



Luftfahrt-Bundesamt

Bundesoberbehörde im Geschäftsbereich des Bundesministeriums
für Verkehr und digitale Infrastruktur (BMVI)

– COURTESY TRANSLATION –

Agreement

between

the Federal Ministry of Transport and Digital Infrastructure
of the Federal Republic of Germany,

and

the Federal Minister 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 and Digital Infrastructure
of the Federal Republic of Germany,
represented by
the Federal Aviation Office,

and

the Federal Minister of Transport, Innovation and Technology
of the Republic of Austria,

being Contracting Parties to the Convention on International Civil Aviation opened for signature at Chicago on 7 December 1944;

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 IV Chapter 6 of ICAO Doc. 9760 and Part V of ICAO Doc. 8335, it is necessary to establish precisely the international obligations and responsibilities of the Contracting Parties 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 –

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. "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. "ICAO" means the International Civil Aviation Organization,
3. "EASA" means the European Aviation Safety Agency,
4. "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. "Lessor" means the registered owner or the person transferring the use of an aircraft against payment to the lessee,
6. "Lessee" means the operator to whom an aircraft is leased for use against payment and in whose operating licence respectively air operator's certificate the aircraft is registered,

7. “Civil aviation authority” means in the case of the Federal Republic of Germany the Federal Aviation Office (Luftfahrt-Bundesamt), Hermann-Blenk-Str. 26, D-38108 Braunschweig, designated by the Federal Ministry of Transport and Digital Infrastructure (Bundesministerium für Verkehr und Digitale Infrastruktur) 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 Austrian Civil Aviation Authority Austro Control GmbH, Wagramer Str. 19, A-1220 Wien as the competent authority for the implementation of this agreement, or in both cases any other person or legal entity which is authorized to administrate the functions of these authorities,
8. “State of Registry” means the state in whose aircraft register the aircraft leased for use against payment is entered,
9. “State of the Operator” means the state from which the lessee has received his operating licence.

Article 2

Scope of application

- (1) This Agreement shall be applicable to aircraft registered in the aircraft register of the State of one Contracting Party and operated by an operator from the State of the other Contracting Party for commercial air transport under a dry-lease arrangement.
- (2) This Agreement may be applied in analogy if there is no dry-lease arrangement existent because operator and owner of the particular aircraft are identical.

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 on 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 on 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 another 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 and in cases laid down in Article 2 (2) for the duration of the transfer of responsibilities determined by the civil aviation authority of the State of Registry, respectively. 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 and in cases laid down in Article 2 (2) in the case of a prolongation of the duration of the transfer of responsibilities determined by the civil aviation authority of the State of Registry, respectively, paragraph 1 shall apply accordingly.
- (3) The civil aviation authorities shall be entitled to revoke the transfer of responsibilities for particular aircraft at any time. The revocation must be performed in writing. It shall become effective 24 hours upon receipt by the other civil aviation authority.
- (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 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 Parties 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. Operator's MCM and CAME procedures, 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 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 Parties shall make available a 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 its authority, approval for a system to list the registration marks for aircraft operated and authorized under its 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 Parties 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 and 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 after completion of any modification and notified to ICAO.

Article 8

Charges

Each authority shall invoice charges and expenses according to its national provisions.

Article 9

Entry into Force, Period of Validity

(1) This Agreement shall enter into force on the first day of the month following the day of its signature. With the entry into force of this Agreement, the Agreement of 30 November 2009 between the Federal Ministry of Transport and Digital Infrastructure of the Federal Republic of Germany and the Federal Minister of Transport, Innovation and Technology of the Republic of Austria on the Implementation of Article 83^{bis} of the Convention on International Civil Aviation shall cease to be in force.

(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.

Done at Vienna on 28 June 2016 in two original documents in the German language, all two texts being authentic.

For the Federal Ministry of Transport and
Digital Infrastructure

of the Federal Republic of Germany

(Signature Jörg Mendel, President of the
Federal Aviation Office)

For the Federal Minister of Transport,
Innovation and Technology

of the Republic of Austria

(Signature Mag. Elisabeth Landrichter,
Head of Group „Aviation“ at the Federal
Ministry of Transport, Innovation and
Technology)