



GRAND-DUCHÉ DE LUXEMBOURG



Agreement

between

the Civil Aviation Authority of Grand Duchy of Luxembourg

(Direction de l'Aviation Civile)

and

the Civil Aviation Authority of the Italian Republic

(Ente Nazionale per l'Aviazione Civile)

on

the implementation of article 83^{bis} of the Convention on International Civil Aviation (ICAO)
for the transfer of surveillance responsibilities (operations, maintenance and continuing
airworthiness) for aircraft operated under dry leasing contracts

PREMISES

The Civil Aviation Authority of Grand Duchy of Luxembourg (DAC)

and

the Civil Aviation Authority of the Italian Republic (ENAC)

Whereas the Protocol of 6 October 1980 to amend to article 83^{bis} of the Convention on International Civil Aviation (Chicago Convention) of which the Grand Duchy of Luxembourg and the Italian Republic are Contracting Parties entered into force on 20 June 1997,

Whereas the Grand Duchy of Luxembourg and the Italian Republic are members of the European Union (EU),

Whereas the State of each Authority has signed the multilateral Airworthiness Agreement of Paris on 22 April 1960 providing for the approval or acceptance by the importing authority of approvals or findings of compliance made by the exporting authority in respect of airworthiness,

Whereas each of the two authorities has signed the Arrangement of Cyprus of 11 September 1990 on the Elaboration, Recognition and Implementation of Joint Airworthiness Regulations (JAR) and holds full membership of the Joint Aviation Authorities (JAA),

Whereas the European Parliament and The Council of The European Union (EU) have adopted Regulation (EC) No 216/2008 to establish and maintain a high uniform level of civil aviation safety in Europe by the adoption of common safety rules and by measures ensuring that products, persons and organisations in the Community comply with such rules and those adopted to protect the environment,

Whereas the European Aviation Safety Agency (EASA) has been established pursuant to Regulation (EC) 1592/2002 (after replaced by the Regulation (EC) No 216/2008 adopted by the European Parliament and The Council of The European Union (EU)) and has been operational since 28 September 2003 to carry out on behalf of every EU Member State, under

article 15 paragraph 1 of the above mentioned EU Regulation, the functions and tasks of the state of design, manufacture or registry when related to design approval,

Whereas the European Commission has adopted Regulation (EC) 1702/2003 laying down implementation regulations for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations,

Whereas the European Commission has adopted Regulation (EC) 2042/2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks,

Whereas the Council of European Communities has adopted the new Appendix III (OPS1) to the Council Regulation (EEC) 3922/1991 on the common technical requirements and administrative procedures applicable to commercial transportation by aircraft and that regulation became binding for EU Member State since 16 July 2008,

Whereas each Authority has determined, pursuant to the above mentioned European Common regulations, that the standards of airworthiness and systems for airworthiness, environmental certification and maintenance of the other Authority are equivalent to its own to make this arrangements practicable;

Whereas each authority, pursuant to the above mentioned European Common regulations, has determined that the operational requirements and design-related operational requirements of the other authority are sufficiently equivalent to its own to make this arrangement practicable,

Whereas Article 83^{bis} of the Chicago Convention which was included with the Protocol of 6 October 1980 provides, with a view to enhanced safety, for the possibility of transferring to the state of the operator all or part of the state of registry's functions and duties pertaining to Articles 12, 30, 31, and 32 letter a of the Chicago Convention,

Whereas, in line with ICAO Document 9642, Part VIII, Chapter 1, and in the light of ICAO Document 8335, Chapter 10, it is necessary to precisely establish the international obligations and responsibilities of the Grand Duchy of Luxembourg and of the Italian Republic in



accordance with the Chicago Convention when an aircraft registered in the Grand Duchy of Luxembourg is operated by the holder of an operating licence including an air operator's certificate (AOC) issued by the Italian Civil Aviation Authority or when an aircraft registered in the Italian Republic is operated by the holder of an operating licence including an AOC issued by the Luxembourgish Direction de l'Aviation Civile under a leasing contract,

Whereas, with reference to the relevant Annexes to the Chicago Convention, this Agreement organises the transfer from the lessor authority to the lessee authority of responsibilities normally assumed by the state of registry, as set out in paragraphs 3 and 4 below,

Whereas the Protocol was ratified by the Italian Republic through the Law no. 437 of 24 July 1985, published in the "Supplemento ordinario alla Gazzetta Ufficiale" no. 197 of 22 August 1985, in conjunction with the "Regolamento Convenzione ICAO - Art. 83 bis trasferimento di alcuni compiti e funzioni dello Stato di Registrazione", and has given effect to the agreement in relation to article 83^{bis} of the Chicago Convention,

Whereas the Protocol was ratified by the Grand Duchy of Luxembourg through the Law of 17 June 1986, published in the Memorial A n°47, and has given effect to the agreement in relation to article 83^{bis} of the Chicago Convention,

Have agreed, on the basis of articles 33 and 83^{bis} of the Chicago Convention as follows:

Article 1

GENERAL

(1) The following definitions apply:

- lessor: registered owner or the party from which the aircraft is leased
- lessee: operator under whose operating licence including an air operator's certificate (AOC) the leased aircraft is operated
- authority of the state of registry: The national civil aviation authority of the state where the relevant aircraft is registered,
- authority of the state of the operator: The national civil aviation authority of the state where the operator of the aircraft has his residence or business seat



- authority of the state of the lessee: The national civil aviation authority of the state where the lessee has his residence or business seat
- authority of the state of the lessor: The national civil aviation authority of the state where the lessor has his residence or business seat.
- commercial air transport(ion): it is relevant to those aircraft operations involving the transport of passengers, cargo or mail for remuneration or hire performed by licensed air carrier as defined in Regulation (EC) No 1008/2008, as revised, of the Council of European Communities
- EASA Member State: any European Union Member State and any other State adhering to EASA system as identified by EASA

(2) Italian or Luxembourgish airlines are entitled to operate an aircraft registered in the Grand Duchy of Luxembourg or in the Italian Republic respectively under a leasing contract for the purpose of commercial air transportation. In accordance with ICAO Annex 8 and with the national regulations, the State of Registry retains legal responsibility for the validity of the certificate of airworthiness of the aircraft, which is controlled in accordance with provisions of Annex I (Part M) of Regulation (EC) 2042/2003, as revised.

(3) In pursuance of article 83^{bis} of the Chicago Convention the Grand Duchy of Luxembourg shall be relieved of the responsibility in respect of the functions and duties transferred to the Italian Republic upon due publicity or notification of this Agreement.

(4) In pursuance of article 83^{bis} of the Chicago Convention the Italian Republic shall be relieved of the responsibility in respect of the functions and duties transferred to the Grand Duchy of Luxembourg upon due publicity or notification of this Agreement.

Article 2

SCOPE OF APPLICATION

The scope of application of this Agreement shall be limited to aircraft on the register of civil aircraft of the Grand Duchy of Luxembourg or the Italian Republic and operated in commercial air transportation under a dry leasing agreement by an Italian or Luxembourgish operator respectively.



Article 3

TRANSFERRED RESPONSIBILITIES

(1) Under this agreement, the Parties agree that the lessor authority transfers to the lessee authority the following responsibilities, including oversight and control of relevant functions contained in the respective Annexes to the Convention on International Civil Aviation:

Annex 1 – Licensing of Aviation Personnel (Personal Licensing) - issuance and validation of licenses.

Annex 2 – Air Traffic Rules (Rules of the Air) - enforcement of compliance with applicable rules and regulations relating to the flight and manoeuvre of aircraft.

Annex 6 - Operation of Aircraft - all responsibilities which are normally incumbent on the state of registry for the oversight and control of operations of aircraft entered on its register.

Annex 8 - Airworthiness of Aircraft - all responsibilities which are normally incumbent on the state of registry, and have not been assumed by EASA, for the oversight and control of aircraft entered on its register. Responsibilities related to the control of continued validity of Certificate of Airworthiness of individual aircraft to which the provisions of the present agreement apply, according to Annex I (Part M) of Regulation (EC) 2042/2003, as revised, are transferred in accordance with terms and conditions laid down in the implementation procedures relevant to this Agreement. Under this agreement, the responsibility for the supervision of maintenance and continuing airworthiness of leased aircraft operated under the air operator's certificate (AOC) of the lessee is hereby transferred to the lessee Authority.

(2) The issuance and validation of licenses shall not be transferred to the lessee Authority. From the time when the mutual recognition of joint airworthiness rules (JAR-FCL) is in force the validation of licenses is no longer necessary.



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(3) The procedures related to the continuing airworthiness of leased aircraft to be followed by the lessee are contained in the lessee Continuing Airworthiness Management Exposition (CAME) and Operations Manual (OM).

Article 4

NOTIFICATION

(1) This agreement and its relevant implementation regulations, as well as any amendments to them, shall be submitted to ICAO for registration by both ENAC and DAC, as required by Article 83 of the Chicago Convention and in accordance with the Rules for the Registration of Aeronautical Agreements and Arrangements of ICAO (ICAO Doc. 6685).

(2) A certified true copy of this Agreement and its relevant implementation regulations, as well as any amendments to them, shall be made available by the lessee authority to the aircraft operators to which this Agreement applies. A copy of the Agreement and the implementation regulations as well as a copy of the relevant initiation and acceptance letters must be kept on board the aircraft concerned.

(3) A certified true copy of the air operator's certificate (AOC) issued to the lessee by the Authority of the State of Operator in which the aircraft concerned is duly and properly identified, shall also be carried on board each aircraft concerned. If the lessee has obtained, from its authority, approval for a system to list the registration marks for aircraft operated and authorized under its AOC, this list and the relevant section of the operations manual describing this system must be kept on board each aircraft to which the present agreement applies.

(4) Aircraft to which the present Agreement applies are listed in the "Schedule of aircraft types and Italian operators registered in the Grand Duchy of Luxembourg (schedule I A)" and "Schedule of aircraft types and Luxembourgish operators registered in the Italian Republic (Schedule II A)". They are kept and maintained updated by DAC and ENAC respectively. A copy of the above lists showing the aircraft to which the present Agreement applies at the time of its signature shall also be provided to the ICAO by each of the two depository



authorities as an attachment to the Agreement when the latter is registered according to paragraph 1 above. The lists registered with the ICAO shall be updated by the depository authority every time the validity of the present Agreement is extended by a new aircraft or by a new lease period or at least once annually whichever occurs first.

(5) During the implementation of this Agreement, and prior to any aircraft subject to it being made the object of a sub-lease, the state of the operator shall inform the state of registry of this. None of the duties and functions transferred from the state of registry to the state of the operator may be carried out under the authority of a third state without the express written agreement of the state of registry.

Article 5

AUTHORISATION OF LEASING CONTRACTS

Each authority shall ensure that leasing contracts are only authorized if they are in compliance with the terms and conditions laid down in the present Agreement.

Article 6

CO-ORDINATION

Meetings between DAC and ENAC shall be arranged as necessary to discuss both operations and airworthiness matters resulting from inspections that have been conducted by the relevant inspectors. The following subjects may be discussed during these meetings:

- Flight operations;
- Continuing airworthiness surveillance and aircraft maintenance;
- Operator Continuing Airworthiness Management Exposition procedures as applicable;
- Any other significant matters arising from inspections.



Article 7

INITIATION

The transfer of functions related to the surveillance of leased aircraft shall be initiated by the Authority of the State of Registry with a letter referring to the Agreement ENAC-DAC and the specific aircraft and formally accepted by the Authority of the State of Operator. In the case of a prolongation of the leasing contract the continued transfer of functions and their acceptance shall be confirmed in writing by both the Authority of the State of Registry and the Authority of the State of Operator before the beginning of the new lease period. A certified true copy of these letters shall be provided to the lessee by the relevant authority to be kept on board the aircraft during the validity period of this Agreement in respect of that specific aircraft as established in accordance with the provisions of Article 9.

Article 8

CHARGES

Each authority shall invoice charges and expenses according to its own provisions.

Article 9

FINAL CLAUSES

- (1) The implementation of this Agreement shall be effected on the basis of implementation provisions agreed between the Parties.
- (2) This Agreement shall enter into force on the date of its signature.
- (3) The definition of DAC and ENAC regulatory responsibilities shall come into effect, for each individual case, when the transfer of the functions is formally accepted by the Authority of the State of Operator on the basis of this Agreement. For this purpose, a formal reply letter regarding the transfer of functions shall be sent by the lessee authority to the lessor authority



indicating acceptance or refusal. Before the start of operations the Authority of the State of Registry shall send a request concerning the transfer of functions to the Authority of the State of Operator. The points of contact for the exchange of correspondence are laid down in the implementation regulations to this Agreement.

(4) The determined regulatory responsibilities of DAC and ENAC for a leased aircraft to which this Agreement applies shall cease to be in effect 24 hours after notice given by either the Authority of the State of Registry or the Authority of the State of Operator, but not later than by the date of expiry established by any of the Parties. Such date shall be mentioned by the authority in the request concerning acceptance of functions or in the acceptance letter.


(5) Any modification to this Agreement shall be made in writing.

(6) The responsibility for the registration of amendments to this Agreement with ICAO shall be assumed by both the Authority of the State of Registry and the Authority of the State of Operator.

(7) The Agreement shall terminate 60 days after written notice of the termination of this Agreement by either of the two Parties.

Done on 04.05.2009 in two originals in English.

For the Direction de l'Aviation Civile
of the Grand Duchy of Luxembourg



Claude WALTZING
Director of Civil Aviation



For the Civil Aviation Authority
of the Italian Republic

Mr. Giuseppe Daniele CARRABBA
Director, Safety Regulations Central Dept.

