

Agreement

between

the Ente Nazionale per l'Aviazione Civile
of the Republic of Italy

and

the Ministry of Transport, Innovation and Technology
of the Republic of Austria

on

the Implementation of Article 83^{bis} of the Convention on International Civil Aviation for the transfer of surveillance responsibilities (operations, maintenance and continuing airworthiness) for aircraft operated under dry leasing contracts or by virtue of ownership of the concerned aircraft or any other agreement in the spirit of article 83bis of the Convention on International Civil Aviation



The Ente Nazionale per l'Aviazione Civile
of the Republic of Italy

and

the Ministry of Transport, Innovation and Technology
of the Republic of Austria -

considering the Protocol of 6 October 1980 to amend Article 83^{bis} of the Convention on International Civil Aviation,

Considering that 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, and, in conjunction with the "Regolamento Convenzione ICAO - Art. 83 bis trasferimento di alcuni compiti e funzioni dello Stato di Registrazione", has given effect to the agreement in relation to article 83^{bis} of the Chicago Convention,

Considering that the Protocol was ratified by the Republic of Austria through the "Protokoll über die Änderung des Abkommens über die Internationale Zivilluftfahrt" of 25 April 1983, published in the "Bundesgesetzblatt" III, no 57/1999 of 9 March 1999, has given effect to the agreement in relation to article 83^{bis} of the Chicago Convention,

desiring, with a view to enhance the safety in civil aviation, to transfer to the State of the Operator of aircraft all or part of the State of Registry's functions and duties pertaining to Articles 12, 30, 31 and 32 (a) of the Convention on International Civil Aviation, as provided by Article 83^{bis} of the Convention on International Civil Aviation which was included with the Protocol of 6 October 1980,

convinced that, in line with Part VIII Chapter 1 of ICAO Doc. 9642 and Chapter 10 of ICAO Doc 8335, it is necessary to establish precisely the international obligations and responsibilities of the Contracting States in compliance with the Convention on International Civil Aviation, when an aircraft registered in one Contracting State is operated, under a dry-lease arrangement



or by virtue of the aircraft ownership, by the holder of an operating licence or of other national authorisation issued by the other Contracting State including an air operator's certificate (AOC) or other operational authorisation/certification for commercial operation other than commercial air transport ,

considering the fact that the Republic of Italy and the Republic of Austria are both Member States of the European Union, and that they therefore apply several harmonised European regulations in the field of aviation law which ensure a harmonised approach and therefore making this arrangement practicable -

being aware, with reference to the relevant Annexes to the Chicago Convention, this Agreement organises the transfer from the authority of State of Registry to the authority of State of operator responsibilities normally assumed by the State of Registry, as set out in paragraphs 3 and 4 below,

have agreed, on the basis of Articles 33 and 83^{bis} of the Convention on International Civil Aviation, as follows:

Article 1 Definitions

For the purposes of this Agreement, unless the text otherwise requires:

1. the term "Convention on International Civil Aviation" means the Convention on International Civil Aviation, opened for signature at Chicago on 7 December 1944, including any Annex adopted under Article 90 of that Convention and any amendment of the Annexes or of the Convention under Articles 90 and 94 thereof in so far as those Annexes and amendments have become effective for or have been ratified by both Contracting Parties,
2. the term "ICAO" means the International Civil Aviation Organization,



3. the term “EASA” means the European Aviation Safety Agency,
4. the term “dry-lease arrangement” means an arrangement between lessor and lessee for the lease of an aircraft for use against payment, without crew and with the aircraft being operated under the air operator's certificate or other operational authorisation/certification for commercial operations other than Commercial Air Transport of the lessee.
5. the term “lessor” means the registered owner or the person transferring the use of an aircraft against payment to the lessee.
6. the term “lessee” means the operator to whom an aircraft is leased for use against payment and in whose operating licence, or other operational authorisation/certification for commercial operations other than Commercial Air Transport, including an air operator's certificate the aircraft is duly listed.
7. the term “civil aviation authority” means in the case of the Republic of Italy the Ente Nazionale per l'Aviazione Civile (ENAC), Via del Castro Pretorio 118, 00185 Roma in accordance with Decreto Legislativo 25 luglio 1997, n. 250, and in the case of the Republic of Austria the aviation authority Austro Control GmbH (ACG), Schnirchgasse 11, A-1030 Wien, responsible for the application of this Agreement, or any other person or agency authorized to perform the functions incumbent upon the said authority.
8. the term “State of Registry” means the state in whose aircraft register the aircraft leased for use against payment is entered.
9. the term “State of the Operator” means the state from which the lessee/operator has received his operating licence or other operational authorisation/certification for commercial operations other than Commercial Air Transport,
10. the terms commercial air transport(ion) means aircraft operations involving the transport of passengers, cargo and/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;

11. the term commercial operations other than commercial air transport is to be intended as reported in the Definitions section of Regulation (EC) 216/2008 and includes but not limited to flying school activities, and aerial work activities.
12. the term registered owner is to be intended as the legal or natural person(s) under whose name the aircraft ownership (aircraft property) or, only in Austria, operatorship (aircraft operatorship) is registered or will be registered in the national register of the relevant contracting State
13. the term “implementation procedures” is intended as separate document on working level (ENAC and ACG), stating the technical conditions for the transferred responsibilities.

Article 2

Scope of application

(1) This Agreement shall be applicable to aircraft registered in the aircraft registers of the State of one Contracting Party and are operated by an operator from the State of the other Contracting Party for commercial operations under a dry-lease arrangement or by virtue of ownership of the concerned aircraft or any other agreement in the spirit of article 83bis of the Convention on International Civil Aviation.

(2) This agreement can be applied accordingly if no dry-lease arrangement is available due to the fact that operator and owner of the aircraft concerned are identical.

(3) aircraft identified under point (1) of this article may be :

- a) aircraft to which provisions of the Regulation (EC) 216/2008 as revised apply; and



- b) aircraft referred into Annex II to the Regulation (EC) 216/2008 as revised provided that they are eligible for issuance of a (standard) Certificate of Airworthiness or a restricted Certificate of Airworthiness in both contracting States under national regulations.

Article 3

Transferred responsibilities

(1) The civil aviation authority of the State of Registry is, in accordance with the provisions of this Agreement, entitled to transfer the following responsibilities including oversight and control functions and duties set out in the respective Annexes to the Convention on International Civil Aviation to the civil aviation authority of the State of the Operator. The civil aviation authority of the State of Registry shall be therefore relieved of the responsibility in respect of the functions and duties transferred to the civil aviation authority of the State of Operator in pursuance of this agreement.

1. Annex 1 – Personnel Licensing – other than the issuing and validation of licences.
2. Annex 2 – Rules of the Air – enforcement of compliance with applicable rules and regulations relating to the flight and manoeuvre of aircraft.
3. Annex 6 – Operation of Aircraft – all responsibilities which are normally incumbent upon the State of Registry for the oversight and control of operations of aircraft entered on its aircraft register.
4. Annex 8 – Airworthiness of aircraft – all responsibilities which are normally incumbent upon the State of Registry, and have not been assumed by EASA, for the oversight and control of aircraft entered on its aircraft register.

(2) The civil aviation authority of the State of the Operator shall inform the civil aviation authority of the State of Registry about any intended sublease of an aircraft for which the responsibilities were transferred in accordance with paragraph 1.



(3) Duties and functions in accordance with paragraph 1 must not be transferred upon a third state.

Article 4

Procedure for the transfer of responsibilities

(1) Details concerning the transfer of responsibilities in accordance with Article 3, including the provisions and procedures to be applied, shall be laid down in writing between the civil aviation authorities of the Contracting Parties (hereinafter referred to as implementation procedures). Requests for the transfer of responsibilities by the civil aviation authority of the State of Registry in accordance with the following agreement and related implementation procedures shall require the written acceptance by the civil aviation authority of the State of the Operator. Requests for the transfer of oversight in respect of each single and specifically designated aircraft may only be filed for the period of application of the relevant dry-lease arrangement, or any other agreement in the spirit of article 83bis of the Convention on International Civil Aviation as well as for cases of Article 2 (2), for a period not exceeding two years. Upon receipt of the notification of acceptance in accordance with the second sentence the transfer of the responsibility for the control of the designated aircraft shall become effective.

(2) In the case of a prolongation of a dry-lease arrangement or of the previously agreed period paragraph 1 shall apply accordingly. It also applies in case of a prolongation of any other agreement in the spirit of article 83bis of the Convention on International Civil Aviation, in this case the prolongation can be accepted only once and for not more than two years.

(3) The civil aviation authorities shall be entitled to revoke the transfer of responsibilities at any time. The revocation must be performed in writing. It shall become effective 24 hours upon receipt.

(4) An aircraft for which the responsibility for oversight and control was transferred by virtue of Article 3 (1) shall be subject to the requirements of the laws, as well as other regulations and procedures of the State of the Operator as applicable in each specific case.



Article 5

Meetings between the civil aviation authorities

(1) If required, meetings shall be convened between the civil aviation authorities of the Contracting States to discuss both operations and airworthiness matters found as a result of the inspections of the aircraft. In this connection, the following subjects shall be especially discussed:

1. Air operations,
2. Control of continued airworthiness and maintenance of aircraft,
3. Procedures for the management of the Continuing Airworthiness Management Exposition (CAME) or the Operator Maintenance Control Manual (MCM), if applicable,
4. Any other significant matters arising from inspections.

(2) At the request of the civil aviation authority of the State of Registry the in each case other civil aviation authority shall, in compliance with applicable law, perform an inspection of the aircraft for which the responsibility for oversight and control was transferred on the basis of Article 3 (1). The requested civil aviation authority shall, as far as possible, permit the representatives of the civil aviation authority of the State of Registry to be present during the inspection of the aircraft. The civil aviation authorities shall make the necessary arrangements for this. The requested civil aviation authority shall inform the civil aviation authority of the State of Registry about the result of the inspection in writing.

Article 6

Obligation to carry Documents

The civil aviation authorities of the Contracting States shall make available a certified true copy of this Agreement as well as of the correspondence in accordance with Article 4 (1) to the operator and when different, to the registered owner. Certified true copies of this Agreement, of



the correspondence as well as of the air operator's certificate or other operational authorisation/certification/license for commercial operations other than Commercial Air Transport in which the aircraft concerned is listed shall be carried on board the aircraft for which the responsibility was transferred by virtue of this Agreement. If the lessee/operator has obtained, from his authority, approval for a system to list the registration marks for aircraft operated and authorized under his air operator's certificate, this list and the relevant section of the Operator's Manual must be kept on board.

Article 7

Registration

(1) The Contracting States shall submit this Agreement as well as amendments thereto in accordance with Article 83 of the Convention on International Civil Aviation and in compliance with the Rules for Registration with ICAO of Aeronautical Agreements and Arrangements for registration to ICAO.

(2) Each civil aviation authority shall keep a list containing the aircraft for which the responsibility for oversight and control has been transferred by virtue of this Agreement, specifying the aircraft identification, type as well as the duration of the transfer. A copy of the lists shall, as Annex 1 of this Agreement, be submitted to ICAO for registration. The lists shall be updated as soon as a change occurs by the State of Registry Authority, and once signed by both contracting Authorities notified to ICAO for registration . Alternatively a certified true copy of exchanged letters, plus an additional copy, relevant to each change may be sent to ICAO for registration.

Article 8

Charges

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



Article 9

Entry into Force, Period of Validity

(1) This Agreement shall enter into force on the first day of the second month after the date of its signature.

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

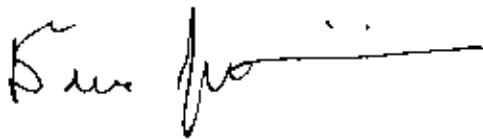
(3) The present Agreement shall be concluded for an indefinite period of time. It may be denounced at any time by the Contracting Parties in writing. It shall terminate 60 days after the date of receipt of the written notice of termination.

(4) Until the Entry into Force, the Agreement shall be applied on a provisional basis, subject to the respective legal provisions of the contracting partners.

Done on 28th March 2011 in duplicate, in English language, each being equally authentic.

For the Ente Nazionale per l'Aviazione Civile
of the Republic of Italy

[*Enea Guccini, Head of Central
Standardisation and Safety Directorate,
Rome*]



For the Ministry of Transport,
Innovation and Technology
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