



## Notice of Proposed Amendment 2016-08

# Import of aircraft from other regulatory system, and Part-21 Subpart H review

RMT.0278 — 7.9.2016

### EXECUTIVE SUMMARY

This Notice of Proposed Amendment (NPA) addresses a regulatory coordination issue mainly related to the import of aircraft into the European regulatory system and the revision of Part-21 Subpart H.

This NPA proposes amendments to Part-21 and Part-M in order to guarantee their consistency with regard to the issuance of a Certificate of Airworthiness (CofA) and an Airworthiness Review Certificate (ARC) for aircraft being imported from other regulatory systems. These aircraft can be either foreign registered aircraft or European aircraft not subject to Article 1.2 of the Basic Regulation.

The proposed changes are expected to eliminate difficulties encountered by stakeholders and Member States in the process of obtaining/issuing a CofA and ARC for aircraft being imported from another regulatory system while ensuring alignment with ICAO.

Part-21 is also amended to establish consistency in the case of newly manufactured foreign aircraft.

Applicability		Process map	
Affected regulations and decisions:	Regulation (EU) No 1321/2014; Regulation (EU) No 748/2012; ED Decision 2015/029/R; ED Decision 2012/020/R	Concept Paper:	No
		Terms of Reference:	1.2.2013
		Rulemaking group:	Yes
		RIA type:	Light
Affected stakeholders:	Aircraft owners; continuing airworthiness management organisations (CAMOs); maintenance organisations; airworthiness review staff (ARS); national aviation authorities (NAAs)	Technical consultation during NPA drafting:	No
		Duration of NPA consultation:	3 months
		Review group:	Yes
Driver/origin:	Level playing field	Focused consultation:	No
Reference:	ICAO Doc 9760, ICAO Annex 8	Publication date of the Opinion:	2017/Q3
		Publication date of the Decision:	Upon adoption of the Opinion by the Commission



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## 1. Procedural information

### 1.1. The rule development procedure

The European Aviation Safety Agency (hereinafter referred to as the 'Agency') developed this Notice of Proposed Amendment (NPA) in line with Regulation (EC) No 216/2008<sup>1</sup> (hereinafter referred to as the 'Basic Regulation') and the Rulemaking Procedure<sup>2</sup>.

This rulemaking activity is included in the Agency's [5-year Rulemaking Programme](#) under RMT.0278.

The text of this NPA has been developed by the Agency based on the input of the Rulemaking Group RMT.0278. It is hereby submitted for consultation of all interested parties<sup>3</sup>.

The process map on the title page contains the major milestones of this rulemaking activity to date and provides an outlook of the timescale of the next steps.

### 1.2. The structure of this NPA and related documents

Chapter 1 of this NPA contains the procedural information related to this task. Chapter 2 (Explanatory Note) explains the core technical content. Chapter 3 contains the proposed text for the new requirements. Chapter 4 contains the regulatory impact assessment (RIA) showing which options were considered and what impacts were identified, thereby providing the detailed justification for this NPA.

### 1.3. How to comment on this NPA

Please submit your comments using the automated **Comment-Response Tool (CRT)** available at <http://hub.easa.europa.eu/crt/><sup>4</sup>.

The deadline for submission of comments is **7 December 2016**.

### 1.4. The next steps in the procedure

Following the closing of the NPA public consultation period, the Agency will review all comments. The outcome of the NPA public consultation will be reflected in a comment-response document (CRD).

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<sup>1</sup> Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC (OJ L 79, 19.3.2008, p. 1).

<sup>2</sup> EASA is bound to follow a structured rulemaking process as required by Article 52(1) of the Basic Regulation. Such process has been adopted by the EASA Management Board (MB) and is referred to as the 'Rulemaking Procedure'. See MB Decision No 18-2015 of 15 December 2015 replacing Decision 01/2012 concerning the procedure to be applied by the Agency for the issuing of opinions, certification specifications and guidance material ('Rulemaking Procedure').

<sup>3</sup> In accordance with Article 52 of the Basic Regulation and Articles 6(3) and 7 of the Rulemaking Procedure.

<sup>4</sup> In case of technical problems, please contact the CRT webmaster ([crt@easa.europa.eu](mailto:crt@easa.europa.eu)).



The Agency will publish the CRD concurrently with the opinion. The opinion will contain the proposed amendments to Regulation (EU) No 1321/2014<sup>5</sup> and Regulation (EU) No 748/2012<sup>6</sup> and will be submitted to the European Commission (EC), to be used as a technical basis in order to prepare an EU regulation.

The Decision containing acceptable means of compliance (AMC) and guidance material (GM) will be published by the Agency when the related implementing rule(s) (IRs) are adopted by the Commission.

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<sup>5</sup> Commission Regulation (EU) No 1321/2014 of 26 November 2014 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks (OJ L 362, 17.12.2014, p. 1).

<sup>6</sup> Commission Regulation (EU) No 748/2012 of 3 August 2012 laying down implementing rules 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 (OJ L 224, 21.8.2012, p. 1).



## 2. Explanatory Note

### 2.1. Overview of the issues to be addressed

Stakeholders pointed out that requirements in Regulation (EU) No 1321/2014 (Part-M) and Regulation (EU) No 748/2012 (Part-21) with regard to the issuance of a CofA and an airworthiness review certificate (ARC) were not adequate, unclear or impossible to be fulfilled in certain occasions when aircraft were imported from a different regulatory system (i.e. a regulatory system other than the system established by the Basic Regulation). This is the main part of this rulemaking activity.

Additionally, Part-21, Subpart H needs some minor non-technical amendments, for instance to align the 'Restricted Certificate of Airworthiness' and 'Certificate of Airworthiness' forms (EASA Forms 24 and 25 respectively) with ICAO provisions, which require the identification of the aircraft category within the Airworthiness Certificate. Also some changes are proposed to guarantee coherence between point 2 of Article 9 of Regulation (EU) No 748/2012 and Subpart H for newly manufactured foreign aircraft.

For more detailed analysis of the issues addressed by this proposal, please refer to the RIA Section 4.1. 'Issues to be addressed'.

### 2.2. Objectives

The objectives of the EU in the field of civil aviation are defined in Article 2 of the Basic Regulation. This proposal will contribute to the achievement of these objectives by addressing the issues outlined in Chapter 2.1 above.

The specific objectives of this proposal are:

- to mitigate potential safety risks linked to the fact that the aircraft did not comply with the EU rules prior to being registered/imported, and to facilitate a common understanding of the approach to be followed, in terms of recognition of other certificates and/or records issued by other stakeholders for the aircraft involved;
- to clarify current ambiguities in the rules related to issuance of CofA in order to achieve standardised implementation and equal treatment in all Member States.

The scope of this NPA is limited to the aircraft being imported into the European system, i.e. which are becoming subject to the Basic Regulation and its implementing rules. When the term 'import' is used in this NPA, also in the current text in Part-21 or Part-M, it is not used in the context of the aircraft registration process, which is regulated under national rules, but in the context of the issuance of an Airworthiness Certificate for an aircraft which before did not fall under the scope of the Basic Regulation. For information, the term 'transfer' is used for aircraft changing registration between two Member States.

In principle, the aircraft registered in a Member State<sup>7</sup> (so called 'European-registered') are subject to the Basic Regulation and its implementing rules. However, this is not the case for

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<sup>7</sup> Member State in the context of this NPA refers to Member States of the EU and the States referred to in Article 66 of the Basic Regulation.



European-registered aircraft if their regulatory safety oversight has been delegated to a third country and they are not used by a Community operator (refer to Article 4.1 (b) of the Basic Regulation). A typical example may be a European-registered aircraft which is dry-leased out to a 'foreign' operator and its oversight delegated between ICAO contracting States under the provisions of Article 83 bis of the Chicago Convention. While these aircraft are not subject to European rules during the leased out period, they would have to follow the process subject to this NPA at the end of the leasing contract in order to comply with the Basic Regulation and be granted with an European Airworthiness Certificate and Airworthiness Review Certificate. The same as if a used aircraft was being imported from a foreign country.

A similar situation would be aircraft subject to Part-T (i.e. foreign-registered aircraft dry-leased-in by an EU-licensed air carrier, refer to regulation (EU) 2015/1536) if and when changing to a European registration: at the moment of import, this aircraft would need to follow the requirements proposed in this NPA (once they are adopted as European law) in order to obtain a CofA and an ARC in accordance with Part-21 and Part-M<sup>8</sup>.

It is also worth mentioning that in the case of aircraft imported from countries with which the European Union has signed a Bilateral Aviation Safety Agreement, the process regulated by the implementing rules emanating from the Basic Regulation may not be applicable. These aircraft are not impacted by the amendments proposed with this NPA.

### 2.3. Summary of the RIA

The detailed regulatory impact assessment is contained in Chapter 4 of this NPA.

### 2.4. Overview of the proposed amendments

*Note: In November 2015 the Agency published NPA 2015-17 'Airworthiness review process', containing a revised regulatory approach to the Airworthiness review. Both rulemaking activities, the one addressed in NPA 2015-17 and the one addressed with this NPA, are interrelated, but some discussions are specific to each topic. Therefore, the Agency planned two separate rulemaking tasks. The regulatory amendments proposed in the next chapter of this NPA are referring to the current rules, without taking into consideration the regulatory amendments proposed in NPA 2015-17. However, the Agency will consider the external comments received to both NPAs when producing the corresponding Opinions/Decision.*

The proposed amendments to Annex I (Part-M) of Regulation (EU) No 1321/2014, Annex I (Part-21) of Regulation (EU) No 748/2012, as well as to their associated AMC/GM, are the following:

- Paragraph 21.A.174(b)(3)(i) is amended to require that aircraft being transferred within Member States need a valid ARC and a copy of the CofA, which was not explicit before. In parallel, 21.A.179, 21.B.320, 21.B.326 and 21.B.327 are amended to facilitate the transfer of aircraft between Member States, being proposed that it would only be an

<sup>8</sup> To be fully precise, non-EU aircraft used by EU operators other than licensed air carriers, are also subject to the BR, but no specific implementing rules in the field of continuing airworthiness apply to them. I.e., if these aircraft are being imported into the EU, they would need to follow the import process described in this NPA.



administrative process when transferring aircraft which are already compliant with the EU rules.

- The case of application for an airworthiness certificate for an aircraft which have already had an airworthiness certificate issued in accordance with Part-21 but this certificate has become invalid, has been addressed in the newly proposed 21.A.174(e). In this case, the process described in M.A.904 would need to be followed for submission of the application for the CofA.
- The reference in the last point of 21.A.174(b)(3) to a ‘recommendation for the issuance of a certificate of airworthiness’, as required documentation for the import of a used aircraft originating from a non-MS, is removed. This ‘recommendation’ is only mentioned in this paragraph, but the current rule does mention what is the basis for it and who should develop it. In the proposed text, the process for import is better defined and the roles clearly allocated.
- Another mandate identified in the terms of reference (ToR) of this rulemaking activity was to develop requirements for ‘State aircraft’ (aircraft referred to Article 1 point (2)(a) of Regulation (EC) No 216/2008) that are outside the scope of this regulation, but will be introduced (‘imported’) into the system subject to Regulation (EC) No 216/2008, i.e. as European civil aircraft<sup>9</sup>. These requirements are developed in a new point (4) in 21.A.174(b) of Part-21, which describes a process similar to the import of civil aircraft from another non-Member State. M.A.904(a) of Part-M is also amended accordingly. 21.B.326 and 21.B.327 are also amended as needed.
- The proposed new 21.A.174(d) of Part-21 covers the case when the exporting authority does not issue an airworthiness statement for the aircraft being exported. When the airworthiness statement is provided and there is no reason to question its content, the importing authority can rely on it during the importing process. When the statement is missing, this NPA proposes the introduction of an ‘evaluation programme’ to be provided by the applicant to the importing authority together with the application for the issuance of the CofA. The ‘evaluation programme’ facilitates the agreement between the importer and importing authority on the definition and depth of the aircraft’s airworthiness assessment to be conducted. M.A.904(f) of Part-M is also added accordingly. The proposed newly developed GM 21.A.174(b)(3)(ii) and (d) describes the intent of the airworthiness statement to be issued by the exporting authority and the exceptional cases on which an importing authority may accept an aircraft being imported without the airworthiness statement. The contents of the inspection to be performed during this evaluation are listed in the new GM M.A.904(f). Various AMCs linked to 21.A.174 of Part-21 are also proposed to establish means of compliance for the ‘evaluation programme’ requirement, while AMC M.A.904(b) is updated for consistency reasons to address the ‘evaluation report’.

<sup>9</sup> Aircraft conducting ‘State operations’ are excluded from applicability of the Basic Regulation while carrying out these operations in accordance with Article 1 point (2)(a). If the same aircraft also carries out other type of operations which are not excluded from the applicability of the Basic Regulation, this aircraft must have already an airworthiness certificate issued in accordance with the Basic Regulation (and applicable implementing rules) and, therefore, does not need to follow the ‘import process’.



The case of the missing airworthiness statement had already been considered by the Agency at the opportunity of the notification of a derogation by Denmark in 2006, accepting in essence an alternative approach aiming to achieve the same objectives as those expected with the 'evaluation report'.

- A new GM 21.A.174(b)(4) and (d) contains a flowchart for the import process, distinguishing the different potential cases covered in this NPA: a normal import, an import without an airworthiness statement and the import of a 'State aircraft'.
- Changes proposed in NPA 2015-17 to paragraph 21.A.179 are carried over on this NPA with a couple of minor changes: firstly, the title of the paragraph is changed accordingly, and secondly, the text is changed to read that the airworthiness certificate is transferred with the aircraft in case that the aircraft remains on the same register and the person responsible for the airworthiness of the aircraft changes (instead of the case of change of owner). This may be relevant when the owner of the aircraft and the person responsible for the airworthiness are different.
- With regard to the airworthiness review conducted in order to make a 'recommendation' to the importing competent authority and considering that the airworthiness review for import has some peculiarities compared to a 'standard' airworthiness review, it is proposed that the airworthiness review staff should be authorised for this process by their continuing airworthiness management organisation (CAMO), once being competent and experienced enough to follow the process of M.A.904 of Part-M. This change is proposed in paragraphs in M.A.707(a)(3) and M.A.707(b) of Part-M, and related AMC M.A.707(a)(3).
- A particular point requiring special attention while conducting an airworthiness review for import is to properly assess the aircraft configuration. It is important to determine that the design of any aircraft change or repair is in accordance with Part-21 and, in addition, to establish that several design changes and repairs are compatible.

For an aircraft already subject to the European regulatory system, the person responsible for its continuing airworthiness is the one deciding to modify the aircraft with an approved change or repair, and for this to consider the potential impact on the aircraft taking into consideration other already embodied modifications.

At the time of import of a used aircraft, this NPA requests that this assessment is conducted at once for all modifications and repairs embodied, as part of the M.A.904 process. M.A.904(a)(2) of Part-M is amended accordingly. New GM M.A.304 and GM M.A.904(a)(2) have been developed to provide adequate explanations to the process. Appendix V to AMC M.A.704, paragraph 4.4., containing considerations for a CAMO exposition for organisations issuing recommendations for ARCs to competent authorities, is also amended.

- AMC M.A.904(a)(2) is proposed to be amendment by deleting the items already covered in a 'standard' airworthiness review and operational checks, and focussing on items which are more relevant for imported aircraft while covering the case of a missing airworthiness statement.





- The airworthiness review of imported aircraft also led to amend M.A.710(a)(8) of Part-M. This is to provide coherence for the process of importing an aircraft for which an airworthiness review compliant with M.A.710 is required. M.A.710 of Part-M requires that the aircraft maintenance has been conducted in compliance with Part-M. However, this is not possible for aircraft being imported, for which their airworthiness have been managed to comply with a different regulatory regime. These aircraft were not subject, up to that moment, to the Basic Regulation nor its implementing rules.
- With regards to newly manufactured foreign aircraft, 21.A.174 of Part-21 contained the possibility that the statement of compliance with an EASA approved design was made by a foreign authority. In fact, this should be the case only when a foreign manufacturing system has been considered equivalent as per point 2 of Article 9 of Regulation (EU) No 748/2012, which derogates from Part-21 manufacturing processes. Therefore, the requirement establishing the need of a statement of compliance with an EASA approved type design, and to be made by the foreign authority is moved to Article 2, and would only be of relevance in the case of manufacturing as per point 2 of Article 9.
- Finally, GM 21.B.325(a) is amended in order to provide instructions on how to adequately fill-in Block 4 'category' of Forms 24 and 25 (certificate of airworthiness (CofA) and restricted certificate of airworthiness (RCofA) forms). This guidance replicates the same instructions as those provided already by the Agency in a letter addressed to the Member States in 2004, expanding the use of the Block 4 also to RCofA. The instructions provided in this NPA are, compared to the instructions in the letter, updated to be in line with the current list of aircraft certification specifications published by EASA.
- GM 21.B.325(b) is also amended for coherence.



### 3. Proposed amendments

The text of the amendment is arranged to show deleted text, new or amended text as shown below:

- (a) deleted text is marked with ~~strike through~~;
- (b) new or amended text is highlighted in **grey**;
- (c) an ellipsis (...) indicates that the remaining text is unchanged in front of or following the reflected amendment.

#### 3.1. Draft regulation (draft EASA opinion)

##### 3.1.1. Changes to the cover regulation of Commission Regulation (EU) No 748/2012

A new point 3 is added to Article 2 as follows:

3. The application for an airworthiness certificate for a new aircraft, whose manufacturer has demonstrated its production capability in accordance with point 2 of Article 9, will be accompanied by a statement signed by the exporting authority confirming that the aircraft conforms to a design approved by the Agency.

##### 3.1.2. Changes to Annex I (Part-21) to Commission Regulation (EU) No 748/2012

21.A.174 is amended as follows:

#### 21.A.174 Application

(...)

- (b) Each application for a certificate of airworthiness or restricted certificate of airworthiness shall include:

(...)

(2) with regard to new aircraft:

(i) ~~a statement of conformity:~~

- ~~— issued under point 21.A.163(b); or~~
- ~~— issued under point 21.A.130 and validated by the competent authority; or~~
- ~~— for an imported aircraft, a statement signed by the exporting authority that the aircraft conforms to a design approved by the Agency;~~

(i) when the aircraft has been produced under Part-21, a Form 52 issued under point 21.A.163(b), or issued under point 21.A.130 and validated by the competent authority;

(ii) a weight and balance report with a loading schedule;

(iii) the flight manual, when required by the applicable certification specifications for the particular aircraft;

(3) with regard to used aircraft:

(i) originating from a Member State:

- a **valid** airworthiness review certificate issued in accordance with Part-M; and



- a copy of the certificate of airworthiness or restricted certificate of airworthiness with the former registration.
- (ii) originating from a non-member State:
- (...)
  - a weight and balance report with a loading schedule corresponding to the aircraft current configuration.
  - (...)
  - a recommendation for the issuance of a certificate of airworthiness or restricted certificate of airworthiness and an airworthiness review certificate following an airworthiness review in accordance with M.A.904 of Part-M.
- (4) with regard to aircraft which were excluded from the applicability of the Regulation (EC) No 216/2008 in accordance with Article 1 (2)(a), being only operated as 'State aircraft' for the Member State that will receive the application:
- (i) a weight and balance report corresponding to the aircraft current configuration,
  - (ii) the flight manual, when such manual is required by the applicable airworthiness code for the particular aircraft type,
  - (iii) historical records to establish the production, modification, and maintenance standard of the aircraft, including all limitations associated with a restricted certificate of airworthiness under 21.B.327(c),
  - (iv) a recommendation for the issuance of an airworthiness review certificate following an airworthiness review in accordance with M.A.904 of Part-M,
  - (v) unless the airworthiness status of the aircraft is established by the former 'State aircraft' aviation authority and declared in an airworthiness statement acceptable to the competent authority of the Member State of registry, the application shall allow determining the airworthiness status of the aircraft at the time of transfer. This shall be achieved when
    - (A) The competent authority of the Member State of registry is satisfied that the issue of an airworthiness statement has not been denied by the former 'State aircraft' aviation authority because of airworthiness concerns.
    - (B) Evidence as to what approved design the aircraft was initially built and delivered is available.
    - (C) A continuing airworthiness management organisation appropriately approved in accordance with point M.A.711(b) of Annex I (Part-M) to Commission Regulation (EU) No 1321/2014 develops an evaluation programme detailing the required inspection and investigation activities to be conducted to compensate for the missing airworthiness statement by the former 'State aircraft' aviation authority. The evaluation programme shall specify the activities to be performed to identify the status of the aircraft with regard to EASA approved type design, modifications, repairs and maintenance. This programme shall be accepted by the competent authority before the evaluation is conducted.



- (D) The results of the evaluation programme have been summarised in an evaluation report, appropriately considered during the required airworthiness review in accordance with M.A.904 of Part-M, and supplied to the competent authority together with the recommendation for the issuance of an airworthiness review certificate.
- (c) Unless otherwise agreed, the statements referred to in points (b)(2)(i), ~~and (b)(3)(ii) and (b)(4)(v)~~ shall be issued no more than 60 days before presentation of the aircraft to the competent authority of the Member State of registry.
- (d) By way of derogation from the first paragraph of 21.A.174(b)(3)(ii), in exceptional cases an application without a statement reflecting the airworthiness status of the aircraft may be made, provided that:
- (1) The competent authority of the Member State of registry is satisfied that the airworthiness statement has not been denied by the former State of registry because of airworthiness concerns.
  - (2) Evidence as to what approved design the aircraft was initially built and delivered is available.
  - (3) A continuing airworthiness management organisation appropriately approved in accordance with M.A.711(b) of Annex I (Part-M) to Commission Regulation (EU) No 1321/2014 develops an evaluation programme detailing the required inspections to compensate for the missing assessment and airworthiness statement by the former State of registry. The programme shall specify the activities to be performed to identify the status of the aircraft with regard to the EASA approved type design, modifications, repairs and maintenance. This programme shall be accepted by the competent authority before the evaluation is conducted.
  - (4) The results of the evaluation programme have been summarised in an evaluation report, appropriately considered during the required airworthiness review in accordance with Part-M, and provided to the competent authority together with the recommendation for the issuance of an airworthiness review certificate (ARC).
- (e) By way of derogation from 21.A.174(b)(3)(i), an application may be made for an airworthiness certificate for an aircraft originating from a Member State for which, in accordance with 21.A.181, its airworthiness certificate is no longer valid. In this case a recommendation for the issuance of an ARC, following the process described in M.A.904 of Annex I (Part-M) to Commission Regulation (EU) No 1321/2014, shall be provided with the application.

21.A.179 Transferability and re-issuance within Member States is amended as follows.

#### **21.A.179 Transferability and re-issuance within a Member States**

- (a) Where the person responsible for the continuing airworthiness ~~ownership~~ of an aircraft has changed:
1. ~~if it and the aircraft remains on the same register, the airworthiness certificate certificate of airworthiness, or the restricted certificate of airworthiness conforming to a restricted type certificate only, shall be transferred together with the aircraft;~~



~~2. if the aircraft is registered in another Member State, the certificate of airworthiness, or the restricted certificate of airworthiness conforming to a restricted type certificate only, shall be issued:~~

~~(i) upon presentation of the former certificate of airworthiness and of a valid airworthiness review certificate issued under Part M; and~~

~~(ii) when satisfying point 21.A.175.~~

~~(b) Where ownership of an aircraft has changed, and the aircraft has a restricted certificate of airworthiness not conforming to a restricted type certificate, the airworthiness certificates shall be transferred together with the aircraft provided the aircraft remains on the same register, or issued only with the formal agreement of the competent authority of the Member State of registry to which it is transferred.~~

The current 21.B.320 is amended as follows:

### **21.B.320 Investigation**

(a) Except for the issuance of airworthiness certificates described in 21.B.326(b) and 21.B.327(a)(2), the competent authority of the Member State of registry shall perform sufficient investigation activities for an applicant for, or holder of, an airworthiness certificate to justify the issuance, maintenance, amendment, suspension or revocation of the certificate or permit.

(...)

The current 21.B.326 is amended as follows:

### **21.B.326 Certificate of airworthiness**

The competent authority of the Member State of registry shall issue a certificate of airworthiness for:

(...)

(b) used aircraft originating from a Member State: ~~1~~ upon presentation of the documentation required in 21.A.174(b)(3)(i) and upon satisfying the language requirements in 21.A.175. demonstrating that:

~~(i) the aircraft conforms to a type design approved under a type certificate and any supplemental type certificate, change or repair approved in accordance with this Annex I (Part 21); and~~

~~(ii) the applicable airworthiness directives have been complied with; and~~

~~(iii) the aircraft has been inspected in accordance with the applicable provisions of Annex I (Part-M) of Regulation (EC) No 2042/2003;~~

~~2. when the competent authority of the Member State of registry is satisfied that the aircraft conforms to an approved design and is in a condition for safe operation. This may include inspections by the competent authority of the Member State of registry.~~

(c) used aircraft originating from a non-Member State or 'State aircraft':

1. upon presentation of the documentation required in 21.A.174(b)(3)(ii) or (b)(4), demonstrating that:



- (i) the aircraft conforms to a type design approved under a type certificate and any supplemental type certificate, change or repair approved in accordance with this Annex (Part-21); and
  - (ii) the applicable airworthiness directives have been complied with; and
  - (iii) the aircraft has been inspected in accordance with the applicable requirements of Annex I (Part-M) to Commission Regulation (EU) No 1321/2014;
2. when the competent authority of the Member State of registry is satisfied that the aircraft conforms to an approved design and is in a condition for safe operation. This may include inspections by the competent authority of the Member State of registry.

The current 21.B.327 is amended as follows:

### **21.B.327 Restricted certificate of airworthiness**

(...)

- (...)
2. used aircraft originating from a Member State: ~~(i) upon presentation of the documentation required in 21.A.174(b)(3)(i) and upon satisfying the language requirements in 21.A.175 demonstrating that:~~
- ~~(A) the aircraft conforms to a design approved by the Agency under a restricted type certificate or in accordance with specific airworthiness specifications and any supplemental type certificate change or repair approved in accordance with this Annex I (Part 21); and~~
  - ~~(B) the applicable airworthiness directives have been complied with; and~~
  - ~~(C) the aircraft has been inspected in accordance with the applicable provisions of Annex I (Part-M) of Regulation (EC) No 2042/2003;~~
- ~~(ii) when the competent authority of the Member State of registry is satisfied that the aircraft conforms to the approved design and is in a condition for safe operation. This may include inspections by the competent authority of the Member State of registry.~~
3. used aircraft originating from a non-Member State or 'State aircraft':
- (i) upon presentation of the documentation required in 21.A.174(b)(3)(ii) or (b)(4), demonstrating that:
    - (A) the aircraft conforms to a design approved by the Agency under a restricted type certificate or in accordance with specific airworthiness specifications and any supplemental type-certificate change or repair approved in accordance with this Annex I (Part-21); and
    - (B) the applicable airworthiness directives have been complied with; and
    - (C) the aircraft has been inspected in accordance with the applicable requirements of Annex I (Part-M) to Commission Regulation (EU) No 1321/2014;



- (ii) when the competent authority of the Member State of registry is satisfied that the aircraft conforms to an approved design and is in a condition for safe operation. This may include inspections by the competent authority of the Member State of registry.

### 3.1.3. Changes to Annex I (Part-M) to Commission Regulation (EU) No 1321/2014

M.A.707 is amended as follows:

(a) (...)

3. For used aircraft to be imported into the EU, this staff shall, in addition to the requirements laid down in M.A.707(a)1 or (a)2 as appropriate, have acquired the technical competence and experience necessary to determine that the aircraft meets the requirements of M.A.904 at the time of import.

- (b) Airworthiness review staff nominated by the approved continuing airworthiness organisation can only be issued an authorisation by the approved continuing airworthiness organisation when formally accepted by the competent authority after satisfactory completion of an airworthiness review under the supervision of the competent authority or under the supervision of the organisation's airworthiness review staff in accordance with a procedure approved by the competent authority. The organisation shall also specifically authorise the airworthiness review staff referred to in M.A.707(a)(3).

(...)

M.A.710 is amended as follows:

- (a) To satisfy the requirement for the airworthiness review of an aircraft referred to in point M.A.901, a full documented review of the aircraft records shall be carried out by the approved continuing airworthiness management organisation in order to be satisfied that:

(...)

8. from the time when the aircraft is covered by the scope of this regulation, all maintenance performed has been released in accordance with Annex I (Part-M); and

(...)

M.A.904 is amended as follows:

- (a) When importing an aircraft onto a Member State register from a third country or an aircraft referred to in Article 1 (2)(a) of Regulation (EC) No 216/2008, the applicant shall:

(...)

2. for aircraft other than new, have an airworthiness review carried out satisfactorily in accordance with point M.A.901, including the assessment of the aircraft configuration; and
3. have all maintenance carried out to comply with the ~~approved~~ applicable maintenance programme in accordance with point M.A.302.

(...)



- (e) The Member State shall also issue the airworthiness review certificate ~~valid normally for one year unless the Member State has safety reason to limit the validity.~~
- (f) In the case that an evaluation programme is required in accordance with 21.A.174, the evaluation report shall be taken into consideration by the continuing airworthiness management organisation performing the airworthiness review required by M.A.904(a)2. It shall be submitted to the competent authority together with the documented recommendation required by M.A.904(b).

### 3.2. Draft acceptable means of compliance and guidance material (draft EASA decision)

#### 3.2.1. Changes to AMC/GM to Annex I (Part-21) to Commission Regulation (EU) No 748/2012

New AMC 21.A.174 and GM 21.A.174 are added:

##### **GM 21.A.174, 21.B.326 and 21.B.327 'Member State of registry' and 'State aircraft'.**

The 'competent authority of the Member State of registry' referred in these paragraphs is the competent authority that will be responsible for the oversight of the aircraft once the application process is successfully completed. The 'Member State of registry' is also referred as the 'importing Member State'.

A 'State aircraft' referred in these paragraphs is an aircraft referred to in paragraph 2(a) of Article 1 of Regulation (EC) No 216/2008, which carries out military, customs, police, search and rescue, firefighting, coastguard, or similar activities or services for a Member State.

##### **GM 21.A.174(b)(3)(ii) and (d) Airworthiness Statement**

The intention of the airworthiness statement of the previous ICAO contracting State of registry, i.e. exporting State, is to reflect the airworthiness status of the aircraft at the time of import. This means as close as practicable to the point in time when the oversight responsibility of the exporting State ends. Normally, this is documented by the date of de-registration.

An airworthiness statement issued by the exporting State should:

- either declare compliance with the Agency's approved type design (built standard, modifications, repairs) at the time of import, or state any deviations thereof if this has been previously agreed and accepted in writing by the competent authority of the importing Member State, and
- confirm that the aircraft is airworthy in accordance with continuing airworthiness requirements of the exporting State at the time of import.

The importing Member State should insist on a statement reflecting the airworthiness status of the aircraft at the time of import. In the absence of such statement, the airworthiness status of an aircraft in the previous regulatory system cannot be determined by an importing Member State or by the applicant requesting the issuance of an airworthiness certificate unless they possess a thorough knowledge of the aviation legislation and the acceptable procedures of the exporting State.

Certain exceptional circumstances may warrant acceptance of an application without a current airworthiness statement from the former State of registration. These exceptional circumstances do not include lack of procedural knowledge and/or commercial or time considerations but may be circumstances such as:





- civil disturbances or war in the territory of the former State of registry; or
- discontinuation of the former State of registry's civil aviation authority; or
- significant and continued non-compliances with ICAO minimum airworthiness standards by the former State of registry; or
- unwillingness of the former State of registry to cooperate as foreseen by ICAO.

#### **AMC 21.A.174(b)(4)(v)(B) and (d)(2) Acceptable evidences of the initial built standard**

Evidence as to what approved design the aircraft was initially built to may be constituted by:

- a conformity statement issued by the production organisation that manufactured and delivered the aircraft, clearly identifying the aircraft and its type design, at the time of initial delivery; or
- a certificate of airworthiness for export issued by the State of manufacture, clearly identifying the aircraft and its type design, at the time of initial delivery; or
- any other conformity statement issued by the State of manufacture or the production organisation that manufactured and delivered the aircraft, clearly identifying the aircraft and its type design, at the time of initial delivery.

#### **AMC 21.A.174(b)(4)(v)(C) and (d)(3) Evaluation programme**

The evaluation programme is not intended to replace the standard airworthiness review activities required by Part-M but to complement them.

##### 1) Preconditions to establish an evaluation programme

- a) Previous maintenance programme and sufficient historical records generated under the foreign regulatory system are available to either completely satisfy the continuing airworthiness record requirements to a level equivalent to M.A.305 of Commission Regulation (EU) No 1321/2014, Annex I (Part-M), or to allow reconstruction of missing records
- b) Journey logs and/or technical logs are available to establish previous aircraft operation, aircraft utilisation and aircraft operating environment.

##### 2) Considerations to be included in the development of the evaluation programme

The following factors should be assessed and considered in the development of the evaluation programme:

- a) Conclusions drawn from a complete aircraft record review;
- b) Aircraft age and ownership history (i.e. registrations, owners/operators);
- c) Visual aircraft condition;
- d) Aircraft storage condition;
- e) Previous aircraft operating environment, previous aircraft operating profiles;
- f) Any past experience relating to the import of aircraft that the CAMO developing the evaluation programme had with the previous owner/operator;
- g) Any past experience relating to the import of aircraft that the CAMO developing the evaluation programme had with the previous State of registry.



### 3) Content of the evaluation programme

The following content should be included in an evaluation programme to be proposed to the competent authority:

- a) Result of the record review performed, describing completeness, accuracy and quality of the records received and description of any records which were reconstructed in accordance with AMC M.A.305(h);
- b) Identification of particular events that took place during the aircraft life and that could have required unscheduled maintenance, such as: lightning strikes, hard landings, long term storage, propeller or rotor over-speed, over-torque, impact on a main rotor blade, etc.. Assessment of aircraft airworthiness condition considering the records of the remedial action taken to restore airworthiness after these events, if needed;
- c) Conclusions which were drawn from factors listed in paragraph 2) above;
- d) Proposed physical inspection and investigation activities suitable to:
  - i) identify the current aircraft configuration and deviations from the design approved by the Agency;
  - ii) identify repairs, unrepaired damage and modifications performed on the aircraft in the past, including inspections due to particular events described in b); and
  - iii) identify unclear or unacceptable design standards;
- e) Proposed physical inspection and investigation activities suitable to:
  - i) identify maintenance standards that the aircraft was subjected in the past, and
  - ii) identify unclear or unacceptable maintenance standards;
- f) Organisations required to determine the current aircraft configuration and to determine deviations from an EASA approved design (e.g. POA, DOA, manufacturer, TC/STC holder, CAMO, etc.);
- g) Organisations required to support the inspection and investigation activities (e.g. CAMO, AMO);
- h) Documents used for determination of conformity with a design approved in accordance with Commission Regulation (EU) No 748/2012;
- i) Date and location of proposed inspections and investigations.

### 4) Acceptance of the evaluation programme by the new Member State of registry

If the competent authority finds that the proposed evaluation programme is suitable to properly evaluate the aircraft configuration and maintenance status as delivered from the previous register, it should accept the proposal and notify the applicant of its involvement in the proposed inspection and investigation activities.

If the competent authority finds that the proposed evaluation programme is insufficient to properly evaluate the aircraft configuration and maintenance status, as delivered from the previous register, it should reject the evaluation proposal.



**AMC 21.A.174(b)(4)(v)(C) Evaluation programme for 'State aircraft'**

For the preparation of the evaluation programme in accordance with point 21.A.174(b)(4)(v)(C), the following aspects regarding assessment and analysis of historical aircraft records should also be considered:

— Previous Flight operations;

Assessment of the effects of the previous operating profile. Flights outside of the civil flight manual limitations might require support from the TCH to address the impact on continued airworthiness and life limitations;

Note: Any change of airworthiness limitations will have to be approved in accordance with Commission Regulation (EU) No 748/2012.

— Modifications

Modifications and equipment previously fitted to the aircraft, which were intended to satisfy the aircraft State role, need to be identified and must eventually be approved in accordance with Commission Regulation (EU) No 748/2012 to remain on the aircraft or be removed from the aircraft to restore or achieve an approved configuration.

Removing a modification may result in redundant requirements (e.g. mounting holes) which are a deviation from the type design and should be approved. Also, if the steps are complex (such as removal of wiring) then reversal of the modification may require detailed maintenance instructions. In these cases, where a service bulletin from the aircraft manufacturer is not available to remove the modification, a Part-21 organisation should generate suitable EASA approved data to remove the modification.

— Maintenance and certification of maintenance

As the aircraft was excluded from the requirements of Commission Regulation (EC) No 216/2008, the release certificates of maintenance should be reviewed to establish that the maintenance performed and certified in accordance with equivalent standards to Annex I (Part-M), was carried out by appropriately qualified personnel, being authorised by appropriately approved organisations, and using approved data.

— Life Limitations

Assessments should be made to assure that aircraft systems and parts do, neither exceed the airworthiness limitations approved in accordance with Commission Regulation (EU) No 748/2012, nor the limitations established by the 'State aircraft' aviation authority, whichever limit is less.

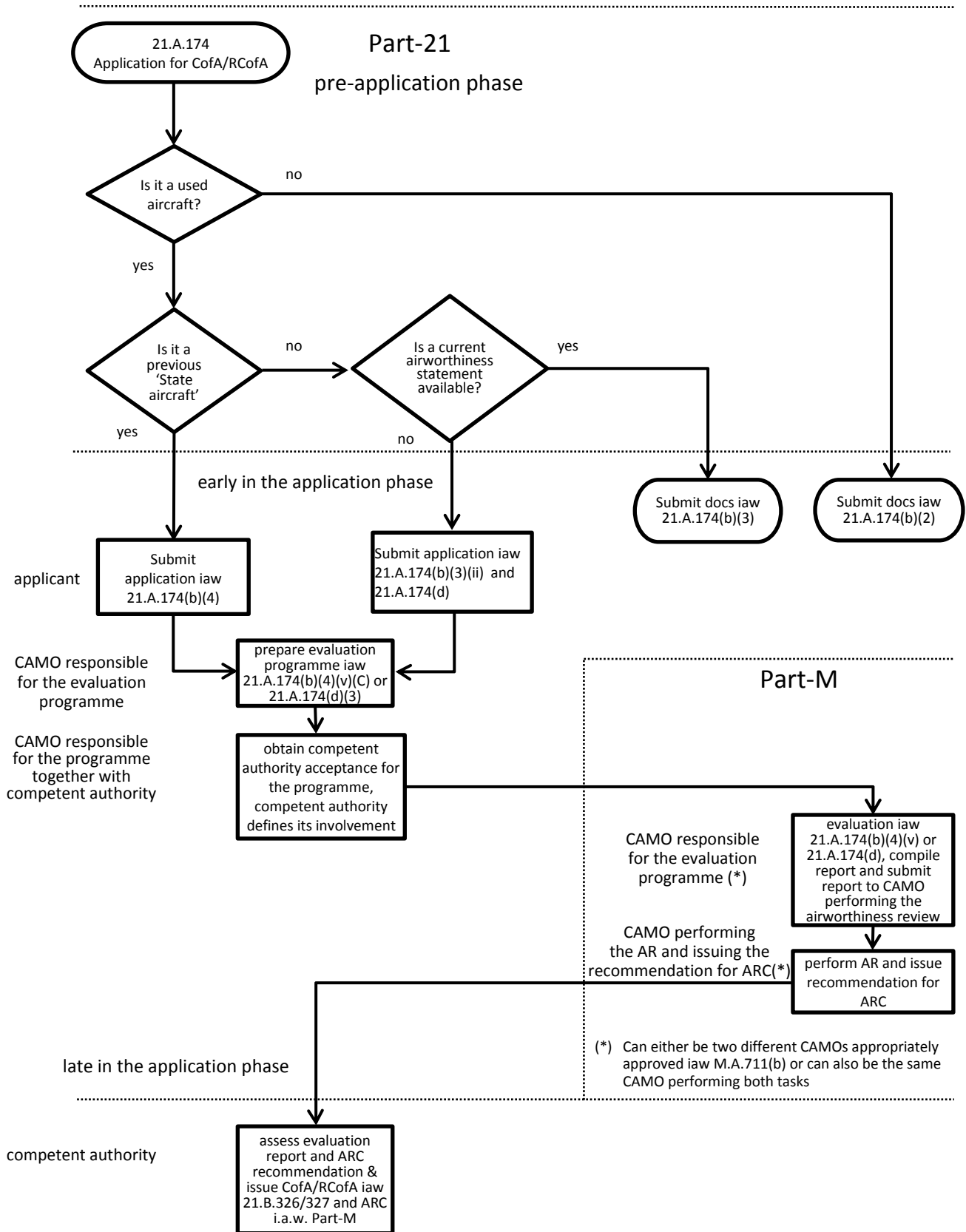
**GM 21.A.174(b)(4) and (d) Process for application and issuance of a CofA or RCofA**

The flow diagram illustrates the certificate of airworthiness (CofA) and restricted certificate of airworthiness (RCofA) application process in the case of introduction of a 'State aircraft' (21.A.174(b)(4)) and import of a used aircraft originating from a non-Member State without a valid airworthiness statement (21.A.174(d)).



The evaluation programme is intended to address the absence of an airworthiness statement issued by the exporting authority and to supplement the airworthiness review process.





GM 21.B.325 (a) is renamed amended as follows:

### GM 21.B.325(a) & (b) Airworthiness certificates

1. Completion of the certificate of airworthiness by a Member State

Block 5: Insert restrictions developed in accordance with Part 21, including any reference to limitations as indicated in GM 21.B.320(b)(6).

2. Completion of the certificate of airworthiness (EASA Form 25) or of the restricted certificate of airworthiness (EASA Form 24) by a Member State

Block 4: Use one or more of the following categories identified in the second column of this table:

Airworthiness code used for certification	CofA category (Block 4)
CS-LSA	Light sport aeroplane
CS-VLA	Very light aeroplane
CS-VLR	Very light rotorcraft
CS-22	Sailplane or powered sailplane-utility and/or aerobatic category
CS-23	Normal, utility, aerobatic or commuter category aeroplane
CS-25	Large aeroplane
CS-27	Small rotorcraft
CS-29	Large rotorcraft
CS-31HB	Hot-air balloon
CS-31GB	Free gas balloon
CS-31TGB	Tethered gas balloon

When an aircraft has been certificated in more than one category, all categories should be referenced. For those aircraft certified in accordance with a national code which does not reference a category equivalent to those specified in the above table, the type certificate data sheet (TCDS) reference determined in accordance with Commission Regulation (EU) No 748/2012 Article 3(1)(a) should be specified in Block 4.

Block 5: Insert restrictions developed in accordance with Part 21, including any reference to limitations as indicated in GM 21.B.320(b)(6).

GM 21.B.325 (b) is renamed amended as follows:

### GM 21.B.325(b)(c) Completion of the Airworthiness Review Certificate by a Member State

1 Purpose: In accordance with the applicable continuing airworthiness requirements a certificate of airworthiness is valid only if a valid airworthiness review certificate issued in accordance with Part-M is attached to it. For new aircraft, the competent authority will issue the airworthiness review certificate when issuing the certificate of airworthiness.



### 3.2.2. Changes to AMC/GM to Annex I (Part-M) to Commission Regulation (EU) No 1321/2014

New GM M.A.304 is added:

#### **GM M.A.304 Data for modifications and repairs**

The aircraft configuration is the consistent set of its functional and physical characteristics, as defined in the applicable aircraft documentation.

The understanding of the aircraft configuration is essential to ensure the aircraft continuing airworthiness. For each individual aircraft, this is defined by means of a complete description of the aircraft type design, plus all embodied modifications and repairs.

The configuration of an individual aircraft is the baseline for determining the aircraft physical conformity with the approved design. Also, some elements of the configuration of the individual aircraft influence the contents of the aircraft maintenance programme, the aircraft flight manual, etc.

While the embodiment of a single modification or repair on an aircraft compliant with M.A.304 cannot affect the safety of an individual aircraft, the joint impact of several independently approved modifications or repairs is not assessed during their approval process and, if embodied on the same individual aircraft may affect its airworthiness. The management of the aircraft configuration is the responsibility of the person responsible for its continuing airworthiness. This person has to assess, prior to the embodiment of a new modification or repair, that:

- (i) the modifications and/or repairs are in compliance with M.A.304, and;
- (ii) the new modification and/or repair will not conflict with the modifications and repairs already embodied, affecting thus the aircraft airworthiness.

New AMC M.A.707(a)(3) is added:

#### **AMC M.A.707(a)(3) Airworthiness review staff**

The demonstration that an aircraft conforms to a design approved under Commission Regulation (EU) No 748/2012 at the time of its import into the EU regulatory system requires confirmation that the approval process applied to modifications to the type design and repairs embodied is in accordance with European rules, taking also into account bilateral agreements signed by the EU.

Airworthiness review staff should have acquired the technical competence and experience necessary to conduct an airworthiness review for importing an aircraft as described in M.A.904, and also knowledge of the applicable bilateral agreements, before carrying out airworthiness reviews for used aircraft to be imported into the EU. In particular, this airworthiness review staff should possess:

1. Technical competence that allows for determining the required steps to achieve that the configuration of the imported aircraft is compliant with applicable European rules. This knowledge may be gained through a training course that focuses on the design approval process of Part-21 and the alleviations for import established in EU bilateral agreements.



2. Experience acquired after satisfactory completion of an airworthiness review for importing a used aircraft under supervision by their organisation, which should record the performance of this airworthiness review and the assessment of the staff.

AMC M.A.904 (a)(2) is amended as follows:

**AMC M.A.904 (a)(2) Airworthiness reviews of aircraft imported into the EU**

1. When performing an airworthiness review of aircraft imported into the EU the aircraft and the relevant records should be reviewed to determine the work to be undertaken to establish the airworthiness of the aircraft, in accordance with Part-21 of Commission Regulation EU No 748/2012 and Part-M.

Records should be available in English or any other language acceptable to the competent authority.

2. In determining the work to be undertaken during the airworthiness review on the aircraft, the following should be taken into consideration:
  - (a) the information from third country authorities such as export certificates, primary authority information;
  - (b) the information on aircraft maintenance history to meet continuing airworthiness record system's requirements equivalent to those specified in M.A.305, and M.A.306 if applicable. ~~such as continuing airworthiness records, aircraft, engine, propeller, rotor and life limited part log books or cards as appropriate, tech log/flight log/cabin log, list of deferred defects, total flight times and cycles, times and cycles since last maintenance, accident history, former maintenance schedule, former AD compliance status;~~

When assessing the aircraft continuing airworthiness records, the following should be considered:

- Missing records may be reconstructed in accordance with AMC M.A.305(h);
- Previous maintenance, performed on the aircraft and its components and released to service under third country's airworthiness requirements, is deemed acceptable as long as the aircraft was on the third country's register and the maintenance was performed in accordance with standards at least equivalent to Part-M. This requires that the maintenance performed and certified in accordance with equivalent standards to Annex I (Part-M), was carried out by appropriately qualified personnel, being authorised by appropriately approved organisations, and using approved data;
- Repaired parts subject to schedule maintenance (e.g. inspections or overhaul) or airworthiness limitations should be accompanied by authorised release certificates, EASA Forms 1 or certificates considered equivalent to Part-M;
- Maintenance not performed to this required level, or in case of doubt, needs to be included into the bridging programme of subparagraph (e);
- If components subject to an airworthiness limitation have been replaced since new, the records of such components should show them as being produced by the respective original equipment manufacturer (OEM) and the part numbers verified to be eligible for





installation according to a design approved under Commission Regulation (EU) No 748/2012. If the components do not satisfy these criteria then their eligibility for installation should be separately verified by reference to acceptable Part-21 design approval and to a Form 1, or equivalent in accordance to applicable rules, with regard to the manufacturing of new parts.

- (c) the information on aircraft such as aircraft, engine and propeller type certificate datasheets , noise and emission certificate data sheets, flight manual and supplements;
- ~~(d)~~ the aircraft continuing airworthiness status such as the aircraft and component AD status, the SB status, the maintenance status, the status of all service life limited components, weight and centre of gravity schedule including equipment list;
- ~~(e)~~(d) the modification and repair status of the aircraft detailing elements such as owner/operator designed modifications and repairs, unintended deviations/concessions originating from production, STCs, and parts needing European parts approval (EPA);
- ~~(f)~~ the aircraft cabin configuration such as emergency equipment fitted, cockpit configuration, placards, instrument limitations, cabin layout;
- ~~(g)~~(e) the maintenance needed for import, such as embodiment of modifications needed to comply with the EASA type certificate and the, bridging check to comply with the new maintenance programme;
- ~~(h)~~ the avionics such as, but not limited to, radio and navigation equipment, instrument flight rules (IFR) equipment, digital flight data recorder (DFDR)/cockpit voice recorder (CVR) test, emergency locator transmitter (ELT) 406 MHz code and identification;
- ~~(i)~~ the compass compensation;
- ~~(j)~~ special operating rules such as extended twin engine operations (ETOPS)/long range operations (LROPS), reduced vertical separation minima (RVSM), minimum navigation performance specifications (MNPS), all weather operations (AWOPS), area navigation (RNAV);
- ~~(k)~~(f) the aircraft survey including verification of conformity with the flight manual and the datasheet, presence of fire proof identification plates, conformity of markings including registration presence and serviceability of emergency equipment, internal and external lighting systems, and
- ~~(l)~~(g) check flight including check of control system/cockpit ground check/engine run up. operational checks to verify proper functioning of aircraft systems and controls; this might include engine run-ups or check flights if verification of required functions cannot be checked on ground.
- (h) in case the airworthiness statement referred to in 21.A.174 is missing, the evaluation report required by M.A.904(f).

AMC M.A.904 (b) is amended as follows:

#### **AMC M.A.904 (b) Airworthiness reviews of aircraft imported into the EU**

(...)

(b) Aircraft information



(...)

- export certificate number, or identification of the evaluation report required by M.A.904(f);

(c) Documents accompanying the recommendation

(...)

- original export certificate or the evaluation report required by M.A.904(f);

(...)

(e) Aircraft check flight

- a copy of the check flight report, if applicable.

New GM M.A.904 (a)(2) is added:

#### **GM M.A.904(a)(2) Airworthiness review of aircraft imported into the EU**

When importing an aircraft, the demonstration that an aircraft conforms to an approved design depends on the quality of the aircraft physical survey and of the records arising from the management of the aircraft configuration.

At the time of import of a used aircraft, when assessing its configuration, it is necessary to address the potential interrelation between multiple modifications and/or repairs particularly when such modifications and/or repairs are designed by different persons or organisations. To this extent, the organisation conducting the airworthiness review for import should:

- (i) collect the necessary aircraft design-related documents or data, and
- (ii) determine that the design of modifications or repairs embodied meet the applicable airworthiness requirements and assess if their combined effect may have a safety impact. Due consideration shall be given to the bilateral agreements in force at the time of import and to declarations issued by the former State of registry.

When assessing if aircraft modifications interrelate, the organisation conducting the airworthiness review should determine the need for assistance by the aircraft type certificate holder or other relevant organisation holding embodied design approvals.

New GM M.A.904(f) is added:

#### **GM M.A.904(f) Evaluation report for imports without an airworthiness statement**

The evaluation report required in M.A.904(f) should contain at least the following information:

- A reference to the accepted evaluation programme;
- A description of the inspection and investigation activities performed;
- A description of the inspection and investigation results;
- A listing and justification of deviations from the accepted programme. Significant deviations from the accepted programme need to be agreed with the competent authority in advance.

Appendix V to AMC M.A.704 is amended as follows:



**Appendix V to AMC M.A.704**

[...]

**4.4 Additional procedures for recommendations to competent authorities for the import of aircraft**

*(This paragraph should describe the additional tasks regarding the recommendation for the issuance of an airworthiness review certificate in the case of import of aircraft. This should include:*

- *communication with the competent authority of registry;*
- *additional items to be reviewed during the airworthiness review of the aircraft to be imported such as the management of aircraft design approvals, for example:*
  - *several approvals that could potentially interrelate and the need to seek support from the (supplemental) type certificate holder,*
  - *changes/repairs classification,*
  - *consideration of PMA parts and TSO articles, and,*
  - *owner/operator produced articles in the light of applicable bilateral agreements;*
- *specification of maintenance required to be carried out;*
- *etc.).*

[...]



## 4. Regulatory impact assessment (RIA)

### 4.1. Issues to be addressed

Under European airworthiness rules, the airworthy aircraft are issued with a certificate of airworthiness (CofA) and with an airworthiness review certificate (ARC):

- The CofA is issued for new aircraft when it is shown that the aircraft has been produced conforming to an approved design. Also for used aircraft, a CofA is issued when the aircraft is imported from another State, once it is shown at the time of import that the aircraft correspond to an approved design, meets its production standard and the continuing airworthiness requirements. For both new or used aircraft, the process to issue a CofA is regulated in Part-21 and the airworthiness certificate has unlimited validity. The process of transferring aircraft between Member States is also addressed in Part-21.
- During the life of the aircraft an ARC is issued periodically after satisfactorily undergoing an airworthiness review conducted in accordance with Part-M. The ARC is valid for a definite time period, up to 36 months.

The CofA is only valid in combination with a valid ARC and both valid certificates are required to fly the aircraft<sup>10</sup>.

The processes to obtain both certificates are typically linked and, depending on the country, they are also related to the process of registering the aircraft. Aircraft registration is subject to national rules, outside the Agency's scope.

The Agency acknowledges that in the current requirements in Part-21 and Part-M, in relation to the import of an aircraft, there is some room for improvement of the way the requirements are articulated, as regularly competent authorities and stakeholders raise questions in this area.

In particular, the Agency, based on stakeholders feedback, identified the following reasons for initiating this rulemaking activity (already listed in the ToR of the rulemaking task):

- (1) For an aircraft imported into the EU, the issuance of a CofA is currently regulated under Part-21, Subpart H — 'Certificates of Airworthiness and Restricted Certificates of Airworthiness', in particular by paragraphs 21.A.174 and 21.B.325. Paragraph 21.A.174 refers to Part-M with regard to the recommendation for the issuance of an Airworthiness Review Certificate (ARC), and Part-M presents in M.A.710 the requirement for conducting an airworthiness review in order to issue a recommendation for the issuance of an ARC by the competent authority. The main objectives of the airworthiness review are to establish the airworthiness status of the imported aircraft with regard to the European rules, and to identify additional approvals, inspections, or maintenance tasks required to ensure compliance with the European rules. Leased aircraft are subject to such review when they change to 'European registration'. Stakeholders expressed the need for further clarification on certificates, documents, and records from the third country that would be acceptable when performing the airworthiness review for these aircraft.

<sup>10</sup> Under certain conditions, an aircraft can also fly with an RCofA or a Permit to Fly, as regulated under Part-21.



- (2) In the particular case of aircraft registered in a EU Member State, which are used by third-country operators (and where the responsibilities of the State of registry have not been transferred), the possibilities available in the Basic Regulation in order to amend Part-M to give credit for the management of the airworthiness and the maintenance performed by the foreign operator/maintenance organisation, should be evaluated (instead of requiring a contract with a CAMO and the maintenance being performed by a Part-145 organisation). This should eliminate the need for the leasing companies to move those aircraft outside the EU regulatory system.
- (3) 21.A.174, in the case of import of a used aircraft, requires an airworthiness statement from the exporting authority has led to different interpretations and discussions about the consideration that should be given to this statement, particularly in cases where there is no bilateral aviation agreement with the exporting State. Also, the case where such export statement, or other documents required by 21.A.174 are not available, should be addressed.
- (4) The following case is not clearly addressed in the current requirements: when a national aviation authority (NAA) receives an application for the issuance of a CofA for a used aircraft that has not been flown for a certain period of time and its airworthiness certificate or airworthiness review certificate is overdue, no person has been in charge of its continuing airworthiness for a certain period of time and/or they have been deregistered or transferred between Member States. In some cases the aircraft concerned never had a CofA issued under European regulation, but instead under previous Member State national regulations.
- (5) There are also cases of applications for a CofA for aircraft which were previously outside the scope of EASA, such as: military, police, or custom aircraft. This situation is not specifically addressed in the existing Part-21 and Part-M requirements.
- (6) It has been observed that Member States have different interpretations of the rules for issuing the first CofA for a new aircraft produced in Europe. Examples are the need for inspection, the required documentation, and incorporation of airworthiness directives. There is a need to clarify those issues.
- (7) Today, there is also room for different interpretation regarding the applicable requirements in case a used aircraft is transferred from one Member State to another. Improvement of the rules is needed to achieve consistent implementation and equal treatment<sup>11</sup>.
- (8) Finally, a need for guidance on the proper use of Box 4 in the EASA Forms 24 and 25 is proposed to align with the ICAO provisions mandating identification of the aircraft category in the airworthiness certificate.

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<sup>11</sup> It was never the intention within this rulemaking activity to address the validity of an ARC issued previously by an NAA or CAMO in accordance with Commission Regulation (EU) No 1321/2014 for a used aircraft which is changing registration. This process was considered for discussion under rulemaking task RMT.0521, which led to NPA 2015-17 'Airworthiness review (AR) process'. Therefore, this NPA does not cover the AR process or the ARC validity during aircraft transfers.



#### 4.1.1. Safety risk assessment

When importing an aircraft it is important that its airworthiness status is thoroughly assessed. Considering that the current rules are not suitable for all the cases that arise during the importing process, it is possible that the lack of adequate regulation may lead to cases where the aircraft being imported has some airworthiness flaws. This could be the case, for instance, when an used aircraft is being imported into a Member State but there is no airworthiness statement issued from the exporting authority.

The safety risks are identified as extremely improbable but with catastrophic potential consequences. However, there are no safety occurrences and safety recommendations linked to this RMT.

#### 4.1.2. Who is affected?

The issue is of interest for owners/operators intending to operate aircraft once registered in the EU, for CAMOs issuing recommendations for such aircraft and for competent authorities issuing the airworthiness review certificates and the airworthiness certificates.

#### 4.1.3. How could the issue/problem evolve?

If the regulations would not be amended as proposed, the inconsistencies for the process of importing an aircraft between Part-M and Part-21 would remain and there would not be a common approach within the Member States. The safety risk would remain unaddressed.

The identified non-compliance with ICAO with regard to the format of the CofA would remain.

### 4.2. Objectives

The objectives of the EU in the field of civil aviation are defined in Article 2 of the Basic Regulation. This proposal will contribute to the achievement of these objectives by addressing the issues outlined in Chapter 2.1 above.

The specific objectives of this proposal are:

- to mitigate potential safety risks linked to the fact that the aircraft did not comply with the EU rules prior to being registered/imported, and to facilitate a common understanding of the approach to be followed, in terms of recognition of other certificates and/or records issued by other stakeholders to the aircraft involved; and
- to clarify current ambiguities in the rules related to issuance of CofA in order to achieve standardised implementation and equal treatment in all Member States.

### 4.3. Policy options

The next paragraphs discuss the different options considered for the issues identified in paragraph 4.1.



**List of options and initial content***Short title Description (linked to the points in paragraph 4.1)*

Option 0	Do nothing	From a regulatory perspective
Option 1	Draft rules	<p><b>(1) Tailoring the airworthiness review and the recognition of relevant documents for the cases where aircraft are being imported.</b></p> <p>Amend the rule/AMC/GM to define the acceptance of documents/records/ certificates issued with regard to the continuing airworthiness of an aircraft subject to foreign rules, during the import process.</p> <p><b>(2) Development of implementing rules for the continuing airworthiness of European registered aircraft which are leased out to foreign countries.</b></p> <p>Amend the continuing airworthiness rules to permit that European-registered aircraft which are being operated by third country operators (leased-out aircraft) follow less prescriptive implementing rules to be created in Regulation (EU) No 1321/2014 that would allow the aircraft owner to also fulfil the continuing airworthiness requirements imposed by the foreign State of the operator.</p> <p><b>(3) The missing airworthiness statement that is to be issued by the exporting authority.</b></p> <p>It is not that uncommon that, for different reasons, the airworthiness statement that has to be issued by the authority where the aircraft was registered, which is required in 21.A.174(3)(ii), is missing at the time of import.</p> <p><b>(4) (5) Two cases not explicitly addressed by the current provisions: aircraft with invalid certificates and aircraft considered ‘State aircraft’.</b></p> <p>Develop rule proposals to cover the following cases:</p> <ul style="list-style-type: none"> <li>- The owner of an aircraft with an invalid airworthiness certificate, decides to restore the airworthiness of the aircraft so it can be granted with a new CofA and ARC.</li> <li>- An aircraft which has been used for a purpose (e.g. military, custom or police) that excluded it to be subject to civil European rules (i.e. the Basic Regulation and implementing rules) and it is planned to be used for civil operations.</li> </ul> <p><b>(6) Issuance of the first CofA to a new aircraft produced in Europe</b></p> <p>Amend the rule paragraph 21.A.174 (or 21.A.163(b)) and/or develop guidance material describing the process to be followed for the issuance of a CofA for a new aircraft.</p> <p><b>(7) Clarify the process for transferring an aircraft between European Member States.</b></p> <p>Amend Part-21 paragraph 21.B.320 in order to permit that the transfer of an aircraft between Member States is not hindered.</p> <p><b>(8) Clarify on the use of Box 4 of EASA Forms 24 and 25, CofA form and RCofA form.</b></p> <p>Amend the rule/AMC/GM to provide instructions on how to use Box 4 of Forms 24 and 25.</p>



Discarded items in Option 1

**(2) Development of implementing rules for the continuing airworthiness of European registered aircraft which are leased out to foreign countries.**

At the time of publication of the ToR, it was the Agency's understanding that leased-out aircraft were requested by the State of the operator to follow the foreign continuing airworthiness rules and, therefore, the aircraft airworthiness could not be managed by a CAMO i.a.w. Part-M, nor could the aircraft be maintained in an organisation i.a.w. Part-145. On the contrary, during the time taken for the rulemaking discussions, the lessors consulted by the Agency have stated that in most of the countries to where they lease-out European aircraft, the foreign aviation authority recognises European CAMO and Part-145 approved organisations as suitable/approved to conduct these activities. It is also the lessor's preference to retain the aircraft under European registration, which retains the value of the asset and facilitates the process of returning the aircraft when the lease contract ends.

**Therefore 'do nothing' is the preferred option** and the lessors will retain, where allowed by the foreign State of operator, these aircraft under European registration (and subject to Part-M) when leased-out outside Europe.

**(6) Issuance of the first CofA to a new aircraft produced in Europe**

The rulemaking group reviewed the existing requirements and specifically the cases that lead to include this case in the ToR of the rulemaking task. The group concluded that the rule is clear and does not need to be amended. **Option 0 is the preferred option.** The reported cases where difficulties arose for the issuance of a CofA for a new aircraft were due to inadequate implementation of the existing requirements and, if persistent, should be addressed by a standardisation activity conducted by the Agency.





**List of options and final content**

	<i>Short title</i>	<i>Description (linked to the points in paragraph 4.1)</i>
<i>Option 0</i>	Do nothing	From a regulatory perspective
<i>Option 1</i>	Draft rules	<p><b>(1) Tailoring the airworthiness review and the recognition of relevant documents for the cases where aircraft are being imported.</b></p> <p>Amend the rule/AMC/GM to define the acceptance of documents / records / certificates issued with regard to the continuing airworthiness of an aircraft subject to foreign rules, during the import process.</p> <p><b>(3) The missing airworthiness statement that is to be issued by the exporting authority.</b></p> <p>It is not that uncommon that, for different reasons, the airworthiness statement that has to be issued by the authority where the aircraft was registered, which is required in 21.A.174(3)(ii), is missing at the time of import.</p> <p><b>(4) (5) Two cases not explicitly addressed by the current provisions: aircraft with invalid certificates and aircraft considered ‘State aircraft’.</b></p> <p>Develop rule proposals to cover the following cases:</p> <ul style="list-style-type: none"> <li>- The owner of an aircraft with an invalid airworthiness certificate, decides to restore the airworthiness of the aircraft so it can be granted with a new CofA and ARC.</li> <li>- An aircraft which has been used for a purpose (e.g. military, custom or police) that excluded it to be subject to civil European rules (i.e. the Basic Regulation and implementing rules) and it is planned to be used for civil operations.</li> </ul> <p><b>(7) Clarify the process for transferring an aircraft between European Member States.</b></p> <p>Amend Part-21 paragraph 21.B.320 in order to permit that the transfer of an aircraft between Member States is not hindered.</p> <p><b>(8) Clarify on the use of Box 4 of EASA Forms 24 and 25, CofA form and RCofA form.</b></p> <p>Amend the rule/AMC/GM to provide instructions on how to use Box 4 of Forms 24 and 25.</p>

**4.4. Analysis of impacts per criteria**

The Agency believes that there are no significant social or economic impacts regarding the issues, identified in Option 1. The potential impacts are with regard to harmonisation and safety benefits due to the development of more clear requirements to be applied for specific cases which were not regulated before.

**4.4.1. Safety impact**

Option 0 – Do nothing

The safety risks remains as identified in Section 4.1.1.



#### Option 1 – Draft rules

The proposed changes to the IR and AMC/GM have been analysed from a safety impact perspective. It is considered that the proposed text, once introduced as a regulation and AMC/GM, will have a positive safety impact since it covers cases of import of aircraft which are not widely considered in the current rules, therefore leaving certain aspects unaddressed or up to the discretion of the involved parties. For instance, the proposed process to be followed when an export airworthiness statement is missing, which it is not addressed in the current rules, will provide a foundation for the safe importing process.

#### 4.4.2. Environmental impact

No environmental impact is anticipated.

#### 4.4.3. Social impact

No social impact is anticipated.

#### 4.4.4. Economic impact

##### Option 0 – Do nothing

The issues identified in paragraph 4.1 will remain, leading to regulatory burdens and cost inefficiency.

##### Option 1 – Draft rules

By providing better and coherent rules for the process of importing an aircraft, operators/owners will have more certainty about the acceptance of the aircraft by the corresponding NAAs. This can increase the mobility of the aircraft in and out the EASA remit and provide adequate flexibility to the operators/owners. This can be of particular interest for aircraft being leased from outside the EU for a long period of time.

The proposed amendments to the regulation would allow for some European aircraft excluded from the Basic Regulation in accordance with Article 1.2, i.e. 'State aircraft', to be issued with a CofA and an ARC and be used for civil operation.

The rule also clarifies how to proceed for aircraft with an invalid airworthiness certificate to be prepared again for operation.

Allowing these aircraft to be again civil-operated under the framework established by the Basic Regulation may be an economic solution for some operators seeking an aircraft.

Cases described in issues (4) and (5), are likely to affect GA aircraft. If these cases were regulated, it would provide aircraft owners certainty on the applicable process and, therefore, facilitate a wider market of these aircraft, having a positive economic impact for their community.



**Question to stakeholders – Economic impacts**

1. *What will be the costs, related with the implementation of Option 1?*

- a. *costs for preparing, issuing documents / records / certificates in the import process issued with regard to the continuing airworthiness of an aircraft subject to foreign rules?*
- b. *costs, related with the procedures for re-entering of an aircraft in the system with an invalid CoA;*
- c. *costs, related to the procedure for re-entering of an aircraft which has been used for another purpose (e.g. military, custom or police) and it is planned to be used for civil operations.*

2. *Stakeholders are invited to provide any other quantified justification elements on the possible economic impacts (including benefits) of the options proposed, or alternatively to propose another justified solution to the issue.*

**4.4.5. General Aviation (GA) and proportionality issues**

Option 0 – Do nothing

The issues identified in paragraph 4.1 will remain, leading to regulatory burdens and cost inefficiency.

Option 1 – Draft rules

This proposal is consistent with other rulemaking tasks that have introduced alleviations related to GA. At least two of the cases identified in the ToR and addressed in the NPA are of interest of the GA community: firstly, European-registered aircraft which were not in the scope of the Basic Regulation (see point (5) of paragraph 4.1) that could be imported to operate as GA aircraft and secondly, aircraft for which their airworthiness certificate has become invalid and are to be flown again (see point (4) of paragraph 4.1). These two cases not solely affect GA, but the majority of cases reported affect these aircraft/operations.

**4.4.6. Impact on ‘better regulation’ and harmonisation**

Option 0 – Do nothing

The issues identified in paragraph 4.1 will remain, leading to regulatory burdens and cost inefficiency.

Option 1 – Draft rules

The amendments proposed in this NPA are expected to provide more certainty to stakeholders importing aircraft since cases not being addressed by the existing rules are being dealt with. This will achieve a more harmonised process for importing aircraft into Europe.

**4.5. General justifications to select the preferred option for each item from the issue analysis**

- (a) Tailoring the airworthiness review and the recognition of relevant documents for the cases where aircraft are being imported.



**Table 1: Addressing point (1) of paragraph 4.1**

<i>Option No</i>	<i>Description</i>
0	Do nothing (from a regulatory perspective)
1	Amend the rule/AMC/GM to define the acceptance of documents/records/certificates issued with regard to the continuing airworthiness of an aircraft subject to foreign rules, during the import process.

**Option 1 is the preferred option**, because it addresses the problems identified in the issue analysis (paragraph 4.1) and provides a safe and cost-effective framework. More concretely, it addresses the issue of the existing rules that, in order to assess the airworthiness status of the aircraft being imported, the rules foresee that an airworthiness review is conducted in accordance with Part-M. This process requires verification of specific records which are mandatory for European aircraft, but the same records are not available for an aircraft that has been managed under a foreign system. Therefore, this NPA proposes to amend paragraph M.A.710. With this amendment, it is made explicit that the airworthiness records of the aircraft being imported, are not supposed to comply with Part-M.

- (b) The missing airworthiness statement that is to be issued by the exporting authority.

**Table 2: Addressing point (3) of paragraph 4.1**

<i>Option No</i>	<i>Description</i>
0	Do nothing (from a regulatory perspective)
1	It is not that uncommon that, for different reasons, the airworthiness statement that has to be issued by the authority where the aircraft was registered, which is required in 21.A.174(3)(ii), is missing at the time of import.

**The preferred option is No 1** because it addresses the problems identified in the issue analysis (paragraph 4.1) and provides a safe regulatory framework. The rulemaking group has considered different cases why this statement might be missing and the text of the NPA proposes new requirements for alternative solutions to achieve the same objective as with the missing airworthiness statement.

- (c) Two cases are not explicitly addressed by the current requirements: aircraft with invalid certificates and aircraft considered 'State aircraft'.



**Table 3: Addressing point (4) and (5) of paragraph 4.1**

<i>Option No</i>	<i>Description</i>
0	Do nothing (from a regulatory perspective)
1	Develop rule proposals to cover the following cases: <ul style="list-style-type: none"> <li>- The owner of an aircraft with an invalid airworthiness certificate, decides to restore the airworthiness of the aircraft so it can be granted with a new CofA and ARC.</li> <li>- An aircraft which has been used for a purpose (e.g. military, custom or police) that excluded it to be subject to civil European rules (i.e. the Basic Regulation and implementing rules) and it is planned to be used for civil operations.</li> </ul>

In the past the NAAs queried the Agency on the process to be followed when aircraft were re-entering the system after their airworthiness certificates (CofA and ARC) had become invalid or when an 'State aircraft' was planned for future civil use and, therefore, require a CofA and an ARC issued i.a.w. the implementing rules (Part-21 and Part-M). The Agency believes that these cases need dedicated requirements in the rules.

Therefore, **the preferred option is No 1** and the Chapter 3 of this NPA proposes the related text.

- (d) Clarify the process for transferring an aircraft between European Member States.

**Table 4: Addressing point (7) of paragraph 4.1**

<i>Option No</i>	<i>Description</i>
0	Do nothing (from a regulatory perspective)
1	Amend Part-21 paragraph 21.B.320 in order to permit that the transfer of an aircraft between Member States is not hindered.

**The preferred option is No 1:** By impeding that the competent authorities can conduct investigations on aircraft being transferred from another Member State, having already a CofA and an ARC issued in accordance with European rules, the change of registration of airworthy aircraft within Europe would be made easier. Required amendments to the ARC process are subject to NPA 2015-17.

- (e) Clarify on the use of Box 4 of EASA Forms 24 and 25, CofA form and RCofA form.



**Table 5: Addressing point (8) of paragraph 4.1**

<i>Option No</i>	<i>Description</i>
0	Do nothing (from a regulatory perspective)
1	Amend the rule/AMC/GM to provide instructions on how to use Box 4 of Forms 24 and 25.

**The preferred option is No 1:** This provides clarity on the expected information on the forms and it will allow to state the aircraft category in the CofA in line with ICAO provisions.

#### 4.6. Conclusions

Option 1 is the preferred option for the following items:

- (1) Tailoring the airworthiness review and the recognition of relevant documents for the cases where aircraft are being imported.
- (3) The missing airworthiness statement that is to be issued by the exporting authority.
- (4)(5) Two cases which are not explicitly addressed by the current provisions, namely aircraft with invalid certificates and aircraft considered 'State aircraft'.
- (7) Clarify the process for transferring an aircraft between European Member States.
- (8) Clarify on the use of 'Box 4' of the EASA Forms 24 and 25, the CofA form and the RCofA form.

Option 0 (Do nothing) is the preferred option for the following items:

- (2) Development of implementing rules for the continuing airworthiness of European registered aircraft which are leased out to foreign countries.
- (6) Issuance of the first CofA for a new aircraft produced in Europe.

#### **Question to stakeholders**

*Stakeholders are also invited to provide any other quantitative information they may find necessary to bring to the attention of the Agency.*

*As a result, the relevant parts of the RIA might be adjusted on a case-by-case basis.*

#### 4.7. Monitoring and evaluation

Monitoring is a continuous and systematic process of data collection and analysis for the implementation/application of a rule/activity. It generates factual information for possible future evaluation and impact assessments and helps to identify actual implementation problems. The monitoring will occur in terms collecting and analysing data from different available source through several tools e.g. feedback loops, standardisation activities, EASA continuous monitoring, etc. The responsible actors for collecting and providing the data (e.g. Member States, national authorities, operators, etc) will be further specified in the implementation phase.



The proposal might be subject to interim/on-going/ex-post evaluation which will judge how well the adopted rules have performed (or are working), taking account of earlier predictions made in this impact assessment. The evaluation will provide an evidence-based judgement of the extent to which the proposal has been; relevant, given the needs and its objectives; effective and efficient; coherent; and has achieved added-value at EU level.



## 5. References

### 5.1. Affected regulations

- Commission Regulation (EU) No 1321/2014 of 26 November 2014 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks (OJ L 362, 17.12.2014, p. 1).
- Commission Regulation (EU) No 748/2012 of 3 August 2012 laying down implementing rules 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 (OJ L 224, 21.8.2012, p. 1).

### 5.2. Affected CS, AMC and GM

- ED Decision 2015/029/R of 17 December 2015 issuing acceptable means of compliance and guidance material to Part-M, Part-145, Part-66, and Part-147 of Regulation (EU) No 1321/2014 and repealing Decision 2003/19/RM of the Executive Director of the Agency of 28 November 2003.
- ED Decision 2012/020/R of the Executive Director of the Agency of 30 October 2012 on acceptable means of compliance and guidance material 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 ('AMC and GM to Part-21').

### 5.3. Reference documents

ICAO Doc 9760 was considered during the working group discussions in order to ensure alignment of European rules with ICAO.





## 6. Appendices

N/A

