



*Airlines Serving Tourism*

European Aviation Safety Agency  
Rulemaking Directorate  
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Brussels, 6<sup>th</sup> December 2010

**Subject: dry lease-in of third country aircraft by EU operators**

References: NPA 2010-10 on maintenance requirements for non-EU aircraft used by EU operators  
CRD OR.OPS.AOC.100 Application for an air operator certificate  
CRD OR.OPS.AOC.110 Leasing agreement  
Regulation 1008/2008 on common rules for the operation of air services  
IACA letter on same subject dated 2<sup>nd</sup> September 2010

Dear Mr. Kneepkens  
Jules

The leisure industry is faced with an inherent seasonal demand for aircraft capacity. To manage these seasonal effects on a yearly basis, operators lease-in additional aircraft during the high season and/or lease-out surplus aircraft during the low season. Since the entire EU Community is subject to the same seasons, EU operators also need to lease-out EU aircraft to third country operators during the low season, and/or lease-in third country aircraft during the high season. Following NPA 2010-10 and CRD OR.OPS.110.AOC, the latter would only be possible as a wet lease-in, but no longer as a dry lease-in. Why is it acceptable to wet lease-in but not to dry lease in a third country aircraft, when in both scenarios the aircraft has a certificate of airworthiness issued in accordance with ICAO Annex 8 ?

IACA acknowledges that the EU and its Member States like to avoid excessive lease-in of third country aircraft, especially wet lease-in, where the third country aircraft remains on the air operator certificate (AOC) of and is operated by the crew of the third country operator (Regulation EC 1008/2008 Whereas 8).

Accordingly, aircraft operated by EU operators shall be EU registered (EC 1008/2008 art.12.1) or any wet lease-in of a third country aircraft shall be subject to prior approval (EC 1008/2008 art.13.3). Subject regulation however does not exclude dry leasing-in third country aircraft, but requires any dry lease agreement to which an EU carrier is party, to be subject to prior approval (EC 1008/2008 art.13.2).

Indeed, there is no safety case to exclude dry leasing-in third country aircraft. On the contrary, operating third country aircraft on the AOC of, by the flight crew of, maintained per Part-145 requirements under the continuing airworthiness management of the EU operator provides an additional layer of safety. This was also confirmed by several competent authorities during the recent EASA workshops on NPA 2010-10 and Authority/Organisation Requirements.

For the same safety reasons, following a safety audit of lessor's operations and maintenance program, EU operators prefer dry over wet, when leasing third country aircraft for longer periods of several months and/or repeated on annual basis to offset seasonal capacity. EU-OPS caters for dry leasing-in third country aircraft, which shall be approved by the competent authority, who shall also be notified and accept any difference with Subpart K and L (EU-OPS 1.165(c)1).

Regarding the certificate of airworthiness, the original JAR-OPS 1.180(a)(1) specifies a standard certificate of airworthiness issued in accordance with ICAO Annex 8; and those issued in accordance with JAR-21 will be accepted without further showing. For unclear reasons, EU-OPS 1.180(a)(1) does no longer accept ICAO Annex 8 and narrows the certificate of airworthiness to Part-21 only. Certificates of airworthiness issued in accordance with ICAO Annex 8 are however still acceptable for wet leasing-in third country aircraft (see NPA 2010-10 T.A.201.1.c) and should remain acceptable for OR.OPS.AOC.100.

Considering the necessity for the leisure industry to offset seasonal capacity by leasing-in third country aircraft, considering the additional level of safety provided by dry leasing-in, considering the experience of different members states with several third countries, especially those with an existing bilateral safety agreement, IACA hereby kindly ask you to review and amend CRD OR.OPS.AOC and NPA 2010-10 (by specifying the necessary requirements) to continue the safe operations by EU operators of dry leased-in third country aircraft for a seasonal period.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Erik Moyson', written in a cursive style.

Erik Moyson  
Director Technical & Operations

cc. Eckard Seeböhm, Head of Air Safety, European Commission, [eckard.seeböhm@ec.europa.eu](mailto:eckard.seeböhm@ec.europa.eu)