AIR TRANSPORT ASSOCIATION

December 10, 2010

Process Support
Rulemaking Directorate
EASA
Postfach 10 12 53
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Attention: Comment-Response Tool (CRT) at http://hub.easa.europa.eu/crt/

Reference: (a) EASA NPA 2010-10

Subject: ATA Comments on EASA Notice of Proposed Amendment 2010-10 re: "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"

The Air Transport Association of America, Inc. (ATA), on behalf of its airline members[1], appreciates this opportunity to provide comments on the Notice of Proposed Amendment entitled, "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." The NPA solicits public comments Issue 3: The scope of article 4(1)(c) of the Basic Regulation Article 4(1)(c) of the Basic Regulation imposes to aircraft registered in a third country used by EU operators the need to comply with the applicable provisions of the Basic Regulation. In order to implement this requirement in Regulation (EC) No 2042/2003, Part-T is proposed. ATA's comments specifically address Case 2 and Case 3 (page 6 and 7 of 80).

Safety is our members' foremost priority. ATA member airlines have embraced safety management processes mandated by global civil aviation authorities and have historically gone beyond mere compliance to voluntarily develop and implement aggressive, data-driven, risk-

[1] ATA is the principal trade and service organization of the major scheduled air carriers in the United States. ATA members and affiliates account for more than ninety percent (90%) of the passenger and cargo traffic that U.S. scheduled airlines carry annually. ATA airline Members are: ABX Air, Inc.; AirTran Airways; Alaska Airlines, Inc.; American Airlines, Inc.; ASTAR Air Cargo, Inc.; Atlas Air, Inc.; Continental Airlines, Inc.; Delta Air Lines, Inc.; Evergreen International Airlines, Inc.; Federal Express Corporation; Hawaiian Airlines; JetBlue Airways Corp.; Midwest Airlines, Inc.; Southwest Airlines Co.; United Airlines, Inc.; UPS Airlines; and US Airways, Inc. ATA Airline Associate Members are: Air Canada and Air Jamaica Ltd.

oriented safety programs to detect adverse events or trends and take timely corrective action. Thus, ATA and its members have a vested interest in the outcome of this rulemaking.

The European Aviation Safety Agency (EASA) asserts that article 4 1 c) of EASA Basic Regulation 216/2008, which states in part: "*aircraft, including any installed product, part and appliance, which are registered in a third country and used by an operator for which any Member State ensures oversight of operations or used into, within or out of the Community by an operator established or residing in the Community shall comply with this regulation,*" gives EASA the legal mandate to impose all EASA continuing airworthiness requirements on any aircraft of a non-EU airlines code-sharing with an EU airline. The ATA strongly disagrees with EASA's interpretation of EASA Basic Regulation 216/2008 because it most certainly exceeds the intent of the European Union's commerce legislation.

In practice, these very cumbersome EASA proposals would render codesharing between EU airlines and non-EU airline de-facto impossible. This would significantly impact the economic opportunity of the U.S. airline industry in the global marketplace for no obvious safety benefit. In general, if this proposed amendment became rule, ATA would expect a substantial increase in workload and expense in the preparation and institutionalization of airworthiness and maintenance procedures (accompanied by associated maintenance manual changes) to obtain Part M subpart G approval if a U.S. airline were to undertake a business arrangement delineated in Case 2 or 3 cited on pages 6 and 7 of the NPA . The redundant oversight of continued airworthiness of U.S. aircraft operated in such a wet-lease or codeshare activity would yield no obvious safety benefit.

Furthermore, EASA proposes that when a Community operator wishes to codeshare with a Third Country Operator (TCO), or when a Community operator wishes to wet lease aircraft of a TCO, that :

- the TCO aircraft has to comply with "ICAO equivalent requirements" to Part M
- the TCO holds an AOC in accordance with ICAO Annex 6
- the TCO has maintenance performed by a qualified maintenance organization meeting the requirements of Annex 6
- continued airworthiness of these third country aircraft is ensured by oversight of the Community operator Part M Subpart G CAMO on the basis of the proposed Part T, the requirements of which would be applicable for TCO aircraft *over and above* State of Registry requirements.
- the Community operator enters into an formal agreement with the TCO addressing all the above requirements
- the Community operator must obtain approval from local NAA and submit all documents necessary before start of operations.

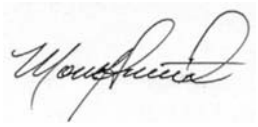
ATA regards the latter three of these stipulations as most onerous.

ATA believes there is a clear disconnect between this EASA NPA 2010-10 on maintenance aspects of code-sharing and the EASA proposals (NPA 2008-22) made for operational aspects of code-sharing under its Authority Requirements (AR) / Organization Requirements (OR).

ATA also has major concerns regarding NPA 2008-22, which seems to be based on subjective interpretations of the EASA basic regulation - specifically in relation to EASA proposals to require code-share partners of EU airlines to comply with Annex IV of the EASA basic regulation. The latter would make code-sharing between EU airlines and non-EU airlines (e.g., U.S. airlines) impossible due to differing regulatory environments.

Further, ATA encourages EASA to recognize the IATA Operational Safety Audit (IOSA) system for code-share auditing in order to prevent runaway inflation in audits.

Very respectfully submitted,



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