

Agreement

between

the Federal Ministry of Transport, Building and Urban Affairs
of the Federal Republic of Germany

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

The Federal Ministry of Transport, Building and Urban Affairs
of the Federal Republic of Germany

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,

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 by the holder of an operating licence issued by the other Contracting State including an air operator's certificate (AOC) under a dry-lease arrangement,

considering the fact that the Federal Republic of Germany and the Republic of Austria are both Member States of the European Union, and that they therefore apply numerous harmonised European regulations in the field of aviation law which ensure a harmonised approach -

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 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 including an air operator's certificate the aircraft is registered.
7. the term "civil aviation authority" means in the case of the Federal Republic of Germany the Luftfahrt-Bundesamt, Hermann-Blenck-Str. 26, D-38108 Braunschweig, designated by the Federal Ministry of Transport, Building and Urban Affairs in accordance with section 3 (a) (2) of the Civil Aviation Act of the Federal Republic of Germany, and in the case of the Republic of Austria the aviation authority Austro Control GmbH,

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 has received his operating licence.

Article 2

Scope of application

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 air transport under a dry-lease arrangement or any other agreement in the spirit of article 83bis of the Convention on International Civil Aviation.

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 of the 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.

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. Applications for the transfer of responsibilities by the civil aviation authority of the State of Registry shall require the written acceptance by the civil aviation authority of the State of the Operator. Applications may only be filed for single and specifically designated aircraft for the period of application of the dry-lease arrangement, or any other agreement in the spirit of article 83bis of the Convention on International Civil Aviation for a maximum period of 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 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 in each case applicable laws, as well as other regulations and procedures of the State of the Operator.

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 lessee and to the lessor. Copies of this Agreement, of the correspondence as well as of the air operator's certificate in which the aircraft concerned is registered shall be carried on board the aircraft for which the responsibility was transferred by virtue of this Agreement. If the lessee 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 each time any changes occur, and notified to ICAO.

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 at Vienna on 30th November 2009 in duplicate, both in German language.

For the Federal Ministry of
Transport, Building and Urban Affairs
of the Federal Republic of Germany
*[Hans-Henning Blomeyer-Bartenstein,
ambassador of the Federal Republic of
Germany, Vienna]*

For the Ministry of Transport,
Innovation and Technology
of the Republic of Austria
*[Manfred Bialonczyk, Director General
Civil Aviation,]*