

GUIDANCE ON INTERNATIONAL LEASE ARRANGEMENTS

1. General

- 1.1 This notice is intended to define the minimum requirements for aircraft owners and airlines who are planning or preparing to lease an aircraft across international boundaries. The material contains recommended methods and practices which could be used during the preparation and organization of an aircraft lease or an international aircraft transfer on top of those mentioned in Airworthiness Notice A/46. The proposed requirements are intended to be used as minima; additional requirements may be demanded by the lessor or purchaser.
- 1.2 Historically, there have been a number of difficulties associated with the international leasing of aircraft, usually caused by differing national airworthiness standards, differing national operational standards, differing build standards; and non-standard application of the above.
- 1.3 Irrespective of the various types of arrangements and categories of lease, charter and interchange, this Chapter will discuss the following issues in relation to the transfer of aircraft between the State of Registry and the State of the Operator:
 - a) acceptance of the type design;
 - b) maintenance;
 - c) approval for extended diversion time operations (if applicable);
 - d) information on faults, malfunctions and defects and other occurrences;
 - e) mandatory continuing airworthiness information; and
 - f) distribution of mandatory continuing airworthiness information.

2. Records and documentation

2.1 General

- 2.1.1 In addition to Notice A/46 of this Part, regarding aircraft records and documentation consideration should be given as indicated in the following paragraphs.
- 2.1.2 *Governing requirement.* Prior to initiation of the lease, representatives of both parties should coordinate the scope and content requirements of the technical logs and the aircraft journey log book that will eventually be required upon aircraft return or further transfer. The governing record-keeping regulation under which the aircraft records should be maintained should be determined prior to initiation of the lease or transfer.
- 2.1.3 *Language.* All aircraft records should be maintained in a language which is acceptable to the authority of the State of the Operator. For practical purposes another language may be used; however, a translation to a language acceptable to the authority of the State of the Operation may be required at

the time of transfer. The translation of past records need only be accomplished when required by the authority of the State of the Operator.

2.1.4 *Documentation requirements.* Documentation requirements for incoming components and parts should be identified in the operator's manual to support its purchasing and receiving inspection functions. This includes, but is not limited to, documentation of AD compliance, time on life-limits, descriptions of work performed and certification of new and repaired parts. Once these requirements are satisfied and the essential information is entered into the operator's records system, the only source documentation required to be retained is that necessary to:

- a) satisfy the requirements of the responsible authority;
- b) support the operator's continuing analysis and surveillance system; and
- c) support future maintenance on the affected parts.

However, operators are advised to retain or archive documentation of AD compliance, life-limited part service times and other information which may be useful in the future.

2.2 Additional record-keeping requirements for Airworthiness Directives

In addition to Notice A/46, the requirements of the authority will determine the specific data required as part of a maintenance record. An operator is normally not required to retain actual work documents to show accomplishment of the work on a given airframe, engine, propeller, rotor or appliance in order to document AD compliance unless such records are otherwise called for by the requirements of the authority of the State of Registry.

2.3 Addition to the transfer of records

In addition to Notice A/46, when an aircraft, airframe, engine, propeller, rotor or appliance is leased, the associated records should be transferred as if the transaction were a sale. By agreement between the lessee and the lessor, some records, such as work cards and inspection records, may be retained by the owner; however, the lessee has a responsibility to review the records retained by the owner and to ensure that the summary information used to support the airworthiness of the item is complete and accurate.

2.4 Addition to the recommended format of the documentation

As an amendment to Appendix A of Notice A/46 *Section 2.— The aircraft sale agreement*, this section should refer to the lease agreement and contain a copy of this agreement. Economic or monetary information may be deleted for the purposes of this presentation.

3. Minimum airworthiness provisions for Leasing Agreements

In the area of airworthiness provisions, the lease agreement should ensure at least that:

- a) the lessor and lessee are properly identified;
- b) the aircraft subject to the lease agreement is identified by aircraft make and model, registration number and manufacturer's serial number;
- c) the effective dates of the lease are properly identified;
- d) the person having operational control is specifically identified;
- e) the State of Registry, the applicable airworthiness code and the regulations under which the aircraft will be maintained are identified;
- f) the responsibilities for the accomplishment of maintenance in accordance with the designated regulations are specifically identified;
- g) the responsibilities for keeping the aircraft maintenance records in accordance with the designated regulations are specifically identified;
- h) the maintenance/inspection programme that will be utilized is specifically identified; and
- i) the lessor and lessee clearly identify a coordination mechanism, periodic meetings may be arranged to ensure that the continuing airworthiness of the aircraft is maintained.

4. Acceptance of the Type Design

4.1 The laws of the State of Registry generally prescribe the airworthiness and the design-related operational requirements for aircraft registered in that State and operated by an operator under its jurisdiction. However, the laws of the State of the Operator may also require that foreign-registered aircraft utilized by operators under its jurisdiction comply with the same airworthiness and design-related operational requirements, as if they were registered in that State.

4.2 The States of Registry and of the operator should, when prescribing the airworthiness and design-related operational requirements, consider the following when an aircraft is transferred from the State of Registry to the State of the Operator:

- a) the period of time for which the aircraft is to be transferred;
- b) the differences between the type certification basis of the State of Registry and that of the State of the Operator;
- c) the differences between the design-related operational requirements of the State of Registry and those of the State of the Operator; and
- d) the responsibilities of the State of Registry and the State of the Operator with respect to the approval of:
 - 1) changes to the type design, including those required to take into consideration the differences stated in b) and c); and
 - 2) repairs which require a design approval before implementation.

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- 4.3 In accordance with Annex 8, the State of Registry, unless otherwise transferred under Article 83*bis*, is responsible for ensuring that the aircraft, and any modification to it, complies with an approved design. To preserve this responsibility, the State of the Operator should not endorse the implementation of any change without prior approval by the State of Registry.
- 4.4 To carry out their respective functions, States could enter into bilateral airworthiness and transfer of aircraft agreement which describes procedures for:
 - a) the approval of the modifications to the type design;
 - b) the embodiment of the modifications and repairs; and
 - c) the record-keeping of the modifications and repairs.

5. Maintenance

- 5.1 Although the maintenance programme is usually approved by the State of Registry, the legislation of a State may require it to approve the maintenance programme for all aircraft operated by the operators of that State. Other factors may, by necessity or for convenience, lead to the use of a third State's maintenance programme, in the case of transferred aircraft.
- 5.2 Some of the factors influencing the selection of the maintenance programme to be applied when aircraft are transferred are:
 - a) the period of time for which the aircraft is transferred;
 - b) the differences between the maintenance requirements of the State of Registry and those of the State of the Operator and the compatibility of their approved maintenance programmes;
 - c) the different requirements regarding the approval or acceptance of the maintenance programme by the State of the Operator or of the State of Registry;
 - d) the distance between the place where the aircraft is operated and the State of the Operator, i.e. the aircraft may be operated in a third State for the duration of the transfer; and
 - e) any changes in the aircraft utilization or environmental conditions.
- 5.3 Arrangements and procedures regarding the maintenance, the performance and certification of maintenance, including the signing of maintenance releases and the record-keeping should be acceptable to both the State of Registry and the State of the Operator. These arrangements and procedures could be developed on a case-by-case basis or be the subject of a bilateral airworthiness or transfer agreement.

6. Approval for Extended Diversion Time Operations

- 6.1 The approval for conducting extended diversion time operations applies to an individual operator and to a specific airframe-engine combination of that operator's fleet. The approval is not transferable with the aeroplane.

- 6.2 The original operator that has authority for extended diversion time operations, in transferring an aeroplane under a wet lease arrangement with an acquiring operator, retains this authority.
- 6.3 In the case of an original operator that has authority for extended diversion time operations, transferring an aeroplane under a dry lease arrangement, the acquiring operator should obtain the authority to conduct extended diversion time operations from the State of the acquiring operator.
- 6.4 Arrangements and procedures regarding the approval of extended diversion time operations with a transferred aircraft should primarily be acceptable to the State of the Operator. Where applicable, the experience of the original operator being used to approve the new operator's extended diversion time operations should be clearly identified in the transfer arrangements.

7. Information on faults, malfunctions and defects and other occurrences

- 7.1 Annex 8, Part II, 4.2.3 requires the State of Registry, in respect of aeroplanes over 5700 kg and helicopters over 3175 kg maximum certificated take-off mass, to ensure that there exists a system whereby information on faults, malfunctions, defects and other occurrences is transferred to the organization responsible for the type design. Furthermore, 4.2.4 of the same document requires Contracting States to establish which type of service information is to be reported by operators, organizations responsible for type design and maintenance organizations.
- 7.2 It is clear from the above that the State of Registry is responsible for ensuring the transfer of information on defects to the organization responsible for the type design. For an operator of an aircraft subject to a transfer, it may not be appropriate, convenient or enforceable to report defects according to the system of the State of Registry. Specific arrangements between the State of Registry and the State of the Operator should therefore be developed to ensure that the information on defects for the aircraft is transferred to the organization responsible for the type design.
- 7.3 At the time an aircraft is transferred, the two authorities and the operators involved should decide which reporting systems and procedures apply, to ensure that the information is transmitted to the organization responsible for the type design and, as required, to the State of Registry.
- 7.4 When aircraft are transferred, some of the factors influencing the selection of the system to be used for reporting information on defects are:
- a) the period of time for which the aircraft is transferred;
 - b) the compatibility/differences between the reporting system of the State of Registry and that of the State of the Operator;
 - c) the possible absence of a reporting system in the State of the Operator or the State of Registry; and
 - d) the regulatory requirements of the States involved.

8. Mandatory Continuing Airworthiness Information

- 8.1 Under Article 31 to the Convention, the State of Registry has prime regulatory responsibility for the airworthiness of the aircraft on its Registry. If the State of Registry is also the State of Design, it will normally be the originator of mandatory continuing airworthiness information, such as Airworthiness Directives.
- 8.2 If the State of Registry is not the State of Design, it should have procedures in place to respond to mandatory continuing airworthiness information received from the State of Design and should decide whether the information will be made mandatory for aircraft on its registry. When made mandatory, the State of Registry will either issue its own mandatory information or require compliance with that issued by the State of Design.
- 8.3 Notwithstanding 8.1 and 8.2, the State of Registry, without being the State of Design, may issue mandatory continuing airworthiness information applicable to aircraft registered in its State.
- 8.4 Similarly, the State of the Operator may, by virtue of an agreement with the State of Registry, require mandatory continuing airworthiness information it has issued to be applicable to aircraft operated in its State. In such cases, the content of 4.3 of this Notice should also be considered before the implementation of the information.

9. Distribution of Mandatory Continuing Airworthiness Information

- 9.1 The mandatory continuing airworthiness information issued by the State of Registry in the form of an Airworthiness Directive or equivalent, or issued by the State of Design and made mandatory by the State of Registry, should be made available to affected operators by the State of Registry. Some States disseminate this mandatory information directly to each registered owner of an affected aircraft on their registries and rely on the registered owner to transmit the information to the operator. Other States make the information available through the offices of their airworthiness authorities or also publish the information and make it available by subscription.
- 9.2 As described in Section 8 above, the mandatory continuing airworthiness information issued, in certain circumstances, by the State of the Operator, and made mandatory on aircraft registered in another State and operated in the State of the Operator, should be made available to affected operators by the State of the Operator.
- 9.3 When an aircraft is leased to an operator in another State, distribution of mandatory continuing airworthiness information by the State of Registry may be accomplished by making the mandatory documents available to the registered aircraft owner, who should be responsible for transmitting them to the aircraft operator.

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10. Continuing validity of the Certificate of Airworthiness

When an aircraft is leased to an operator in another State, the regulation for continuing validity of the Certificate of Airworthiness of the State of Registry should be complied with by the operator.