EASA **Comment Response Tool**

Title	Alignment of Regulation (EC) No 2042/2003 with Regulation (EC) No 216/2008 and with ICAO Annex 6 requirement for human factor principles to be observed in the design and application of the aircraft maintenance programme
NPA Number	NPA 2010-10

UK CAA (UK CAA, European.Affairs@caa.co.uk) has placed **3** reactions on this NPA:

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72 - 73	segment "**B. DRAFT OPINION(S) AND/OR DECISION (S) - II. Draft Decision AMC & GM - II.B. Acceptable Means of Compliance (AMC) for Annex V (Part T) to Regulation (EC) No 2042/2003**"	**Page No:** 55/56 **Paragraph No:** 12, VI Resulting Text, Draft Opinion (EC) No 2042/2003 - Article 1 (Objective and Scope) replacement text **Comment:** Article 1 refers to aircraft registered in a Member State *"... unless their regulatory safety oversight has been delegated to a third country and they are not used by a Community operator."*. This text implies an all or nothing approach to the delegation of safety oversight responsibilities (e.g. an ICAO Article 83bis agreement). It is not clear about those functions that are not delegated to a third country. This issue was raised in the NPA 2010-10 comment process (see Comment 24) but this point was not accepted. **Justification:** ICAO Article 83bis agreements are a State responsibility. Paragraph 2.2.3 of ICAO Circular 295 (Guidance on the Implementation of Article 83bis) provides the mechanism and limitations of the responsibilities which are transferable. It states that *"... any agreement of this kind can cover only the functions and duties attached to Articles 12, 30, 31 and 32a) of the Convention, and these **may be totally or partially transferred**. This means that Article 83 bis is a discretionary and flexible instrument available to those that ratify it, but unless functions and duties are clearly identified and reassigned by a transfer agreement, they continue to rest with the State of Registry"*. **Proposed Text:** Given the above, consideration should be given to partial transfers clarifying that those functions not delegated still	

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		require compliance with applicable requirements of Regulation (EC) No 2042/2003 (i.e. for third country registered aircraft, this being Annex V (Part-T). Therefore, a new sentence could be added after 'not used by a Community operator' as follows: "*Those regulatory safety oversight responsibilities not delegated to the third country shall comply with the applicable requirements of this Regulation".*	
72 - 73	segment "**B. DRAFT OPINION(S) AND/OR DECISION (S) - II. Draft Decision AMC & GM - II.B. Acceptable Means of Compliance (AMC) for Annex V (Part T) to Regulation (EC) No 2042/2003**"	**Page No:** 56 **Paragraph No:** 13, Article 2 – Definitions **Comment:** The revised definition of "commercial air transport" in EC Regulation 2042/2003 is now different from that in the forthcoming Air Operations Regulation. CRD-1 to NPA 2010-10 proposed definition states *"... or hire by a licensed air carrier as defined in Regulation (EC) No 1008/2008".* It is not clear why such a difference is needed. **Justification:** Article 2 of the Air Operations Regulations definition of commercial air transport has already been discussed and agreed between the Commission, EASA, Member States and Industry. There seems no reason not to use the same definition in this regulation. In addition, there are no definitions in Regulation (EC) No 1008/2008 "licensed air carrier". Regulation (EC) No 1008/2008 only defines "air carrier" and "Community air carrier". **Proposed Text:** Replace with the previously agreed definition of commercial air transport in the Air Operations Regulation, i.e. *"... 'Commercial air transport (CAT) operation' means an aircraft operation to transport passengers, cargo or mail for remuneration or other valuable consideration".*	
72 - 73	segment "**B. DRAFT OPINION(S) AND/OR DECISION (S) - II. Draft Decision AMC & GM - II.B. Acceptable Means of Compliance (AMC) for Annex V (Part T) to Regulation (EC) No 2042/2003**"	**Page No:** 57 of 75 **Paragraph No:** 19. M.A.201 (j) 2. **Comment:** The requirement for the M.A. Subpart G organisation (CAMO) to be approved in accordance with M.A. Subpart F or Part 145	

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		for the maintenance of the aircraft in the instance of commercial operations, other than commercial air transport, or establish a contract with such an organisation, has been introduced in this CRD. The new wording introduces the requirement to establish a contract in accordance with M.A. 708 (c) which has been amended to reflect this. With the change to M.A.201 (j) 2. and M.A. 708 (c) the UK CAA proposes that M.A.201 (h) 2. is also amended to reflect this need for a contract in accordance with M.A. 708 (c) **Justification:** To establish a consistent approach to contracts between a commercial operator and a maintenance organisation. **Proposed Text:** M.A.201 (h) 2 - "2. be approved in accordance with Part-145 or establish a contract in accordance with M.A.708 (c) with such an organisation; and" In addition amend the proposed revised M.A.708 (c) "For commercial operations when the operator, or the approved continuing airworthiness management organisation is not appropriately approved to Part-145 or Part-M.A. Subpart F a written maintenance contract shall be established with a Part-145 or Part-M.A. Subpart F approved organisation as appropriate or another operator, detailing the functions specified under M.A.301-2, M.A.301-3, M.A.301-5 and M.A.301- 6, ensuring that all maintenance is ultimately carried out by a Part-145 or Part-M.A. Subpart F approved maintenance organisation and defining the support of the quality functions of M.A.712(b). The aircraft base, scheduled line maintenance and engine maintenance contracts, if applicable, together with all amendments, shall be approved by the	

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		competent authority. However, in the case of:”	

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