areas of impending danger;

(5) conducting customer demonstration flights, including flight training of remote pilots from the customer, in new production aircraft that have satisfactorily completed production flight tests.

E94.505 Issuance of special certificate of airworthiness for Class 2 or 3 RPA

(a) The applicant for a special airworthiness certificate for an class 2 or 3 RPA which is intended to non-experimental operations is entitled to this certificate by providing proof of the RPA registration and filing of a declaration issued by its manufacturer that it conforms to the design authorized by ANAC.

(b) ANAC may inspect the RPAS to verify that it conforms to the authorized design and is in safe operating conditions.

E94.507 Issuance of Certificate of Airworthiness for Class 1 RPA

A Class 1 RPA of a type certificated according to RBAC 21 is entitled to the corresponding airworthiness certificate defined in that regulation subject to compliance with Section 21.183 or 21.185 of the RBAC 21, as applicable.

E94.509 Validity

(a) Except if returned by the holder, suspended or revoked, an airworthiness certificate is only valid as follows:

(1) a standard Certificate of Airworthiness or a special certificate of airworthiness, restricted category is valid for the period of time specified by ANAC, provided that the aircraft is maintained as required in other subparts of this Regulation, as applicable, and as long as its registration certificate is valid;

(2) a special flight permit is valid for a period of time specified therein;

(3) a CAER is valid indefinitely and as long:

(i) the aircraft is in compliance with its authorized design, except for those modifications made in accordance with the provisions of paragraph E94.413(b);

(ii) the aircraft does not present an unsafe condition; and

(iii) the aircraft is registered in Brazil.

(4) a CAVE for the purposes of research and development, showing compliance with regulations, remote pilot training or market survey is valid for one (1) year after the date of issue or renewal, unless a shorter period is established by ANAC.

(b) The owner, operator or custodian of an aircraft airworthiness certificate must make it available to ANAC, when required, for inspections.

(c) The owner, operator or custodian of an aircraft whose airworthiness certificate has lost its validity for whatever reason, must return the certificate to ANAC, if so required.

SUBPART G

RPAS CONTINUING AIRWORTHINESS

E94.601 General provisions

(a) The operator or, in the lack of such, the owner, is responsible for the conservation of the RPAS in airworthy condition.

(b) Except for Class 2 or 3 RPAS, it is only allowed to operate a RPAS under this Special Regulation if it was performed an Annual Maintenance Inspection (Inspeção Annual de Manutenção – IAM) in this RPAS in the last 12 months. The owner or operator must submit to ANAC a Statement of Annual Maintenance Inspection (Declaração de Inspeção Annual de Manutenção –DIAM) for said RPAS attesting its airworthy condition.

E94.603 Continuing airworthiness for Class 1 RPAS

(a) It is only permitted to perform maintenance, preventive maintenance, repairs or alterations in Class 1 RPAS if executed as established in the applicable requirements of this Subpart and other applicable regulations, including RBAC 43.

(b) It is only permitted to operate a Class 1 RPAS having a manufacturer's maintenance manual or instructions for continuing airworthiness containing a section of airworthiness limitations if the period for replacing components, inspection intervals and specific procedures contained in that section are met.

(c) It is only allowed to modify a Class 1 RPAS based on a supplemental type certificate if the person performing such modification is the holder of the certificate or have written permission from the holder.

E94.605 Required maintenance for Class 1 RPAS

Each owner or operator must:

(a) have this RPAS inspected under this Subpart and, between mandatory inspections, must repair discrepancies that were eventually detected as provided in RBAC 43.

(b) ensure that the maintenance staff has made appropriate notes in RPAS maintenance records, indicating that it has been approved for return to service. E94.607 Operation after maintenance, preventive maintenance, rebuilding or modification of Class 1 RPAS

(a) It is only permitted to operate a RPAS that has undergone maintenance, preventive maintenance, rebuilding or alterations if:

(1) it has been approved for return to service by a person authorized and qualified by ANAC and pursuant to Section 43.7 of RBAC 43; and

(2) the notes in the maintenance records required by sections 43.9 and 43.11 of RBAC 43, as applicable, have been made.

E94.609 Inspections of Class 1 RPAS

It is only permitted to operate a Class 1 RPAS if overhaul and inspection intervals and the specific procedures contained in the maintenance program recommended by the manufacturer are met.

E94.611 Test equipment and inspections in altimetry systems and automatic altitude reporting equipment (Mode C) of Class 1 RPAS

(a) It is only permitted to operate Class 1 RPAS if:

(1) within the preceding 24 months, each static pressure system, each altimeter and each automatic altitude reporting system (if required in the operating area) have been tested, inspected and found to comply with the Appendix E of RBAC 43 except for the opening of the drain system or alternate source of static pressure valves, followed by the opening and closing of any static pressure system; and

(2) after installation or maintenance of the automatic altitude reporting system or the transponder, when it is possible that errors in matching the altitude data are entered, the system as a whole has been tested, inspected and found to comply with paragraph (c) of Appendix E of RBAC 43.

(b) The tests required by paragraph (a) of this section must be conducted:

(1) by the manufacturer of the RPAS; or

(2) by a maintenance organization which holds appropriate, class and operative specifications and has: (i) ANAC authorization maintain instruments;

(ii) ANAC authorization to repair the type and model of equipment to be tested;

(iii) ANAC authorization to perform the specific test; or

(iv) ANAC authorization to maintain the specific type of RPAS to be tested; or

(3) by a licensed aircraft mechanic with rating in airframe and/or avionics and qualified in instruments (only for tests and inspections of the static pressure system).

(c) The altimeters and automatic altitude reporting systems approved in accordance with a Technical Standard Order (TSO) are considered tested and inspected in the date of manufacture.

(d) It is prohibited to operate a RPAS above the maximum altitude at which all altimeters and automatic altitude reporting system (if required in the operation area) have been tested with satisfactory results.

E94.613 Tests and inspections in Class 1 RPAS transponder

(a) It is only allowed to use a transponder as specified in paragraph 91.215(a) of RBAC 91, or the corresponding provisions that may replace it, if, within the preceding 24 months, the transponder has been tested, inspected and found to comply with Appendix F of RBAC 43.

(b) After any installation or maintenance of the transponder, when the data matching errors can be introduced into the system, it must be tested, inspected and found to comply with paragraph (c) of Appendix E 43 RBAC

(c) The tests and inspections required by this Section must be conducted:

(1) by a maintenance organization certified by ANAC; or

(2) the manufacturer of the aircraft on which the transponder to be tested is installed, if it has been installed by the manufacturer.

E94.615 Maintenance records of Class 1 RPAS

(a) Except for work performed under the E94.611 and E94.613 sections of this Special Regulation, each owner or operator must keep for the periods set out in paragraph (b) of this section, the following records:

(1) records of maintenance, preventive maintenance and alterations and annual inspection and other required inspections, as appropriate, for each RPAS (including airframe, engine, propeller, ground stations and equipment). Records must contain:

(i) a description (or reference to data acceptable to ANAC) of the work;

(ii) the date of completion of the work; and

(iii) the signature and license number of the person who approved its return to service; and

(2) the following information:

(i) the total flight time of each airframe, engine and propeller;

(ii) the present situation of parts with limited life time of each airframe, engine, propeller and equipment;

(iii) the time since the last overhaul of items installed in RPAS requiring general review based on specific times;

(iv) identification of the RPAS present situation regarding inspections, including the time since the last inspection required by mandatory inspection program whereby the RPAS and its components are maintained;

(v) the current status, where applicable, airworthiness directives and security directives, including, for each, the method to do it, the airworthiness or security directive number and the review date. If the airworthiness or security directive require periodic actions, the time and date when the next action is required; and

(vi) copies of the forms required by paragraph 43.9 (a) of RBAC 43 for each major change or major repair of the airframe, engines, propellers, rotors and appliance currently installed in RPAS.

(b) The owner or operator must keep the following records for the periods below:

(1) the records required under paragraph (a)(1) of this Section must be kept until the work is repeated for the third consecutive time, even if he has been replaced by more detailed work, or for 2 years after completion of work, whichever is longer;

(2) the records required by paragraph(a) (2) of this Section must be keptpermanently and must be transferredwith the RPAS if it or any of its main

components (RPA, RPS, etc.) is sold; and

(3) A defect list provided to an owner or operator pursuant to Section 43.11 of RBAC 43 must be kept until all defects have been repaired and the RPAS approved for return to service.

(c) Each owner or operator must make available all records required by this section to a ANAC inspector, whenever required.

E94.617 Transference of maintenance records of Class 1 RPAS

Any owner or operator who sells a RPAS or any of its main components (RPA, RPS, etc.) must transfer to the buyer at the time of sale, the following corresponding records, in plain language or in coded form, at the purchaser's discretion, provided that the coded information allows the retrieve of the information in a manner acceptable to ANAC:

(a) the records specified in paragraph E94.615(a)(2) of this Special Regulation; and

(b) the records specified in paragraph E94.615(a)(1) of this Special Regulations that are not included in the records required by paragraph (a) of this section, unless the buyer authorizes the seller to keep physical custody of such records . However, the physical custody does not relieve the buyer from liability established by paragraph E94.615(c) of this Special Regulation.

E94.619 Weight and balance of Class 1 RPA

(a) Aircraft whose manufacturer's manuals define time intervals between weighings should be weighed according to these books.

(b) Any aircraft must be weighed:

(1) whenever there are doubts about the accuracy of their weight and balance; and

(2) after being subjected to maintenance, repairs and changes that may have changed its weight, including general painting, major repairs, major changes, etc.

(c) The weight and balance sheet of an aircraft must be recalculated whenever the aircraft is altered by removal, installation or change of position of equipment, accessories etc. (d) The weight of an aircraft must be performed by a company certified for the service.

E94.621 Continuing airworthiness for Class 2 RPAS

(a) It is only permitted to operate a Class 2 RPAS if the specific procedures contained in RPAS maintenance program recommended by the manufacturer are met.

(b) All maintenance actions must be properly recorded.

(c) Maintenance, preventive maintenance, repairs or alterations and approval for return to service must be carried out:

(1) by the manufacturer; or

(2) maintenance organization accredited by the manufacturer; or

(3) by qualified person properly trained by the manufacturer or institution authorized by the manufacturer.

E94.623 Continuing airworthiness for BVLOS Class 3 RPAS

(a) It is only permitted to operate a Class 3 RPAS intended for BVLOS operations if:

(1) the specific procedures contained in the maintenance program recommended by the manufacturer are met.

(2) the person performing maintenance is properly trained and qualified; and

(3) all maintenance actions are properly recorded.

SUBPART H

FINAL DISPOSITIONS

E94.701 Misdemeanors

(a) For the purposes of art. 33 of Decree-Law No. 3,688, of October 3, 1941, an operator is understood to be properly licensed in accordance to the provisions of this Special Regulations if he has:

(1) in the case of model aircraft above 250 grams of maximum takeoff weight, the certificate of inscription issued by ANAC and its identification in the aircraft;

(2) in the case of RPA with a maximum takeoff weight greater than 250 grams and smaller or equal to 25kg, operating in VLOS or EVLOS up to 400 ft AGL:

(i) the certificate of inscription issued by ANAC and its identification in the aircraft;

(ii) insurance with third parties damage coverage except for aircraft belonging to entities controlled by the State;

 (iii) document that contains the risk assessment referred to in paragraphs E94.103(f)(2) and E94.103(g)
 (2) of this special regulations; and

(iv) flight manual;

(3) in the case of RPA with a maximum takeoff weight greater than 250 grams and smaller or equal to 25kg, operating in BVLOS up to 400 ft AGL:

 (i) insurance with third parties damage coverage except for aircraft belonging to entities controlled by the State;

(ii) certificate of registration or the certificate of experimental marks;

(iii) valid airworthiness certificate;

(iv) document that contains the risk assessment referred to in paragraphs E94.103(f)(2) and E94.103(g) (2) of this special regulations; and

(v) flight manual;

(4) in the case of other RPA with a maximum takeoff weight greater than 250 grams and smaller or equal to 25kg:

 (i) insurance with third parties damage coverage except for aircraft belonging to entities controlled by the State;

(ii) remote pilot license and rating issued by ANAC;

(iii) certificate of registration or the certificate of experimental marks;

(iv) valid airworthiness certificate;

(v) document that contains the risk assessment referred to in paragraphs E94.103(f)(2) and

E94.103(g)(2) of this special regulations; and

(vi) flight manual;

(5) in the case of RPA with a maximum takeoff weight greater than 25 kg:

 (i) insurance with third parties damage coverage except for aircraft belonging to entities controlled by the State; (ii) remote pilot license and rating issued by ANAC;

(iii) First, Second or Fifth Class Aviation Medical Certificate issued under RBAC No. 67, or a Third Class Aviation Medical Certificate issued by the Brazilian Air Force Command under ICA 63-15;

(iv) certificate of registration or the certificate of experimental marks;

(v) valid airworthiness certificate;

(vi) document that contains the risk assessment referred to in paragraphs E94.103(f)(2) and E94.103(g)(2) of this special regulations; and

(vii) flight manual;

(b) All operators of model aircraft and RPA with a maximum takeoff weight smaller than 250 grams are considered as properly licensed for the purposes of Art. 33 of Decree-Law No. 3,688, of October 3, 1941, under this Special Regulation, without the need of having any document issued by ANAC.

Note: the above listed documents include only those which are required by ANAC. Other documents may be required by the DECEA, ANATEL, or other competent bodies.

AERONAUTICAL COMMAND INSTRUCTION No. 100-40

UNMANNED AIRCRAFT AND ACCESS TO BRAZILIAN AIRSPACE

DEFENSE MINISTRY

AERONAUTICAL COMMAND

AIRSPACE CONTROL DEPARTMENT

DECEA ORDINANCE No. 112/DGCEA OF MAY 22, 2020.

Approves the reissue of ICA 100-40, Instruction on Unmanned Aircraft and Access to Airspace.

THE DIRECTOR-GENERAL OF THE AIR-SPACE CONTROL DEPARTMENT, in accordance with the provisions of art. 19, item I of the Aeronautical Command Regulatory Structure, approved by Decree No. 6834 of April 30, 2009, and considering the provisions of art. 10, item IV, of the DECEA Regulation, approved by Ordinance No. 1668/GC3 of September 16, 2013, resolves:

<u>Art. 1</u>

To approve the new edition of the ICA 100-40, Unmanned Aircraft and Access to the Brazilian Airspace".

<u>Art. 2</u>

This Ordinance shall become effective on July 1, 2020.

<u>Art. 3</u>

To revoke DECEA Ordinance No. 224/DG-CEA of November 20, 2018, published by the Aeronautical Command Bulletin No. 002 of January 3, 2019.

BRAZILIAN AIR FORCE GENERAL HERALDO LUIZ RODRIGUES

DECEA General Director

PREFACE

Unmanned Aircraft Systems (UAS), are a new global aviation component which operators, the industry and several international organizations are studying and working to understand, define and ultimately promote their full integration into the airspace. In Brazil, the unmanned aircraft are still widely known as drones, a term widely used by the media. Its original name in English UAV (Unmanned Aerial Vehicles) is considered obsolete in the international aeronautical community.

According to the ICAO, the unmanned aircraft (UA), are subdivided in three categories: Remotely Piloted Aircraft (RPA), Model aircraft and Autonomous aircraft. The first two have similar characteristics, they are unmanned and piloted from a remote pilot station. However, RPA, unlike the model aircraft, will not be used for recreational purpose and will have a capacity to integrate and interact with the ATM environment in real time. The unmanned aircraft classified as autonomous aircraft do not allow human intervention once the flight starts.

With the publication of the Brazilian Civil Aviation Special Regulation No. 94, the basic difference between Remotely Piloted Aircraft and Model Aircraft was established, the latter being used for recreational purposes only and not covered by this Instruction.

Based on Article 8 of the Convention on International Civil Aviation and to promote the growth of the sector, Brazil has been authorizing the safe access to its airspace by this new technology with the issue of special permits.

NOTE: For the purposes of Article 8 of the Convention on International Civil Aviation, by special permits are also meant the information on flights made by users or explorers that do not affect the air navigation safety, people, animals and/or third-party properties.

This publication, which replaces ICA 100-40 of November 20, 2018, was prepared with the primary purpose of updating its contents in compliance with ICAO guidelines, and also meet the demands of this new aeronautical segment requirements regarding the safety of airspace users following the premise of being presented as a "living document" through which the best practices follow the evolution of technology and the maturing of the sector, without degrading the safety of operations. The same applies to the system for handling the requests for access to the airspace. The definitions of Altitude, Flight Altitude Limit, Height, Requested Flight Height, No Fly Zone (NFZ), Maximum Take-Off Weight (MTOW), Consenting Person and Involved Person have been incorporated in the document while some definitions and parameters have been revised in order to mitigate doubts raised since the publication of the current version.

1 PRELIMINARY PROVISIONS

1.1 PURPOSE

The purpose of this Instruction is to regulate the procedures and responsibilities necessary for the safe access to the Brazilian Air Space by unmanned aircraft.

1.2 COMPETENCE

It is the responsibility of the Department of Airspace Control (DECEA), the Brazilian Airspace Control System Central Agency (SISCEAB), to legislate about the procedures for access to airspace, leaving to the other regulatory agencies the task of dealing with their respective areas of expertise.

1.3 SCOPE

Compliance with this instruction is mandatory and it applies to all the people involved with the operation of unmanned aircraft (explorers, applicants and teams of the UAS) who use the airspace under the jurisdiction of Brazil, as well as the components of SISCEAB agency.

2 DEFINITIONS AND ABBREVIATIONS

2.1 DEFINITIONS

The terms and expressions used in this Instruction are listed below with their respective definitions.

2.1.1 AERODROME

Defined area of land or water intended, in the whole or in part, for the landing and take-off of aircraft and for movement of aircraft on surface. It includes any buildings, facilities and equipment to support and control air operations, if any. When destined exclusively for helicopters, it is called helipad.

2.1.2 AIRCRAFT

Any device that can sustain itself in the atmosphere through reactions other than air reactions against the Earth surface.

2.1.3 MONITORING AIRCRAFT

Manned aircraft capable of accompanying RPA test flights and transmitting information to the RPAS team.

NOTE: It is the only aircraft that can be authorized to share air space reserved for an RPA.

2.1.4 UNCRAFTED AIRCRAFT (UA)

Any device that can sustain itself in the atmosphere, from air reactions other than air reactions against the earth's surface, which is intended to operate without a pilot on board.

2.1.5 AUTOMATIC UNMANNED AIR-CRAFT

Unmanned aircraft that allows the pilot's intervention at any time to conduct and manage the flight, despite being provided with the flight parameters and profiles provided by computer systems.

2.1.6 AUTONOMOUS UNMANNED AIRCRAFT

Unmanned aircraft that does not allow the pilot's intervention to conduct the flight, having the mission planning being designed this way.

2.1.7 REMOTE PILOT AIRCRAFT (RPA)

Subcategory of unmanned aircraft, piloted from a remote pilot station and used for any purpose other than the recreational one capable of interacting with the Air Traffic Control and other aircraft in real time.

2.1.8 VISUAL REACH

Maximum distance at which an object can be seen without the aid of lenses (except corrective lenses).

2.1.9 ALTITUDE

Vertical distance between a level, point or object considered as a point and the average sea level.

2.1.10 FLIGHT LIMIT ALTITUDE

Flight altitude resulting from the sum of the take-off point altitude stated in the request for access to airspace and the Flight Height Requested. For the purposes of air traffic management analysis, the Flight Limit Altitude is considered as the upper vertical limit of the air space volume requested by the Applicant and may not be extrapolated, regardless of variations in relief, obstacles and possible take-offs from other locations other than the one stated in the flight request because failing to do so could pose a danger to air navigation.

2.1.11 HEIGHT

Vertical distance from a level, point or object considered as a point and a certain given reference.

2.1.12 REQUESTED FLIGHT HEIGH

Height entered by the Applicant in the request for access to airspace. During the operation, the unmanned aircraft can keep such a height as the maximum height above the ground or obstacles being overflown, provided that the Flight Limit Altitude is not exceeded, as per Figure ZZZZZ.

2.1.13 DANGEROUS AREA

Defined dimensions airspace over the Brazilian territory or territorial sea, within which there may exist, in specific moments, dangerous activities for the flight of an aircraft.

2.1.14 PROHIBITED AREA

Defined dimensions airspace over the Brazilian territory or territorial sea, within which the flight of an aircraft is prohibited.

2.1.15 RESTRICTED AREA

Defined dimensions airspace over the Brazilian territory or territorial sea, within which the flight of an aircraft is restricted in accordance with certain defined conditions.

2.1.16 PAYLOAD

All the aircraft elements not required for the flight and piloting, but which are carried for the fulfillment of certain specific objectives.

2.1.17 UAS COMMITTEE

A committee originally made up of professionals of the Air Traffic Management Area for the purpose of advising the authorities on issues related to UAS operation, and to ensure the standardization necessary to actions taken by the Regional Agencies.

2.1.18 INSTRUMENT FLIGHT WEATH-ER CONDITIONS (BMI)

Weather conditions expressed in terms of visibility, distance from clouds

and ceiling, below the minimum specified for visual flight.

2.1.19 VISUAL FLIGHT WEATHER CONDITIONS (VMC)

Weather conditions, expressed in terms of visibility, distance from clouds and ceiling, equal to or higher than the minimums specified.

NOTE: The specified minimums are established in ICA 100-12 "Rules of the Air".

2.1.20 DETECT AND PREVENT

Ability to see, sense or detect conflicting traffic and other risks, making it possible to take appropriate action to avoid them.

2.1.21 UAS TEAM

All members of a team with essential tasks for the operation of an unmanned aircraft system.

2.1.22 PILOTING DATA LINK

Data link between the unmanned aircraft and the remote pilot station to conduct the flight. In addition to make it possible to pilot the aircraft, this data link may include the telemetry data required to provide the remote pilot with the flight status.

NOTE: The piloting data link differs from payload-related links (such as sensors).

2.1.23 AIRSPACE ATS

Defined dimensions airspace, alphabetically designated, within which specific types of flights can be operated and for which the air traffic services and the operation rules are established.

NOTE: ATS airspaces are classified from A to G.

2.1.24 SPECIAL USE AIRSPACE

Defined dimensions airspace, normally having a temporary nature, in which specific rules apply. It can be classified as DANGEROUS, PROHIB-ITED or RESTRICTED.

2.1.25 CONTROLLED AIRSPACE

Airspace of defined dimensions within which ATC services are provided. The level of control varies with the different classes of airspace.

NOTE: Controlled airspace is a generic term that encompasses classes A, B, C, D and E ATS airspaces.

2.1.26 SEGREGATED AIRSPACE

Restricted Area, published in NOTAM or AIP, where the use of airspace is unique to a particular user, not shared with other aircraft, except for tracking type aircraft.

2.1.27 REMOTE PILOT STATION (RPS)

System element providing with the necessary equipment to pilot an unmanned aircraft.

2.1.28 EXPLORER

Individual or legal entity, owner or not, who legitimately uses the aircraft, either directly or indirectly, for profit or non-profit purposes.

NOTE 1: In the context of Remotely Piloted Aircraft, the operation of an aircraft includes the entire Remotely Piloted Aircraft System.

Note 2: In some regulations, the "Exploiter" can also be designated as "operator" and "exploitation" as "operation."

NOTE 3: When contracting outsourced companies, the EXPLOITER becomes co-responsible for the operation and the results arising from it.

Article 268, § 1, Law 7565: "the responsibility of the EXPLOITER prevails when the aircraft is piloted by its agents, even if they have exceeded their duties".

2.1.29 MANUFACTURER

Person or organization that manufactures the UAS, designing it from components and parts. The manufacturer may or may not have produced the components of the UAS.

2.1.30 PILOT DATA LINK FAILURE

A failure of the data link between an unmanned aircraft and the Remote Pilot Station (RPS) that makes it impossible, even momentarily, the aircraft piloting.

NOTE: The pilot data link failure is also known as "ink C2" failure.

2.1.31 NO FLY ZONE (NFZ)

Specific area in which flight is not permitted under normal conditions. The origin of the NFZ can be Normative, that is, established by an issued rule (e.g., an approaching or take-off zone established in this Instruction), or technique, usually developed by the equipment manufacturer. NOTE 1: The use of a NFZ of the normative type may be awarded through an ATM analysis and will be implied in the flight permit issued.

NOTE 2: A technical origin NFZ is usually motivated by a Normative NFZ. Therefore, in order to use it, the operator should make arrangements with the manufacturer by attaching to the request for release of the Technical NFZ the authorization to use the Normative NFZ.

2.1.32 NOTAM - NOTICE TO AIRMEN

Notice containing information concerning the establishment, condition or change in any aeronautical facility, service, procedure or hazard, whose prompt knowledge is essential for the staff in charge of the flight operations.

NOTE 1: A NOTAM is intended to disclose in advance aeronautical information of direct and immediate interest for the safety and regularity of air navigation. The early disclosure will not occur only in cases related to deficiencies in services and facilities that obviously could not be predicted.

NOTE 2: The specific NOTAM information for operations involving unmanned aircraft is standardized using the WU code. This code can be used for a query on operations involving unmanned aircraft in the vicinity of the area in which the operation is to take place.

2.1.33 UNMANNED AIRCRAFT OB-SERVER

Also known as a UAS Observer, this person is an observer appointed by the Applicant, a member of the UAS team who, through the visual observation of an Unmanned Aircraft, will assist the Remote Pilot in the safe operation of the flight, thus requiring a permanent communication with the pilot.

NOTE: The visual observation using the same procedures established for the VLOS operation shall be established without the aid of other equipment or lenses, except for corrective lenses.

2.1.34 AUTOMATED OPERATION

An operation during which the remotely piloted aircraft operates without an effective action by the Remote Pilot, the latter remaining in a position to manage all stages of the flight. It is noteworthy that, under normal conditions, the Remote Pilot should be capable of interfering in the flight of the aircraft, whose piloting is under his/her responsibility or supervision.

1.2.35 OPERATION BEYOND THE RA-DIO LINE OF SIGHT (BRLOS)

This refers to any situation in which the piloting data link is not direct (point to point) between the Remote Pilot Station and the unmanned aircraft. In this context, the electronic link is established indirectly through other equipment (such as antenna signal relay stations, other UA or satellites).

2.1.36 OPERATION BEYOND THE VI-SUAL LINE OF SIGHT (BVLOS)

Operation in which the remote pilot cannot keep the Remotely Piloted Aircraft within its visual range.

1.2.37 OPERATION RADIO LINE OF SIGHT (RLOS)

Situation in which the pilot data link is characterized by the direct connection (point to point) between the Remote Pilot Station and the aircraft.

2.1.38 OPERATION IN VISUAL LINE OF SIGHT (VLOS)

Operation in VMC, in which the pilot keeps the direct visual contact with the aircraft (without the aid of lenses or other equipment, except corrective lenses) so as to conduct the flight with the responsibilities of keeping its separation from other aircraft, and to avoid collisions with obstacles.

2.1.39 OPERATION IN EXTENDED VI-SUAL LINE OF SIGHT (EVLOS)

Situation in a VMC operation in which the Remote Pilot, without the aid of lenses or other equipment is not able to keep the direct visual contact with the unmanned aircraft, thus needing the aid of observers to conduct the flight with the responsibilities of keeping the navigation safety and avoiding collisions with obstacles, following the same rules of a VLOS operation.

2.1.40 SENSOR OPERATOR

Member of the UAS operation team, specifically responsible for operating the (optical, laser, IR,...) sensors inherent in the UAS.

2.1.41 AIR TRAFFIC CONTROL AGENCY

Generic term that applies, as appropriate, to an Area Control Center (ACC), a Military Air Operation Control Agency (OCOAM), an Approach Control (APP) or an Aerodrome Control Tower (TWR).

2.1.42 REGIONAL AUTHORITY

Agencies in charge of General Air Traffic Circulation (CAG) and the Military Operational Circulation (COM), responsible for coordinating airspace management and control actions, and air navigations in their areas of jurisdiction.

NOTE: Regional agencies of DECEA, the CINDACTA I, II, III and IV and the SRPV SP.

2.1.43 MAXIMUM TAKE-OFF WEIGHT (MTOW)

It is the maximum weight that an unmanned aircraft (including its fuel, transported cargo and equipment) may have to be able to take off and conduct a flight safely.

NOTE: The MTOW does not depend on whether the aircraft is equipped with its accessories or not. For example, if an aircraft is able to take off and conduct a safe flight and is equipped with a propeller shield and the use of this accessory leaves the aircraft with a weight of 255 g, the aircraft MTOW is at least 255 g, regardless of its flying with or without that accessory.

2.1.44 CONSENTING PERSON

Person whose presence is not indispensable for a successful unmanned aircraft operation to occur, but who willingly and at his own risk agrees that an unmanned aircraft operates near himself/herself or his/her legal dependents, without observing the safety distance criteria regarding third parties.

2.1.45 PERSON INVOLVED

Person whose presence is indispensable for a successful unmanned aircraft operation to occur.

2.1.46 REMOTE PILOT IN COMMAND

It is the pilot who conducts the flight and holds essential responsibilities for the operation, being responsible or not for handling the aircraft pilot controls. In the event he is responsible exclusively for handling the pi lot controls he/she will be called RE-MOTE PILOT.

NOTE: The transfer of responsibility between the Remote Pilot or Remote Pilot in Command, where applicable, should be conducted according to the procedures established by the UAS operator.

2.1.47 FLIGHT TERMINATION PLAN

Set of procedures, systems and preestablished functions designed to finalize a flight in the most controlled way possible, when facing situations that make it impossible to handle it in normal conditions.

2.1.48 PRINCIPLE OF SHADOW

For a better understanding of this instruction, the shadow casting principle can be defined as an existing volume around an either artificial or natural structure or obstacle, vertically limited to five (5) meters above the structure or the obstacle, and horizontally up to thirty (30) meters away from it. This distance being kept, the flight of an unmanned aircraft in that volume should not affect the safety of other aircraft, since it is not common its use by manned aircraft. Special attention should be given to the differentiated characteristics of rotary-wing aircraft used mainly by public security agencies and the civil defense.

2.1.49 APPLICANT

Exploiter or Operator requesting the operation of the Unmanned Aircraft.

2.1.50 UNMANNED AIRCRAFT SYS-TEM (UAS)

System consisting of an aircraft and its associated elements, which may be remotely piloted or completely autonomous.

1.2.51 REMOTELY PILOTED AIRCRAFT SYSTEM (RPAS)

Subset of unmanned aircraft system capable of interacting with the Air Traffic Control and other aircraft in real time, consisting of a remotely piloted aircraft (RPA), its station(s) of remote piloting, the pilot data link and any other component associated with its operation.

2.1.52 BRAZILIAN AIRSPACE CON-TROL SYSTEM (SISCEAB)

System designed to provide the means required for the management and control of the airspace and the

air navigation services, in a safe and efficient way, as set forth in the national regulations and international contracts and treaties of which Brazil is a signatory. The activities developed under the SISCEAB are those performed to benefit the airspace management and control in an integrated civil and military operation to provide surveillance, security and defense of the Brazilian airspace.

NOTE: DECEA is the Central Agency of the SISCEAB.

2.1.53 OPERATIONAL SAFETY MAN-AGEMENT SYSTEM (SGSO)

A system with objectives, policies, responsibilities and the organizational structures required for the operation of the operational safety management, based on performance goals and including risk management procedures.

2.1.54 AIRSPACE ACCESS REQUEST SYSTEM FOR UNMANNED AIRCRAFT (SARPAS)

System developed to facilitate the process of requesting access to airspace for UAS by users of the aeronautical segment.

2.1.55 IFR FLIGHT

Flight performed according to instrument flight rules.

2.1.56 VFR FLIGHT

Flight performed according to visual flight rules.

2.1.57 APPROACH OR TAKE-OFF ZONE (ZAD)

For a better understanding of this instruction, by Approach or Take-Off Zone should be meant the area between the runway threshold and a distance of nine kilometers (9 km) with an opening beam of 90° (45° to each side of the approach or take-off axis). Example: Runway 15 Approach Zone, Galeão International Airport:

Runway threshold in use: 150°.

Beam: 105° to 195°.

From the runway threshold to a distance of 9 km (nine kilometers).

2.1.58 RURAL AREA

Geographical region not classified as Urban Area. Places where there are usually no crowds of people and where there is low concentration of buildings, with a remarkable pres-
ence of natural elements, such as rivers and vegetation.

2.2.59 URBAN AREA

Space occupied by a city, characterized by continuous building sections and the existence of urban infrastructure, comprising public utilities and services to make people's lives possible.

2.2 ABBREVIATIONS

- AAL Airport infrastructures Local Administrator
- AGL Above Ground Level
- ANAC National Civil Aviation Agency
- ANATEL National Telecommunications Agency
- ATC Air Traffic Control
- ATM Air Traffic Management
- ATS Air Traffic Services
- AVOMD Overflight Authorization from the Ministry of Defense
- BRLOS Beyond the Radio Line of Sight
- BVLOS Beyond the Visual Line of Sight
- CA Airworthiness Certification
- CAG General Air Circulation
- CBA Brazilian Aeronautical Code (Law No. 7565/86)
- CINDACTA Integrated Air Defense and Air Traffic Control Center
- COM Military Operational Circulation
- DECEA Department of Airspace Control
- DGRSO Operational Safety Risk Management Document
- EVLOS Extended Visual Line of Sight
- FPV First Person View

ft – Feet

- IFR Instrument Flight Rules
- IMC Instrument Flight Weather Conditions
- MD Ministry of Defense
- NOTAM Notice to Airmen
- ICAO International Civil Aviation Organization
- PBN Performance Based Navigation
- MTOW Maximum Take-off Weight
- RLOS Radio Line of Sight
- RNAV Area Navigation

- RNP Required Navigation Performance
- RPA Remotely Piloted Aircraft
- RPAS Remotely Piloted Aircraft System
- RPS Remote Pilot Station
- RVSM Reduced Vertical Separation Minimum
- SARP Standards and Recommended Practices (ICAO Instructions)
- SARPAS Airspace Access Request System for Unmanned Aircraft
- SDOP DECEA Subdepartment of Operations
- SGSO Operational Safety Management System
- SISCEAB Brazilian Airspace Control System
- SRPV-SP Regional Flight Protection Service – Sao Paulo
- SUAS Small Unmanned Aircraft Systems
- UA Unmanned Aircraft
- UAS Unmanned Aircraft System
- UASSG Study Group on Unmanned Aircraft Systems
- UTM Unmanned Traffic Management
- UAV Unmanned Aerial Vehicle (obsolete term)
- VFR Visual Flight Rules
- VMC Visual Flight Weather Conditions
- VLO Visual Line of Sight

<u>3 BRAZILIAN AIRSPACE</u> STRUCTURE

3.1

It is DECEA's mission to plan, manage and control the activities related to the airspace control, flight protection, search and rescue service and the Aeronautical Command telecommunications.

3.2

As the Brazilian Airspace Control System central agency, it is also up to DECEA under Ordinance No. 913/of September 21, 2009 to provide the necessary means for the safe and efficient management and control of the Brazilian airspace and the air navigation service, as established in the pertinent national rules and in the international contracts and treaties of which Brazil is a signatory.

3.3

DECEA has a structure with regional agencies and initiatives in the General Air Traffic (CAG) and the Military Operational Traffic (COM) areas, coordinating management actions, airspace control and air navigation services under their jurisdiction.

3.4

The DECEA's regional agencies are CIN-DACTA I, II, III and IV and SP-SRPV with their defined areas of operation, as illustrated in Figure 1.

[IMAGE REMOVED FROM THIS VERSION]

3.5

Since RPA is an aircraft, its access to the Brazilian airspace is subject to DECEA's regulations and permits issued by its regional agencies.

4. ASSUMPTIONS

4.1

An aircraft is any machine that can sustain itself in the atmosphere based on reactions of the air other than those of the air against the earth's surface.

4.2

Initially, its development was encouraged for military applications, being widely used in recent conflicts. But immediately, a number of opportunities of civil applications have also been found in several areas, such as:

- a) Infrastructure;
- b) Media and entertainment;
- c) Telecommunications;
- d) Agriculture;
- e) Security;
- f) Search and Rescue; and
- g) Mining.

4.3

With no pilot on board, there are important technical and operational issues to be considered for the full integration of the system in the airspace and keep its safety levels compatible with air activities.

4.4

With no pilot on board, the situational awareness to keep it separate from other traffic and prevent collisions is much impaired when compared with a manned aircraft. In addition to seeing, perceiving and detecting conflicting traffic and obstacles, it is equally important to be seen, perceived and avoided by other aircraft (detectability). This means that the Pilot in command is the last element to intervene in a situation to avoid an accident or incident. Besides, the human factor should be considered. Since it is not onboard, the pilot's requirements can be different from the usual ones and the issue of specific documents to pilots should also take into account the characteristics of the Remote Pilot Station, type of operation, aircraft complexity, etc.

4.5

It is up to DECEA to analyze and grant access to the Brazilian airspace. The documentation to be issued by other regulatory bodies, regardless of its nature and, regarding all elements of the system, should follow the provisions of specific regulations.

4.6

When it comes to the use of sensors that characterize the employment of UAS in aerial survey operations, it should also be emphasized the need that the competent authority will be issuing the necessary documentation and authorization, according to some specific legislation, if applicable.

NOTE: In the event of some flexibilization regarding the documents to be submitted, users are expected to comply with the requirements of the competent authority.

4.7

An aircraft with no crew on board is still an aircraft and, as such, should comply with the rules established by the competent aviation authorities to fly in the Brazilian airspace.

4.8

Unless special permits are issued by the competent aeronautical authorities, the systems must fit the current legislation.

4.9

The whole system should be considered. The UAS consists of the UA (unmanned aircraft), the RPS (remote pilot station), the pilot link (also called the Command and Control link or Link C2) and associated components, such as the launch and recovery systems, equipment communication with ATS units and surveillance, navigation equipment, flight management, autopilot, emergency systems and flight termination, among others possible.

4.10

Confirming the explanation given in the preface, autonomous aircraft will not be subject to regulation and its flight will not be allowed. By autonomous aircraft is meant that, once it starts the flight, there is no possibility of an intentional intervention by the pilot. Thus, only a remotely piloted aircraft is granted authorization to use the airspace with the assignment of proper responsibilities to the Remote Pilot in Command.

4.11

Operational safety is of paramount importance. The UAS operation should prioritize safety by minimizing the risk to manned aircraft, people, animals and property on the ground.

4.12

The access to the Brazilian airspace by a UA may not generate negative impacts on the security and capacity of the SISCEAB.

4.13

The Remote Pilot is ultimately responsible for the faithful observance and compliance with all parameters set in this Instruction.

4.14

This instruction applies to all operations for which no supplementary rule has been issued, such as, for example, the Aeronautical Information Circular (AIC).

5 TYPE CERTIFICATION AND AIRWORTHINESS APPROVALS

5.1

Section II, Article 114 of the Brazilian Aeronautical Code provides that:

No aircraft may be authorized for a flight without the prior issuance of the corresponding certificate of airworthiness that will only be valid during the period stipulated and while observing the mandatory conditions mentioned therein (Articles 20 and 68, 6 2).

5.2

Article 8, XXXI, of Law No. 11182 of September 27, 2005, provides that ANAC – the National Civil Aviation Agency as the Civil Aviation Authority shall issue the airworthiness certificates.

5.3

Following the assumption that an unmanned aircraft is still an aircraft and, as such, should comply with the rules established by the competent aviation authorities, one of the requirements for flying in the Brazilian airspace is to be the holder of specific documentation based on criteria established by the regulatory agencies for its category or purpose of use.

6 REGISTRATION

6.1

Article 20 of the Brazilian Aeronautical Code provides that, "except for special cases, no aircraft may fly in the Brazilian airspace, land in its territory or take off from it without nationality and registration marks..."

6.2

According to Law 11182/2005, the National Civil Aviation Agency (ANAC) shall be in charge of the Brazilian Aeronautical Registration (RAB) Management entering Brazilian civil aircraft registrations and issuing Registration Certificates (CM) and Airworthiness Certificates under the Brazilian law.

6.3

The issuance of UA specific registration or an equivalent registration document, where applicable, guidelines established by ANAC shall apply, exception being made to military aircraft which are subject to specific registration rules under their respective commands.

7 EXPLOITER/OPERATOR RESPONSIBILITIES

7.1

The Exploiter (in certain conditions, also defined as operator) is the individual or corporation, owner or not, who uses the aircraft in a legitimate manner, either directly or indirectly, for profit or nonprofit purposes. In the context of unmanned aircraft, the aircraft exploitation includes all the Unmanned Aircraft System (UAS).

7.2

Due to the UAS components, its operations may be more complex than those of manned aviation. This was covered by Annex 2, Appendix 4 of the Chicago Convention, requiring that the Exploiters should have a certificate issued by the competent authority to establish specific responsibilities.

7.3

The UAS Exploiter is responsible for managing its staff (including program training, team composition, pilot transfer procedures, fatigue control, etc.), maintenance (maintenance program, records, continued airworthiness, modifications, repairs etc.), the documentation (manuals, certificates, licenses, records, log book, information, etc.), related to contracts or services performed by service providers (e.g., communication service providers) and for the operation protection and safeguards (Remote Pilot Station safety, data preservation, etc.).

7.4

In Brazil, the National Civil Aviation Agency (ANAC) is the agency responsible for the certification of Exploiters/Operators, who should follow the guidelines issued by it.

8 PERSONAL LICENSE

8.1

The Remote Pilot in Command is of paramount importance for the safety of UAS operations, having the same responsibilities as a pilot of a manned aircraft for the whole operation, according to the Air Rules, laws, regulations and procedures published. However, the skills of this pilot should be carefully planned to ensure the knowledge, skills, attitudes, physical and mental abilities, language proficiency etc., mainly because they are not on board the aircraft.

8.2

As prescribed by ICA 100-12 "Rules of the Air," the pilot in command, whether maneuvering the controls or not, shall be responsible for the operation to be performed according to the Rules of the Air and can deviate from them only when absolutely necessary to meet security requirements.

8.3

Article 8, item XVII of Law 11182/2005 establishes that ANAC shall be the agency in charge of the approvals and issuance of certificates, approvals and authorizations relating to the flight safety system of civil aviation, licenses of crew members, as well as technical qualification and physical and mental capacity certificates in compliance with the established rules and standards.

8.4

To issue a specific license documentation, whether for a Remote Pilot Remote or Remote Pilot in Command, where applicable, the guidelines established by ANAC must be followed.

8.5

In cases of operations with more than one Remote Pilot, the procedures transferring piloting control among the Remote Pilot Stations involved should be described in such a way that only one Remote Pilot at a time controls the UA.

8.6

Another qualification that may be required is the "Unmanned Aircraft Observer", working in the auxiliary role of a Remote Pilot in the EVLOS operation of a UAS. There must be a direct and constant reliable communication between both so that the Observer may assist the Remote Pilot in the safe conduction of the Unmanned Aircraft flight. In the event that more than one observer be engaged in an operation, only one at a time will be able to assist the Remote Pilot in the conduction of an Unmanned Aircraft flight. As a team member, with its respective responsibilities, this activity should not be performed by a person that does not meet the FAA's requirements.

NOTE 1: The role of the Unmanned Aircraft Observer, with its respective responsibilities, should only be performed by a person that does not meet the ANAC requirements.

NOTE 2: In the case where it is not necessary to issue a license, either for a Remote Pilot, a Remote Pilot in Command or an Unmanned Aircraft Observer, the latter should have an equivalent qualification recognized by ANAC to use the airspace.

NOTE 3: The issues involving the qualification of pilots and observers belonging to the Armed Forces personnel shall be under the responsibility of their respective forces.

9 COMMUNICATIONS

9.1 GENERAL

9.1.1 Since it operates remotely, that is, at a distance, the communication data links are an essential part of the safe operation of the Unmanned Aircraft.

9.2 COMMAND AND CONTROL DATA LINK

9.2.1 The Command-and-Control Data Link is the link between the Unmanned Aircraft and the RPS to conduct the flight. In addition to enabling the aircraft piloting, this link may include the necessary telemetry to provide the Remote Pilot with flight data.

9.2.2 The Pilot Link is divided into uplink and downlink.

9.2.3 The certification of the frequencies used in the piloting data link, both uplink and downlink, is the responsibility of the UAS Exploiter/ Operator and shall comply with the regulations of ANATEL.

9.3 COMMUNICATION WITH BODIES ATS

9.3.1 Unless waived by the Regional DECEA agency, due to the specificities of the system used, the Remote Pilot shall keep a bilateral communication with the ATS unit, as required by the legislation in force and as required for manned aircraft.

9.3.2 The terminology used should be standardized as per MCA 100-16 "Air Traffic Terminology".

9.3.3 Other communication channels can be set by the Operational Agreement Letters, Operation Proposals or Operational Safety Analysis, such as the use of landline or mobile telephony. This alternative use will depend on an analysis of various factors and will be subject to the authorization of DECEA Regional Agency responsible for the airspace where it is to operate.

9.4 OTHER LINKS

9.4.1 In order to support the operation of other UAS equipment, such as systems to detect and avoid, or any other functionalities different from the aforementioned ones, additional frequency bands can be required.

9.4.2 Anyway, certification by ANATEL is required so that such frequencies can used in a UAS operation.

10 REMOTE PILOT STATION (RPS)

10.1 GENERAL

10.1.1 Remote Pilot Station (RPS) is defined as "the component provided with the equipment required for piloting the unmanned aircraft." As a general principle, the RPS behaves or operates like the cockpit of a manned aircraft and should therefore offer Remote Pilot equivalent ability to conduct and manage the flight.

10.1.2 The RPS should provide remote pilots with the necessary means to monitor and control the operation of an Unmanned Aircraft, both on the ground and in the air. Therefore, the interface between Remote Pilot/RPS and UA is provided by a command-and-control data link (Link C2).

10.1.3 The basic requirements of the RPS and the interface with the Remote Pilot should be the closest ones to those available in manned aircraft.

10.1.4 Being part of the system and essential for the flight, the Exploiters/Operators should have security action plans against any attempt to threaten the RPS protection.

10.2 HUMAN PERFORMANCE IMPLICATIONS

10.2.1 The human performance implications in the lack of sensor information arising from the fact that the Remote Pilot is not on board the aircraft should be considered during the operation and, if appropriate and necessary, should be adequately compensated by other devices. This may require the use of non-visual signals, such as vibration or audio alerts.

11 AIRSPACE ACCESS RULES

11.1 GENERAL RULES

11.1.1 An unmanned aircraft may only access the Brazilian Airspace after the issue of a special authorization by the DECEA's Regional Agency responsible for the airspace in which the flight will take place, in accordance with Article 8 of the Chicago Convention. Under special circumstances, in which the flight parameters are faithfully complied with and do not jeopardize air navigation, the operations may only be reported to DECEA through the SARPAS system.

11.1.2 The aircraft unmanned operations will be accommodated in the Brazilian airspace and should suit the existing rules and systems, not receiving, a priori, any special treatment by the Air Traffic Service Agencies.

11.1.3 Except for the specific operational conditions covered by items 11.2.1.4, 11.2.1.5 and 11.2.1.6 of this Instruction, the use of the airspace by Unmanned Aircraft will only be authorized upon the accommodation of this technology with the establishment of operational restraints or segregated airspace, whether by the issue of a specific NOTAM or the activation of an existing airspace.

11.1.4 The flight of an unmanned aircraft should remain away from other aircraft route used by manned or unmanned aircraft, and avoid crossing ahead by passing over or under it. Therefore, there will be no priority in the right of way over a manned aircraft.

11.1.5 During the assessment relating to request for airspace to be used, consideration will be made regarding the fact that the operation will not have a priority over airways, instrument procedures, air traffic circuits, visual corridors and restricted or special use airspace as already published.

11.1.6 As ICA 100-37 "Air Traffic Services", the operation must comply with the existing rules for use of a transponder, just as manned aircraft, depending on the class of airspace within which it is intended to operate.

NOTE: The unmanned aircraft with MTOW above 250 g to 25 kg, operating VLOS, and up to 400 ft AGL (approximately 120 meters high), regardless of the overflown airspace class, unless otherwise determined, will be waived from using a transponder.

11.1.7 Similarly, operation and performance requirements of communication systems, surveillance and navigation systems should be, to the largest extent possible, equivalent to those established for manned aircraft and according to the class of airspace within which one intends to operate the unmanned aircraft and compatible with the air traffic service provided.

11.1.8 Each Remote Pilot is only allowed to an Unmanned Aircraft at a time from an RPS, being responsible for all phases of the flight and there should not be a piloting simultaneity, even if in different seasons.

11.1.9 Unlike manned aircraft, an Unmanned Aircraft can be piloted by more than one RPS. However, when more than one RPS is used for the same flight, safe and effective transfer procedures among stations (handover) must be adopted, so that there is no discontinuity in the operation of the aircraft, punctually establishing the Remote which is effectively controlling the aircraft and its respective station.

11.1.10 The operation of Unmanned Aircraft shall only be allowed from aerodromes handling the operation of manned aircraft or yet at a distance shorter than 9 km when operating in the ZAD and 2 km when operating out of it, if expressly authorized by the administrator or operator of the respective aerodrome by the Regional Agency in charge and the local ATS (if any), the ground and traffic pattern manned operations being subject to a shutdown as specified below:

a) Take-off – at the moment the AU motors are switched on till it leaves the traffic pattern; and

b) Landing – From the time of entering the traffic pattern till the stop and cutting of the AU engines.

NOTE 1: The authorization of the Airport Infrastructure Administrator or aerodrome operator should be proven by submitting the documentation provided at the time of request in SARPAS.

NOTE 2: The authorization of the local ATS Authority must be proven through the preparation and submission of the following documents at the time the request is received by SARPAS:

a) Operational Risk Assessment (ARO), as recommended in Paragraph E94.103 (f) (2) and E94.103 (g) (2), listing the hazards, risks, probabilities and severities in the event of occurrences, apart from mitigating actions, if any, prepared by the operator;

b) Operational Safety Impact Analysis (AISO), which should describe the operations and areas of the aerodrome where they will occur, and identify the hazards, risks, probabilities and severities in the event of occurrences, in addition to mitigating actions, if applicable, taken by the Airport Infrastructure Local Administrator (AAL); and

c) Operational Letter of Agreement (CAOP) between the AAL, the AU operator and the local ATS Unit (if any) establishing at least:

- agreed operational procedures;
- conditions for the performance of operations;
- emergency operating procedures;

- means of communication between the remote pilot, the local ATS unit and AAL, where applicable;

- competences of all entities directly or indirectly involved in the operations;

- description of all unmanned aircraft to be used in the operations (brands, models, certificates and Link C2 of all the AU that will or may be used);

- sketch of the airport areas where the operations will take place;

- segregation or accommodation of the aerodrome operations by operational restrictions; and

- other conditions deemed necessary by the Regional Office in charge.

NOTE 3: The authorization of the Regional Office responsible for the Area will be issued by SARPAS after an examination of the necessary documents for the operation; and

Note 4: It should be pointed out that the unmanned aircraft operators are performing the Remote Pilot role. Thus, it is their responsibility to analyze all the area covered by their operation and also make a proper analysis of the possible impact on aerodromes and helipads around.

11.1.11 The transportation of external loads, including hazardous (such as explosives, weapons, chemical or biological agents, laser etc.) materials should follow the recommendations made in the ANAC regulations, especially the RBAC 175 "Transport of Dangerous Goods in Civil Aircraft".

NOTE: When DECEA is prompted or informed about an operation to DE-CEA, an analysis will be made regarding the access to be granted to the airspace. It is the sole responsibility of the Remote Pilot in Command to comply with the need for an authorization to be issued by other regulatory agencies.

11.1.12 The flight of an unmanned aircraft shall be conducted following the visual flight rules (VFR) or instrument flight rules (IFR), complying with the criteria and conditions stipulated in ICA 100-12 "Rules of the Air. "

NOTE: To make it possible to apply the VFR flight rules, it is necessary to comply with the recommendations in section 4.9 of ICA 100-12 "Minimum Visibility and Distance from Clouds." Thus, the requirements for pilots of manned aircraft shall apply to the Remote Pilot, as appropriate.

11.1.13 When contacting the ATS unit, terminology to be used must comply with the recommendations in MCA 100-16 "Terminology of Air Traffic."

11.1.14 In addition to communication via voice VHF equipment, communication via data link may be required. However, since the pilot is not on board the aircraft, arrangements can be made for the establishment of backup communications, which may include the use of telephones, duly authorized by the competent authority.

NOTE: To increase situational awareness between air traffic controllers and pilots of other aircraft, the "RPA" expression must be used in radiotelephone, before the calling code of unmanned aircraft (UA).

11.1.15 Access to the airspace by the Unmanned Aircraft System (UAS) at night shall be subject to compliance with item 4.2.4 – LIGHTS TO BE DIS-PLAYED BY AIRCRAFT, ICA 100-12.

11.1.16 The flight data process or authorization request for access to the airspace for unmanned aircraft, as well as the opinion of the Regional Office and the authorization for the use of the airspace, will be dealt with in Chapter 12 of this Instruction.

11.1.17 For unmanned aircraft operations with MTOW over 25kg, should be subject to the faithful compliance with 100-11 "Flight Plan" with regard to the flight plan submission.

NOTE: The Operator/Exploiter should, where applicable, fill in a Flight Plan, in compliance with the "Flight Plan Form Completion Guide" – MCA 100-11. If the RPA type designator has not yet been set, enter "ZZZZ" in item 9 of the Flight Plan, indicating the type of aircraft in item 18, preceded by TYP/.

11.1.18 The Regional Office responsible for the overflown airspace may, when deemed necessary, ask for the submission of the flight plan for the Unmanned Aircraft with an MTOW equal to or less than 25kg. Such a requirement, when applicable, will be shown on the airspace access authorization.

11.1.19 Regardless of the height/ altitude, the BVLOS operations can only be authorized upon the airspace separation and consequent issue of a specific NOTAM.

NOTE: Operations using FPV equipment will be classified according to the BVLOS operation profile and should comply with the specific rules for this type of operation.

11.1.20 Any and all operations involving the issue of NOTAM must be submitted by the Exploiter/Operator to the Regional Office at least eighteen (18) days in advance, based on the start date of the operation.

NOTE: If the Regional Office deems it necessary the issue of a NOTAM, the Exploiter/Operator will only be able to operate after the NOTAM is issued and according to the terms shown in the authorization of the respective DECEA's Regional Office.

11.1.21 Any and all Unmanned Aircraft operations must be immediately ended in the event a manned aircraft approaches, a UA operation of Public Security Agencies, the Civil Defense or the Brazilian Internal Revenue Service.

11.2 SPECIFIC RULES

Because of unique characteristics, such as varying sizes and configurations, and having no crew on board, some aircraft can operate in areas and conditions where manned aircraft are not able to fly or are approved to operate. These operations include the interior of buildings, structures close to the ground or on water and in dangerous areas and conditions.

11.2.1 OPERATIONS IN VERY LOW HEIGHTS

11.2.1.1 For air traffic analysis purposes, by operations in very low heights are meant those performed in up to 400 ft (approximately 120 meters) high.

11.2.1.2 Access to airspace for operations in very low heights, involving aircraft with an MTOW above 250 g to 25 kg may be authorized within the time limits shown in paragraphs 12.2.8 and 12.2.9, if the established general and specific operating conditions are met.

11.2.1.3 General operational restraints for operations at very low heights:

a) Systems have met the legal requirements of the other Regulatory Agencies; b) Know the means of contact with the Regional Office responsible for the area of operation;

c) Know the means of contact with the ATS Agency closest to the area of operation;

d) Operating in VMC conditions;

e) Perform a VLOS operation in a circular, polygon or corridor area limited by a horizontal distance which permits keeping sight of the aircraft, with or without the aid of one or more observers;

f) unless authorized by the owners, its vertical projection on the ground is at least 30 m away from buildings, structures, properties and animals;

g) Its vertical projection on the ground be at least 30 m away from nonconsenting persons; and

h) No flight over inhabited areas and crowd of people (except for consenting persons and/or persons involved in the operation), except as set forth in item 11.2.4.

11.2.1.4 Specific operational conditions for ground operations up to 131 ft AGL (approximately 40 meters high):

a) Flying up to 131 ft AGL (approx. 40 m high above ground level);

b) Keep itself at a speed equal to or less than 30 Kt (approximately 60 km/h);

c) Keep itself at least 3 NM (5 km) away from registered aerodromes when operating in Approach and Take-off Zones;

d) Keep itself at least 1 NM (2 km) away from registered aerodromes when operating off the Approach and Take-off Zones;

e) Keep itself at least 2 km away from registered helideck, whose height from the ground (AGL) is less than 60 m;

f) Keep itself at least 600 m away from registered helideck, whose height from the ground (AGL) is greater than 60 m; and

g) Keep itself at least 2 km away from areas where operations are planned related to agricultural aviation.

NOTE 1: Requests made according to these conditions should be submitted to the Explorer/ Operator directly through SARPAS, with a minimum of forty-five (45) minutes in advance of the intended start of the operation.

NOTE 2: The operations to be performed at a distance of less than 2 km from helidecks and up to 600 m away from them should take into consideration the need to keep a difference of at least 30 meters from the helideck, unless expressly authorized by the helideck operator.

11.2.1.5 Specific operational conditions for 131-ft operations (exclusive) up to 400 ft AGL, including (approximately from 40 to 120 meters high):

a) Flying up to 400 ft AGL (approximately 120 m high above ground level);

b) Keep itself at a speed equal to or less than 60 Kt (approximately 120 km/h);

c) Keep itself at least 5NM away (9 km) from registered aerodromes;

d) Keep itself at least 3 km away from registered helidecks; and

e) Keep itself at least 2 km away from areas where operations related to agricultural aviation are planned.

NOTE: Requests made according to these conditions will be analyzed by the Regional Office responsible for the desired airspace. In this case, the Exploiter/Operator should ask the SARPAS for the airspace directly, at least two (2) business days in advance with regard to the beginning of the intended operation. Special attention should be given to national and/or continued holidays.

11.2.1.6 The operations performed up to 131 ft AGL and at a distance of less than 2 km from registered aerodromes and helidecks shall be requested by the Explorer/Operator directly at SARPAS, with a minimum of two (2) business days with regard to the beginning of intended operation. Special attention should be given to national and/or continued holidays. It should be pointed out that when operating in the Approach and Take-off Zones, the minimum distance to be kept is 5 km. Compliance with this parameter is the sole responsibility of the Remote Pilot in Command.

11.2.1.7 Operations performed above 100 ft and up to 400 ft AGL and at a distance of less than 05 NM (9 km) from registered aerodromes will be authorized after an approval of the analysis of the request by the Regional Office and, if necessary, the issue of a NOTAM. They must be requested by the Exploiter/Operator directly at SARPAS, with a minimum of eighteen (18) calendar days in advance from the beginning of the intended operation.

11.2.1.8 For aircraft with MTOW greater than 25 kg, regardless of the time when it is intended to be operated and the type of operation, the flight should be conducted in a Segregated Airspace.

NOTE 1: Operations of aircraft with a MTOW greater than 25 kg must be requested by SARPAS to the Regional Office responsible for the intended area at least 18 (eighteen) calendar days before the intended start date of the operation. Besides the request by SARPAS, it may be required to fill in a Flight Plan (FPL) in compliance with ICA 100-11, this requirement being made by the Regional Office. When filling in the FLP, the user should enter the following information in Field 18: SARPAS/# XXXX, where XXXX is equivalent to the receipt issued with the authorization granted by SAR-PAS.

NOTE 2: The decision about the need to issue a NOTAM will always be made by the Regional Office responsible for the area of operation. It is up to this Office, if necessary, to send the NOTAM code issued to the user.

NOTE 3: If it is necessary to issue a NOTAM whose total area or part of it involves an area already planned for of unmanned aircraft, the existing NOTAM must be replaced by a more comprehensive one. It should be pointed out that the flight authorization of the first user (applicant) is restricted to the permit issued by the Regional Office, it having no relation to the NOTAM replacement.

11.2.2 UA OPERATIONS IN CONFINED AREAS

11.2.2.1 Flights inside buildings and closed construction structures, even if partially closed, including gyms, stadiums and open-sky arenas (up to the vertical boundary of its side structure) are the sole responsibility of the structure owner or the property lessee and they should be authorized by them, inasmuch as they are not considered "airspace" under the responsibility of DECEA and are not regulated by this Instruction.

NOTE: In the case of open-sky arenas in which the UA needs to exceed the vertical boundary of the arena side structure, when applicable, the remaining specific rules in item 11.2.1 for access to the airspeed must be observed.

11.2.2.2 The fact of operating an Unmanned Aircraft in confined areas does not exempt the Operator/Exploiter from complying with the legislations of regulating agencies (ANAC/ ANATEL), as well as the civil liabilities in force.

11.2.3 UAS OPERATIONS CLOSE TO OBSTACLES, USING THE SHADOW PRINCIPLE

11.2.3.1 As already mentioned in the definitions, the airspace portion around an obstacle or structure, whether natural or artificial, vertically limited to five meters (5 m) above the height of the obstacle or structure and horizontally up to thirty meters (30 m) away from it, is known as the Shadow Principle. These parameters being respected, the operations performed in this volume do not require, at first, an air traffic management analysis, because the same space is not used by manned aircraft under normal conditions. Special attention should be given to the different characteristics of the rotary-wing aircraft of public security agencies and civil defense, in particular.

11.2.3.2 operations using the shadow principle should preferably be performed in an area distant from registered aerodromes and helidecks, at least 2 km away (Figure 1). However, in order to promote the sustainability of the sector, operations having as a parameter shorter distances. The pilot is the sole party responsible for keeping it within the specified parameters and should not, under any circumstances, jeopardize the safety of air navigation. The operation to be performed in the involved structures is also the responsibility of the owner or lessee of such structures and must be authorized by them.

11.2.3.3 In the case of locations near helidecks, the operations performed using the shadow principle should receive special attention. To be performed, there should be an early coordination and express authorization of the helideck administrator.

11.2.3.4 When performing operations on helideck structures, the maximum height to be reached by the AU may not exceed the height of the helideck less 30 m (Figure 1), unless this is specifically authorized by the operator of the helideck. If the approach of a manned aircraft is reported or verified, the AU operation must be immediately interrupted.

[THE IMAGE WAS REMOVED FROM THIS VERSION]

11.2.3.5 The fact that it operates close to obstacles, does not relieve the Operator/Exploiter from complying with the legislation of the regulating agencies (ANAC/ANATEL/DECEA) as well as the civil liabilities in force.

11.2.3.6 Item 11.1.10 of this Instruction must be complied with for the UAS operation within aerodromes covered by item 11.2.3.

11.2.4 OPERATION OVER POPULAT-ED AREAS

11.2.4.1 The authorization for access of Unmanned Aircraft to the airspace over populated areas or non-consenting people agglomerations will be subject to certifications of the whole system, especially with regard to airworthiness. It is up to the Exploiter/Operator to obtain this authorization from the regulatory agencies.

11.2.5 OPERATIONS IN THE MILITARY OPERATIONAL CIRCULATION

11.2.5.1 When operating under the rules of the General Air Circulation, operations should follow the provisions of this Instruction. If the operation is under the rules of Operational Military Circulation, they should follow the provisions of ICA 100-13 in force.

11.2.5.2 If necessary, considering the peculiarities required by the mission, some of the restrictions mentioned in this Instruction may be reassessed by the Regional Office and, subsequently, by the DECEA, allowing an adjustment to be made to fit its operation.

11.2.5.3 Possible adjustments as mentioned above should be provided for in an Operational Letter of Agreement approved and duly signed by the competent authorities involved in the mission.

11.2.6 FLIGHT OVER SECURITY AREAS

11.2.6.1 By security areas are meant the following, among others: refineries, oil rigs, fuel depots, prisons, military areas, hydroelectric plants, thermal power plants, nuclear power plants, water or gas supply networks, dams or reservoirs, communication networks (e.g., antenna sites) or air navigation surveillance (e.g., air surveillance radars), which, if damaged, will cause serious social, economic, political or security impacts.

11.2.6.2 Flights must be planned with criteria. It is of fundamental importance the knowledge of the Exploiter/ Operator, location of the security areas, as well as their respective Controlled Airspaces (Prohibited, Dangerous and Restricted Areas).

NOTE: In the requests for access to airspace over or near public facilities, such as government offices, legislative chambers, assemblies, environmental parks, among others, DECEA will be analyzing the request for access to the airspace. If this access fails to comply with some specific determination regarding the intended location, the user will be subject to sanctions and measures provided for by the respective administrations.

11.2.6.3 The security areas, even if they are not protected by Airspace Restrictions, they should not be overflown without the prior permission of the authorities responsible for the area involved.

NOTE 1: The Exploiter/Operator performing the overflight of the areas listed in items 11.2.6.1, without the respective permission, will be subject to the civil and criminal implications of the legislation in force. Moreover, in some of the cases, the AU neutralization as a threat is provided for and authorized.

Note 2: For security areas not protected by Airspace Air Restrictions, compliance with a minimum distance of 500 m from the property area of the facility involved is required.

11.2.7 OPERATIONS IN DANGEROUS AREAS OR CONDITIONS

11.2.7.1 Since they do not carry people on board, it is possible to operate unmanned aircraft in dangerous areas or conditions, such as near chemical or nuclear accidents, volcanoes exhaling gases or erupting in severe weather conditions.

11.2.7.2 In case of operations in dangerous areas or conditions, DECEA shall only analyze the access to the airspace, the Exploiter/Operator being in charge of making the necessary arrangements with the remaining regulatory agencies.

11.2.8 OPERATIONS FOR SPECIFIC AGENCIES

The operations performed by Public Security Agencies, the Civil Defense, Brazil's Federal Revenue Service, other Government Agencies and other entities performing operations for government agencies or in other cases, may be dealt with by some specific legislation issued by DECEA.

12 PROCESS FOR REQUESTING AUTHORIZATION

12.1 SPECIAL AUTHORIZATION

12.1.1 According to Article 8 of the Chicago Convention, all Unmanned Aircraft operation shall be subject to the issue of a Special Authorization. Appendix 4 of Annex 2 contains rules covering this authorization and shall apply to UA international operations.

12.1.2 The Unmanned Authority Aircraft operation within the borders of their State of Registration shall be as defined by its competent. In Brazil, after the decisions by other organizations (such as ANAC, ANATEL and the Ministry of Defense), access to the airspace should follow the provisions of this Chapter and its Annexes.

12.2 REQUEST FOR ACCESS TO THE AIR SPACE

12.2.1 After all the stages of certification and qualification or issue of the respective documentation have been completed by other regulatory authorities, the request for access to the Airspace must be made through the Authorization System for Access to Airspace for Unmanned Aircraft (SARPAS) by the Applicant, either Exploiter/Operator, the Regional DECEA Authority (CINDACTA I, II, III and IV and SRPV SP) responsible for the area in which the intended operation occurs. (The link available on the DECEA page for this is www.decea.gov.br.

12.2.2 To be able to use the SARPAS, the applicant shall perform the user

registration and submit the relevant document issued by the ANAC.

NOTE 1: For aerial survey operations, if necessary, the documentation issued by the competent agency should be submitted at least eighteen 18 (eighteen days) calendar days in advance of the expected beginning of the operation.

12.2.3 The information supplied at the SARPAS are the sole responsibility of the user, the applicant filling in all the fields related to the TERMS AND CONDITIONS for the request submission.

12.2.4 If a field is left without relevant information, the request will not be sent or will be rejected.

12.2.5 The request made through SARPAS will be directed to the Regional Office responsible for the required airspace, based on the take-off point entered into the system. During the operation, the Operator/Exploiter should stick to the Requested Flight Height without, however, extrapolating the Flight Altitude Limit resulting from that. It is important to note that the operation should be performed in the requested volume of airspace. All the responsibilities will be imputed to the operator in the event of nonfulfillment of the provisions and authorization.

12.2.6 Except for the operations covered by items 11.2.1.4, 11.2.1.5 and 11.2.1.6, the applicant must ask for the authorization of access to the airspace at least eighteen (18) calendar days in advance, before the intended start of the operation.

NOTE 1: For the cases described in the item above, the applicant will receive the result of the use of an airspace analysis made by the Regional Office with a sufficient prior notice with regard to the intended start of the operation.

NOTE 2: A minimum of eighteen (18) calendar days in advance is intended to provide for an analysis from the perspective of the Air Traffic Management (ATM) and issue of the authorization and, if applicable, the segregation of airspace by the specific NOTAM disclosure, thus providing the necessary publicity to the other airmen.

12.2.7 For the operation profiles classified under items 11.2.1.5 and 11.2.1.6, the applicant should ask

for authorization of access to the airspace with a minimum of two (2) business days before the intended start of the operation, leaving time for an analysis, from the perspective of Air Traffic Management (ATM), and issuing the authorization. Such action requires planning, and national and/or continued holidays must be observed.

12.2.8 For the operation profiles classified under items 11.2.1.4, the applicant should ask for an authorization for the use of airspace with a minimum of forty-five (45) minutes before the intended start time for the operation, and wait for the authorization to be received.

12.2.9 It should be noted that the Exploiter/Operator is responsible for compliance with the requirements and safety of the UAS operation under the terms referred to in these items.

12.2.10 Applications that do not contain all the necessary information or impertinent information will be rejected. The applicant will be informed about the reason for rejection through the SARPAS.

12.3 OPINION OF THE REGIONAL OFFICE

12.3.1 Once access to the airspace is requested, if the requested parameters show the necessary adjustment to air navigation safety maintenance, the operation may be treated as flight INFORMATION, for which the DECEA will inform the applicant to be aware of the operation, without the need for an air traffic analysis. If an analysis is necessary, the Regional Office will initiate it from the perspective of Air Traffic Management.

12.3.2 Requests for access to the airspace by Unmanned Aircraft will always be subject to a careful analysis by DECEA and/or the Regional Office, taking into account possible interferences in air traffic. The parameters which, by itself, show an operation considered safe will take into account the distance to aerodromes, helidecks and sensitive areas, as well as the required height.

12.3.3 When a request for access to the airspace involves the jurisdiction of more than one Regional Office, whoever receives the user's request should make an analysis in a coordinated work with the Regional Offices involved.

12.3.4 Once the impossibility of meeting the required parameters is confirmed, the Regional Office shall disregard the case, stating the reason for the rejection, so that the applicant becomes aware of it and, if it is deemed appropriate, makes a new request with the necessary adjustments.

12.3.5 The contents of the analysis issued by the Regional Office shall be forwarded to the applicant in the authorization and, when necessary, will be used as a basis for the specific NOTAM.

12.3.6 Regardless of the nature of the intended operation, if an automated analysis by the SARPAS System is not possible, an air traffic analysis will be made by the Air Traffic Management Subdivision (ATM-DO) of the Regional Office. If the operation is performed under the rules of the Military Operational Circulation (COM), the Opinion issued by the DO-ATM will be sent to the Subdivision of Military Operations (DO-OPM) of the Regional Office, which is responsible for the negotiations with the links involved, based on the ICA 100-13 in force or according to rules designed and approved to meet the handling of the operation.

12.3.7 The time used in all the intended operations is UTC (Coordinated Universal Time) – which is standard for aviation. For example: if the Brasília time (UTC-3) is 14 h, we have 17 (1700Z), that is, we have added 3 hours. According to Brazilian Summer Time Standard (HBV) two hours will be added for the states that have adopted this time.

12.4 ISSUE OF THE AUTHORIZATION

12.4.1 After analyzing the request received, the Regional Office issues a response through SARPAS containing the request of the analysis made and establishing the conditions required for a safe operation.

12.4.2 It should be noted that the operation should be based on the operational conditions established by the Regional Office.

12.4.3 The applicant must faithfully comply with the conditions established by the Regional Office, under the penalty of having its authorization for access to the airspace suspended and incurring administrative sanctions as provided for in the Brazilian Aeronautical Code (CBA). The request made is not always fully authorized and it is up the Operator/ Exploiter to operate within the authorized parameters.

12.4.4 In cases where the issue of NOTAM is required, at the discretion of the Regional Office, the authorization may cover a maximum period of three (3) months, according to the user's request. This period may be extended for up to 3 additional months.

NOTE 1: When necessary, the user should ask the Regional Office for an analysis on the extension of the must request the Regional Authority, where necessary, the analysis of an extension of the term of NOTAM at least seven (7) days in advance of the end of the initial period.

NOTE 2: To ask for the extension of the NOTAM period, the user should clone the request in force and enter the new requested periods in the SARPAS.

12.4.5 In the case of operational profiles approved automatically by the SARPAS system, since the request was fully submitted in accordance with the defined parameters, the flight information should only provide for one day of duration, that is, the end date must be equal to the date of start. If the operation is scheduled for a longer duration, it will inevitably be subjected to an ATM analysis, no matter whether it fully fits the parameters.

12.4.6 As recommended in item 1.11.17, in the case of operations with RPAS whose MTOW is above 25 kg, the authorization shall not exempt, for each step, the Exploiter/Operator to fill in and submit the Flight Plan or Notification, as applicable and according to the legislations in force.

12.4.7 For handling the queries on authorizations issued, the Regional Offices will keep a local database with all the analyses and authorizations issued.

12.4.8 The validity of all operations can be verified by the link: <u>http://servicos2.decea.gov.br/sar</u> <u>pas/?i=consulta.</u> If it has been necessary to CANCEL the requested operation, the user will have been informed by email and the cancellation of status can also be checked by the same link.

12.5 NOTAM

12.5.1 According to ICA 53-1, NOTAM has the purpose of disclosing in advance aeronautical information of direct and immediate interest to air navigation safety and regularity. Early disclosure will not occur only in cases arising from deficiencies in services and facilities which obviously could not be predicted.

12.5.2 When necessary, NOTAM must be issued on UAS operation, making use of the WU code, establishing a Special Use Airspace, in compliance with the requirements of the ICA 53-1 in force.

NOTE: In the case of test areas, if previously authorized and under the responsibility of the Exploiter/Operator, the flight can be conducted simultaneously with the accompanying aircraft.

13 OPERATIONAL SAFETY

13.1 FLIGHT PLANNING

13.1.1 Before starting a flight, the system operator should be aware of having all the information required for planning the flight, and also the knowledge of the equipment's operation manual.

13.1.2 The required information on the flight should include at least a careful assessment of the following:

a) weather conditions (current weather reports and forecasts) of the aerodromes involved, the areas and the route to be flown;

b) proper calculation of fuel or battery life for the flight;

c) alternative planning in case it is not possible to complete the flight; and

d) conditions relevant to the flight as foreseen in the Integrated Aeronautical Information (IAIP) and ROTAER.

NOTE: The conditions mentioned in the previous ³d' refer, for example, to the operational restrictions of the involved aerodromes, the conditions related to the operation of the route navigation, approach and landing aids, the airport infrastructure required for the proposed operation, time of aerodrome operation, the ATS agencies assigned to the flight, etc. 13.1.3 The ATS Agencies and Regional Offices of DECEA will take into account, at the time the Request for Use of the Airspace is received, that the conditions checked by the Remote Pilot in Command comply with the regulation requirements in force for the type of flight to be conducted.

13.2 ACCIDENT AND INCIDENT INVESTIGATION AND PREVENTION

13.2.1 ACCIDENT AND INCIDENT PRE-VENTION

13.2.1.1 According to the provisions of article 87 of the Brazilian Aeronautical Code, the prevention of aeronautical accidents and incidents is the responsibility of all natural and legal persons involved in the manufacture, maintenance, operation and circulation of aircraft, as well as the aeronautical infrastructure support activities in the Brazilian territory.

13.2.1.2 Accident prevention activities, aeronautical incidents and occurrences on the ground must be planned and performed based on eight principles of SIPAER Philosophy ± System for Investigation and Prevention of Aeronautical Accidents:

 a) All aeronautical accidents can be avoided;

b) All aeronautical accidents result from various events and never from an isolated cause;

c) Every aeronautical accident has a precedent;

d) Accident prevention requires general mobilization;

e) The purpose of accident prevention is not to restrict air activity, but safely stimulate its development;

f) Top Management is the main responsible party for the aeronautical accident prevention;

g) In preventing accidents, there are no secrets or flags; and

h) Accusations and punishments of human errors act against the interests of accident prevention.

13.2.2 ACCIDENT AND INCIDENT IN-VESTIGATION

13.2.2.1 For the purposes of the accident and incident investigation, an occurrence associated with the operation of the systems will be considered from the moment the aircraft is ready to move, with the intention of making a flight, to the moment when it stopped completely (after the flight) and the main propulsion system was shut down.

13.2.2.2 The responsibility for the investigation of accidents involving unmanned aircraft operation is the Aeronautical Accident Prevention and Investigation Center (CENIPA) and, in its respective areas of jurisdiction, its regional services (Seripa).

13.2.2.3 The procedures concerning the investigation of accidents/incidents with Unmanned Aircraft are contained in NSCA 3-13 – Protocols for the of Civil Aviation Aeronautical Occurrences conducted by the Brazilian State.

13.2.3 REPORTING OF OCCURRENC-ES (ACCIDENTS AND/OR INCIDENTS)

13.2.3.1 In order to promote the development of the UAS segment, the accident and/or incident prevention and reporting tools provided by CENI-PA should be used.

13.2.3.2 One of the most important tools involves the filling in of the Prevention Reports (RELPREV).

13.2.3.3 The communication of occurrences (accidents and/or incidents) with UAS will aim to provide the regulatory and investigative agencies with the knowledge that will favor appropriate rules and procedures to help users of the UAS segment.

13.2.3.4 The tools and reports for reporting accidents, incidents or events that may cause some risk can be accessed on the CENIPA site (www.cenipa.aer.mil.br).

14 CONTINGENCY OR EMERGENCY SITUATIONS

It is the responsibility of the Remote Pilot to be aware of the actions contained in the equipment manual, provided to be adopted for mitigation of the possible consequences of a contingency or emergency situation, the most common one being FLIGHT TERMINATION and the RE-TURN TO HOME procedure (RTH).

14.1 FLIGHT TERMINATION

14.1.1 The flight termination is a procedure triggered intentionally by manual or automatic control to end the operation in emergency situations.

14.1.2 The flight termination procedure is the responsibility of the Remote Pilot in Command and will be conducted according to the flight manual and/or the UAS operation manual.

14.1.3 The Flight Termination Plan will be used as a last resort after the verification of the failure of all contingency procedures or in the case of another potential hazard that requires the immediate discontinuity of the flight.

14.1.4 For operations that take place in controlled airspace, the Exploiter/ Operator must establish procedures that give the Remote Pilot the ability to notify immediately the ATS Agency responsible for the area overflown about the activation of the Flight Termination Plan. This notification will include:

a) the last known position;

b) altitude;

c) speed;

d) autonomy;

e) possible crash site; and

f) other information deemed pertinent.

14.1.5 Item 14.1.4 is aimed at enabling the broadcast of danger alerts to other users and operators of the airspace of aerodromes, providing ATS units with the adoption of the measures required for the maintenance of operational safety.

14.1.6 If necessary, at the time of requesting access to the airspeed, the Exploiter/Operator will prepare and describe the flight termination plan and its systems by considering the following items:

a) Identification of points where the return to the home base or landing at the destination are not possible – Enter the flight termination points along the route, taking into account the routes used by other aircraft, such as airways, special use airspaces, arrival and departure procedures, visual routes and traffic circuits, etc. so as not to increase the security risk during the performance of a flight termination plan;

b) The location of the flight termination points and crash sites should be based on the performance of UAS considering an engine failure, its glide ratio, wind, altitude, population density, etc.; NOTE: Crash sites are the points on the ground where there will be a contact of the unmanned aircraft with the ground. The points must be specified in the lat/long format, with a graphical representation that facilitates their understanding;

c) The crash sites will be established based on a previous study conducted by the operator and must be located in unpopulated areas;

d) Where applicable, each flight termination point should be considered as a point of compulsory reporting, the Remote Pilot being required to report the blocking to the ATS unit; and

e) Each flight termination point must have its specific procedure described in the flight termination plan.

14.2 RETURN TO HOME (RTH)

14.2.1 The RTH mode is not an emergency procedure. It will be triggered intentionally, manually or automatically at the end of the AU flight or in case of C2 link loss to descend a UA safely using a pre-programmed route, leading to a safe return to the point of take-off.

NOTE: Return To Home is not considered to be a Flight Termination procedure.

14.2.2 For operations occurring in a controlled airspace, the Exploiter/ Operator will establish procedures to ensure the Remote Pilot the ability to notify immediately the ATS Unit responsible for the area overflown about the Return To Home activation, in the case of a C2 link loss. This notification will include:

a) altitude;

b) speed;

c) autonomy;

d) route that will be taken during the RTH; and

e) other information deemed pertinent.

14.2.3 Item 14.2.2 is about the enabling of the danger alert broadcast to other users and operators of the airspace of the aerodromes so that the ATS Authority may adopt the necessary measures to keep the operational safety.

15 PROTECTION AND SAFEGUARDING

15.1 PROTECTION

15.1.1 Safety, differently from operational safety, should be understood in this chapter as the protection of integrity. This is a vital issue in the operations of Unmanned Aircraft, since they have unique aspects in a comparison with manned aviation.

15.1.2 Since the Remote Pilot Station must be considered to be the control cabin of an aircraft, measures should also be taken when analyzing its vulnerabilities and access control, when applicable, to protect it against sabotage or any illegal interference.

15.1.3 Likewise, one should be concerned about the frequency band used for the pilot and flight control telemetry. It should be robust enough to ensure its operation. It must include electronic protections to defend against interference, whether intentional or not. Certification of frequency bands shall be made according to the regulations of the National Telecommunications Agency (ANATEL). The compliance with this requirement is the sole responsibility of the Exploiter/Operator.

15.1.4 The take-off and landing area of the Unmanned Aircraft should be safeguarded, avoiding the proximity of people not involved in the operation so as not to distract the Remote Pilot when dealing with the aircraft commands.

15.2 RESPONSIBILITY FOR SAFEGUARDING

15.2.1 The system Exploiter/Operator is responsible for the physical safeguard of the system equipment as well as the aircraft on the ground, shipped and in the air.

16 INFRINGEMENTS AND LEGAL ISSUES

16.1 TRANSGRESSIONS

16.1.1 The Brazilian Aeronautical Code – CBA (Law No. 7565, dated December 19, 1986) deals with the determination and application of administrative sanctions with the various penalties provided for in Article 289, including fines when the Remote Pilot infringe any of the guidelines covered by this Regulation or any action, cumulative or not, that may constitute a breach of the legislation in force.

16.1.2 These violations are determined through an administrative proceeding within the scope of the Federal Public Administration (Law No. 9784 of January 29, 1999) enacted by the competent authority, in compliance with the CBA and other legislations in force.

16.1.3 The Aeronautical Board of Trial (JJAer), as per in Decree No. 7245 of July 28, 2010, shall determine and apply the penalties and administrative measures provided for in the CBA and the supplementary legislation, judging the conducts that constitute air traffic infringements and nonfulfillment of the rules governing the Brazilian Airspace Control System (SISCEAB).

16.1.4 Article 302 of the CBA brings all the rules covering the conduction of the administrative proceeding.

16.1.5 The Regulations of the Aeronautical Trial Board (Ordinance No. 09 – DGCEA of January 5, 2011) establishes the particulars, fine values and orientations inherent in the above-mentioned administrative proceedings.

16.1.6 The investigation of violations and application of administrative sanctions, as described herein and provided for the UAS operation, do not exempt those responsible for infringements or crime in other spheres of the Civil Law, Criminal and all others as applicable.

16.1.7 The following will be considered for air traffic violations, among others:

a) access to the airspace without authorization;

 b) interference in the frequencies of the Aeronautical Mobile Service (SMA) or Aeronautical Fixed Service (AFS);

c) use false information to obtain authorization for access to the airspace;

d) flying close to or flying over an agglomeration of people who are not consenting to the operation;

e) fail to comply with other Rules and Instructions issued by DECEA; and

f) breach of other rules contained in the Brazilian Air Force Code and supplementary legislation.

NOTE 1: Regardless of the outcome of the analysis of the administrative procedure conducted by the Aeronautical Trial Board (JJAer), the Exploiter/Operator that fails to comply with the provisions of this Instruction will be subject to suspension of its registration with SARPAS for a period of six (6) months, when necessary for the safety of air navigation.

NOTE 2: It is up to DECEA, when deemed necessary as a measure for keeping the safety of the operations, to suspend any planned or in-progress operation, and notify the suspension to the Exploiter/ Operator.

NOTE 3: Special attention should be given to the PROHIBITION of overflowing safety areas, without the express authorization being granted.

16.2 SANCTIONS

16.2.1 Any irregularity or violation against the CBA or the supplementary legislation about the access to the airspace by a subject to penalties or administrative measures provided in the current legislation, after an analysis of the results of the administrative procedure conducted by the Aeronautical Trial Board (JJAer), exception being made to those relating to the warning and suspension of the operation, ex officio, as a necessary measure to comply with air navigation requirements, which may applied directly by DECEA.

16.2.2 DECEA Regional Organizations may apply a warning, ex officio, pursuant to item 16.2.1.

16.2.3 Article 15 of Federal Law 7565 (CBA) states that:

"In compliance with air navigation security requirements and the public interest, it is permitted to fix areas where air traffic is prohibited or restricted, establish routes of entry and exit, suspend all or partially the traffic, as well as the use of a particular aircraft or certain air services.

§ 1 The practice of aerial sports such as ballooning, gliding, hang gliding and the like, as well as training flights, are activities that will be performed in areas established by the aeronautical authority". 16.2.4 In accordance with Article 289, Item II of Federal Law 7565 (CBA), the Aeronautical Authority may suspend certificates, licenses and/or permits. In the case of attitudes that may bring harm to flight safety or disrupt the Regional Office's operational routine, measures will be taken, including the cancellation of licenses and registrations, a measure also covered by the same article of the CBA, if deemed necessary by the competent authority.

16.2.5 The application of the penalties provided for in the CBA and the present Instruction does not affect or prevent the imposition of applicable penalties by other authorities.

16.2.6 In addition to the provisions hereof, in accordance with paragraph 16.2.3, the Exploiter/Operator should also comply with the provisions of other national laws, and be subject to civil and/or criminal sanctions, including these among others:

a) Article 33 of Decree Law No. 3688 (Misdemeanor Law) – Operating an aircraft without being properly licensed;

 b) Article 35 of Decree Law No. 3688
 Dedicate to the practice of aviation outside of the zone where the law permits, or descend the aircraft out of places intended for that purpose;

c) Article 132 of Decree Law No. 2848 (Penal Code) – Expose the life or health of others to direct and imminent danger; and

d) Article 261 of Decree Law No. 2848 (Penal Code) – Expose one's own or someone else's aircraft to danger, or perform any act that leads to prevent or hinder air navigation.

16.3 IMPUTATION OF RESPONSIBILITY

16.3.1 The responsibility for the Unmanned Aircraft operation shall be assigned to the Exploiter/Operator and will be limited as provided for in the CBA and other applicable laws.

NOTE: For a better understanding of this item, by Exploiter/Operator is meant the Remote Pilot in Command, the Remote Pilot and the Individual and/or Corporation contracting the services to be provided with the use of the UAS.

16.3.2 The operations not in compliance with the established criteria will expose to risks the aircraft itself and other users of the airspace. They may also preclude or hinder air navigation, affecting even flight safety. With regard to the of overflown populated areas, they may also expose to direct danger the physical integrity of the people and properties on the ground.

16.3.3 The Remote Pilot is also responsible for handling the flight controls and the consequences arising from it, either on manual or automatic mode.

16.4 RESPECT FOR INDIVIDUAL RIGHTS

16.4.1 The authorizations provided for in this Instruction refer to access to the airspace and do not exempt the Exploiter/Operator and Remote Pilot from observing and respecting third party's individual rights, such as privacy and image, it remaining subject to the laws in force.

16.5 TRANSPORT OF DANGEROUS GOODS

16.5.1 Except for the authorized Unmanned Aircraft as recommended by ANAC, the UA are prohibited to transport dangerous goods. Therefore, the authorizations covered by this Instruction do not exempt Exploiters/Operators from their responsibility to comply with the restrictions contained in the regulations of other agencies.

16.6 INSURANCE AND OPERATIONAL RISK ASSESSMENT

16.6.1 Exploiters/Operators of Unmanned Aircraft should guarantee their operations by underwriting an insurance and making an operational risk assessment of any operation that is not recreational only as per ANAC's regulations.

16.7 REPORTING IRREGULARITIES

16.7.1 According to article 290 of the CBA, the aeronautical authority may ask the support of police force for detention of the alleged offenders or of the aircraft that endangers public safety, persons or things, within the limits provided by said Code.

16.7.2 The citizen who sees the irregular activity of unmanned aircraft may ask the support of police force to investigate the legality of the operation, thus contributing to crime prevention. 16.7.3 To be able to prevent possible irregularities from happening, an interested party may file a complaint with DECEA's Regional Office responsible for the area in which the fact has occurred, send documents showing the identification of the Unmanned Aircraft (probable cause) and the identification of the Exploiter/Operator to investigate and hold a party accountable for those acts resulting from an irregular UAS operation.

NOTE 1: The addresses and contacts of DECEA's Regional Offices are shown in Annex B.

NOTE 2: The contacts in Annex B will be used only for the elimination of possible obstacles related to protocols generated by SARPAS, supply of complaints proving probable cause, information on the person who committed the infringement, as well as emergency situations requiring the immediate notification of the respective Regional Offices of DECEA.

NOTE 3: The situations not covered by Note 2 should be reported to DECEA through the Citizen Service (SAC).

17 FINAL PROVISIONS

17.1

The suggestions for continuous improvement of this publication should be sent by accessing the specific link to the publication, through the web address http:// publicacoes.decea.intraer/ or <u>http://publicacoes.decea</u>.gov.br.

17.2

DECEA and the Regional Offices have the authority to revoke any authorization issued without notice.

17.3

The cases not provided for in this Instruction will be submitted to DECEA's General Director.

[REFERENCES AND ANNEXES WERE REMOVED FROM THIS VERSION]

AIRCREW

LAW No. 13,475 OF AUGUST 28, 2017

Regulates the profession of aircraft crew member; and revokes Law No. 7,183 of April 5, 1984.

I, THE PRESIDENT OF THE REPUBLIC OF BRAZIL make it known that the National Congress decrees and I sanction the following Law:

CHAPTER I

PRELIMINARY PROVISIONS

SECTION I

AIRCRAFT CREW MEMBERS AND THEIR CLASSIFICATION

<u>Art. 1</u>

This law regulates the exercise of the professions of aircraft pilot, flight attendant and flight engineer.

§ 1 For the performance of the professions listed in the head of this article, the professional is required to be the holder of a license and certificates issued by the Brazilian civil aviation authority.

§ 2 This law also applies to Brazilian aircraft pilots, flight attendants and flight engineers exercising their duties aboard foreign aircraft under contracts of employment governed by the Brazilian law.

<u>Art. 2</u>

The aircraft pilot and flight engineer, when performing their specific duties aboard the aircraft, according to the prerogatives of the license they hold, are designated as flight crew members.

<u>Art. 3</u>

The flight attendants, when performing their specific duties aboard the aircraft, according to the prerogatives of the license they hold, are designated cabin crew members.

<u>Art. 4</u>

The flight or cabin crew members who fly on their own or another aircraft, without performing any function aboard the aircraft, are designated as extra crew members on duty.

§ 1 The extra crews on duty shall be considered as crew members on duty with regard to the limits of their job schedule, rest time and remuneration.

§ 2 Extra crew members on duty shall have a seat of their own available in the passenger cabin, except for aircraft for cargo transportation only.

<u>Art. 5</u>

The flight and cabin crew members perform their professional duties in the following air services:

I – regular and non-regular public air transport service, except for the air taxi mode;

II – non-regular public air transport service on the air taxi mode;

III – specialized air service (SAE), provided by a teaching organization, in the form of flight instruction;

IV – other specialized air services, covering the activities defined by Law No. 7565 of December 19, 1986 (Brazilian Aeronautical Code) and by the Brazilian civil aviation authority;

 V – private air service, understood as the one performed, not for profit, at the service of the aircraft operator.

§ 1 The flight pilot hired to provide flight training on an aircraft employed in the specialized air service referred to in item III of the head of this article is called a flight instructor.

§ 2 For the purposes of the provisions in a convention or collective bargaining labor agreement:

I – the crew members employed in the air services defined in items III and V of the head of this article are equivalent to the crew members who perform their duties in the non-regular public air transport services on the air taxi mode;

II – the crew members employed in the air service defined in item V of the head of this article, when engaged in

agricultural promotion or protection activities, are equated with the flight crew members who operate the air services specialized in the agricultural promotion or protection activity modality.

<u>Art. 6</u>

The exercise of the professions of aircraft pilot, flight engineer and flight attendant, provided for in this Law, is exclusive to native or naturalized Brazilians.

§ 1 Brazilian companies, when providing international air service, may use foreign flight attendants, as long as their number does not exceed 1/3 (one third) of the flight attendants on board the same aircraft.

§ 2 All public air transport companies, except foreign non-regular public air transport companies on the air taxi mode, when operating domestic flights in the Brazilian territory, their crew must be composed of natural or naturalized Brazilians, under a work contract work governed by the Brazilian law.

§ 3 In the absence of Brazilian flight crew members, foreign instructors may be admitted on a provisional basis, for a period restricted to the period of instruction, in accordance with regulations issued by the Brazilian civil aviation authority.

<u>Art. 7</u>

Flight crew members will carry out the following duties on board the aircraft:

 I – captain: pilot responsible for the operation and safety of the aircraft, exercising the authority that the legislation attributes to him;

 ${\rm II}$ – copilot: pilot who assists the captain in the operation of the aircraft; and

III – flight engineer: captain assistant, in charge of the operation and control of various systems, as specified in the aircraft technical manuals.

§ 1 Without prejudice to their originally designated duties, the captain and the flight engineer may cumulatively exercise other prerogatives arising from qualifica-

tion or accreditation as covered by the aeronautical regulations, provided they are authorized by the Brazilian civil aviation authority.

§ 2 The captain will be appointed by the aircraft operator and will be its representative throughout the trip.

§ 3 The co-pilot is the occasional substitute for the captain in simple crews, which is not the case in a compound or relay crew.

<u>Art. 8</u>

Cabin crew members, playing the role of flight attendants, are assistants to the captain in charge of complying with the rules regarding the safety and care of passengers on board, luggage storage, documents, valuables and postal bags and other tasks that have been assigned to them by the captain.

§ 1 Without prejudice to their originally assigned duties, flight attendants may cumulatively exercise other prerogatives arising from qualification or accreditation, covered by the aeronautical regulations, provided they are authorized by the Brazilian civil aviation authority.

§ 2 The custody of valuables is subject to the existence of an appropriate and safe place on the aircraft, being the employer's responsibility to certify the safety of the place.

§ 3 The custody of cargo and postal bags on land will only be entrusted to flight attendants when there is no specific service for that purpose on the site.

SECTION II

CREWS

<u>Art. 9</u>

Crew is the group of flight and cabin crew members who perform their duties on board an aircraft.

<u>Art. 10</u>

The crew members, without prejudice to their originally assigned duties, may not perform more than one function simultaneously onboard the aircraft, even if they hold the corresponding licenses.

<u>Art. 11</u>

The crew members are technically and disciplinarily subordinate to the captain for the duration of the trip.

<u>Art. 12</u>

The captain exercises his/her function inherent authority from the moment of his/ her presentation for the flight until the moment when, after the trip is over, he/ she delivers the aircraft.

<u>Art. 13</u>

A crew can be classified as minimal, simple, compound or relay.

Sole paragraph. The Brazilian civil aviation authority, considering the interest of operational safety, the route and flight characteristics and the schedule to be followed, may determine the composition of the crew or the necessary modifications for the flight to take place.

<u>Art. 14</u>

The minimum crew is determined in the form of the aircraft type certification, approved by the Brazilian civil aviation authority. It is allowed to be used in local instruction, experience, inspection and ferry flights.

<u>Art. 15</u>

A simple crew consists of a minimum crew plus, when applicable, the crew required for the flight.

<u>Art. 16</u>

A compound crew consists of a simple crew plus a captain, a flight engineer, when the equipment requires it, and at least twenty-five percent (25%) of the number of flight attendants.

Sole paragraph. The compound crew can only be used on international flights, except for the following situations, when it can be used on domestic flights:

 I – to deal with delays caused by unfavorable weather conditions or by unscheduled maintenance work;

II – when the criteria for use of flight and cabin crew members employed in the air service defined in item I of the head of art. 5 are defined in a convention or collective bargaining labor agreement;

III – to work in a humanitarian mission, transporting or intended to transport the sick or organs for transplantation, in the case of flight and cabin crew members employed in the air services defined in item II of the head of art. 5 of this Law.

<u>Art. 17</u>

The relay crew is made up of a simple crew plus a captain, a pilot, a flight engineer, when the equipment requires it, and fifty percent (50%) of the number of flight attendants.

Sole paragraph. The relay crew can only be used on international flights.

<u>Art. 18</u>

A type of crew can only be transformed at the origin of the flight and up to a limit of 3 (three) hours, counted from the presentation of the previously scheduled crew.

Sole paragraph. The time limit for the working day will start from the time of presentation of the original crew or the reinforcement crew, whichever comes first.

SECTION III

THE HUMAN FATIGUE RISK MANAGEMENT SYSTEM

<u>Art. 19</u>

The operational limitations established in this Law can be changed by the Brazilian civil aviation authority based on the precepts of the Human Fatigue Risk Management System.

§ 1 The operational limitations referred to in the head of this article include any time requirements related to flight and cabin crew members with respect to flight, landing, and working-hour limits, warning, reservation and rest periods, as well as other factors that may reduce the crew>s alertness or compromise its operational performance.

§ 2 The Human Fatigue Risk Management System will be regulated by the Brazilian civil aviation authority based on international civil aviation standards and recommendations.

§ 3 The implementation and update of the Human Fatigue Risk Management System will be monitored by the professional category union.

§ 4 In the cases in which the Human Fatigue Risk Management System authorizes the 12 (twelve) hours of work hours to be exceeded and the reduction of the period of 12 (twelve) hours of rest, with simple crews, such changes must be implemented by convention or collective bargaining labor agreement between the aircraft operator and the professional category union.

CHAPTER II

WORKING HOURS

SECTION I

EMPLOYMENT CONTRACT

<u>Art. 20</u>

The paid working hours of the crew on board an aircraft must be formalized by means of a work contract signed directly with the aircraft operator.

§ 1 The flight or cabin crew member is only allowed to perform a paid function on board the aircraft of an operator to which he is not directly bound by an employment contract when the air service does not constitute a target activity, and provided that for a period not in excess of thirty (30) consecutive days, counted from the start date of the provision of the services.

§ 2 The provision of the remunerated services as provided for in § 1 of this article may not occur more than once a year and must be formalized by a written contract, under the penalty of presumption of an employment relationship of the crew member directly with the aircraft operator.

§ 3 The provisions of this article do not apply when the aircraft operator is a body or other entity within the public administration that carries out institutional missions or exercises police power. (Included by Law 14,163 of 2021)

<u>Art. 21</u>

The aircraft operator may use instructing crew members who are not bound by an employment contract when there are no instructors in the crew for the equipment on which they intend to operate, provided that for a period restricted to the instruction and upon an authorization by the Brazilian civil aviation authority.

<u>Art. 22</u>

The aircraft operator may, by means of a service contract, authorize its instructors to instruct crew members who are not bound by an employment contract when the employers of the respective crew members do not have their own equipment or instructors for the specific instruction, provided that for a period restricted to the period of instruction and upon an authorization by the Brazilian civil aviation authority.

Sole paragraph. This article is only applicable to aircraft operators that perform the air services referred to in items I and II of the head of art. 5.

SECTION II

CONTRACTUAL BASE

<u>Art. 23</u>

Contractual base means the home base or branch where the crew member's employment contract is registered.

<u>Art. 24</u>

Subject to the rights and conditions provided for in this Law, the remaining rights, working conditions and obligations of the employee will be defined in the employment contract and may be duly regulated in a convention or collective bargaining labor agreement, provided that they do not exceed the parameters established in the regulation issued by the Brazilian civil aviation authority.

<u>Art. 25</u>

Free transportation will be provided by the employer to flight and cabin crew members whenever a flight schedule starts or ends at an airport located more than 50 (fifty) kilometers away from the airport defined as the contractual base.

§ 1 The travel time between the airport defined as the contractual base and the airport designated for the beginning of the flight will be included as the working day hours and will not be remunerated.

§ 2 In the case of a trip that ends at an airport different from the one defined as the contractual base and located more than fifty (50) kilometers away, the working day will be closed according to the provisions of art. 35, and the statutory minimum rest period will be increased by at least 2 (two) hours.

SECTION III

SERVICE ROSTER

<u>Art. 26</u>

The provision of services by the crew member employed in the air service defined in item I of the head of art. 5, respecting the periods of statutory breaks and rest, shall be determined by means of:

I – a duty roster, at least monthly, published at least 5 (five) days in advance, determining the start and end times of flights, stand-by periods, on-call periods and days-off. The assignment of work situations and undefined schedules are forbidden;

II - roster or call for courses, meetings, exams related to training and checking of technical proficiency.

§ 1 In four (4) months of the year, the companies are authorized, if they deem it necessary, to disclose a weekly roster for scheduled flights, stand-by periods, on-call periods ad days-off, at least two (2) days in advance for the first week of each month, and seven (7) days, for the subsequent weeks.

§ 2 Exclusively for cargo flights, the disclosure of a weekly roster for scheduled flights, stand-by periods, on-call periods and days-off at least two (2) days in advance, for the first week of each month, and seven (7) days is authorized, for subsequent weeks.

§ 3 The limits provided for in item I of the head of this article can be changed by a convention or collective bargaining labor agreement, as long as they do not exceed the parameters established in the regulations issued by the Brazilian civil aviation authority.

<u>Art. 27</u>

The provision of services by the crew member employed in the air services defined in items II, III, IV and V of the head of art. 5, respecting the periods of statutory breaks and rests, shall be determined as follows:

I – a roster, at least on a weekly basis, published at least 2 (two) days in advance, determining the start and end times of flights, stand-by periods, on-call periods and days-off. The assignment of work situations and undefined schedules are forbidden;

II - roster or call for courses, meetings, exams related to training and checking of technical proficiency.

Sole paragraph. Other criteria for determining the provision of services by crew members can be established by a convention or collective bargaining labor agreement, provided that they do not exceed the parameters established in the regulations issued by the Brazilian civil aviation authority.

<u>Art. 28</u>

On the duty roster, the crew rotation and shifts compatible with health, hygiene and safety at work requirements should be observed. Sole paragraph. The schedule of crew rotations and shifts shall comply with the principle of equity in the distribution among the different work situations so that there is no discrimination of crew members having identical qualifications, except in companies that adopt specific criteria established in a collective bargaining labor agreement, as long as they do not exceed the parameters established by the regulations of the Brazilian civil aviation authority.

SECTION IV

REST ACCOMMODATIONS ONBOARD THE AIRCRAFT

<u>Art. 29</u>

Flight and cabin crew members, when flying with a compound or relay crew, will be provided with suitable rest accommodations onboard the aircraft, in accordance with the specifications defined in a standard established by the Brazilian civil aviation authority.

§ 1 Flight and cabin crew members on flights in a compound crew shall be guaranteed a number of accommodations for rest onboard the aircraft equal to the number of crew members added to a single type crew.

§ 2 Flight and cabin crew members, when flying with relay crews shall be guaranteed a number of rest accommodations onboard the aircraft equal to half the total number of crew members.

SECTION V

FLIGHT AND LANDING LIMITS

<u>Art. 30</u>

Flight time or flight hours is the period from the beginning of the displacement, in the case of a fixed-wing aircraft, or from the time the engines start, in the case of rotary-wing aircraft, till the moment the aircraft is immobilized or the engines are cut off at the end of the flight ("chock to chock time").

<u>Art. 31</u>

The flight or cabin crew members employed in the air service defined in item I of the head of art. 5th shall be assured the following limits of flight hours and landings in the same working day:

I – Eight (8) flight hours and four (4) landings, in the event of a minimum or simple crew member;

II – Eleven (11) flight hours and five (5) landings, in the event of a member of a compound crew;

III - Fourteen (14) flight hours and four(4) landings, in the event of a member of a relay crew; and

IV – Seven (7) hours with no landing limit, in the event of a helicopter crew member.

§ 1 The number of landings in the event of item I of this article may be increased by one (1), at the employer's discretion, adding, in this case, two (2) hours to the rest period preceding the working day.

§ 2 Regardless of the provision in § 1 of this article, in case of a diversion to an alternative airport, an additional 1 (one) landing is allowed to be added to the limits established in items I, II and III of this article.

§ 3 The crew members operating conventional and turboprop aircraft may have the landing limit established in item I of this article increased by 2 (two) more landings.

<u>Art. 32</u>

Crew members employed in the air services defined in items II, III, IV and V of the head of art. 5, the following flight hour limits are assured in the same working day:

I – Nine (9) (nine) hours and thirty (30) minutes of flight, in the event of a minimum or simple crew member;

II – Twelve (12) flight hours in the event of a compound crew member;

III - Sixteen (16) flight hours in the event of a relay crew member;

IV – Eight (8) flight hours in the event of a helicopter crew member.

§ 1 The crew members referred to in this article shall not be guaranteed landing limits in the same workday.

§ 2 The crew members employed in the air services defined in item IV of the head of art. 5, when working in an activity to promote, develop and protect agriculture, may have the limits provided for in this article established by a convention or collective bargaining labor agreement, as long as they do not exceed the flight safety parameters determined by the regulations issued by the Brazilian civil aviation authority.

<u>Art. 33</u>

The crew members are guaranteed the following monthly and annual flight hour limits:

I – Eight (80) flight hours per month and eight hundred (800) hours per year, on jet planes;

II – Eighty-five (85) flight hours per month eight hundred and fifty (850) hours per year, on a turbo-prop aircraft;

III – One hundred (100) flight hours per month and nine hundred and sixty (960) hours per year, on conventional airplanes;

IV – Ninety (90) flight hours per month and nine hundred and thirty (930) hours per year, on helicopters.

§ 1 When the crew members operate different types of aircraft, the lower limit will be considered.

§ 2 Flight crew members employed in the specialized air services defined in item IV of the head of art. 5, when working in an activity to promote, develop and protect agriculture, may have reached the limits provided in this article or established by a convention or collective bargaining labor agreement, provided that they do not exceed the flight safety parameters determined in the regulations issued by the Brazilian civil aviation authority.

<u>Art. 34</u>

The activities performed as an extra crew member on duty will be computed towards the limits of the daily, weekly and monthly working hours, not being considered for the calculation of the daily, monthly and annual flight hour limits, provided for in arts. 31, 32 and 33.

SECTION VI

WORKDAY LIMITS

<u>Art. 35</u>

The workday hours period is the duration of the flight or cabin crew member's work, counted between the time of his/ her presentation at the workplace and the time the work ends. Validity

 \S 1 The workday hours at the contractual base will start to be counted from the time of presentation of the crew member at the workplace.

§ 2 Outside the contractual base, the workday hours will be counted from the time of presentation of the crew member at the place established by the employer.

 \S 3 In the cases covered by paragraphs 1 and 2 of this article, the presentation at the airport or at another location established by the employer will occur at

least thirty (30) minutes before the time scheduled for the flight to start.

§ 4 The workday hours will be considered as closed thirty (30) minutes after the engines are shut down, in the case of domestic flights, and forty-five (45) minutes after the final stop of the engines, in the case of international flights.

§ 5 For activities on land, the provisions of paragraphs 3 and 4 of this article do not apply.

§ 6 The limits set forth in § 4 of this article can be changed by aircraft operators provided with a Human Fatigue Risk Management System for the planning and preparation of their crews> duty rosters. The minimum limit is thirty (30) minutes.

<u>Art. 36</u>

The flight or cabin crew members employed in the air service defined in item I of the head of art. 5 will be assured the following limits for their working hours:

I – Nine (9) hours, if they are members of a minimum or simple crew;

II – Twelve (12) hours, if they are members of a compound crew;

III - Sixteen (16) hours, if they are members of a relay crew.

<u>Art. 37</u>

Flight and cabin crew members employed in the air services defined in items II, III, IV and V of the head of art. 5 are assured the following working hour limits:

I – Eleven (11) hours, if they are members of a minimum or simple crew;

II – Fourteen (14) hours, if they are members of a compound crew;

III - Eighteen (18) hours, if they are members of a relay crew.

Sole paragraph. Flight crew members employed in the specialized air services defined in item IV of the head of art. 5, when working in an activity to promote, develop and protect agriculture, may have the limits dealt with in this article established by a convention or a collective bargaining labor agreement, as long as they do not exceed the flight safety parameters determined in the regulations issued by the Brazilian civil aviation authority.

<u>Art. 38</u>

In the event of an interruption in their workday hours, flight or cabin crew mem-

bers employed in the air services defined in items II, IV and V of the head of art. 5, when being members of a minimal or simple crew, their working hours may be increased by up to half the time of interruption, in the following cases:

I – when there is an interruption of the workday hours and they are off their contractual base, in excess of three (3) less than six (6) consecutive hours, and these hours are provided by the local employer for rest, separate from the public, and with temperature and light control;

II – when there is an interruption of the workday hours outside their contractual base, in excess of six (6) but less than ten (10) consecutive hours, and individual rooms with private bathroom, adequate hygiene and safety conditions, minimum noise and temperature and brightness control.

Sole paragraph. The condition described in this article should be recorded in the aircraft's logbook, with the captain's signature.

<u>Art. 39</u>

For the reckoning of working hours, the nightly work hour will be computed as having fifty-two (52) minutes and thirty (30) seconds.

Sole paragraph. For the purposes of this Law, by nightly is meant:

I – work done on land from twenty-two (22) hours of one day to five
(5) hours of the following day, considering local time;

II - the period of flight time from eighteen (18) hours of a day and six
(6) hours of the following day, considering the official time zone of the crew's contractual base.

<u>Art. 40</u>

The working day limits may be extended for sixty (60) minutes, at the sole discretion of the aircraft captain, in the following cases:

I – nonexistence, in a place of regular stopover, of resting accommodations suitable for the crew and passengers;

II – waiting too long, off the contractual base, in a place of regular medium time, caused by unfavorable weather conditions and unscheduled maintenance work; III – for imperative need, understood as the result of a catastrophe or infrastructure problem that does not constitute a case of failure or administrative lack of the company.

Sole paragraph. Any extension of working hours limits must be communicated, within a maximum of twenty- four (24) hours after the trip, by the captain to the employer, who, within fifteen (15) days, will communicate it to the Brazilian civil aviation authority.

<u>Art. 41</u>

The duration of the flight or cabin crew members' work will not exceed forty-four (44) hours per week and one hundred and seventy-six (176) hours per month, including the time of:

I – workday hours and ground service during the trip;

II – stand-by period and one third (1/3 (one-third) of the on-call period;

III – travel as an extra crew member on duty;

IV - simulator training, classroom or distance courses, training and meetings;

V – performing other services on land, when scheduled by the company.

§ 1 The weekly work limit covered by this article can be changed by a convention or collective bargaining labor agreement, provided that it does not exceed the parameters established in the regulations issued by the Brazilian civil aviation authority. The extrapolation of the monthly limit of one hundred and seventy-six (176) hours is forbidden in all circumstances.

§ 2 The flight or cabin crew members employed in the air services defined in items II, III, IV and V of the head of art. 5 shall have a maximum period of consecutive work of twenty-one (21) days, counted from the day of departure of the crew member from his/her contractual base until the day he/she returns to it.

§ 3 I the case of flight or cabin crew members employed in the air services defined in items II, III, IV and V of the head of art. 5, the consecutive period of work, at the place of operation, may not exceed seventeen (17) days.

§ 4 When the services are provided off the contractual base for a period in excess of six (6) days, the crew members referred to in § 3 of this article will have, when they return to base, days off corresponding to, at least, the number of days they remained off the contractual base less two (2) days.

§ 5 The crew members employed in the air service defined in item I of the head of art. 5 who also perform administrative activities will have their working hours limited by a convention or a collective bargaining labor agreement, as long as they do not exceed the parameters established in the regulations issued by the Brazilian civil aviation authority.

§ 6 The provisions of the head and paragraphs 1, 2, 3 and 4 of this article do not apply to the crew members employed in the air services defined in item IV of the head of art. 5, when working in an activity to promote, develop and protect agriculture, who may have the referred limits reduced or increased by convention or a collective bargaining labor agreement, as long as they do not exceed the flight safety parameters determined in regulations issued by the Brazilian civil aviation authority.

<u>Art. 42</u>

The crew members shall comply with the maximum limit of two (2) consecutive very early mornings of work, and the total of four (4) very early mornings of work in the period of one hundred and sixty-eight (168) consecutive hours, counted from their presentation for duty.

§ 1 The flight or cabin crew member can be assigned for work on the third consecutive dawn, but as an extra crew member, on a return flight to his/her contractual base and ending his/her work day. In this case, the crew member is not allowed to be a member of a crew in the period preceding the third consecutive dawn in the same working hours.

§ 2 Whenever a minimum period of forty-eight (48) hours is made available to the crew member, free of any activity, the counting of a new period of one hundred and sixty-eight (168) consecutive hours referred to in the head of this article can be initiated.

§ 3 The limits provided for in this article may be reduced or increased by means of a convention or a collective bargaining labor agreement, provided that they do not exceed the parameters established in the regulations issued by the Brazilian civil aviation authority.

§ 4 The wholly or partially elapsed period elapsed from zero (0) to six (6) hours is considered to be dawn, considering the official time zone of the crew>s contractual base.

SECTION VII

ON-CALL AND STAND-BY PERIODS

<u>Art. 43</u>

The on-call period is the time of not less than three (3) and not in excess of twelve (12) hours in which the crew member remains at the location of his/her choice at the employer's disposal, and must present himself/herself at the airport or in another determined place, within the time limit of up to ninety (90) minutes, after receiving a notice communication to start a new assignment.

§ 1 In a city or conurbation with two (2) or more airports, the crew member assigned to an airport other than the contractual base will have a time of one hundred and fifty (150) minutes for the presentation, after receiving a notice to start a new assignment.

§ 2 The on-call hours be paid on the basis of one-third (1/3) of the flight hour value.

§ 3 If the crew member called up for a new task, the paid time will be counted from the start of the on-call period to the beginning of his/her displacement.

§ 4 If the flight or cabin crew member is not called for an assignment during the on-call period, a minimum rest time of 8 (eight) hours must be observed before the start of a new assignment.

§ 5 The on-call period, counted from its beginning until the beginning of the displacement if the crew member is called for a new assignment, may not exceed twelve (12) hours.

§ 6 In the twelve- (12) hour period established in § 5, the displacement periods of ninety (90) and one hundred and fifty (150) minutes established in the head of and in § 1 of this article will not be computed.

§ 7 The flight or cabin crew member employed in the air service provided for in item I of the head of art. 5 will have its number of on-call periods eight (8) per month, which may be reduced or increased by convention or a collective bargaining labor agreement, subject to the limits established in the regulations issued by the Brazilian civil aviation authority.

<u>Art. 44</u>

The stand-by period is the time during which the flight or cabin crew member remains available, as determined by the employer, in the workplace.

§ 1 The stand-by period will be paid on the same basis as the flight time.

§ 2 The stand-by period of the crew member employed in the air service provided for in item I of the head of art. 5 will last for a minimum of three (3) hours and a maximum of six (6) hours.

§ 3 The stand-by period of the crew member employed in the air services provided for in items II, III, IV and V of the head of art. 5 will last for a minimum of three (3) hours and a maximum of ten (10) hours.

§ 4 If a stand-by period in excess of three (3) hours is expected, the employer must assure the crew member adequate resting accommodations.

§ 5 For the purposes of this article, adequate accommodations mean armchairs in a specific room with temperature control, in a place other than that intended for the public and for the presentation of the crews.

§ 6 For the purposes of remuneration, if the crew member is called during the stand-by period to assume the flight schedule, the time from the start of the stand-by period and the start of the flight will be considered as the stand-by period.

§ 7 The limits established in this article can be reduced or enlarged by a convention or a collective bargaining labor agreement, subject to the parameters established in the regulations issued by the Brazilian civil aviation authority.

SECTION VIII

TRIP

<u>Art. 45</u>

Trip is the work activity performed by the flight or cabin crew member, counted from a departure from his/her contractual base to the time of his/her return.

§ 1 A trip may comprise one or more working days.

§ 2 The flight or cabin crew can make a combination of flights, passing by his/ her contractual base without being discharged from the service, provided that the schedule meets the previously published roster.

§ 3 The employer may require the flight or cabin crew member to complete the flight, when he/she is out of the contractual base to perform unpostponable urgent services.

§ 4 The employer may not require the flight or cabin crew member to complement the flight or any other activity at the end of the trip, on his/her return to the contractual base. It is up to the crew member to accept or not the assignment, with no penalty in case of refusal.

SECTION IX

REST PERIODS

<u>Art. 46</u>

Rest is an uninterrupted period after the working hours in which the crew is under no obligation of providing any service.

<u>Art. 47</u>

Off his or her contractual base, the crew member is assured adequate rest accommodations and transportation from the airport to that location, and vice versa.

§ 1 The provisions of this Article shall not apply to the crew member employed in the air services provided for in sections II, III, IV and V of the head of art. 5 when the cost of transportation and resting accommodations is reimbursed by the employer.

§ 2 The reimbursement referred to in § 1 of this article shall take place no later than thirty (30) days after the payment.

§ 3 By adequate resting accommodations for the crew member are meant an individual bedroom with private bathroom and adequate conditions of hygiene, safety, noise, climate and lighting control.

§ 4 When there is no transportation available at the end of the working hours, the rest period shall be computed from the moment the transportation is made available to the crew.

<u>Art. 48</u>

The minimum duration of the rest time will be related to the previous working hours, the following limits being kept:

I – twelve (12) hours of rest after a workday of twelve (12) hours;

II – sixteen (16) hours of rest after workday of more than twelve (12) and up to fifteen (15) hours;

III – twenty-four (24) hours of rest after a workday of more than fifteen (15) hours.

Sole paragraph. The limits provided for in this article can be changed by a convention or collective bargaining labor agreement, subject to flight safety parameters established in the regulations issued by the Brazilian civil aviation authority.

<u>Art. 49</u>

When there is the intersection of three (3) or more time zones in one of the directions of the trip, the crew member will have, on his/her contractual base, the rest period plus two (2) hours for each time zone crossed.

SECTION X

PERIODIC DAY-OFF

<u>Art. 50</u>

Day-off is the period of not less than twenty-four (24) consecutive hours in which the crew member at his/her contractual basis, with no prejudice to remuneration, is released from any activity related to his/her work.

§ 1 Except as provided for in paragraphs 2 and 3 of art. 41, the day-off should start at no later than the sixth (6th) consecutive period of twenty-four (24) hours, counting from the presentation of the crew member, within the limits of the working and resting hours.

§ 2. The minimum regulatory rest periods must be contained within the six (6) consecutive periods of twenty-four (24) hours specified in § 1 of this article.

§ 3 In the case of international long-haul flights, the limit set forth in § 1 of this article may be extended by thirty-six (36) hours, the employer being required to grant the crew member two (2) day-off periods in the same month the flight is conducted, in addition to the days-off provided for in this article and in art. 51.

§ 4 The limits set forth in paragraphs 1 and 2 of this article may be changed by a convention or collective bargaining labor agreement, subject to certain parameters in the regulations issued by the Brazilian civil aviation authority.

<u>Art. 51</u>

The crew member employed in the air service provided for in item I of the head of art. 5 will have a monthly number of days off not less than ten (10), of which at least two (2) should include one Saturday and one Sunday, as consecutive days, with the first of these to start till twelve (12) hours on Saturday, Brasilia Standard Time.

§ 1 The monthly number of days off provided for in this article can be reduced to nine (9) as per criteria established by a convention or a collective bargaining labor agreement. § 2 When a crew member as a partial candidate for the monthly service roster for reasons of vacation or leave. The number of worked days will be applied, proportionally, to number of days off to be granted, with the nearest upper integer approximation.

<u>Art. 52</u>

The flight or cabin crew member employed in the air services provided for in sections II, III, IV and V of the caput of art. 5 will have monthly number of clearances not less than eight (8), of which at least two (2) should include a Saturday and Sunday in a row.

Sole paragraph. The crew members employed in the air services provided for in item IV of the head of art. 5, when working in an activity to promote, develop and protect agriculture, may have the limits established in this article modified by a convention or collective bargaining labor agreement, subject to the parameters established in the regulations established by the Brazilian civil aviation authority.

<u>Art. 53</u>

The days off will only start after the completion of the workday's rest period, and their start and end times will be defined by a previously published roster.

<u>Art. 54</u>

When the crew member is assigned to attend a course off his/her contractual base, his/her days off may be taken there. The company must guarantee him/ her, on his/her return, a paid leave of one (1) day for every fifteen (15) days off the contractual base.

Sole paragraph. The paid leave should not coincide with a Saturday, Sunday or holiday if the crew member is to remain off the base for a time in excess of thirty (30) days.

CHAPTER III

REMUNERATION AND CONCESSIONS

SECTION I

REMUNERATION

<u>Art. 55</u>

Without prejudice to contractual freedom, the crew member's remuneration will correspond to the sum of the amounts received from the company. Sole paragraph. The remuneration paid does not include the amounts paid by the company by way of reimbursement, as well as the daily lodging, food and transportation paid.

<u>Art. 56</u>

The crew members' remuneration may be fixed or consist of a fixed and variable portion.

Sole paragraph. The variable portion of the remuneration must be calculated on the basis of flight hours, except for the following case:

I – the crew employed in a non-regular public air transport service on the air taxi mode, provided for in item II of the head of art. 5, which may have the variable portion of his/her salary based on the number of kilometers from the origin to the destination of the flight, provided that this is established by a convention or collective bargaining labor agreement;

II – the crew member employed in the air services provided for in item IV of the head of art. 5, working in an activity to promote, develop and protect agriculture, who could have the variable portion of his/her calculated based on the area produced or applied or other criteria established by a convention or collective bargaining labor agreement.

<u>Art. 57</u>

The period of time on the ground between flight stages on the same workday will be remunerated.

Sole paragraph. Values and criteria for remuneration of the period referred to in the head of this article will be established in the employment contract, a convention or collective bargaining labor agreement.

<u>Art. 58</u>

The company shall pay the remuneration due for work not done for reasons against the will of the crew member if another equivalent activity was not been assigned.

<u>Art. 59</u>

The remuneration of night flight hours and flight hours as an extra crew member will be calculated according to the legislation in force, subject to the conditions set forth in the employment contract, in a convention or collective bargaining labor agreement. § 1 For the purposes of this article, by night flight is meant the flight conducted from twenty-one (21) hours, Coordinated Universal Time, of one day and nine (9) hours, Coordinated Universal Time, of the following day.

§ 2 For remuneration purposes, the night flight hour is counted at the rate of fifty-two (52) minutes and thirty (30) seconds.

<u>Art. 60</u>

Hour fractions will be computed for remuneration purposes.

SECTION II

FOOD

Article 61

During the trip, the crew member shall be entitled to food, on the ground or in flight, in accordance with instructions issued by the Ministry of Labor and the competent authorities.

§ 1 The extra crew member on duty will be entitled to food.

§ 2. When on land, the crew's interval for meals must have a minimum duration of forty-five (45) minutes and a maximum of sixty (60) minutes.

 \S 3 When in flight, the meals should be served at maximum intervals of four (4) hours.

<u>Art. 62</u>

The helicopter crew shall have their meals served on land or on-board offshore units, lasting sixty (60) minutes, a period which will not be counted in the crew's working day.

Article 63

On flights made from twenty-two (22) hours of one day and six (6) hours of the following day, a meal will be served if the duration of the flight is equal to or in excess of three (3) hours.

Article 64

Meals are also served to the crew member who is in a stand-by situation or in the fulfillment of a training schedule from twelve (12) to fourteen (14) hours and from nineteen (19) and twenty-one (21) hours, in an interval lasting sixty (60) minutes.

Sole paragraph. The interval for meals covered by this article:

I – will not be computed in the duration of the workday;

II – will not be observed in the case of a simulator training program.

SECTION III

MEDICAL ASSISTANCE

Article 65

The employer shall cover the costs incurred by the crew member off his/her contractual base in cases of medical urgencies, air rescue, and medical assistance, for return to base or place of treatment.

SECTION IV

UNIFORM

<u>Art. 66.</u>

The crew members will receive from the company, free of charge, when not of common use, the uniform pieces and the equipment required by an act of the competent authority for the exercise of their professional activity.

Sole paragraph. For the purposes of this article, the clothing, equipment and other accessories supplied to the crew members as required for performing their respective services shall not be considered as salary.

SECTION V

VACATION

Article 67

The crew member's annual vacation period will be of thirty (30) consecutive days.

 \S 1 By a collective bargaining labor agreement, the vacation accrued time can be divided

§ 2 The vacation accrued will be communicated to the crew member, in writing, at least 30 (thirty) days in advance.

<u>Art. 68</u>

The company will keep an updated schedule of the accrued vacation and there should be a rotation among the crew members working on the same equipment with regard to when they should take their vacation in January, February, July and December.

<u>Art. 69</u>

With the exception of contract termination cases, vacation will not be converted into a cash bonus.

<u>Art. 70</u>

Except for more favorable conditions, the vacation pay and the thirteenth salary pay will be calculated on the average of the fixed and variable portions of the compensation in the accrual period.

Article 71

The vacation pay will be made till two (2) days before the vacation period starts.

Section VI

Certificates and Qualifications

<u>Art. 72</u>

The Employer is responsible for the cost of the medical and technical certificates of its crew members when posting them on the crew's service roster, their dates and, when required, the waivers for undergoing the necessary examinations for revalidation.

§ 1 It is up to the employer to keep a validity control over the medical certificates and technical qualification documents so that the dates and, when necessary, the waivers for undergoing the examinations required for their revalidation.

§ 2 The employer is responsible for the payment or reimbursement of the amounts paid by the crew for the revalidation of their medical and technical qualification certificates, within the limit values set by the government agencies, as well as amounts paid for language proficiency tests and possible fees related to the documents required for the exercise of their contractual functions.

§ 3 In the case of crew members employed in the air services provided for in item IV of the head of art. 5, when working in an activity to promote, develop and protect agriculture, payment and reimbursement of amounts as provided for in this article should comply with values and criteria established by a convention or collective bargaining labor agreement.

CHAPTER IV

TRANSFERS

Article 73

For the purposes of temporary or permanent transfers, the crew member's base is the location where he/she is required to provide the services.

§ 1 As used herein, the following terms have the meaning outlined below:

I – Temporary transfer: the displacement of the crew member from his/ her base, for a minimum of thirty (30) days and not more than one hundred twenty (120) days to provide temporary services without change of address, followed by a return to base as soon as the task assigned to him/her ceases; and

II – permanent transfer: the displacement of a crew member from his/her base, for a period in excess of one hundred twenty (120) days, with a change of domicile.

§ 2. After each temporary transfer, the crew member shall remain at his/her base for at least one hundred and eighty (180) days.

§ 3 The time between permanent transfers will be two (2) years.

§ 4 In the case of a temporary transfer, the crew members shall be provided with accommodations, food, transport service, air transport round trip and, on return to base, paid leave, considering the duration of the transfer of two (2) days for the first month plus one (1) day for each month or a subsequent fraction of it, and at least two (2) days which shall not coincide with a Saturday, Sunday or holiday.

 \S 5 In the case of a permanent transfer, the crew member shall be provided with the following by the employer:

I – expense allowance to cover installation expenses at the new base, not less than four (4) times the monthly salary amount, the calculation basis being the variable salary at its current rate, multiplied by the average pay of the corresponding job in the last twelve (12) months;

II – air transport for the crew member and his/her dependents;

III - transfer of the respective luggage; and

IV – exemption from any work-related activity for a period of eight (8) days to be set, at the crew member's option, with an eight- (8) day prior notice to the employer, within sixty (60) days from the crew member's arrival at the new base.

§ 6 The temporary transfer can be converted into a permanent transfer.

Article 74

The crew must be notified by the employer with at least sixty (60) days in the permanent transfer and fifteen (15) days in the interim.

CHAPTER V

FINAL AND TRANSITORY PROVISIONS

<u>Art. 75</u>

The following provisions of this law do not apply to flight crew members employed in the air services defined in item IV of the head of art. 5, when working in an activity to promote, develop and protect agriculture:

I - Section II of Chapter II;

II - Arts. 27, 28, 43, 44 and 45;

III – Chapter IV;

IV – The transition regulations established in art. 80.

<u>Art. 76</u>

In addition to the cases covered by this Law, the responsibilities of the crew members are defined by Law No. 7565 of December 19, 1986 (Brazilian Aeronautical Code), by the laws and regulations in force and, with regard to events occurred under the employment contract, by conventions and collective bargaining labor agreements.

<u>Art. 77</u>

Without prejudice to the provisions of Chapter III of Title IX of Law No. 7565 of December 19, 1986 (Brazilian Aeronautical Code), violators of the provisions of this Law shall be subject to the penalties provided in Art. 351 of the Consolidated Labor Laws (CLT), approved by Decree-Law No. 5452 of May 1, 1943.

Sole paragraph. The processing of administrative fines shall be governed by the provisions of Title VII of the Consolidated Labor Laws (CLT), approved by Decree-Law No. 5452 of May 1, 1943.

<u>Art. 78</u>

It will be up to the Brazilian civil aviation authority to issue the necessary regulations for the implementation of the Human Fatigue Risk Management System mentioned in Section III of Chapter I.

<u>Art. 79</u>

Art. 30 of Law No. 7183 of April 5, 1984 shall become effective with the wording below:

"Art. 30. The crew member's flight time limits may not exceed in each month or year, respectively: I – on conventional airplanes, one hundred (100) and one thousand (1,000) hours;

II – on turbo-prop aircraft, one hundred (100) and nine hundred thirty-five (935) hours;

III – on jet aircraft, eighty-five (85) and eight hundred and fifty) (850) hours;

IV – on helicopters, ninety (90) to nine hundred and sixty (960) hours.

§ 1 When the crew member operates different types of aircraft, the lowest limit will be observed.

§ 2 The flight time limits for crew members of regular airlines, in intervals of less than thirty (30) days shall be proportional to the monthly limit plus ten (10) hours.» (NR)

<u>Art. 80</u>

The following provisions of Law No. 7183 of April 5, 1984 shall apply to crew members, from the entry into force of this Law until 30 (thirty) months after its publication, as a transitional law:

I - arts. 12, 13 and 20;

II – the head of this article, including its items, and § 1, all of art. 21;

III - arts. 29 and 30.

<u>Art. 81</u>

The following are revoked:

I – ninety (90) days from the official publication of this Law, Law No. 7183 of April 5, 1984, with the exception of the provisions referred to in art. 80;

II – thirty (30) months from the official publication of this Law, the provisions of Law No. 7183, of April 5, 1984, referred to in art. 80.

<u>Art. 82</u>

This Law will come into force ninety (90) days after its official publication, except for arts. 31, 32, 33, 35, 36 and 37, which will become effective thirty (30) months after the official publication of the Law.

Brasilia, August 28, 2017; 196th year of Independence and 129th year of the Republic.

MICHEL TEMER

MAURICIO QUINTELLA

RONALDO NOGUEIRA DE OLIVEIRA

BRAZILIAN CIVIL AVIATION REGULATION -RBAC No. 117

AMENDMENT No. 00

REQUIREMENTS FOR HUMAN FATIGUE RISK MANAGEMENT

SUBPART A

GENERAL

117.1 Applicability

(a) This Regulation establishes operational limitations for the fatigue management of air crew members and air operators. The operational limitations are described in paragraph 117.3 (o) of this Regulation.

(b) For the purposes of this Regulation, air operators, or simply operators are:

(1) operators certified by RBAC No. 121;

(2) operators certified by RBAC No. 135;

(3) [reserved];

(4) specialized air service operators, according to art. 201 of Law No. 7565 of December 19, 1986 (Brazilian Aeronautical Code); and

(5) private operators operating under RBHA 91, or any regulation that may replace it, when performing non-profit operations with pilots hired pursuant to Decree-Law No. 5452 of May 1, 1943 (CLT), at the service of the aircraft operator.

117.3 Definitions

The following definitions apply to this Regulation:

(a) acclimation, also known as biological adjustment, means a state in which the circadian rhythm of a crew member is synchronized with the time zone of the region where the crew member is, in accordance with the requirements set forth in section 117.5 of this Regulation;

(b) accommodations:

(1) when referring to accommodations on board the aircraft means a bed or seat installed on the aircraft in order to provide opportunity for the crew to rest or sleep. They can be classified as outlined below:

(i) Class 1 accommodations mean a bed or other surface that allows sleeping in the horizontal position, whose location is separate both from the flight deck and the passenger cabin, is provided with temperature control, allows the crew member to control lighting and is isolated from noise and disturbances;

(ii) Class 2 accommodations mean a seat in the passenger cabin that allows a horizontal or almost horizontal sleeping position (that is, it reclines 45° or more from the vertical), with a minimum width of 50 cm (20 in.) and support for the legs and feet in the reclined position. Additionally, it should be separated from passengers for at least a curtain to allow darkening and be reasonably free of disturbance from the passengers and other crew members; and

(iii) Class 3 accommodations mean a seat on the flight deck or passenger cabin, reclining 40 ° or more from the vertical, with support for legs and feet in the reclined position, separate from the passenger by at least one curtain to allow darkening, and not adjacent to any passenger seat;

(2) by accommodations for stand-by crew members, as defined in art. 44 of Law No. 13475 of August 28, 2017, are meant armchairs that recline 45° or more from the vertical, with support for the legs and feet in the reclined position, in a specific room with temperature control, noise mitigation and lighting control, in a place different from that intended for the public and presentation of the crews, and with access to food. At the crew member's contractual work base, the place of dwelling should contemplate the resting accommodation requirements.

(3) by resting accommodations as defined in § 3 of article. 47 of Law No. 13475 of August 28, 2017, off the contractual base means an individual room with private bathroom and adequate conditions of hygiene, safety, noise, climate and lighting control, as well as access to food. On the con-

tractual work base of the crew member, the place of dwelling should contemplate the resting accommodation requirements;

(c) ability to work means that a person is physiologically and mentally prepared and able to perform the tasks assigned to him/her safely;

(d) contractual base, as defined in the head of art. 23, complemented by § 1 of art. 25 of Law 13475, of August 28, 2017 means the headquarters or branch where the crew member's employment contract is registered, specifying the airport to be used by the crew member;

(e) rest means a period of time in which the crew is released from his/ her activities during the workday, not characterizing rest nor time off;

(f) fatigue means a physiological state of reduced physical and/or mental performance capacity, resulting from sleep deprivation, extended wakefulness, misfits of circadian rhythms, sleep-wake cycle changes and/or workload (mental and/or physical) that can impair a person 's alertness level and ability to perform activities related to operational safety;

(g) days-off, as defined in art. 50 of Law No. 13475 of 28 August 2017, means the period of not less than twenty-four (24) consecutive hours in which the crew members at their contractual base, without prejudice to their compensation, are released from any activity related to their job;

(h) time zone is a defined region with a uniform local time which differs in one hour (or a portion of one hour) from the local uniform time of an adjacent region;

(i) Fatigue Management Action Group (GAGEF) means the group, made up of representatives of all those people involved in fatigue management actions, who are responsible for coordinating the fatigue management activities in an organization. The deployment and update of the Human Fatigue Risk Management System must be followed up by the labor union of the professional category. (j) fatigue management means the methods by which the civil aviation service providers and operating personnel comply with the safety implications related to fatigue. In general, ICAO standards and recommended practices (SARPs) in various annexes support two distinct methods for managing fatigue:

(1) a prescriptive approach, which requires that the service provider meets the limits set by the State while managing the dangers related to fatigue through its SGSO; and

(2) an approach based on performance, which requires the service provider to implement a Fatigue Risk Management System (SGRF) approved by the State;

(k) Fatigue Risk Management (GRF) means the management of fatigue in a manner appropriate to the level of risk exposure and the nature of the operation, in order to minimize the adverse effects of fatigue on operations;

 (I) acclimatized hour means the legal time in the location where the crew member is acclimated;

(m) legal or official time means the adoption of a time standard for a specific region and determined by law. Unless otherwise specified, when the time is mentioned in these Regulations, the legal time will be considered;

(n) working hours, as defined in art. 35 of Law No. 13475 of August 28, 2017, means the duration of the crew member's work, counted from the time of his/her presentation at the work site and the time in which that work time is completed.

(1) The working hours at the contractual base will be counted from the time of presentation of the crew member at the work site.

(2) Off the contractual base, the working hours will be counted from the time of presentation of the crew member at the place established by the employer.

(3) In the cases covered by paragraphs (n)(1) and (n)(2) of this section, the presentation at the airport or another place established by the employer must be at least thirty (30) minutes earlier than the time is expected to start. (4) The working hours will be considered closed thirty (30) minutes after the final stop of the engines in case of domestic flights, and forty-five (45) minutes after the final stop of the engines, in case of international flights.

(5) The provisions of paragraphs (n)(3) and (n)(4) of this section do not apply to land activities.

(6) The limits provided for in paragraph (n)(4) of this section can be changed by aircraft operators that have a Fatigue Risk Management System for the planning and implementation of their crews' duty rosters, the established minimum limit remaining thirty (30) minutes;

(o) limitations or operational limits, in the context of this Regulation, mean any time requirements for flight and cabin crew members that affect flight limits, landing, working hours, on-call periods, stand-by periods, rest periods and other factors that may reduce the alertness of the crew or compromise their operational performance;

(p) local night means a period of 8 consecutive hours, included in the hours between 22:00 hours and 08:00 hours at the location where the crew is at the moment;

(q) complex operation means an operation involving one or more of the following conditions:

(1) a compound or relay crew;

(2) working hours that involve a difference of three or more time zones; or

(3) working hours that begin when the crew member is:

(i) in an unknown state of acclimatation; or

(ii) not acclimated to the place where the working hours begin;

(r) dawn operations mean working hours comprising the period totally or partially elapsed between 00:00 hours and 06:00 hours, legal time where the crew member is acclimated;

(s) sleep opportunity means a period of time during the rest or time off when a crew member:

(1) is not fulfilling physiological activities, such as eating, drinking, dressing and personal hygiene; and

(2) has access to resting accommodations, under normal circumstances, without being interrupted by the operator; (t) adaptation period means a continuous period in which a crew member is not required to provide any service to become acclimated to a particular location;

(u) resting period, as defined in art. 46 of Law No. 13475 of August 28, 2017 means an uninterrupted period after the working hours in which the crew member is released from the providing any service;

(v) reprogramming means the designation of a crew member to comply with a different roster than that to which he/she was initially appointed;

(w) on-call period, as defined in art. 44 of Law No. 13475 of August 28 2017 means the period during which the crew member remains available, as determined by the employer, at the workplace;

(x) the circadian rhythm means the life cycle of approximately 24 hours of the biochemical, physiological and behavioral processes of human beings, supported by endogenous timing mechanisms. This cycle is related to the Earth's rotational time and is held by different agents, especially the light and dark cycle, and influenced by the feeding schedules and physical and social activities;

(y) Fatigue Risk Management System (SGRF) means a system approved by ANAC, for the continuous monitoring and management of the security risks associated with fatigue, based on data, scientific principles and operational experience, which aims to ensure that the staff involved will perform its activities under an adequate level of alertness. An approved SGRF makes it possible to operate operational limits different from those contained in this Regulation;

(z) on-call period, as defined in art. 43 of Law No. 13475 of August 28, 2017, means the period of time never less than three (3) hours and not exceeding twelve (12) hours, in which the crew member remains in a location of his/her choice, available to the employer, and having to present at the airport or another particular place, within ninety (90) minutes after receiving a notice for the beginning of a new assignment.

(1) When in a city or conurbation with two or more airports, the crew members who are assigned to an airport other than the contractual base will have a deadline for the presentation of one hundred and fifty (150) minutes after receiving the notice to start a new assignment;

(aa) flight time or time of the flight, as defined in art. 30 of Law No. 13475 of August 28, 2017, means the period between the beginning of the displacement, in the case of a fixed-wing aircraft or between the start of the engines, in the case of a rotary-wing aircraft, and the moment when the aircraft is immobilized or the engines are cut off at the end of the flight (chock-to-chock);

(bb) minimum crew, as defined in art. 14 of Law No. 13475 of August 28, 2017, means the crew determined in the form of the aircraft type certification, approved by ANAC, it being allowed to be used in local instruction, experience, inspection and ferry flights;

(cc) simple crew, as defined in art. 15 of Law No. 13475 of August 28, 2017, means the crew consisting of a minimum crew plus, when applicable, the crew members required to perform the flight;

(dd) compound crew, as defined in art. 16 of Law No. 13475 of August 28, 2017, means the crew consisting of a simple crew plus a pilot qualified as a pilot in command, a flight engineer, when required for the equipment, and, at least, twenty-five percent (25%) of the number of flight attendants;

(ee) relay crew, as defined in art. 17 of Law No. 13475, of August 28, 2017, means the crew consisting of a simple crew plus a pilot qualified as a pilot in command, a second pilot in command, a flight engineer, when the equipment so requires, and fifty percent (50%) of the number of flight attendants;

(ff) extra crew member on duty, as defined in art. 4 of Law No. 13475, of August 28, 2017 means the flight or cabin crew member who travels at the employer's service, in his/her own aircraft or not, without exercising his/ her function onboard the aircraft. The extra crew member on duty will be considered a crew member on duty with respect to working hours and rest limits. The extra crew member on duty will be provided with a seat in the passenger cabin, except on an aircraft for exclusive cargo transportation; and

(gg) travel, as defined in art. 45 of Law No. 13,475, of August 28, 2017, means the work performed by the flight or cabin crew members, counted from the departure of their base till their return. A trip can comprise one or more workdays.

<u>117.5 Determination of</u> acclimatation

(a) For the purposes of this section, the following definitions shall apply:

(1) original place: place where the crew member was last acclimated; and

(2) new place: place where the crew member starts his/her working hours or a rest period.

(b) At the beginning of his/her working hours or rest period at a new location, a crew member should be considered acclimated to the new location if:

(1) the difference between the original location and the new location is less than three time zones; and

(2) the crew member has remained in an acclimated state since the last acclimatation.

(c) At the beginning of the working hours or a rest in a new location which differs in three or more time zones with regard to the original location, the crew member is considered acclimated to the original location if the working hours or a rest period in the new location begin in less than 36 hours after the beginning of the original location.

(d) At the beginning of the working hours or a rest period in a new location which differs in three or more time zones with regard to the original location, the crew member is considered to be in an unknown state of acclimation if the working hours or the rest period in the new location begin 36 hours or more after the crew member has started the working hours at the original location, as long as there is no qualification in the adaptation period, according to paragraph (e) of this section.

(e) A crew member remains in his/her acclimated state (either acclimated to a specific location or in an unknown acclimated state) until he/she has:

(1) an adaptation period in one location (adaptation location) according

to Table 1 at the end of this section; or

(2) an adaptation period that is:

(i) off its contractual base;

(ii) according to Table 1 at the end of this section; and

(iii) reduced by 12 hours for each previous rest period that:

(A) immediately precedes the adjustment period;

(B) be performed in a resting place that differs in less than three time zones with regard to the adaptation site; and

(C) includes a local night's rest.

(f) The use of Table 1 at the end of this section to determine the adaptation period provided for in paragraph (e) of this section must be made as specified below:

(1) the difference in time zones must be determined between:

(i) the location where the crew member was acclimated last (original location); and

(ii) each location where the working hours or rest period began at the last acclimation (previous places)

(2) next, the biggest difference between the original location and each of the previous locations must be chosen;

(3) next, one should choose the trip direction (east or west) corresponding to the biggest difference between the time zones established by paragraph (f)(2) of this section;

(4) next, one should choose the trip direction (east or west) corresponding to the biggest difference between the time zones established by paragraph (f) (2) of this section; and

(5) finally, one should choose the east or west columns, the number of hours corresponding to the line determined in paragraph (f) (3) of this section must be chosen.

[THE IMAGE WAS REMOVED FROM THIS VERSION]

SUBPART B

LIMITATIONS AND REQUIREMENTS

117.11 Public air transport services

(a) Subject to paragraph 117.17 of this Subpart, each operator engaged in public air service must comply with the operational limits and crew requirements mentioned in one or more of the following paragraphs, in accordance with this Regulation:

(1) the operational limits and requirements specified in Appendix A of this Regulation, for the operators indicated in paragraphs 117.1 (b) (1) and 117.1 (b) (2) of this Regulation who choose this Appendix; and mandatorily required for the operators of specialized air services, according to paragraph 117.13, and private operators, according to paragraph 117.15, of these Regulations;

(2) the operational limits and requirements specified in Appendix B of this Regulation, for the operators indicated in paragraphs 117.1 (b) (1) and 117.1 (b) (2) of this Regulation, who choose this Appendix and are engaged in operations that require two or more pilots, provided that the operations are considered complex as defined in 117.3 (q); or

(3) the operational limits and requirements specified in Appendix C of this Regulation, for the operators indicated in paragraphs 117.1 (b) (1) and 117.1 (b) (2) of this Regulation, who choose this Appendix and are engaged in aircraft operations that require two pilots, but which are not complex operations.

(i) The requirements in Appendix C are identical to those in Appendix B, but apply only to operations that are not complex, as defined in 117.3 (q). Appendix C has no requirements for complex operations.

(b) Each crew member of an operator mentioned in paragraph (a) of this section must comply with the operational limits and requirements contained in the paragraphs and appendices used by the operator, in addition to the requirements contained in section 117.21 of this Subpart.

<u>117.13 Specialized air service</u> operations

(a) Each specialized air services operator referred to in paragraph 117.1 (b) (4) of this Regulation must comply with the operational limits and crew requirements specified in section 117.19 of this Subpart and Appendix A of this Regulation.

(b) Each crew member of an operator mentioned in paragraph (a) of this section must comply with the requirements set forth 117.21 of this Subpart.

117.15 Private operations

(a) Each private air service operator mentioned in paragraphs 117.1 (b) (3) and 117.1 (b) (5) of this Regulation must comply with the operational limits and requirements specified in section 117.19 of this Subpart and in Appendix A of this Regulation.

(b) Each crew member of an operator mentioned in paragraph (a) of this section shall comply with the requirements set forth in section 117.21 of this Subpart.

117.17 Operations under multiple appendices

(a) If two or more appendices are applicable to a specific crew member's working hours, the following rules apply:

(1) the maximum number of working hours that a crew member can fulfill is the limit of working hours contained in the appendix under which the operation is being conducted at that time; and

(2) the maximum flight time that a crew member can comply with is the flight time limit contained in the appendix under which the operation is being conducted at that time.

(b) When determining the maximum number of working hours and the flight time in paragraph (a) of this section, the limit determined for each appendix should be based on the start time of the working hours and not the start time of the operation for each appendix.

(c) At any time during the working hours, the operator and crew member must assure that the latter remains within the cumulative limits of the working hours and flight hours for the appendix under which the operator is conducting his/her operations at that time.

(d) Whenever an operation is performed under two or more appendixes in a single set of working hours, the minimum rest time after the working hours is that contained in the appendix with the longest rest period, as if all the working hours had been completed under that appendix. (e) The crew member must comply with the rest requirement of the appendix set out in paragraph (d) of that section before starting a new journey.

<u>117.19 Obligations of all air</u> <u>operators</u>

(a) Fitness for work. No operator may require a crew member to operate an aircraft if, considering the circumstances of the flight to be performed, the operator has reason to believe that that crew member is, or is likely to be, under the effect of a fatigue that may impair the performance of the crew member to affect the safety of the operation.

(b) Limits. The operator must determine for each crew member the operational limits and requirements that are applicable to crew members in accordance with the appendices that are applicable to the operator.

(c) Manual. Except as provided in paragraph 117.19 (i) of this section, the operator must include in his manual accepted by ANAC, the following information:

(1) the appendices to be used by the operator;

(2) the limits arising from the fulfillment of each appendix applicable to each crew member, informing:

(i) each maximum limit for each appendix;

(ii) each minimum limit for each appendix;

(iii) the relevant limits if the operator uses an SGRF; and

(3) for crew members performing a given operation: each limit mentioned in paragraph (c) (2) of this section as amended by the operator for the crew members and the operation, provided that it does not exceed the maximum limit, or reduces the minimum limit, specified in the applicable appendix or SGRF (section 117.65); and

(4) whenever it is necessary to take into account possible hazards as required in section 117.61 of this Regulation: for each crew member performing a given operation, each limit referenced in paragraph (c) (3) of this section with the necessary changes to take into account the possible danger.

(5) Responsibility of the operator's employees. Each operator must include in its manual the responsibilities for fatigue management and fatigue risk management.

(d) [Reserved].

(e) Records and reports.

(1) The operator must keep records, including reports and relevant documents on the following:

(i) expected work schedule of the crew;

(ii) work roster performed by the crew, hours of work and flight;

(iii) actual rest and rest periods related to the interrupted working hours and on board an aircraft, stand-by, on-call and off-duty periods; and

(iv) the working hours and flight time limits in your manual that have been exceeded in accordance with the relevant requirements of the appendices applicable to the operator or in accordance with the SGRF, with sufficient information to demonstrate compliance with paragraph (e) (3) of this section.

(2) Each record referred to in paragraph (e) (1) of this section, including a copy of the reports and documents, must be filed for at least five years from the date on which the record or its copy was produced.

(3) Each record referring to an extension of the working hours or flight time referred to in paragraph (e) (1) (iv) of this section must be:

(i) studied and used by the operator to improve on a continuous basis its fatigue management and fatigue risk management; and

(ii) sent to ANAC within 15 (days) days after the extension occurs.

(f) Contractual base.

(1) An air operator engaged in public air transport services must:

(i) determine the contractual base for each crew member and inform each crew member of their base; or

(ii) include in the manual details about how the determination of the contractual base is made, as well as the procedures that ensure that any change in the crew member's contractual base does not adversely affect the operational safety.

(g) Service roster. The operator must publish each service roster with a minimum time in advance as provided for in art. 26 and 27 of Law No. 13475 of August 28, 2017.

(h) Crew members. The air operator covered by this Regulation must ensure that

each of its crew members, when at their service, complies with the requirements contained in this Regulation.

(i) Private operators operating according to RBHA 91, or Regulation that will replace it, when performing non-profit operations, at the service of the aircraft operator. They do not need to prepare a manual covering the requirements contained in paragraph (c) of this section.

(j) In cases where the GRF or SGRF authorizes exceeding the twelve (12) hours of work or the reduction of the period of twelve (12) hours of rest, in a simple crew. These changes should be implemented by means of a convention or collective bargaining labor agreement between the aircraft operator and the professional category union.

117.21 Crew obligations

(a) A crew member employed by an operator must use the sleep opportunity, rest, repose and adaptation periods to obtain sufficient sleep to perform on a safe condition the next scheduled activity on the work roster.

(b) No crew member may accept to operate an aircraft if, considering the circumstances of the flight to be made, they have reason to believe that they are, or are likely to be, under the effect of a fatigue that could impair their performance and affect the operation safety.

(c) A crew member employed by an operator must, before his/her working hours, inform the operator of any situation that is affecting him/her, that is, with regard to the working hours, about which he/she has reason to believe that it may affect his/her ability to comply with the operator fatigue risk management or the operational limits and requirements of the appendices applicable to the operator.

(1) This paragraph does not require that the crew member should report repeatedly about a permanent situation that has been previously reported to the operator.

SUBPART C

FATIGUE RISK MANAGEMENT (GRF) AND FATIGUE RISK MANAGEMENT SYSTEM (SGRF)

<u>117.61 Fatigue risk management</u> (<u>GRF</u>)

(a) This section is applicable to operators performing operations under appendices B or C of this Regulation.

(b) The procedures described in this section can be complied with, at least in part, by the procedures of the Operational Safety Management System (SGSO).

(c) The operator must include the following items in its manual:

(1) all procedures required by paragraphs 117.19 (c), 117.19 (e) and 117.19 (f)(1)(ii) of this Regulation;

(2) the procedures for identifying any reasonably foreseeable dangers that could compromise the alertness of a crew member during the working hours;

(3) the procedures for determining the operational limits and requirements in paragraph 117.19 (c) (4) related to danger identification;

(4) the procedures for a continuous monitoring and an evaluation of relevant organizational policies, limits, practices and experiences, taking into account the dangers identified by the procedure required by paragraph (c)(2) of this section, with a view to improving continuously the fatigue management and the fatigue risk management;

(5) if the operator performs operations under multiple appendices, the procedures to ensure that the transitions between the different limits of the appendices:

(i) are completed in accordance with section 117.17 of these Rules; and

(ii) do not affect operational security;

(6) a description of the training resources required by paragraph (d) of this section; and

(7) GAGEF's duties and responsibilities.

(d) Each operator must:

(1) conduct the initial and periodic training of the employees responsible for complying with the rules of this Regulation (including managers, crew members, operational flight dispatchers and flight roster staff) addressing relevant provisions on the risks related to fatigue in their duties;

(2) assess the knowledge of the employees referred to in paragraph (d)(1) regarding the training content at the end of each initial and periodic training; and

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(3) include the training curricula required by this paragraph in the operational training program.

(e) The initial training required by paragraph (d)(1) of this section must take place within one year for both the employees already hired and those newly hired since the effective date of this Regulation.

(f) The initial training must:

(1) be conducted according to a training curriculum;

(2) provide knowledge and a detailed understanding of the following:

(i) the causes of fatigue;

(ii) the losses resulting from fatigue;

(iii) the management of risks associated with fatigue; and

(iv) the operator's fatigue risk management obligations and procedures, in accordance with the provisions of this Regulation and, when required, the manual; and

(3) allow each crew member to fulfill his/her obligations in accordance with the provisions of this Regulation and, when required, in the manual.

(g) The periodic training must:

(1) be held every two years;

(2) comply with a training curriculum; and

(3) review, build and expand the knowledge and understanding acquired under paragraph (f) of this section.

(h) A crew member must:

(1) attend the initial training and each periodic training required by paragraph (d) of this section; and

(2) pass an assessment at the end of each training.

(i) Each operator must keep records with sufficient details to demonstrate the completion of each training and the respective assessment of each one of its crew members.

(1) Each record must be kept in an archive for at least five years.

<u>117.63 Fatigue risk management</u> system (SGRF)

(a) No operator may exceed any provision of this Regulation unless approved by ANAC through a fatigue risk management system (SGRF) that provides at least a level of safety equivalent to that provided for in Appendices A, B or C against accidents or incidents related to fatigue.

(b) The SGRF must contain the following components:

(1) policy and objectives of the fatigue risk management, containing the following elements:

(i) management's commitment;

(ii) responsibility for fatigue risk management;

(iii) designation of the person responsible for the SGRF, and the components of the GAGEF; and

(iv) documentation;

(2) fatigue risk management, containing the following elements:

(i) crew fatigue reporting process;

(ii) crew fatigue monitoring process;

(iii) incident reporting process related to crew fatigue;

(iv) hazard identification process; and

(v) risk assessment and mitigation process;

(3) guarantee of operational safety regarding fatigue, containing the following elements:

(i) process of monitoring the performance of the SGRF;

(ii) organizational and operational change management process; and

(iii) process of the SGRF continuous improvement; and

(4) fatigue risk management promotion, containing the following elements:

(i) training process for education and awareness; and

(ii) communication process about the SGRF.

[THE APPENDICES TO RBAC NO. 117 HAVE BEEN REMOVED FROM THIS VERSION]

AIR TRANSPORT ANCILLARY SERVICES

NATIONAL CIVIL AVIATION AGENCY – RESOLUTION No. 116 OF OCTOBER 20, 2009

Provides for air transport auxiliary services.

THE BOARD OF DIRECTORS OF THE NA-TIONAL CIVIL AVIATION AGENCY – ANAC, in the exercise of the competence granted by art. 11, item V, of Law No. 11182 of September 27, 2005, in view of the provisions contained in arts. 8, items X and XXI, of the same Law, 5, item VII, of Annex I to Decree No. 5731 of March 20, 2006, and 102 to 104 of Law 7565 of December 19, 1986, and considering the resolution made by the Executive Board Meeting held on October 20, 2009,

RESOLVES:

CHAPTER I

CHARACTERIZATION AND CLASSIFICATION OF AIR TRANSPORT AUXILIARY SERVICES

<u>Art. 1</u>

Air transport auxiliary services are those provided to support the air transport operations described in the Annex to this Resolution.

Sole paragraph. The provisions of this Resolution do not apply to auxiliary air navigation services that involve activities and procedures related to the airspace control system, as they are matters of competence of the Aeronautical Command.

CHAPTER II

ORGANIZATION FOR THE PROVISION OF AIR TRANSPORT AUXILIARY SERVICES

<u>Art. 2</u>

Air transport auxiliary services are provided:

I - directly by the aerodrome operator;

II – directly by the aircraft owner or operator, in the places where it operates, for the support of its own aircraft and those of third parties, when operating authorized shared flights; or

III – by a contracted business company, regulated by this Resolution.

Sole paragraph. The corporate company referred to in item III must have as its corporate purpose the performance of auxiliary services that it intends to provide, with specification of their respective nature and modalities, prohibition of exercising activities not regulated by ANAC, exception made to fuel supply, but accepting its equity investment in other companies. (Wording provided by Resolution No. 375 of February 23, 2016)

<u>Art. 3</u>

Air transport auxiliary services are services of a specialized nature and the business companies organized for their provision are to meet the technical requirements established by ANAC with regard to procedures, qualification of personnel and equipment.

Sole paragraph. The air transport auxiliary services contractor is responsible, towards ANAC, for deficiencies and occurrences resulting from damages caused by business companies contracted to provide air transport auxiliary services.

CHAPTER III

AUTHORIZATION AND REGISTRATION

<u>Art. 4</u>

Business companies providing air transport auxiliary services that meet the conditions established in this Resolution are hereby authorized to install and operate in the public and private civil aerodromes.

Sole paragraph. The authorization awarded by the head of this article does not dispense with the need for other proper instruments required by ANAC or by other competent agencies or entities, when applicable.

<u>Art. 5</u>

For ANAC's inspection and control purposes, the aerodrome operator shall make and keep updated records of providers of air transport auxiliary services as set forth in the Annex to this Resolution, forwarding copies of them to ANAC, whenever it so requires, for inspection and control.

CHAPTER IV

INSTALLATION AND ACCREDITATION

<u>Art. 6</u>

The aerodrome operator shall issue credentials for access to the Restricted Security Area (ARS), bonded area and/ or controlled area to people, vehicles and equipment required to provide air transport auxiliary services that meet the minimum requirements established in the airport activity rules and the safety requirements specified in the Aerodrome Operations Manual (MOPS), where applicable.

Sole paragraph. The aerodrome operator shall establish adequate procedures and mechanisms for the control and management of the credentials it issues, in compliance with the provisions of the National Civil Aviation Security Program – PNAVSEC.

<u>Art. 7</u>

To perform their activities at a given airport site, the parties interested in performing air transport auxiliary services should request their initial accreditation with the aerodrome operator.

<u>Art. 8</u>

The provider of auxiliary air transport services should immediately inform the aerodrome operator about vacations, removal or dismissal of an employee or removal of a vehicle or equipment from the airport site for more than three (3) days, returning the respective credentials and being responsible for possible losses.

<u>Art. 9</u>

The aerodrome operator will disaccredit the provider of air transport auxiliary services to perform activities at a particular airport site by:

I - a request from the service provider itself;

II – a request from the service receiver, in compliance with any possible remaining contracts;

III – inactivity, for not finding, the service provider, receiver; or IV – ANAC determination, pursuant to art. 19, item II.

Sole paragraph. The contractor for air transport auxiliary services should inform the aerodrome operator about the termination of the contract.

<u>Art. 10</u>

(Revoked by Resolution No. 240, dated 06.26.2012)

CHAPTER V

REQUIREMENTS FOR PERFORMANCE OF AIR TRANSPORT AUXILIARY SERVICES WITH THE USE OF VEHICLES AND OTHER MACHINES AND EQUIPMENT

<u>Art. 11</u>

(Revoked by Resolution No. 240, dated 06.26.2012)

<u>Art. 12</u>

(Revoked by Resolution No. 240, dated 06.26.2012)

<u>Art. 13</u>

The contractor for air transport auxiliary services is required to underwrite – or require the service provider to subscribe – an insurance policy to guarantee against losses, damages or liabilities, on objects or people, caused by vehicles, machinery and ground support equipment that it intends to use or of its own use that may have occasional access to the aerodrome. <u>Art. 14</u>

(Revoked by Resolution No. 240, dated 06.26.2012)

Sole paragraph. In the event of a judicial or extrajudicial liquidation or bankruptcy of the business company that owns vehicles, machinery and ground support equipment, the aerodrome operator, even if a depositary is appointed, may arrange for their removal from the airport site at the expense of the liquidator or the estate, considering the public interest for the safety of civil aviation operations.

CHAPTER VI

TRAINING OF PROFESSIONALS EMPLOYED IN AIR TRANSPORT AUXILIARY SERVICES

<u>Art. 15</u>

The provider of air transport auxiliary services should ensure that its employees are trained according to criteria established in the specific legislation, including the following requirements:

I – the person who performs services of an operational nature, after being trained, examined, judged fit and qualified for performing the activities, must be included in a list issued on the last day of February, June and October by the service provider who is his/her employer and delivers it to the aerodrome operator as provided for in the MOPS, where applicable;

II – the driver who will be driving vehicles in the operational area should have a valid driver's license for the relevant category of the services he/ she will provide, as well as the defensive driving course certificate specific for the operational area, and a statement provided by the air transport auxiliary services provider attesting that he/she has been trained, examined and deemed qualified for the operation of vehicles and/or equipment in the operational area;

III – the employee who supervises cargo handling services or cargo and other items protection services must have achieved the expected good results in a basic air cargo and air transport of hazardous articles course, in addition to the appropriate updates of those courses, as attested by an ANAC-accredited entity.

IV - the employee who performs the operational flight dispatch ser-

vice must have a license issued or recognized by ANAC and have his/ her updated technical qualification certificate for the aircraft he will be dispatching, in accordance with the specific regulations;

V – the professional performing activities related to civil aviation security against unlawful interference acts should have been approved and achieved certification as required for the activity he/she will be performing as per the ANAC's specific regulations; and (Wording provided by Resolution No. 361 of 07/16/2015)

VI - (Revoked by Resolution No. 361 of 07/16/2015)

CHAPTER VII

REQUIREMENTS FOR AIR FREIGHT FORWARD AGENCY

<u>Art. 16</u>

The provider of air transport auxiliary services working in the air freight forwarding should have at each aerodrome where its services are being provided:

I – employees qualified for handling and processing cargo, filling in the required air waybills;

II – employees qualified for handling hazardous items who, within the previous 24 months, have completed a course in the air transport of dangerous items – initial or recycling – as attested by an entity accredited by ANAC; and

III – an operational infrastructure for the exclusive use of its air cargo forwarding agency activities.

CHAPTER VIII

OBLIGATIONS OF THE AERODROME OPERATOR

<u>Art. 17</u>

The following are the aerodrome operator's obligations:

I – (Revoked by Resolution No. 240, dated 06.26.2012)

II – (Revoked by Resolution No. 240, dated 06.26.2012)

III – (Revoked by Resolution No. 240, dated 06.26.2012)

IV – isolate the area and immobilize vehicles and ground support equipment used by the air transport auxiliary service provider till the arrival of the competent authority in the case of an accident involving the death of a person

<u>Art. 18</u>

The air transport auxiliary service provider should keep updated records of its registration with the aerodrome operator.

<u>Art. 19</u>

The organized business company providing air transport auxiliary services will be prevented from installing or operating at aerodromes:

I – if it loses the technical or operational capacity required to keep its service provision;

II – by a determination of ANAC, in the event of its noncompliance, by action or omission, of the requirements established by ANAC or in MOPS approved with ANAC.

CHAPTER IX

TRANSITIONAL AND FINAL PROVISIONS

<u>Art. 20</u>

This Resolution shall come into force on the date of its publication, ensuring all those subject to it the time of forty-five (45) days from its publication for the necessary adjustments.

<u>Art. 21</u>

Under the terms of arts. 8, § 7, and 47, item I of Law No. 11182 of 2005, the regulatory criteria set forth in this resolution shall replace the provisions relating to the installation and operation of the air transport auxiliary services provided for in Ordinance No. 467/GM5 of June 3, 1993, published in the Federal Official Gazette of June 4, 1993, Section 1, page 7534.

<u>Art. 22</u>

The following are revoked:

I – Ordinance No. 406/DGAC of August 10, 1995, published in the Federal Official Gazette of September 20, 1995, Section 1, page 14598;

II – Ordinance No. 749B/DGAC of June 25, 2002, published in the Federal Official Gazette of June 28, 2002, Section 1;

III – Ordinance No. 355A/DGAC of October 27, 2003, published in the Federal Official Gazette of November 6, 2003, Section 1; and

IV – Ordinance No. 382/DGAC of April 28, 2004, which approved Civil Aviation Instruction – IAC No. 163-1001A, published in the Federal Official Gazette of May 5, 2004, Section 1, page 5.

SOLANGE PAIVA VIEIRA

Chief Executive Officer

[THE ANNEX TO THE RESOLUTION WAS DELETED FROM THIS VERSION]

MATTOS FILHO >

Mattos Filho, Veiga Filho, Marrey Jr e Quiroga Advogados

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