

BRIEFING: AVIATION

ICAO GIVES THAILAND  
A RED FLAG  
JUNE 2015

- WHY WAS THAILAND GIVEN A RED FLAG?
- IS THIS THE SAME AS A DOWNGRADE?
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- WHAT IS THE LIKELY IMPACT OF THE RED FLAG FOR CODESHARE AND ALLIANCE PARTNERS?



**Red flag**

On 18 June 2015, ICAO gave the Thai Department of Civil Aviation (DCA) a red flag.

This is following the Universal Safety Oversight Audit Programme (USOAP) audit of the Thai DCA earlier this year. The red flag indicates a Significant Safety Concern (SSC) which ICAO describes as indicating significant concern ‘with respect to the ability of the audited State to properly oversee its airlines (air operators)...’.

**Why was Thailand given a red flag?**

The red flag appears to be in relation to Aircraft Operations and the SSC raises concerns about the ability of the regulator, DCA, to supervise airline operations and operators. ICAO stresses that a red flag ‘does not necessarily indicate a particular safety deficiency but, rather, indicates that the State is not providing sufficient safety oversight to ensure the effective implementation of all applicable ICAO safety standards’.

The full technical details of the SSC are typically only provided to the DCA. However, if the red flag is in relation to supervision of operators, this would be consistent with the concerns raised by ICAO during the audit about the ability of the DCA to monitor

- the operations of existing AOC holders,
- the number of AOC holders, particularly those which are inactive or have no aircraft, and

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“ THE RED FLAG... RAISES CONCERNS ABOUT THE ABILITY OF THE REGULATOR, DCA, TO SUPERVISE AIRLINE OPERATIONS AND OPERATORS. ”

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“ IT IS SIGNIFICANT TO NOTE THAT ICAO DECIDED TO GIVE THAILAND A RED FLAG RATHER THAN A DOWNGRADE... ”

- the system for approving and granting new AOCs to market entrants.

Given the number of operators which have recently been granted AOCs and commenced operations, ICAO had raised a number of concerns, including those in relation the conflict of interest at the DCA as it operates and regulates provincial airports.

#### Is this the same as a downgrade?

It is significant to note that ICAO decided to give Thailand a red flag rather than a downgrade to Category 2, which appears not to be a formal downgrade to Category 2 but a lesser sanction.

The red flag may suggest that ICAO is prepared to work with the Thai government to address their concerns over Aircraft Operations and may amount to some form of probation, where Thailand would be required to demonstrate within a period that it has addressed the SSC to the satisfaction of ICAO. This may suggest that the proposals from the government may have partially addressed ICAO’s concerns but that implementation will take some time and ICAO is concerned to ensure that implementation of these proposals will ensure that ICAO safety standards can be effectively and properly implemented and maintained.

Although ICAO found that the DCA organisation fell significantly below the ICAO average, this was not the subject of the red flag. This may indicate that ICAO is satisfied that the recent changes announced by the Thai Government will, when implemented, address their concerns.

It also appears to indicate that ICAO was satisfied with the other criteria of the USOAP, namely:

- Aviation Legislation;
- Personnel Licensing;
- Airworthiness of civil aircraft;
- Aerodromes;
- Air Navigation Services; and
- Accident and Serious Incident Investigations.

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“...IT APPEARS LIKELY THAT OBTAINING A THAI AOC MAY NOW BECOME MORE DIFFICULT. ”

#### What is the likely impact of the red flag for Thai operators and AOC applicants?

It is unclear how this will affect AOC applications which are currently being considered by the DCA or future applications. However, it appears likely that obtaining a Thai AOC may now become more difficult. If the result is that AOC holders/operators are the subject of more rigorous testing and checking of all aspects of their application, this may prove to be a positive development in that the standard of new operators will be raised. Existing operators may also now face greater scrutiny and oversight.

One issue which may be significantly affected is the ability to use foreign trained and qualified pilots. The shortage of pilots, particularly for A320 and B737 models, has made the use of foreign pilots a more pressing issue, particularly for new operators and entrants. Greater restrictions on the use of foreign pilots may have a direct impact on their business plans and ability to operate services.

“CRITICAL TO THE NEWER OPERATORS AND LCCS WILL BE THE REACTION OF CHINA, JAPAN AND SOUTH KOREA, GIVEN THE IMPORTANCE OF THESE MARKETS TO THEIR OPERATIONS AND GROWTH PLANS.”

A further issue relates to safety and maintenance standards. Applicants may now face significantly greater scrutiny of their maintenance and engineering operations and the qualifications of their personnel. The limited supply of aircraft engineers with the necessary experience and training may have a direct impact on the ability of these applicants to meet their business plans and their ability to service and maintain the aircraft of the applicant operator.

It remains to be seen how this will affect the ability of Thai operators to operate international services and much will now depend on the outcome of the FAA and EASA audits and inspections. Critical to the newer operators and LCCs will be the reaction of China, Japan and South Korea, given the importance of these markets to their operations and growth plans. However, it is possible that the newer Thai operators, particularly the LCCs and charter operators, may face more challenges in

- applications for new routes,
- expanding frequencies or changing aircraft types on existing routes, and
- the impact of continued enhanced inspections on their flight operations.

#### What is the likely impact of the red flag for codeshare and alliance partners?

The red flag, rather than a downgrade, should mean that existing codeshare operations can continue for flights where a Thai operator is either the Operating or Marketing Carrier. This should ensure that existing alliance arrangements and relationships can continue unaffected. However, this remains subject to the outcome of the FAA and EASA audits and inspections and to the decisions of the civil aviation authorities of individual countries and territories.

The implications of a downgrade by the FAA and a blacklisting by EASA are set out in our briefing of March 2015.

## FOR MORE INFORMATION

Should you like to discuss any of the matters raised in this Briefing, please speak with the author, Alan Polivnick, or your regular contact at Watson Farley & Williams.

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