

Agreement

between

the Civil Aviation Authority of the Federal Republic of Germany

(Luftfahrt-Bundesamt)

and

the Civil Aviation Authority of the Italian Republic

(Ente Nazionale per l'Aviazione Civile)

on

the implementation of article 83<sup>bis</sup> 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 the Federal Republic of Germany (LBA)

and

the Civil Aviation Authority of the Italian Republic (ENAC)

Whereas the Protocol of 6 October 1980 to amend to article 83<sup>bis</sup> of the Convention on International Civil Aviation (Chicago Convention) of which the Federal Republic of Germany and the Italian Republic are Contracting Parties entered into force on 20 June 1997,

Whereas the Federal Republic of Germany and the Italian Republic are members of the European Union (EU) and 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 1592/2002 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 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 each authority 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<sup>bis</sup> 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 Federal Republic of Germany and of the Italian Republic in accordance with the Chicago Convention when an aircraft registered in the Federal Republic of Germany 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 Luftfahrt-Bundesamt 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, and has given effect to the agreement in relation to article 83<sup>bis</sup> of the Chicago Convention,

Whereas the Protocol was ratified by the Federal Republic of Germany through the Certificate of Ratification of 19 October 1983, published in the "Bekanntmachung des Protokolls zur Änderung des Artikels 83 des Abkommens über die Internationale Zivilluftfahrt vom 11. September 1997" (BGBl. II p. 1777), and has given effect to the agreement in relation to article 83<sup>bis</sup> of the Chicago Convention,

Have agreed, on the basis of articles 33 and 83<sup>bis</sup> of the Chicago Convention as follows:

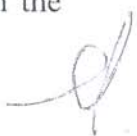

#### Article 1

#### 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.

(2) Italian or German airlines are entitled to operate an aircraft registered in the Federal Republic of Germany 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 maintaining the validity of the certificate of airworthiness of the aircraft.

(3) In pursuance of article 83<sup>bis</sup> of the Chicago Convention the Federal Republic of Germany 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<sup>bis</sup> of the Chicago Convention the Italian Republic shall be relieved of the responsibility in respect of the functions and duties transferred to the Federal Republic of Germany 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 Federal Republic of Germany or the Italian Republic and operated in commercial air transportation under a leasing agreement by an Italian or German 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. 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. Functions related to the certification of products, parts and appliances and design organizations which have been assigned pursuant to EU Regulation 1592/2002 to the state of registry authority by the Executive Director of EASA through its letter of 26 September 2003 (or latest published issue) for the initial phase, are transferred to the state of the operator authority. The procedure for the renewal of the certificate of airworthiness is regulated in the implementation regulations to this Agreement.

(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.

#### 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 LBA, 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 acceptance letter 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 state of the operator authority 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 Federal Republic of Germany (schedule I A)" and "Schedule of aircraft types and German operators registered in the Italian Republic (Schedule II A)". They are kept and maintained updated by LBA 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 LBA 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 Maintenance Control Manual 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 state of registry authority with a letter referring to the Agreement ENAC-LBA and the specific aircraft and formally accepted by the operator's authority. 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 state of registry authority and the state of the operator authority 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

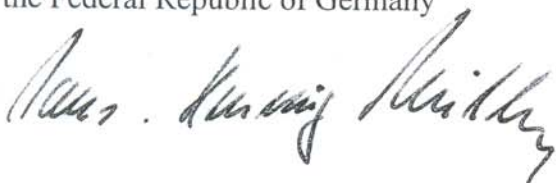
#### FINAL CLAUSES

- (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 LBA and ENAC regulatory responsibilities shall come into effect, for each individual case, when the transfer of the functions is formally accepted by the operator's authority 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 state of registry authority shall send a request concerning the transfer of functions to the state of the operator authority. 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 LBA 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 state of registry authority or the state of the operator authority, 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 state of registry authority and the state of operator's authority.
- (7) The Agreement shall terminate 60 days after written notice of the termination of this Agreement by either of the two Parties.

Done at Rome on 18.07.2007 in two originals in English.

For the Luftfahrt-Bundesamt  
of the Federal Republic of Germany



For the Civil Aviation Authority  
of the Italian Republic

IL VICE DIRETTORE GENERALE

*Ing. Salvatore Scacchitano*

